

ZONING ORDINANCE

City of Augusta
Eau Claire County, Wisconsin

Adopted by City Council on June 9, 2015

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INTRODUCTION

SECTION 1.0

1.1 Authority

These regulations are adopted under the authority granted by Sections 61.35 and 62.23(7) of the Wisconsin Statutes. Therefore, the City Council of Augusta, Wisconsin, do ordain as follows:

1.2 Purpose

The purpose of this Ordinance is to promote the health, safety, morals, prosperity, aesthetics, and general welfare of this community.

1.3 Intent

It is the general intent of this Ordinance to regulate and restrict the use of all structures, lands, and waters, regulate and restrict lot coverage, population distribution and density, and the size and location of all structures so as to: lessen congestion in and promote the safety and efficiency of the streets and highways; secure safety from fire, flooding, panic, and other dangers; provide adequate light, air, sanitation, and drainage; prevent overcrowding; avoid undue population concentration; facilitate the adequate provision of public facilities and utilities; stabilize and protect property values; further the appropriate use of land and conservation of natural resources; preserve and promote the beauty of the community; is consistent with the use of land next to it, and implement the community's comprehensive plan or plan components. It is further intended to provide for the administration and enforcement of this Ordinance and to provide penalties for its violation.

1.4 Abrogation and Greater Restrictions

It is not intended by this Ordinance to repeal, abrogate, annul, impair, or interfere with any existing easements, covenants, deed restrictions, agreements, ordinances, rules, regulations, or permits previously adopted or issued pursuant to laws. However, wherever this Ordinance imposes greater restrictions, the provisions of this Ordinance shall govern.

1.5 Interpretation

In their interpretation and application, the provisions of this Ordinance shall be held to be minimum requirements and shall be liberally construed in favor of the *City* and shall not be deemed a limitation or repeal of any other power granted by the Wisconsin Statutes.

1.6 Severability

If any section, clause, provision, or portion of this Ordinance is adjudged unconstitutional or invalid by a court of competent jurisdiction, the remainder of this Ordinance shall not be affected thereby.

1.7 Repeal

All other ordinances or parts of ordinances of the *City* inconsistent or conflicting with this Ordinance, to the extent of the inconsistency only, are hereby repealed.

1.8 Title

This Ordinance shall be known as, referred to, or cited as the "ZONING ORDINANCE, CITY OF AUGUSTA, WISCONSIN."

1.9 Effective Date

This Ordinance shall be effective after a public hearing, adoption by the City Council, and publication or posting as provided by law.

GENERAL PROVISIONS

SECTION 2.0

2.1 Introduction

The jurisdiction of this Ordinance shall include all lands and waters within the corporate limits of the City of Augusta. The jurisdiction of this Ordinance shall also extend to those lands and waters lying within the unincorporated area within (1¹/₂, 3) miles of the corporate limits that are approved by a majority of the members of the appropriate Joint Extraterritorial Zoning Committee pursuant to Section 62.23 (7a) of the Wisconsin Statutes.

2.2 Compliance

No structure, land, or water shall hereafter be used and no structure or part thereof shall hereafter be located, erected, moved, reconstructed, extended, enlarged, converted, or structurally altered without a building permit except minor structures and without full compliance with the provisions of this Ordinance and all other applicable local, county, and state regulations.

The Duty of the Building Inspector with the aid of the Police Department shall be to investigate all complaints, give notice of violations, and to enforce the provisions of this Ordinance. The *Building Inspector* and his duly appointed deputies may enter at any reasonable time onto any public or private lands or waters to make a zoning inspection.

2.3 Building Permit

Applications for a *building* permit shall be made in duplicate to the *Building Inspector* on forms furnished by the *Building Inspector* and shall include the following where applicable:

Names and Addresses of the applicant, owner of the site, and if appropriate, the architect, professional engineer, or contractor.

Description of the Subject Site by lot, block, and recorded subdivision or by metes and bounds; address of the subject site; type of structure; existing and proposed operation or use of the structure or site; number of employees; and the zoning district within which the subject site lies.

Proposed Sewage Disposal Plan if municipal sewerage service is not available. This plan shall be approved by the *Public Works Superintendent* who shall certify in writing that satisfactory, adequate, and safe sewage disposal is possible on the site as proposed by the plan in accordance with applicable local, county, and state board of health regulations.

Proposed Water Supply Plan if municipal water service is not available. This plan shall be approved by the *Public Works Superintendent* who shall certify in writing that an adequate and safe supply of water will be provided.

Additional Information as may be required by the *City Plan Commission, Public Works Superintendent, Building, Plumbing, or Health Inspectors*.

Fee Receipt from the *City Treasurer* in the amount of Two Hundred Dollars (\$200) plus Ten Dollars (\$10) for publication fees.

Building Permit shall be granted or denied in writing by the *Building Inspector* within thirty (30) days. The permit shall expire within six (6) months unless substantial work has commenced. Any permit issued in conflict with the provisions of this Ordinance shall be null and void.

2.4 Site Restrictions

No land shall be used or structure erected where the land is held unsuitable for such use or structure by the *City Plan Commission* by reason of flooding, concentrated runoff, inadequate drainage, adverse soil or rock formation, unfavorable topography, low percolation rate or bearing

strength, erosion susceptibility, or any other feature likely to be harmful to the health, safety, prosperity, aesthetics, and general welfare of this community or is otherwise inconsistent with the intent of this ordinance. The *City Plan Commission*, in applying the provisions of this section, shall in writing recite the particular facts upon which it bases its conclusion that the land is not suitable for certain uses. The applicant shall have an opportunity to present evidence contesting such unsuitability if he so desires. Thereafter *the City Plan Commission* may affirm, modify, or withdraw its determination of unsuitability.

All Lots shall abut upon a public street, and each lot shall have a minimum frontage of twenty-five (25) feet.

All Principal Structures shall be located on a lot; and only one principal structure shall be located, erected, or moved onto a lot.

No Zoning Permit shall be issued for a lot which abuts a public street dedicated to only a portion of its proposed width and located on that side thereof from which the required dedication has not been secured.

Private Sewer and Water In any district where public sewerage service is not available, the width and area of all lots shall be sufficient to permit the use of an on-site sewage disposal system designed in accordance with Section H65 of the Wisconsin Administrative Code. In any district where a public water service or public sewerage service is not available, the lot width and area shall be determined in accordance with Section H65 of the Wisconsin Administrative Code, but for single-family dwellings shall be no less than *one hundred (100)* feet and no less than 20,000 square feet respectively.

Lots Abutting More Restrictive district boundaries shall provide side and rear yards not less than those required in the more restrictive abutting district. The street yards on the less restrictive district shall be modified for a distance of not more *than sixty (60)* feet from the

district boundary line so as to equal the average of the street yards required in both districts.

2.5 Use Restrictions

The following use restrictions and regulations shall apply:

Principal Uses Only those principal uses specified for a district, their essential services, and the following uses shall be permitted in that district.

Accessory Uses and structures are permitted in any district but not until their principal structure is present or under construction. Residential accessory uses shall not involve the conduct of any business, trade, or industry. Accessory uses include incidental repairs; storage; parking facilities; gardening; servant's, owner's, itinerant agricultural laborer's, and watchman's quarters not for rent; private swimming pools; and private emergency shelters.

Conditional Uses and their accessory uses are considered as special uses requiring review, public hearing, and approval by *the City Plan Commission* in accordance with Section 4.0. Any development within *five hundred (500)* feet of the existing or proposed rights-of-way of controlled access traffic ways and within *fifteen hundred (1500)* feet of their existing or proposed interchange or turning lane rights-of-way shall be deemed to be conditional uses. Such development shall be specifically reviewed and approved by the *City Plan Commission* as provided in Section 4.0.

Unclassified or Unspecified Uses may be permitted by the *Board of Zoning Appeals* after the *City Plan Commission* has made a review and recommendation provided that such uses are similar in character to the principal uses permitted in the district.

Temporary Uses such as real estate sales field offices or shelters for materials and equipment being used in the construction of a permanent structure, may be permitted by the

Board of Zoning Appeals.

Performance Standards listed in Section 9.0 shall be complied with by all uses in all districts.

2.6 Reduction or Joint Use

No lot, yard, parking area, building area, or other space shall be reduced in area or dimension so as not to meet the provisions of this Ordinance. No part of any lot, yard, parking area, or other space required for a structure or use shall be used for any other structure or use.

2.7 Violations

It shall be unlawful to construct or use any structure, land, or water in violation of any of the provisions of this Ordinance. In case of any violation, the *City Council*, the *Building Inspector*, the *City Plan Commission*, or any property owner who would be specifically damaged by such violation may institute appropriate action or proceeding to enjoin a violation of this Ordinance.

2.8 Penalties

Any person, firm, or corporation who fails to comply with the provisions of this Ordinance shall, upon conviction thereof, forfeit not less than *Ten Dollars (\$10)* nor more *than Two Hundred Dollars (\$200)* and costs of 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. Each day a violation exists or continues shall constitute a separate offense.

ZONING DISTRICTS

SECTION 3.0

3.1 Establishment

For the purpose of this Ordinance the City of Augusta is hereby divided into the following districts:

- R **Residential**
 - R1 Single Unit Residential District
 - R2 Two-Unit Residential District
 - R3 Multiple-Unit Residential District
 - RA Residential Agricultural District – Extraterritorial Zone
- A **Agricultural District**
- C **Commercial District**
- I1 **Light Industrial District**
- I2 **Heavy Industrial District**

Boundaries of These Districts are hereby established as shown on a map entitled “Zoning Map, City of Augusta, Wisconsin,” dated _____, which accompanies and is a part of this Ordinance. Such boundaries shall be construed to follow: corporate limits; U. S. Public Land Survey lines; lot or property lines; centerline of streets, highways, alleys, easements, and railroad rights-of-way or such lines extended; unless otherwise noted on the Zoning Map.

Vacation of public streets and alleys shall cause the land vacated to be automatically placed in the same district as the abutting side to which the vacated land reverts.

Annexations to or consolidations with the City subsequent to the effective date of this Ordinance shall be placed in the *Agricultural District*, unless the annexation ordinance temporarily places the land in another district. Within one (1) year the *City Plan Commission* shall evaluate and recommend a permanent district classification to the *City Council*.

3.2 Zoning Map

A certified copy of the Zoning Map shall be adopted and approved with the text as part of this Ordinance and shall bear upon its face the attestation of the *Mayor* and *City Clerk* and shall be available to the public in the Office of the *City Clerk*.

Changes thereafter to the districts shall not be effective until entered and attested on this certified copy.

3.3 Residential Districts

R-1 Single-Unit Residential District:

Principal Use Single-family dwellings

Other Permitted Use Accessory buildings and one (1) private garage.

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; 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.

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.

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

Conditional Uses See Section 4.4, 4.5, and 4.8

Lot **Width** Minimum 75 ft.

Area Minimum 3,750 sq. ft.

Building **Area** Minimum 1,000 sq ft

Height Maximum 35 ft

<u>Yards</u>	Street 25 ft set back, except where 40% or more of the frontage is occupied with buildings having an average setback line of more or less than 25 feet, no building hereafter erected or structurally altered shall project beyond the average setback line so established; provide further, that the maximum setback requirement is 50 ft.
	Rear 25 ft
	Side 5 ft

R-2 Two-Unit Residential District

Principal Use Two family dwellings and all uses permitted in the R-1 Single Unit Residential District

Other Permitted Use 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.

Conditional Uses See Section 4.4, 4.5, and 4.8

Lot **Width** Minimum 90 ft
Area Minimum 10,000 sq ft.

Building **Area** Minimum 2,000 sq ft
Height Maximum 35 ft

Yards **Street** 25 ft set back, except where 40% or more of the frontage is occupied with buildings having an average setback line of more or less than 25 feet, no building hereafter erected or structurally altered shall project beyond the average setback line so established; provide further, that the maximum setback requirement is 50 ft.

Rear 25 ft

Side 5 ft

R-3 Multi-Unit Residential District

<u>Principal Use</u>	Multi-family dwelling and all uses permitted in R-2 Two Unit Residential District
<u>Conditional Uses</u>	See Section 4.4, 4.5, and 4.8
<u>Lot</u>	Width Minimum 90 ft Area Minimum 1200 sq ft
<u>Building</u>	Area Minimum 1,000 sq ft Height Maximum 35 ft
<u>Yards</u>	Street 25 ft set back, except where 40% or more of the frontage is occupied with buildings having an average setback line of more or less than 25 feet, no building hereafter erected or structurally altered shall project beyond the average setback line so established; provide further, that the maximum setback requirement is 50 ft. Rear 25 ft Side 5 ft

R-A – Residential Agricultural District – Extraterritorial Zone

The following zoning applies to:

That portion of west one half (W½) of Section 34 lying south of Karow Road and Section 33 except the North one quarter (N¼) and those portions within the city of Augusta, all in Township 26 North, Range 6 West, Town of Bridge Creek, Eau Claire County, Wisconsin.

Principal Use Apiculture, dairying, floriculture, forestry, general farming, grazing, greenhouses, provided that greenhouse heating plants shall be placed not less than seventy-five (75) feet from every property line., horticulture, livestock raising, nurseries, orchards, paddocks, pasturage, stables, truck farming, and viticulture. Farm dwellings for those resident owners and laborers actually engaged in the permitted uses listed in this section. Single and two family dwellings. Any area where livestock are present must be enclosed by a Legal

Fence meeting the requirements of Wis. Stats § 90.02. Maintaining legal fences is the sole responsibility of the property owner.

Other Permitted Uses

- Accessory residential structure (less than 1,000 square feet)
- Home occupation
- Accessory farm or forestry structure
- Accessory buildings and one (1) private garage
- Signs
 - 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;
 - 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.
- Not over two (2) boarders or lodgers not members of the family.

Conditional Uses See Section 4.4, 4.7 and 4.8

Dimensional Standards: The following minimum dimensional standards shall apply within this zoning district.

<u>Lot</u>	AREA:	Minimum: 2 acres
<u>Structure</u>	Height	Maximum 50 feet
<u>Yards</u>	Street	Minimum 80 feet
	Rear	Minimum 50 feet
	Side	Minimum 50 feet
	Width	With private on-site waste treatment system: 150 feet at the building setback line, except for lots recorded before the date of adoption of this Article shall have a minimum lot width equal to their width at the date of adoption of this article.

Adopted this 10th day of November, 2020
Approved:
Jason TePaske, Mayor
Attest:
Cynthia A. Anderegg, City Clerk
Publication date: November 26, 2020

3.4 Agricultural District

A - Agricultural District

Principal Uses Apiculture, dairying, floriculture, forestry, general farming, grazing, greenhouses, provided that greenhouse heating plants shall be placed not less than seventy-five (75) feet from every property line., horticulture, livestock raising, nurseries, orchards, paddocks, pasturage, stables, truck farming, and viticulture. Farm dwellings for those resident owners and laborers actually engaged in the principal permitted uses and accessory uses and shall comply with all the provisions of the R-2 Residential District. Any area where livestock are present must be enclosed by a Legal Fence meeting the requirements of Wis. Stats § 90.02. Maintaining legal fences is the sole responsibility of the property owner.

<u>Conditional Uses</u>		See Sections 4.4, 4.7 and 4.8.
<u>Farm.</u>	Frontage	Minimum 200 ft.
	Area	Minimum 10 acres.
<u>Structure</u>	Height	Maximum 50 ft.
<u>Yards</u>	Street	Minimum 80 ft.
	Rear	Minimum 50 ft.
	Side	Minimum 50 ft.

3.5 Commercial District

C - Commercial District

Principal Uses The following uses: apartment hotels, appliance stores, art shop, automobile sales and service establishments, bakery (retail), barber shops, bars, beauty shops, boarding and lodging houses, business and professional offices, candy store, caterers, churches, clinics, clothing stores, clothing repair shops, clubs, cocktail lounges, confectioneries, department stores, delicatessens, drug stores, electrical supply, financial institutions, fish markets, florists, fruit stores, furniture stores, furniture upholstery shops, gift stores, grocery stores, hardware stores, heating supply, hotels, house occupations, hobby shops, laundry and dry-cleaning establishments employing not more than seven persons, liquor stores, lodges, meat

markets, music stores, Microwave radio relay structures, newspaper offices and press rooms, night clubs, office supplies, optical stores, pawn shops, personal service establishments, pet stores, places of entertainment, photographic supplies, plumbing supplies, printing, private clubs, private schools, professional offices, publishing, radio broadcasting studios, restaurants, second-hand stores, self-service and pickup laundry and dry cleaning establishments, signs, soda fountains, sporting goods, supermarkets, television broadcasting studios, trade and contractor offices, tobacco stores, upholsterer's shops, variety stores and vegetable stores. 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. Such accessory uses as are customary in connection with the foregoing uses and are incidental thereto. Existing residences shall comply with all the provisions of the R-3 Residential District.

<u>Conditional Uses</u>		See Sections 4.4, 4.6 and 4.8
<u>Building</u>	Height	Maximum 35 ft.
<u>Yards</u>	Street	None.
	Rear	Minimum 10 ft.
	Side	None, or if provided a minimum of 10 ft.

3.6 Industrial Districts

I-1 Industrial District

Principal Uses Automotive body repairs; automotive upholstery; cleaning, pressing and dyeing establishments; commercial bakeries; commercial greenhouses; distributors; farm machinery; food locker plants; laboratories; machine shops; manufacture and bottling of nonalcoholic beverages; painting; printing; publishing; storage and sale of machinery and equipment; trade and contractors' offices; warehousing; and wholesaling. Manufacture, fabrication, packing, packaging, and assembly of products from furs, glass, leather, metals, paper, plaster, plastics, textiles, and wood. Manufacture, fabrication, processing, packaging, and packing of *confections*; cosmetics; electrical appliances; electronic devices; food except cabbage, fish and fish products, meat and meat products, and pea vining; instruments; jewelry;

pharmaceuticals; tobacco; and toiletries. Existing residences shall comply with all the provisions of the R-3 Residential District.

<u>Conditional Uses</u>	See Sections 4.4, 4.7 and 4.8
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<u>Building</u>	Height	Maximum 45 ft.
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<u>Yards</u>	Street	Minimum 25 ft.
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	Rear	Minimum 30 ft.
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	Side	Minimum 20 ft.
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I-2 Heavy Industrial District

Principal Uses All I-1 Industrial District principal uses, freight yards, freight terminals and transshipment *depots*, inside storage, breweries, and crematories. Existing residences shall comply with all the provisions of the R-3 Residential District.

<u>Conditional Uses</u>	See Sections 4.4 and 4.7
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<u>Building</u>	Height	Maximum 60 ft.
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<u>Yards</u>	Street	Minimum 10 ft.
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	Rear	Minimum 30 ft.
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	Side	Minimum 10 ft.
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CONDITIONAL USES

SECTION 4.0

4.1 Permit

The City Plan Commission may authorize the Building Inspector to issue a conditional use permit for conditional uses after review and a public hearing, provided that such conditional uses and structures are in accordance with the purpose and intent of this Ordinance and are found to be not hazardous, harmful, offensive, or otherwise adverse to the environment or the value of the neighborhood or the community.

4.2 Application

Applications for conditional use permits shall be made in duplicate to the Building Inspector on forms furnished by the Building Inspector and shall include the following:

Names and Addresses of the applicant, owner of the site, architect, professional engineer, contractor, and all opposite and abutting property owners of record.

Description of the Subject Site by lot, block, and recorded subdivision or by metes and bounds; address of the subject site; type of structure; proposed operation or use of the structure or site; number of employees; and the zoning district within which the subject site lies.

Additional Information as may be required by the City Plan Commission, Public Works Superintendent, Building, Plumbing, or Health Inspectors.

Fee Receipt from the City Treasurer in the amount of One Hundred Dollars (\$100).

4.3 Review and Approval

The City Plan Commission shall review the site, existing and proposed structures, architectural plans, neighboring uses, parking areas, driveway locations, highway access, traffic generation

and circulation, drainage, sewerage and water systems, and the proposed operation.

Conditions such as landscaping, architectural design, type of construction, construction commencement and completion dates, sureties, lighting, fencing, planting screens, operational control, hours of operation, improved traffic circulation, deed restrictions, highway access restrictions, increased yards, or parking requirements, may be required by the *City Plan Commission* upon its finding that these are necessary to fulfill the purpose and intent of this Ordinance.

Compliance with all other provisions of this Ordinance, such as lot width and area, yards, height, parking, loading, traffic, highway access, and performance standards, shall be required of all conditional uses. Variances shall only be granted as provided in Section 11.0.

4.4 Public and Semipublic Uses

The following public and semipublic uses shall be conditional uses and may be permitted as specified:

Airports, airstrips, and landing fields in the I-1 and I-2 Industrial Districts, A-1 Agricultural District, provided the site area is not less than twenty (20) acres.

Governmental, Religious and Cultural Uses such as fire and police stations, community centers, churches, libraries, public emergency shelters, parks, playgrounds, and museums, in all residential and business districts; I-1 and I-2 Industrial Districts.

Utilities including microwave radio relay structures, in all districts provided all principal structures are not less than fifty (50) feet from any residential district lot line.

Public Passenger Transportation Terminals such as heliports, bus and rail depots, except airports, airstrips, and landing fields, in all Business Districts and the I-1 and I-2 Industrial

Districts provided all principal structures and uses are not less than one hundred (100) feet from any residential district boundary.

Public, Parochial, and Private Elementary and secondary schools in the R-2 and R-3 Residential Districts provided the lot area is not less than two (2) acres and all principal structures and uses are not less than fifty (50) feet from any lot line.

Colleges, Universities, Hospitals, sanitariums; religious, charitable, penal and correctional institutions, cemeteries and crematories in the A-1 Agricultural District and P-I Public and Semipublic District provided all principal structures and uses are not less than fifty (50) feet from any lot line.

4.5 Residential Uses

The following residential and quasi-residential uses shall be conditional uses and may be permitted as specified:

Planned Residential Developments such as cluster developments in the R-2 Residential District and garden apartments, and row housing and group housing in the R-3 Residential District. The district regulations may be varied provided that adequate open space shall be provided so that the average intensity and density of land use shall be no greater than that permitted for the district in which it is located. The proper preservation, care, and maintenance by the original and all subsequent owners of the exterior design; all common structures, facilities, utilities, access and open spaces shall be assured by deed restrictions enforceable by the City.

The following provisions shall be complied with:

Development Minimum- 10 acres

<u>Lot</u>	Area	Minimum of 2/3 of the minimum lot area for the district in which located. Minimum 1,000 sq. ft. per housing unit for row houses.
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	Width	Minimum of 2/3 of the minimum lot width for the district
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		in which located. Minimum 20 ft for row houses.
<u>Building</u>	Area	Minimum building area for the district in which located.
	Height	Maximum 35 ft.
	Rooms	All living rooms shall have windows opening onto a yard.
<u>Yards</u>	Street	Minimum 20 ft
	Rear	Minimum 50 ft.
	Side	Minimum 20 ft. from street rights-of-way, exterior property lines of the development, and other buildings.

Clubs, fraternities, lodges, and meeting places of a noncommercial nature in the R-3 Residential District provided all principal structures and uses are not less than twenty-five (25) feet from any lot line.

Rest Homes, nursing homes, homes for the aged, clinics, and children's nurseries provided all principal structures and uses are not less than fifty (50) feet from any lot line.

Home Occupations and professional offices in the *R-1, R-2 or R-3 Residential Districts*.
Livestock raising on a parcel ten (10) acres or larger. (*Effective 1-25-2008*)

4.6 Commercial and Highway Oriented Uses

The following commercial uses shall be conditional uses and may be permitted as specified:

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's 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 a 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 of Wisconsin regarding public nuisance, sexual conduct, lewdness or obscene or harmful matter or the exhibition or public display thereof.

Drive-In Theaters in the Commercial District provided that a planting screen at least twenty-five (25) feet wide is created along any side abutting a residential district and no access is permitted to or within one thousand (1000) feet of an arterial street.

Drive-In Establishments serving food or beverages for consumption outside the structure in the Commercial District.

Motels in the Commercial District.

Funeral Homes in the Commercial District provided all principal structures and uses are not less than twenty-five (25) feet from any lot line.

Drive-In Banks in the Commercial District.

Tourist Homes in the Commercial District provided such district is located on a state trunk or U. S. numbered highway.

Vehicle Sales, Service, washing and repair stations, garages, taxi stands, and public parking lots, in the Commercial District provided all gas pumps are not less than thirty (30) feet from any side or rear lot line and twenty (20) feet from any existing or proposed street line.

4.7 Industrial and Agricultural Uses

The following industrial and agricultural uses shall be conditional uses and may be permitted as specified:

Animal Hospitals in the A-1 Agricultural, I-1 and I-2 Industrial Districts provided the lot area is not less than three (3) acres, and all principal structures and uses are not less than one hundred (100) feet from any residential district.

Dumps, Disposal Areas: Incinerators, and sewage disposal plants in the A-1 Agricultural and the I-1 and I-2 Industrial Districts. Municipal earth and sanitary land fill operations may be permitted in any district.

Commercial Raising, propagation, boarding of animals, such as dogs, rabbits, and goats; in the A-I Agricultural District. Pea vineries, creameries, and condenseries in the A-I Agricultural or I-1 and I-2 Industrial Districts.

Manufacture and Processing of abrasives, acetylene, acid, alkalies, ammonia, asbestos, asphalt, batteries, bedding, bleach, bone, cabbage, candle, carpeting, celluloid, cement, cereals, charcoal, chemicals, chlorine, coal tar, coffee, coke, cordage, creosote, dextrin, disinfectant, dye, excelsior, felt, fish, fuel, furs, gelatin, glucose, gypsum, hair products, ice, ink, insecticide, lampblack, lime, lime products, linoleum, matches, meat, oil cloth, paint, paper, peas, perfume, pickle, plaster of paris, plastics, poison, polish, potash, pulp, pyroxylin, radium, rope, rubber, sausage, shoddy, shoe and lamp blacking, size, starch, stove polish, textiles, and varnish. Manufacturing, processing, and storage of building materials, explosives, dry ice, fat, fertilizer, flammables, gasoline, glue, grains, grease, lard, plastics, radioactive materials, shellac, soap, turpentine, vinegar, and yeast, manufacture and bottling of alcoholic beverages. bag cleaning, bleacheries, canneries, cold storage warehouses; electric and steam generating plants; electroplating; enameling; forges; foundries; garbage; incinerators; lacquering; lithographing; offal, rubbish, or animal reduction; oil, coal, and bone distillation; refineries; road test facilities; slaughterhouses; smelting; stockyards; tanneries; and weaving in the I-2 Heavy Industrial District and shall be at least two hundred (200) feet from residential and public and semipublic districts.

Outside Storage and Manufacturing Areas in the I-2 Heavy Industrial District. Wrecking, junk, demolition and scrap yards shall be surrounded by a solid fence or evergreen planting screen completely preventing a view from any other property or public right-of-way and shall be at least six hundred (600) feet from residential, public and semipublic districts.

Commercial Service Facilities such as restaurants and fueling stations, in all Industrial Districts provided all such services are physically and sales-wise oriented toward industrial district users and employees and other users are only incidental customers.

4.8 Recreational Uses

The following public recreational facilities shall be conditional uses and may be permitted as specified: archery ranges, bathhouses, beaches, boating, camps, conservatories, driving ranges, golf courses, gymnasiums, hunting, ice boating, marinas, music halls, polo fields, pools, riding academies, skating rinks, sport fields, stadiums, swimming pools, and zoological and botanical gardens in any district provided that the lot area is not less than three (3) acres and all structures are not less than fifty (50) feet from any district boundary.

Commercial Recreation Facilities such as arcades, bowling alleys, clubs, dance halls, driving ranges, gymnasiums, lodges, miniature golf, physical culture, pool and billiard halls, racetracks, rifle ranges, turkish baths, skating rinks, and theaters are conditional uses and may be permitted in all commercial districts.

TRAFFIC, PARKING, AND ACCESS

SECTION 5.0

5.1 Traffic Visibility

No obstructions, such as structures, parking, or vegetation, shall be permitted in any district between the heights of three (3) feet and ten (10) feet above the plane through the mean curb-grades within the triangular space formed by any two existing or proposed intersecting street or alley right-of-way lines and a line joining points on such lines located a minimum of fifteen (15) feet from their intersection.

In the Case of Arterial Streets intersecting with other arterial streets or railways, the corner cutoff distances establishing the triangular vision clearance space shall be increased to fifty (50) feet.

5.2 Loading Requirements

In all districts adequate loading areas shall be provided so that all vehicles loading, maneuvering, or unloading are completely off the public ways and so that all vehicles need not back onto any public way.

5.3 Parking Requirements

In all districts and in connection with every use, there shall be provided at the time any use or building is erected, enlarged, extended, or increased off-street parking stalls for all vehicles in accordance with the following:

Adequate Access to a public street shall be provided for each parking space, and driveways shall be at least eight (8) feet wide for one- and two-family dwellings and a minimum of twenty (20) feet for all other uses.

Size of each parking space shall be not less than one hundred and eighty (180) square feet

exclusive of the space required for ingress and egress.

Location to be on the same lot as the principal use or not over four hundred (400) feet from the principal use. No parking stall or driveway except in residential districts shall be closer than twenty-five (25) feet to a residential district lot line or a street line opposite a residential district.

Surfacing All off-street parking areas shall be graded and surfaced so as to be dust free and properly drained. Any parking area for more than five (5) vehicles shall have the aisles and spaces clearly marked.

Number of Parking Stalls Required

Single-family dwellings and mobile homes-----	2 stalls for each dwelling unit
Multi-family dwellings-----	1.5 stalls for each dwelling unit
Hotels, motels-----	1 stall for each guest room plus 1 stall for each employee
Hospitals, clubs, lodges, sororities, dormitories, ----	1 stall for each 2 beds plus 1 stall for each 3 employees
lodging and boardinghouses	
Sanitariums, institutions, rest and nursing homes----	1 stall for each 5 beds plus 1 stall for each 3 employees
Medical and dental clinics-----	3 stalls for each doctor
Churches, theaters, auditoriums, community-----	1 stall for each 5 seats
centers, vocational and night schools, and other places of public assembly	
Colleges, secondary and elementary schools-----	1 stall for each 2 employees
Restaurants, bars, places of entertainment, -----	1 stall for each 150 square feet of floor space
repair shops, retail and service stores	
Manufacturing and processing plants, -----	1 stall for each 3 employees
laboratories, and warehouses	

Financial institutions; business, governmental, and professional offices	----- 1 stall for each 300 square feet of floor space
Funeral homes	----- 1 stall for each 4 seats
Bowling alleys	----- 5 stalls for each alley

Uses Not Listed In the case of structures or uses not mentioned, the provision for a use which is similar shall apply.

Combinations of any of the above uses shall provide the total of the number of stalls require for each individual use.

5.4 Driveways

All driveways installed, altered, changed, replaced, or extended after the effective date of this Ordinance shall meet the following requirements:

Islands between driveway openings shall be provided with a minimum of twelve (12) feet between all driveways and six (6) feet at all lot lines.

Openings for vehicular ingress and egress shall not exceed twenty-four (24) feet at the street line and thirty (30) feet at the roadway.

Vehicular Entrances and Exits to drive-in theaters, banks, and restaurants; motels; funeral homes; vehicular sales, service, washing and repair stations; garages; or public parking lots shall be not less than two hundred (200) feet from any pedestrian entrance or exit to a school, college, university, church, hospital, park, playground, library, public emergency shelter, or other place of public assembly.

5.5 Highway Access

No direct private access shall be permitted to the existing or proposed rights-of-way of: any

controlled access arterial street without permission of the highway agency that has access control jurisdiction. No direct public or private access shall be permitted to the existing or proposed rights-of-way of the following:

Arterial Streets intersecting another arterial street within twenty-five (25) feet of the intersection of the right-of-way lines.

Streets intersecting an arterial street within twenty-five (25) feet of the intersection of the right-of-way lines.

Access barriers, such as curbing, fencing, ditching, landscaping, or other topographic barriers, shall be erected to prevent unauthorized vehicular ingress or egress to the above specified streets or highways.

Temporary Access to the above rights-of-way may be granted by the *City Plan Commission* after review and recommendation by the highway agencies having jurisdiction. Such access permit shall be temporary, revocable, and subject to any conditions required and shall be issued for a period not to exceed twelve (12) months.

MODIFICATIONS

SECTION 6.0

6.1 Height

The district height limitations stipulated elsewhere in this Ordinance may be exceeded, but such modification shall be in accord with the following:

Architectural Projections such as spires, belfries, parapet walls, cupolas, domes, flues and chimneys, are exempt from the height limitations of this Ordinance.

Special Structures such as elevator penthouses, gas tanks, grain elevators, scenery lofts, radio and television receiving antennas, manufacturing equipment and necessary mechanical appurtenances, cooling towers, fire towers, substations, and smoke stacks, are exempt from the height limitations of this Ordinance.

Essential Services, utilities, water towers, electric power and communication transmission lines are exempt from the height limitations of this Ordinance.

Communication Structures such as radio and television transmission and relay towers, aerials, and observation towers, shall not exceed in height three (3) times their distance from the nearest lot line.

Agricultural Structures such as barns, silos, and windmills, shall not exceed in height *twice* their distance from the nearest lot line.

Public or Semipublic Facilities such as schools, churches, hospitals, monuments, sanitariums, libraries, governmental offices and stations, may be erected to a height of sixty (60) feet, provided all required yards are increased not less than one (1) foot for each foot the structure exceeds the district's maximum height requirement.

6.2 Yards

The yard requirements stipulated elsewhere in this Ordinance may be modified as follows:

Uncovered Stairs, landings, and fire escapes may project into any yard but not to exceed *six* (6) feet and not closer than three (3) feet to any lot line.

Architectural Projections such as chimneys, flues, sills, eaves, belt courses, and ornaments, may project into any required yard; but such projection shall not exceed two (2) feet.

Residential Fences are permitted on the property lines in residential districts but shall not in any case exceed a height of six (6) feet; shall not exceed a height of four (4) feet in the street yard and shall not be closer than two (2) feet to any public right-of-way.

Security Fences are permitted on the property lines in all districts except residential districts but shall not exceed ten (10) feet in height and shall be of an open type similar to woven wire or wrought iron fencing.

Accessory Uses and detached accessory structures are permitted in the rear yard only; they shall not be closer than ten (10) feet to the principal structure, shall not exceed fifteen (15) feet in height, shall not occupy more than twenty (20) percent of the rear yard area, and shall not be closer than three (3) feet to any lot line not five (5) feet to an alley line.

Off-Street Parking is permitted in all yards of the B-3 and all Commercial Districts but shall not be closer than twenty-five (25) feet to any public right-of-way.

Essential Services, utilities& electric power and communication transmission lines are exempt from the yard and distance requirements of this Ordinance.

Landscaping and vegetation are exempt from the yard requirements of this Ordinance.

6.3 Additions

Additions in the street yard of existing structures shall not project beyond the average of the existing street yards on the abutting lots or parcels.

6.4 Average Street Yards

The required street yards may be decreased in any residential or Commercial Districts to the average of the existing street yards of the abutting structures on each side but in no case less than fifteen (15) feet in any residential district and five (5) feet in any Commercial District.

6.5 Noise

Sirens, whistles, and bells which are maintained and utilized solely to serve a public purpose are exempt from the sound level standards of this Ordinance.

SIGNS

SECTION 7.0

7.1 Permit Required

No sign shall hereafter be located, erected, moved, reconstructed, extended, enlarged, converted, or structurally altered without a zoning permit except those signs excepted in Section 7.2 and without being in conformity with the provisions of this Ordinance. The sign shall also meet all the structural requirements of the Building Code.

7.2 Signs Excepted

All signs are prohibited in all Residential, Agricultural, and Conservancy, except the following:

Signs Over Show Windows or Doors of a nonconforming business establishment announcing without display or elaboration only the name and occupation of the proprietor and not to exceed two (2) feet in height and ten (10) feet in length.

Real Estate Signs not to exceed sixteen (16) square feet in area which advertise the sale, rental, or lease of the premises upon which said signs are temporarily located.

Name, Occupation, and Warning Signs not to exceed four (4) square feet located on the premises.

Bulletin Boards for public, charitable or religious institutions not to exceed sixteen (16) square feet in area located on the premises.

Memorial Signs, tablets, names of buildings, and date of erection when cut into any masonry surface or when constructed of metal and affixed flat against a structure.

Official Signs such as traffic control, parking restrictions, information, and notices.

Temporary Signs or banners when authorized by the Board of Zoning Appeals.

7.3 Signs Permitted

Signs are permitted in all Business and Industrial Districts subject to the following restrictions:

Panel Wall Signs placed against the exterior walls of buildings shall not extend more than six (6) inches outside of a building's wall surface, shall not exceed five hundred (500) square feet in area for any one premises, and shall not exceed twenty (20) feet in height above the mean centerline street grade.

Projecting Signs fastened to, suspended from, or supported by buildings shall not exceed one hundred (100) square feet in area for any one premises; shall not extend more than six (6) feet into any public right-of-way; shall not be less than ten (10) feet from all side lot lines; shall not exceed a height of twenty (20) feet above the mean centerline street grade; and shall not be less than ten (10) feet above the sidewalk nor fifteen (15) feet above a driveway or an alley.

Ground Signs shall not exceed twenty (20) feet in height above the mean centerline street grade, shall meet all yard requirements for the district in which it is located, shall not exceed one hundred (100) square feet on one side or two hundred (200) square feet on all sides for any one premises.

Roof Signs shall not exceed ten (10) feet in height above the roof, shall meet all the yard and height requirements for the district in which it is located, and shall not exceed three hundred (300) square feet on all sides for any one premises.

Combinations of any of the above signs shall meet all the requirements for the individual sign.

7.4 Facing

No sign except those permitted in Section 7.2 shall be permitted to face a Residential District within one hundred (100) feet of such district boundary.

7.5 Traffic

Signs shall not resemble, imitate, or approximate the shape, size, form, or color of railroad or traffic signs, signals, or devices. Signs shall not obstruct or interfere with the effectiveness of railroad or traffic signs, signals, or devices. No sign shall be erected, relocated, or maintained so as to prevent free ingress to or egress from any door, window, or fire escape; and no sign shall be attached to a standpipe or fire escape. No sign shall be placed so as to obstruct or interfere with traffic visibility.

7.6 Existing Signs

Signs lawfully existing at the time of the adoption or amendment of this Ordinance may be continued although the use, size, or location does not conform with the provisions of this Ordinance. However, it shall be deemed a nonconforming use or structure; and the provisions of Section 8.0 shall apply.

7.7 Bonds

Every applicant for a zoning permit for a sign shall, before the permit is granted, execute a surety bond in a sum to be fixed by the Building Inspector, but not to exceed twenty-Five Thousand Dollars (\$25,000); and it shall be of a form and type approved by the City Attorney, indemnifying the municipality against all loss cost damages or expense incurred or sustained by or recovered against the municipality by reason of the erection, construction, or maintenance of such sign. A liability insurance policy issued by an insurance company authorized to do business in the State of Wisconsin, and conforming to the requirements of this section, may be permitted by the City Attorney in lieu of a bond.

NONCONFORMING USES, STRUCTURES, AND LOTS

SECTION 8.0

8.1 Existing Nonconforming Uses

The lawful nonconforming use of a structure, land, or water existing at the time of the adoption or amendment of this Ordinance may be continued although the use does not conform with the provisions of this Ordinance; however:

Only That Portion of the land or water in actual use may be so continued and the structure may not be extended, enlarged, reconstructed, substituted, moved, or structurally altered except when required to do so by law or order or so as to comply with the provisions of this Ordinance.

Total Lifetime Structural Repairs or alterations shall not exceed fifty (50) percent of the City's assessed value of the structure at the time of its becoming a nonconforming use unless it is permanently changed to conform to the *use* provisions of this Ordinance.

Substitution of New Equipment may be permitted by the *Board of Zoning Appeals* if such equipment will reduce the incompatibility of the nonconforming use with the neighboring uses.

8.2 Abolishment or Replacement

If such nonconforming use is discontinued or terminated for a period of twelve (12) months, any future use of the structure, land, or water shall conform to the provisions of this Ordinance.

When a nonconforming use or structure is damaged by fire, explosion, flood, the public enemy, or other calamity, to the extent of more than fifty (50) percent of its current assessed value, it shall not be restored except so as to comply with the use provisions of this Ordinance.

A Current File of all nonconforming uses shall be maintained by the Building Inspector

listing the following: owner's name and address; use of the structure, land, or water; and assessed value at the time of its becoming a nonconforming use.

8.3 Existing Nonconforming Structures

The lawful nonconforming structure existing at the time of the adoption or amendment of this Ordinance may be continued although its size or location does not conform with the lot width, lot area, yard, height, parking and loading, and access provisions of this Ordinance; however, it shall not be extended, enlarged, reconstructed, moved, or structurally altered except when required to do so by law or order or so as to comply with the provisions of this Ordinance.

8.4 Changes and Substitutions

Once a nonconforming *use* or structure has been changed to conform, it shall not revert back to a nonconforming use or structure. Once the *Board of Zoning Appeals* has permitted the substitution of a more restrictive nonconforming use for an existing nonconforming use, the substituted use shall lose its status as a legal nonconforming use and become subject to all the conditions required by the *Board of Zoning Appeals*.

8.5 Substandard Lots

In any residential district, a one-family detached dwelling and its accessory structures may be erected on any legal lot or parcel of record in the County Register of Deeds office before the effective date or amendment of this Ordinance.

Such Lot or Parcel shall be in separate ownership from abutting lands. If abutting lands and the substandard lot are owned by the same owner, the substandard lot shall not be sold or used without full compliance with the provisions of this Ordinance. If in separate ownership, all the district requirements shall be complied with insofar as practical but shall not be less than the following:

<u>Lot</u>	Width	Minimum 30 ft.
	Area	Minimum 4,000 sq. ft.
<u>Building</u>	Area	Minimum 1,000 sq. ft.

<u>Yards</u>	Height	Maximum 30 ft.
	Street	Minimum 25 ft.; the second street yard on corner lots shall be not less than 10 ft.
	Rear	Minimum 25 ft.
	Side	Minimum 16 percent of the frontage, but not less than 5 ft.

PERFORMANCE STANDARDS

SECTION 9.0

9.1 Compliance

This Ordinance permits specific uses in specific districts; and these performance standards are designed to limit, restrict and prohibit the effects of those uses outside their premises or district. No structure, land, or water shall hereafter be used except in compliance with their district regulations and with the following performance standards.

9.2 Air Pollution

No activity shall emit any fly ash, dust, fumes, vapors, mists, or gases in such quantities as to cause soiling or danger to the health of persons, animals, vegetation, or other forms of property. No activity shall emit any liquid or solid particles in concentrations exceeding 0.3 grains per cubic foot of the conveying gas nor any color visible smoke equal to or darker than No. 2 on the Ringelmann Chart described in the United States Bureau of Mine's Information Circular 7718; except for not more than four (4) minutes during any six-hour period each stack or chimney, in an M-2 Heavy Industrial District, may emit smoke of Ringelmann No. 3. No activity shall emit more than ten (10) smoke units per hour per stack or chimney except that once during any six-hour period each stack or chimney, in an M-2 Heavy Industrial District, may emit up to twenty (20) smoke units when blowing soot or cleaning fires.

9.3 Fire and Explosive Hazards

All activities involving the manufacturing, utilization, processing, or storage of inflammable and explosive materials shall be provided with adequate safety devices against the hazard of fire and explosion and with adequate fire-fighting and fire-suppression equipment and devices that are standard in the industry. All materials that range from active to intense burning shall be manufactured, utilized, processed, and stored only in completely enclosed buildings which have incombustible exterior walls and an automatic fire extinguishing system. The above-ground storage capacity of materials that produce flammable or explosive vapors shall not exceed the

following:

<u>Closed Cup Flash Point</u>	<u>Gallons</u>
Over 187° F.	400,000
105° F. to 187° F.	200,000
Below 105° F.	100,000

9.4 Glare and Heat

No activity shall emit glare or heat that is visible or measurable outside its premises except activities in the I-2 Heavy Industrial District which may emit direct or sky reflected glare which shall not be visible outside their district. All operations producing intense glare or heat shall be conducted within a completely enclosed building. Exposed sources of light shall be shielded so as not to be visible outside their premises.

9.5 Liquid or Solid Wastes

No activity shall discharge at any point onto any land or into any water or public sewer any materials of such nature, quantity, noxiousness, toxicity, or temperature which can contaminate, pollute, or harm the quantity or quality of any water supply, can cause the emission of dangerous or offensive elements, can overload the existing municipal utilities, or can injure or damage persons or property.

9.6 Noise

No activity in an I-2 Heavy industrial District shall produce a sound level outside the district boundary that exceeds the following sound level measured by a sound level meter and associated octave band filter:

Octave Band Frequency (Cycles Per Second)	Sound Level (Decibels)
0 to 75	70

75 to 150	74
150 to 300	66
300 to 600	59
600 to 1200	53
1200 to 2400	47
2400 to 4800	41
above 4800	39

No other activity in any other district shall produce a sound level outside its premises that exceeds the following:

Octave Band Frequency (Cycle Per Second)	Sound Level (Decibels)
0 to 75	72
715 to 150	67
150 to 300	59
300 to 600	52
600 to 1200	46
1200 to 2400	40
1400 to 4800	34
above 4800	32

All noise shall be so muffled or otherwise controlled as not to become objectionable due to intermittence, duration, beat frequency, impulse character, periodic character or shrillness.

9.7 Odors

No activity shall emit any odorous matter of such nature or quantity as to be offensive, obnoxious, or unhealthful outside their premises. The guide for determining odor measurement and control shall be Chapter 13, Air Pollution Abatement Manual 1960, prepared by the Manufacturing Chemists' Association, Inc., Washington, D. C.

9.8 Radioactivity and Electrical Disturbances

No activity shall emit radioactivity or electrical disturbances outside its premises that are dangerous or adversely affect the use of neighboring premises.

9.9 Vibration

No activity in any district except the I-2 Heavy Industrial District shall emit vibrations which are discernible without instruments outside its premises. No activity in an I-2 Heavy Industrial District shall emit vibrations which exceed the following displacement measured with a three-component measuring system:

Frequency (Cycles Per Second)	Displacement (Inches) Outside the Premises	Displacement (Inches) Outside the District
0 to 10	.0020	.0004
10 to 10	.0010	.0002
20 to 30	.0006	.0001
30 to 40	.0004	.0001
40 to 50	.0003	.0001
50 and over	.0002	.0001

BOARD OF ZONING APPEALS

SECTION 10.0

10.1 Establishment

There is hereby established a Board of Zoning Appeals for the City of Augusta for the purpose of hearing appeals and applications, and granting variances and special exceptions to the provisions of this Zoning Ordinance in harmony with the purpose and intent of the Zoning Ordinance.

10.2 Membership

The Board of Zoning Appeals shall consist of five (5) members appointed by the Mayor and confirmed by the City Council.

Terms shall be for staggered three-year periods.

Chairman shall be designated by the Mayor.

An Alternate Member may be appointed by the Mayor for a term of three (3) years and shall act only when a regular member is absent or refuses to vote because of interest.

Secretary shall be the City Clerk.

Building Inspector shall attend all meetings for the purpose of providing technical assistance when requested by the Board.

Official Oaths shall be taken by all members in accordance with Section 19.01 of the Wisconsin Statutes within ten (10) days of receiving notice of their appointment.

Vacancies shall be filled for the unexpired term in the same manner as appointments for a full term.

10.3 Organization

The Board of Zoning Appeals shall organize and adopt rules of procedure for its own government in accordance with the provisions of this Ordinance.

Meetings shall be held at the call of the chairman and shall be open to the public.

Minutes of the proceedings and a record of all actions shall be kept by the secretary, showing the vote of each member upon each question, the reasons for the Board's determination, and its finding of facts. These records shall be immediately filed in the office of the City Clerk and shall be a public record.

The Concurring Vote of four (4) members of the Board shall be necessary to correct an error; grant a variance; make an interpretation; and permit a utility, temporary, unclassified, or substituted use.

10.4 Powers

The Board of Zoning Appeals shall have the following powers:

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

Variances To hear and grant appeals for variances that will not be contrary to the public interest, where, owing to special conditions, a literal enforcement will result in practical difficulty or unnecessary hardship, so that the spirit and purposes of this Ordinance shall be observed and the public safety, welfare, and justice secured. Use variances shall not be granted.

Special Exceptions. In appropriate cases, and subject to appropriate conditions and safeguard, to authorize upon appeal in specific cases such special exceptions from the terms of the ordinance as will not be contrary to the public interest, where, owing to special conditions, a

literal enforcement of the provisions of the ordinance 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.

Unless otherwise specified in the grant of the special exception, the exception will expire after one year unless a written request for recertification is granted prior to the anniversary date.

The Board of Zoning Appeals may hold a hearing for any requested recertification, or, in its sound discretions, act on the requested recertification without a hearing. (*Council approved "Special Exceptions" on 1/9/2018*)

Interpretations To hear and decide application for interpretations of the zoning regulations and the boundaries of the zoning districts after the City Plan Commission has made a review and recommendation.

Substitutions To hear and grant applications for substitution of more restrictive nonconforming uses for existing nonconforming uses provided no structural alterations are to be made and the City Plan Commission has made a review and recommendation. Whenever the Board permits such a substitution, the use may not thereafter be changed without application.

Unclassified Uses To hear and grant applications for unclassified and unspecified uses provided that such uses are similar in character to the principal uses permitted in the district.

Temporary Uses To hear and grant applications for temporary uses, in any district provided that such uses are of a temporary nature, do not involve the erection of a substantial structure, and are compatible with the neighboring uses. The permit shall be temporary, revocable, subject to any conditions required by the *Board of Zoning Appeals*, and shall be issued for a period not to exceed twelve (12) months. Compliance with all other provisions of this Ordinance shall be required.

Permits The Board may reverse, affirm wholly or partly, modify the requirements

appealed from, and may issue or direct the issue of a permit.

Assistance The Board may request assistance from other City officers, departments, commissions, and boards.

Oaths The chairman may administer oaths and compel the attendance of witnesses.

10.5 Appeals and Applications

Appeals from the decision of the Building Inspector concerning the literal enforcement of this Ordinance may be made by any person aggrieved or by any officer, department, board, or bureau of the *City*. Such appeals shall be filed with the secretary within *thirty (30) days after the* date of written notice of the decision or order of the *Building Inspector*. Applications may be made by the owner or lessee of the structure, land, or water to be affected at any time and shall be filed with the secretary. Such appeals and application shall include the following:

Name and Address of the appellant or applicant and all abutting and opposite property owners of record.

Additional Information required by the City Plan Commission, Public Works Superintendant, Board of Zoning Appeals, or Building Inspector.

Fee Receipt from the *City* Treasurer in the amount of One Hundred Dollars (\$100), together with the cost of publication of notice.

10.6 Hearings

The Board of Zoning Appeals shall fix a reasonable time and place for the hearing, give public notice thereof at least ten (10) days prior, and shall give due notice to the parties in interest, the Building Inspector, and the City Plan Commission. At the hearing the appellant or applicant may appear in person, by agent, or by attorney.

10.7 Findings

No variance to the provisions of this Ordinance shall be granted by the Board unless it finds beyond a reasonable doubt that all the following facts and conditions exist and so indicates in the minutes of its proceedings.

Exceptional Circumstances There must be exceptional, extraordinary, or unusual circumstances or conditions applying to the lot or parcel, structure, use, or intended use that do not apply generally to other properties or uses in the same district and the granting of the variance would not be of so general or recurrent nature as to suggest that the Zoning Ordinance should be changed.

Preservation of Property Rights That such variance is necessary for the preservation and enjoyment of substantial property rights possessed by other properties in the same district and same vicinity.

Absence of Detriment That the variance will not create substantial detriment to adjacent property and will not materially impair or be contrary to the purpose and spirit of this Ordinance or the public interest.

10.8 Decision

The Board of Zoning Appeals shall decide all appeals and applications within thirty (30) days after the final hearing and shall transmit a signed copy of the Board's decision to the appellant or applicant, and the Building Inspector.

Conditions may be placed upon any zoning permit ordered or authorized by this Board.

Variances, Substitutions, or Use Permits granted by the Board shall expire within six (6) months unless substantial work has commenced pursuant to such grants.

10.9 Review by Court of Record

Any person or persons aggrieved by any decision of the Board of Zoning Appeals may present to the court of record a petition duly verified setting forth that such decision is illegal and specifying the grounds of the illegality. Such petition shall be presented to the court within thirty (30) days after the filing of the decision in the office of the Board of Zoning Appeals.

CHANGES AND AMENDMENTS

SECTION 11.0

11.1 Authority

Whenever the public necessity, convenience, general welfare or good zoning practice require, the City Council may, by ordinance, change the district boundaries or amend, change or supplement the regulations established by this Ordinance or amendments thereto.

Such Change or Amendment shall be subject to the review and recommendation of the City Plan Commission.

11.2 Initiation

A change or amendment may be initiated by the City Council, City Plan Commission, or by a petition of one or more of the owners or lessees of property within the area proposed to be changed.

11.3 Petitions

Petitions for any change to the district boundaries or amendments to the regulations shall be filed with the City Clerk, describe the premises to be rezoned or the regulations to be amended, list the reasons justifying the petition, specify the proposed use and have attached the following:

Plot Plan drawn to a scale of 1 inch equals 100 feet showing the area proposed to be rezoned, its location, its dimensions, the location and classification of adjacent zoning districts, and the location and existing use of all properties within two hundred fifty (250) feet of the area proposed to be rezoned.

Owners' Names and Addresses of all properties lying within two hundred fifty (250) feet of the area proposed to be rezoned.

Additional Information required by the City Plan Commission, or City Council.

Fee Receipt from the City Treasurer in the amount of One Hundred Dollars (\$100) plus publication fee.

11.4 Recommendation

The City Plan Commission shall review all proposed changes and amendments within the corporate limits and are subject to extraterritorial zoning and shall recommend that the petition be granted as requested, modified, or denied. The recommendation shall be made at a meeting subsequent to the meeting at which the petition is first submitted and shall be made in writing to the City Council.

11.5 Hearings

The City Council shall hold a public hearing upon each recommendation, giving at least ten (10) days' prior notice by publication at least three (3) times during the preceding thirty (30) days, listing the time, place, and the changes or amendments proposed. The City Council shall also give at least ten (10) days' prior written notice to the clerk of any municipality within one thousand (1000) feet of any land to be affected by the proposed change or amendment.

11.6 City Council's Action

Following such hearing and after careful consideration of the City Plan Commission's recommendations, the *City Council* shall vote on the passage of the proposed change or amendment.

The City Plan Commission's Recommendations may only be overruled by three-fourths (3/4) of the full City Council's membership.

11.7 Protest

In the event of a protest against such district change or amendment to the regulations of this Ordinance, duly signed and acknowledged by the owners of twenty (20) percent or more either

of the areas of the land included in such proposed change, or by the owners of twenty (20) percent or more of the land immediately adjacent extending one hundred (100) feet there from, or by the owners of twenty (20) percent or more of the land directly opposite thereto extending one hundred (100) *feet* from the street frontage of such opposite land, such changes or amendments shall not become effective except by the favorable vote of three-fourths (3/4) of the full City Council membership.

DEFINITIONS

SECTION 12.0

For the purposes of this Ordinance, the following definitions shall be used. Words used in the present tense include the future; the singular number includes the plural number; and the plural number includes the singular number. The word "shall" is mandatory and not directory.

Accessory Use or Structure

A use or detached structure subordinate to the principal use of a structure, land, or water and located on the same lot or parcel serving a purpose customarily incidental to the principal use or the principal structure.

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).

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.

Alley

A special public right-of-way affording only secondary access to abutting properties.

Arterial Street

A public street or highway used or intended to be used primarily for fast or heavy through traffic. Arterial streets and highways shall include arterial streets, highways, and parkways.

Basement

That portion of any structure located partly below the average adjoining lot grade.

Boardinghouse

A building other than a hotel or restaurant where meals or lodging are regularly furnished by pre-arrangement for compensation for three (3) or more persons not members of a family, but not exceeding twelve (12) persons and not open to transient customers.

Building

Any structure having a roof supported by columns or walls used or intended to be used for the shelter or enclosure of persons, animals, equipment, machinery or materials.

Building Area

The total living area bounded by the exterior walls of a building at the floor levels, but not including basement, utility rooms, garages, porches, breezeways, and unfinished attics.

Building Height

The vertical distance measured from the mean elevation of the finished lot grade along the street yard face of the structure to the highest point of flat roofs; to the mean height level between the

eaves and ridges of gable, gambrel, hip, and pitch roofs; or to the deck line of mansard roofs.

Clothing Repair Shops

Shops where clothing is repaired, such as shoe repair shops, seamstress, tailor shops, shoe shine shops, clothes pressing shops, but none employing over five (5) persons.

Clothing Stores

Retail stores where clothing is sold, such as department stores, dry goods and shoe stores, dress, hosiery, and millinery shops.

Conditional Uses

Uses of a special nature as to make impractical their predetermination as a principal use in a district.

Corner Lot

A lot two or more streets at their intersection provided that the corner of such intersection shall have an angle of 135 degrees or less, measured on the lot side.

Dwelling

A detached building designed or used exclusively as a residence or sleeping place, but does not include boarding or lodging houses, motels, hotels, tents, cabins, or mobile homes.

Emergency Shelter

Public or private enclosures designed to protect people from aerial, radiological, biological, or chemical warfare; fire, flood, windstorm, riots, and invasions.

Essential Services

Services provided by public and private utilities, necessary for the exercise of the principal use or service of the principal structure. These services include underground, surface, or overhead gas,

electrical, steam, water, sanitary sewerage, storm water drainage, and communication systems and accessories thereto, such as poles, towers, wires, mains, drains, vaults, culverts, laterals, sewers, pipes, catch basins, water storage tanks, conduits, cables, fire alarm boxes, police call boxes, traffic signals, pumps, lift stations, and hydrants, but not including buildings.

Family

Any number of persons related by blood, adoption, or marriage, or not to exceed *four (4)* persons not so related, living together in one dwelling as a single housekeeping entity.

Frontage

The smallest dimension of a lot abutting a public street measured along the street line.

Garage, Private

An accessory building or space for the storage only of not more than three (3) motor-driven vehicles.

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.

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.

Gift Stores

Retail stores where items such as art, antiques, jewelry, books, and notions are sold.

Hardware Stores

Retail stores where items such as plumbing, heating, and electrical supplies, sporting goods, and paints are sold.

Household Occupation

Any occupation for gain or support conducted entirely within buildings by resident occupants which is customarily incidental to the principal use of the premises, does not exceed twenty-five (25) percent of the area of any floor, uses only household equipment, and no stock in trade is kept or sold except that made on the premises. A household occupation includes but is not necessarily limited to:

- a) Barber or beauty shops;
- b) Massage therapy;
- c) Art or photography studios;
- d) Professional offices, including but not limited to physicians, chiropractors, dentists, lawyers, real estate brokers, insurance agents and contractors, nurse-practitioners, clergyman, architects and engineers, registered land surveyors;
- e) Teachers;
- f) Authors;
- g) Musicians;
- h) Pet groomers;
- i) E-commerce businesses;
- j) Taxidermists;
- k) Seasonal related businesses;
- l) Studios;
- m) Or other recognized professions.

Patrons or participants are limited to 5 or fewer on-site at any one time.

Interchange

A grade separated intersection with one or more turning lanes for travel between intersection

legs.

Living Rooms

All rooms within a dwelling except closets, foyers, storage areas, utility rooms, and bathrooms.

Loading Area

A completely off-street space or berth on the same lot for the loading or unloading of freight carriers, having adequate ingress and egress to a public street or alley.

Lot

A parcel of land having frontage on a public street, occupied or intended to be occupied by a principal structure or use and sufficient in size to meet the lot width, lot frontage, lot area, yard, parking area, and other open space provisions of this Ordinance.

Lot Lines and Area

The peripheral boundaries of a parcel of land and the total area lying within such boundaries.

Lot Width

The width of a parcel of land measured at the rear of the specified street yard.

Machine Shops

Shops where lathes, presses, grinders, shapers, and other wood and metal working machines are used, such as blacksmith, tinsmith, welding, and sheet metal shops; plumbing, heating and electrical repair and overhaul shops.

Minor Structures

Any small, movable accessory erection or construction such as birdhouses; tool houses; pet-houses; play equipment; arbors; and walls and fences under four (4) feet in height.

Motel

A series of attached, semi attached, or detached sleeping units for the accommodation of transient guests.

Nonconforming Uses or Structures

Any structure, land, or water lawfully used, occupied, or erected at the time of the effective date of this Ordinance or amendments thereto which does not conform to the regulations of this Ordinance or amendments thereto. Any such structure conforming in respect to use but not in respect to frontage, width, height, area, yard, parking, loading, or distance requirements shall be considered a nonconforming structure and not a nonconforming use.

Parking Lot

A structure or premises containing ten (10) or more parking spaces open to the public for rent or a fee.

Parking Space

A graded and surfaced area of not less than one hundred and eighty (180) square feet in area either enclosed or open for the parking of a motor vehicle, having adequate ingress and egress to a public street or alley.

Parties in Interest

Includes all abutting property owners, all property owners within two hundred-fifty (250) feet, and all property owners of opposite frontages.

Professional Home Offices

Residences of doctors of medicine, practitioners, dentists, clergymen, architects, landscape architects, professional engineers, registered land surveyors, lawyers, artists, teachers, authors, musicians, or other recognized professions used to conduct their professions where the office

does not exceed one-half ($\frac{1}{2}$) the area of only one floor of the residence and only one nonresident person is employed.

Rear Yard

A yard extending across the full width of the lot, the depth of which shall be the minimum horizontal distance between the rear lot line and a line parallel thereto through the nearest point of the principal structure. This yard shall be opposite the street yard or one of the street yards on a corner lot.

Row House

One of a row of houses, each of which has at least one sidewall in common with the next house.

Side Yard

A yard extending from the street yard to the rear yard of the lot, the width of which shall be the minimum horizontal distance between the side lot line and a line parallel thereto through the nearest point of the principal street.

Signs

Any words, letters, figures, numerals, phrases, sentences, emblems, devices, designs, trade names, or trademarks by which anything is made known and which are used to advertise or promote an individual, firm, association, corporation, profession, business, commodity or product and which is visible from any public street or highway.

Smoke Unit

The number obtained when the smoke density in Ringelmann number is multiplied by the time of emission in minutes.

Specified Anatomical Area

Less than completely and opaquely covered human genitals, pubic region, buttock and female

breast below a point immediately above the top of the areola; Human male genitals in a discernible turgid state even if completely and opaquely covered.

Specified Sexual Activities

Human genitals in a state of sexual stimulation or arousal; or acts of human masturbation, sexual intercourse or sodomy; or fondling or other erotic touch of human genitals, pubic region, buttock or female breast.

Stable

A building for the shelter and feeding of domestic animals, especially horses and cattle. One draft animal being considered the equivalent of one motor-driven vehicle.

Street Yard

A yard extending across the full width of the lot, the depth of which shall be the minimum horizontal distance between the existing or proposed street or highway line and a line parallel thereto through the nearest point of the principal structure. Corner lots shall have two such yards.

Street

A public right-of-way not less than fifty (50) feet wide providing primary access to abutting properties.

Structure

Any erection or construction, such as buildings, towers, masts, poles, booms, signs, decorations, carports, machinery, and equipment.

Structural Alterations

Any change in the supporting members of a structure, such as foundations, bearing walls, columns, beams, or girders.

Turning Lanes

An existing or proposed connecting roadway between two arterial streets or between an arterial street and any other street. Turning lanes include grade separated interchange ramps.

Utilities

Public and private facilities such as water wells, water and sewage pumping stations, water storage tanks, power and communication transmission lines, electrical power substations, static transformer stations, telephone and telegraph exchanges, microwave radio relays, and gas regulation stations, but not including sewage disposal plants, municipal incinerators, warehouses, shops, and storage yards.

Yard

An open space on the same lot with a structure, unoccupied and unobstructed from the ground upward except for vegetation. The street and rear yards extend the full width of the lot.

FLOODPLAIN AND SHORELAND – WETLAND ZONING

SECTION 13.0

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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 home buyers;
- (8) Prevent increases in flood heights that could increase flood damage and result in conflicts between property owners; and
- (9) 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 as shown on the Flood Insurance Rate Map (FIRM) or other maps approved by DNR. Base flood elevations are derived from the flood profiles in the Flood Insurance Study (FIS) and are shown as AS, A1-30, and AH Zones on the FIRM. Other regulatory zones are displayed as A and AO zones. Regional Flood Elevations (RFE) may be derived from other studies. If more than one map or revision is referenced, the most restrictive information shall apply.

(2) ***OFFICIAL MAPS & REVISIONS***

The boundaries of all floodplain districts are designated as A, AE, AH, AO, or A1-30 on the maps based on the Flood Insurance Study (FIS) listed below. Any change to the base flood elevations (BFE) or any changes to the boundaries of the floodplain or floodway in the FIS or on the Flood Insurance Rate Map (FIRM) must be reviewed and approved by the DNR and FEMA through the Letter of Map Change process (see s. 8.0 *Amendments*) before it is effective. No changes to 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 Augusta City Clerk. If more than one map or revision is referenced, the most restrictive information shall apply.

(a) **OFFICIAL MAPS:** Based on the FIS:

1. Flood Insurance Rate Map (FIRM), panel number 550035C0300E and 55035C03255E, dated 2/18/2009; with corresponding profiles that are based on the Flood Insurance Study (FIS) 55035CV000B dated 4/16/2014:

Approved by: The DNR and FEMA

(b) **OFFICIAL MAPS:** Based on other studies. Any maps referenced in this section must be approved by the DNR and be more restrictive than those based on the FIS at the site of the proposed development.

(3) ***ESTABLISHMENT OF FLOODPLAIN ZONING 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 and are contained within AE Zones as shown on the FIRM.

(b) The Floodfringe District (FF) is that portion between the regional flood limits and the floodway and displayed as AE Zones on the FIRM.

(c) The General Floodplain District (GFP) is those areas that may be covered by floodwater during the regional flood and does not have a BFE or floodway boundary determined, including A, AH and AO zones on the FIRM.

(4) ***LOCATING FLOODPLAIN BOUNDARIES***

Discrepancies between boundaries on the official floodplain zoning map and actual field conditions shall be resolved using the criteria in subd (a) or (b) below. If a significant difference exists, the map shall be amended according to s. 8.0 Amendments. 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. Where the flood profiles are based on established base flood elevations from a FIRM, FEMA must approve any map amendment or revision pursuant to s. 8.0 *Amendments*.

- (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 for projects, the location of the boundary shall be determined by the map scale.

(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 *Amendments*.

(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. A more restrictive 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 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. This ordinance does not 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 44 CFR 59-72, 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 floodway location.

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

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 and anchored to prevent flotation, collapse, or lateral movement of the structure resulting from hydrodynamic and hydrostatic loads; be constructed with flood-resistant materials; be constructed to minimize flood damages and to ensure that utility and mechanical equipment is designed and/or located so as to prevent water from entering or accumulating within the equipment 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 and all other requirements in s. 7.1(2). Adequate drainage shall be provided to reduce exposure to flood hazards and all

public utilities and facilities, such as sewer, gas, electrical, and water systems are located and constructed to minimize or eliminate flood damages.

2.1 **HYDRAULIC AND HYDROLOGIC ANALYSES**

(1) No floodplain development shall:

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

(b) Cause any increase in the regional flood height due to floodplain storage area lost.

(2) The zoning administrator shall deny permits if it is determined the proposed development will obstruct flow or cause any increase in the regional flood height, based on the officially adopted FIRM or other adopted map, unless the provisions of s. 8.0 *Amendments* are met.

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 standards of s. 2.1 must be met and 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 and pursuant to s. 8.0 *Amendments*, the community shall apply for a Letter of Map Revision (LOMR) from FEMA. Any such alterations must be reviewed and approved by FEMA and the DNR through the LOMC process.

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

Development which required a permit from the Department, under chs. 30 and 31, 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 floodplain zoning ordinance are made according to s. 8.0 *Amendments*.

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 Services;

(2) A land use permit for the campground is issued by the zoning administrator;

(3) The character of the river system and the campground elevation are 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 Services and all other applicable regulations;
- (6) Only camping units that are full licensed, if required, and ready for highway use are allowed;
- (7) The camping units shall 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 sections;
- (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, 4.0 or 5.0 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; and
- (12) All services facilities, including but not limited to refuse collection, electrical service, gas lines, propane tanks, sewage systems and well 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 THE FLOODWAY**

(1) ***GENERAL***

- (a) Any development in the floodway 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 cause any increase in the flood elevations upstream or downstream, based on the data submitted for subd. (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) Not designed for human habitation, does not have a high flood damage potential and is constructed to minimize flood damage;
- (b) Shall have a minimum of two openings on different walls having a total net area not less than one square inch for every square foot of enclosed area, and the bottom of all such openings being no higher than one foot above grade. The openings shall be equipped with screens, louvers, or other coverings or devices provided that they permit the automatic entry and exit of floodwaters.
- (c) Must be anchored to resist flotation, collapse, and lateral movement;
- (d) Mechanical and utility equipment must be elevated or flood proofed to or above the flood protection elevation; and
- (e) 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***

Fill 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 navigable waters 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 all other requirements have been 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 like;
- (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. SPS 383, 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; and
- (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 THE FLOODFRINGE**

S. 2.1 shall apply in addition to the following requirements according to the use requested. Any existing structure in the floodfringe must meet the requirements of s. 6.0 *Nonconforming Uses*;

(1) ***RESIDENTIAL USES***

Any structure, including a manufactured home, which is to be newly constructed or moved into the floodfringe, shall meet or exceed the following standards. Any existing structure in the floodfringe must meet the requirements of s. 6.0 *Nonconforming Uses*;

(a) The elevation of the lowest floor shall be at or above the flood protection elevation on fill unless the requirements of s. 4.3(1)(b) can be met. The fill shall be one foot or more above the regional flood elevation extending at least 15 feet beyond the limits of the structure.

(b) The basement or crawlway floor may be placed at the regional flood elevation if it is dry 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 subd. (d).

(d) In developments where existing street or sewer line elevations make compliance with subd. (c) impractical, the municipality may permit new development and substantial improvements where roads are 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 DNR-approved emergency evacuation plan.

(2) ***ACCESSORY STRUCTURES OR USES***

Accessory structures shall be constructed on fill with the lowest floor at or above the regional flood elevation.

(3) ***COMMERCIAL USES***

Any commercial structure which is erected, altered or moved into the floodfringe 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 shall have the lowest floor elevated to or above the flood

protection elevation or meet the floodproofing standards in s7.5. 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 or repair of such facilities shall only be permitted if they are designed to comply with s. 7.5.

(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 sewage disposal systems shall be designed to minimize or eliminate infiltration of flood water into the system, pursuant to s. 7.5(3), to the flood protection elevation and meet the provisions of all local ordinances and ch. SPS 383, Wis. Adm. Code.

(8) ***WELLS***

All wells shall be designed to minimize or eliminate infiltration of flood waters into the system, pursuant to s. 7.5(3), 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 mapped as A, AO or AH zones.

5.2 PERMITTED USES

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

Those uses permitted in the Floodway (s. 3.2) and Floodfringe (s.4.2) Districts 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.

(1) In AO/AH Zones the structure's lowest floor must meet one of the conditions listed below whichever is higher:

(a) at or above the flood protection elevation; or

(b) two (2) feet above the highest adjacent grade around the structure; or

(c) the depth as shown on the FIRM

(2) In AO/AH zones, provide plans showing adequate drainage paths to guide floodwaters around structures.

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 the legal description of the property, fill limits and elevations, building floor elevations and flood proofing measures; and the flood zone as shown on the FIRM.

(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 Hydrologic and Hydraulic Study as specified in s. 7.1(2)(c).

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

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), State., 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. Maintenance is not considered a modification; this

includes painting, decorating, paneling and other nonstructural components and the maintenance, repair or replacement of existing private sewage or water supply systems or connections to public utilities. Any costs associated with the repair of a damaged structure are not considered maintenance.

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 the lowest floor of 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) No maintenance to any nonconforming structure or any structure with a nonconforming use, the cost of which 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).

(f) If on a per event basis the total value of the work being done under (d) and (e) equals or exceeds 50% of the present equalized assessed value the work shall not be permitted 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).

(g) Except as provided in subd. (h), 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.

(h) For nonconforming buildings that are substantially damaged or destroyed by a non-flood disaster, the repair or reconstruction of any such nonconforming building shall be

permitted in order to restore it to the size and use in effect prior to the damage event, provided that the minimum federal code requirements below are met and all required permits have been granted prior to the start of construction.

1. Residential Structures

a. Shall have the lowest floor, including basement, elevated to or above the base flood elevation using fill, pilings, columns, posts or perimeter walls. Perimeter walls must meet the requirements of s.7.5(2).

b. Shall be anchored to prevent flotation, collapse, or lateral movement of the structure resulting from hydrodynamic and hydrostatic loads, including the effects of buoyancy and shall be constructed with methods and materials resistant to flood damage.

c. Shall be constructed with electrical, heating, ventilation, plumbing and air conditioning equipment and other service facilities that are designed and/or elevated so as to prevent water from entering or accumulating within the components during conditions of flooding.

d. In A Zones, obtain, review and utilize any flood data available from a federal, state, or other source.

e. In AO Zones with no elevations specified, shall have the lowest floor, including basement, meet the standards in s. 5.3(1).

f. In AO Zones, shall have adequate drainage paths around structures on slopes to guide floodwaters around and away from the structure.

2. Nonresidential Structures

a. Shall meet the requirements of s. 6.1(2)(h)1a-b and e-g.

b. Shall either have the lowest floor, including basement, elevated to or above the regional flood elevation; or, together with attendant utility and sanitary facilities, shall meet the standards in s. 7.5(1) or (2).

c. In AO Zones with no elevations specified, shall have the lowest floor, including basement, meet the standards in s. 5.3(1).

(4) 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. Repair or rehabilitation of historic structures shall be exempt from the development standards of s. 6.1(2)(h)1 if it is determined that the proposed repair or rehabilitation will not preclude the structure's continued designation as a historic structure and is the minimum necessary to preserve the historic character and design of the structure.

6.2 **FLOODWAY DISTRICT**

(1) No modification or addition shall be allowed to any nonconforming structure or any

structure with a nonconforming use in the Floodway District, 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) Shall 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; and
- (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, building access 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 the Floodway District. 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, s. 7.5(3) and ch. SPS 383, Wis. Adm. Code.

(3) No new well or modification to an existing well used to obtain potable water shall be allowed in the Floodway District. Any replacement, repair or maintenance of an existing well in the Floodway District shall meet the applicable requirements of all municipal ordinances, s. 7.5(3) and chs. NR 811 and NR 812, Wis. Adm. Code.

6.3 **FLOODFRINGE DISTRICT**

(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 meets the requirements of s. 4.3 except where s. 6.3(2) is applicable.

(2) Where compliance with the provisions of subd. (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 subd. (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, shall not be installed;
- (d) Flood depths shall not exceed two feet;
- (e) Flood velocities shall not exceed two feet per second; and
- (f) The structure shall not be used for storage of materials as described in s. 4.3(5).

(3) 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, 7.5(3) and ch. SPS 383, Wis. Adm. Code.

(4) All new wells, or addition to, replacement, repair or maintenance of a well shall meet the applicable provisions of this ordinance, s. 7.5(3) and ch. NR 811 and NR 812, Wis.

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) **DUTIES AND POWERS**

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.

(c) Inspect and assess all damaged floodplain structures to determine if substantial damage to the structures has occurred.

(d) 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;
3. Floodproofing certificates
4. Water surface profiles, floodplain zoning maps and ordinances, nonconforming uses and structures including changes, appeals, variances and amendments.
5. All substantial damage assessment reports for floodplain structures.
6. List of nonconforming structures and uses.

(e) 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 case-by-case analyses and other required information including an annual summary of floodplain zoning actions taken.

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

(f) 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.

(g) Submit copies of amendments and biennial reports to the FEMA Regional office.

(2) ***LAND USE PERMIT***

A land use permit shall be obtained before any new development; repair, modification or addition to an existing structure; 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) HYDRAULIC AND HYDROLOGIC STUDIES TO ANALYZE DEVELOPMENT

All hydraulic and hydrologic studies shall be completed under the direct supervision of a professional engineer registered in the State. The study contractor shall be responsible for the technical adequacy of the study. All studies shall be reviewed and approved by the Department.

1. Zone A floodplains:
 - a. Hydrology
 - i. The appropriate method shall be based on the standards in ch. NR 116.07(4), Wis. Admin. Code, *Hydrologic Analysis: Determination of Regional Flood Discharge*.
 - b. Hydraulic modeling

The regional flood elevation shall be based on the standards in ch. NR 116.07(4), Wis. Admin. Code, *Hydraulic Analysis: Determination of Regional Flood Elevation* and the following:

 - i. determination of the required limits of the hydraulic model shall be based on detailed study information for downstream structures (dam, bridge, culvert) to determine adequate started WSEL for the study.
 - ii. channel sections must be surveyed.
 - iii. minimum four foot contour data in the overbanks shall be used for the development of cross section overbank and floodplain mapping.
 - iv. a maximum distance of 500 feet between cross sections is allowed in developed areas with additional intermediate cross sections required at transitions in channel bottom slope including a survey of the channel at each location.

- v. the most current version of HEC_RAS shall be used.
- iv. a survey of bridge and culvert opening and the top of road is required at each structure.
- vii. additional cross sections are required at the downstream and upstream limits of the proposed development and any necessary intermediate locations based on the length of the reach if greater than 500 feet.
- viii. standard accepted engineering practices shall be used when assigning parameters for the base model such as flow, Manning's N values, expansion and contraction coefficients or effective flow limits. The base model shall be calibrated to past flooding data such as high water marks to determine the reasonableness of the model results. If no historical data is available, adequate justification shall be provided for any parameters outside standard accepted engineering practices.
- ix. the model must extend past the upstream limit of the difference in the existing and proposed flood profiles in order to provide a tie-in to existing studies. The height difference between the proposed flood profile and the existing study profiles shall be no more than 0.00 feet.

c. Mapping

A work map of the reach studied shall be provided, showing all cross section locations, floodway/floodplain limits based on best available topographic data, geographic limits of the proposed development and whether the proposed development is located in the floodway.

- i. If the proposed development is located outside of the floodway, then it is determined to have no impact on the regional flood elevation.
- ii. If any part of the proposed development is in the floodway, it must be added to the base model to show the difference between existing and proposed conditions. The study must ensure that all coefficients remain the same as in the existing model, unless adequate justification based on standard accepted engineering practices is provided.

2. Zone AE Floodplains

a. Hydrology

If the proposed hydrology will change the existing study, the appropriate method to be used shall be based on ch. NR 116.07(3), Wis. Admin. Code, *Hydrologic Analysis: Determination of Regional Flood Discharge*.

b. Hydraulic model

The regional flood elevation shall be based on the standards in ch. NR 116.07(4), Wis. Admin. Code, *Hydraulic Analysis: Determination of Regional Flood Elevation* and the following:

i. Duplicate Effective Model

The effective model shall be reproduced to ensure correct transference of the model data and to allow integration of the revised data to provide a continuous FIS model upstream and downstream of the revised reach. If data from the effective model is available,

models shall be generated that duplicate the FIS profiles and the elevations shown in the Floodway Data Table in the FIS report to within 0.1 foot.

ii. Corrected Effective Model

The Corrected Effective Model shall not include any man-made physical changes since the effective model date, but shall import the model into the most current version of HEC-RAS for Department review.

iii. Existing (Pre-Project Conditions) Model

The Existing Model shall be required to support conclusions about the actual impacts of the project associated with the Revised (Post-Project) Model or to establish more up-to-date models on which to base the Revised (Post-Project) Model.

iv. Revised (Post-Project Conditions) Model

The Revised (Post-Project Conditions) Model shall incorporate the Existing Model and any proposed changes to the topography caused by the proposed development. This model shall reflect proposed conditions.

v. All changes to the Duplicate Effective Model and subsequent models must be supported by certified topographic information, bridge plans, construction plans and survey notes.

vi. Changes to the hydraulic models shall be limited to the stream reach for which the revision is being requested. Cross sections upstream and downstream of the revised reach shall be identical to those in the effective model and result in water surface elevations and topwidths computed by the revised models matching those in the effective models upstream and downstream of the revised reach as required. The Effective Model shall not be truncated.

c. Mapping

Maps and associated engineering data shall be submitted to the Department for review which meet the following conditions:

i. Consistency between the revised hydraulic models, the revised floodplain and floodway delineations, and revised flood profiles, topographic work map, annotated FIRM's and/or Flood Boundary Floodway Maps (FBFMs), construction plans, bridge plans.

ii. Certified topographic map of suitable scale, contour interval, and a planimetric map showing the applicable items. If a digital version of the map is available, it may be submitted in order that the FIRM may be more easily revised.

iii. Annotated FIRM panel showing the revised 1% and 0.2% annual chance floodplains and floodway boundaries.

iv. If an annotated FIRM and/or FBFM and digital mapping data (GIS or CADD) are used then all supporting documentation or metadata must be included with the data submission along with the Universal Transverse Mercator (UTM) project and State Plane Coordinate System in accordance with FEMA mapping specifications.

v. The revised floodplain boundaries shall tie into the effective floodplain boundaries.

vi. All cross sections from the effective model shall be labeled in accordance with the effective map and a cross section lookup table shall be included to relate to the model input numbering scheme.

vii. Both the current and proposed floodways shall be shown on the map.

viii. The stream centerline, or profile baseline used to measure stream distances in the model shall be visible on the map.

(d) **EXPIRATION**

All permits issued under the authority of this ordinance shall expire no more than 180 days after issuance. The permit may be extended for a maximum of 180 days for good and sufficient cause.

(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 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 the requirements of s. 7.5 are met.

(4) ***OTHER PERMITS***

Prior to obtaining a floodplain development permit the applicant must secure all necessary permits from federal, state, and local agencies, including but not limited to 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 committee 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) The planning committee 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)€, 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 shall 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; and

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

(5) 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; and
- 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); and
- 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; and
- 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) The person contesting the boundary location shall be given a reasonable opportunity to present arguments and technical evidence to the Board; and

(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 *Amendments*

(6) ***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 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 subd. (a), to qualify for a variance under FEMA regulations, the following criteria must be met:

1. The variance shall 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; and

3. Variance 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. 8.0 *Amendments*; and

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 risks to life and property and flood insurance premiums could increase up to \$25 per \$100 of coverage. 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; and

(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 may only be allowed after amending the flood profile and map and all appropriate legal arrangements are made with all adversely affected property owners as per the requirements of s. 8.0 Amendments; and

(b) Grant the appeal where the Board agrees that the data properly demonstrates that the project does not cause an increase provided no other reasons for denial exist.

7.5 FLOODPROOFING STANDARDS FOR NONCOMFORMING STRUCTURES OR USES

(1) No permit or variance shall be issued for a non-residential structure designed to be watertight below the regional flood elevation until the applicant submits a plan certified by a registered professional engineer or architect that the floodproofing measure will protect the structure or development to the flood protection elevation and submits a FEMA Floodproofing Certificate.

(2) For a structure designed to allow the entry of floodwaters, no permit or variance shall be issued until the applicant submits a plan either:

- (a) certified by a registered professional engineer or architect; or
- (b) meets or exceeds the following standards:

1. a minimum of two openings having a total net area of not less than one square inch for every square foot of enclosed area subject to flooding;

2. the bottom of all openings shall be no higher than one foot above grade; and

3. openings may be equipped with screens, louvers, valves, or other coverings or devices provided that they permit the automatic entry and exit of floodwaters.

(3) Floodproofing measures shall be designed, as appropriate, 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) Minimize or eliminate infiltration of flood waters.
- (e) Minimize or eliminate discharges into flood waters.

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) Real estate transfers should show what floodplain district any real property is in.

8.0 AMENDMENTS

Obstructions or increases 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. 8.1.

(1) In AE Zones with a mapped floodway, no obstructions or increases shall be permitted unless the applicant receives a Conditional Letter of Map Revision from FEMA and amendments are made to this ordinance, the official floodplain zoning maps, floodway lines and water surface profiles, in accordance with s. 8.1. Any such alterations must be reviewed and approved by FEMA and the DNR.

(2) In A Zones increases equal to or greater than 1.0 foot may only be permitted if the applicant receives a Conditional Letter of Map Revision from FEMA and amendments are made to this ordinance, the official floodplain maps, floodway lines, and water surface profiles, in accordance with s. 8.1.

8.1 GENERAL

The governing body shall change or supplement the floodplain zoning district boundaries and this ordinance in the manner outlined in s. 8.2 below. Actions which require an amendment to the ordinance and/or submittal of a Letter of Map Change (LOMC) include, but are not limited to, the following:

- (1) Any fill or floodway encroachment that obstructs flow causing any increase in the regional flood height;
- (2) Any change to the floodplain boundaries and/or watercourse alterations on the FIRM;
- (3) Any changes to any other officially adopted floodplain maps listed in 1.5 (2)(b);
- (4) Any floodplain fill 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;
- (5) Correction of discrepancies between the water surface profiles and floodplain maps;
- (6) 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; and

(7) 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.

8.2 PROCEDURES

Ordinance amendments may be made upon petition of any party according to the provisions of s. 62.23, Stats. for cities and villages, or 59.69, Stats., for counties. The petitions shall include all data required as ss. 5.4 and 7.1(2). The Land Use Permit shall not be issued until a Letter of Map Revision is issued by FEMA for the proposed changes.

(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 causing any increase in the regional flood height, 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.

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 \$50, together with the 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. AH ZONE – See “AREA OF SHALLOW FLOODING”.

3. AO ZONE – See “AREA OF SHALLOW FLOODING”.
4. 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.
5. ALTERATION – An enhancement, upgrading or substantial change or modifications other than an addition or repair to a dwelling or to electrical, plumbing, heating, ventilating, air conditioning and other systems within a structure.
6. AREA OF SHALLOW FLOODING – A designated AO, AH, AR/AO, AR/AH, or VO zone on a community’s Flood Insurance Rate Map (FIRM) with a 1 percent or greater annual chance of flooding to an average depth of 1 to 3 feet where a clearly defined channel does not exist, where the path of flooding is unpredictable, and where velocity flood may be evident. Such flooding is characterized by ponding or sheet flow.
7. 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.
8. BASEMENT - Any enclosed area of a building having its floor sub-grade, i.e., below ground level, on all sides.
9. BUILDING – See STRUCTURE
10. 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.
11. 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.
12. 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, or tent that is fully licensed, if required, and ready for highway use.
13. 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.
14. CHANNEL – A natural or artificial watercourse with definite bed and banks to confine and conduct normal flow of water.
15. 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.
16. DECK – An unenclosed exterior structure that has no roof or sides, but has a permeable floor which allows the infiltration of precipitation.

17. **DEPARTMENT** – The Wisconsin Department of Natural Resources.
18. **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.
19. **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.
20. **ENCROACHMENT** – Any fill, structure, equipment, use or development in the floodway.
21. **FEDERAL EMERGENCY MANAGEMENT AGENCY (FEMA)** – The federal agency that administers the National Flood Insurance Program.
22. **FLOOD INSURANCE RATE MAP (FIRM)** – A map of a community on which the Federal Insurance Administration has delineated both the floodplain and the risk premium zones applicable to the community. This map can only be amended by the Federal Emergency Management Agency.
23. **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.
24. **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.
25. **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.
26. **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.

27. **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 elevation 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.

28. **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.

29. **FLOODPLAIN ISLAND** – A natural geologic land formation within the floodplain that is surrounded, but not covered, by floodwater during the regional flood.

30. **FLOODPLAIN MANAGEMENT** – Policy and procedures to insure wise use of floodplains, including mapping and engineering, mitigation, education, and administration and enforcement of floodplain regulations.

31. **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.

32. **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.

33. **FLOOD PROTECTION ELEVATION** – An elevation of two feet of freeboard above the water surface profile elevation designed for the regional flood. (Also see: **FREEBOARD**.)

34. **FLOOD STORAGE** – Those floodplain areas where storage of floodwaters has been taken into account during analysis in reducing the regional flood discharge.

35. **FLOODWAY** – The channel of a river or stream and those portions of the floodplain adjoining the channel required to carry the regional flood discharge.

36. **FREEBOARD** – A safety factor expressed in terms of a specified number of foot 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, obstructions 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.

37. **HABITABLE STRUCTURE** – Any structure or portion thereof used or designed for human habitation.

38. **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.

39. **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.

40. **HIGHEST ADJACENT GRADE** – The highest natural elevation of the ground surface prior to construction next to the proposed walls of a structure.

41. **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 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 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.

42. **INCREASE IN REGIONAL FLOOD HEIGHT** – A calculated upward rise in the regional flood elevation greater than 0.00 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.

43. **LAND USE** – Any nonstructural use made of unimproved or improved real estate. (Also see DEVELOPMENT.)

44. **LOWEST ADJACENT GRADE** – Elevation of the lowest ground surface that touches any of the exterior walls of a building.

45. **LOWEST FLOOR** – The lowest floor of the lowest enclosed area (including basement). An unfinished or flood resistant enclosure, usable solely for parking of vehicles, building access or storage in an area other than a basement area is not considered a building's lowest floor; provided that such enclosure is not built so as to render the structure in violation of the applicable non-elevation design requirements of 44 CFR 60.3.

46. **MAINTENANCE** – The act or process of restoring to original soundness, including redecorating, refinishing, nonstructural repairs, or the replacement of existing fixtures, systems or equipment with equivalent fixtures, systems or structures.

47. **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.”

48. **MOBILE/MANUFACTURED HOME PARK OR SUBDIVISION** – A parcel (or contiguous parcels) of land, divided into two or more manufactured home lots for rent or sale.

49. **MOBILE/MANUFACTURED HOME PARK OR SUBDIVISION, EXISTING** – 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.

50. **MOBILE/MANUFACTURED HOME PARK, EXPANSION TO EXISTING** – 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.

51. **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 license, 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 definitions of “mobile recreational vehicles.”

52. **MODEL, CORRECTED EFFECTIVE** – A hydraulic engineering model that corrects any errors that occur in the Duplicate Effective Model, adds any additional cross sections to the Duplicate Effective Model, or incorporates more detailed topographic information than that used in the current effective model.

53. **MODEL, DUPLICATE EFFECTIVE** – A copy of the hydraulic analysis used in the effective FIS and referred to as the effective model.

54. **MODEL, EFFECTIVE** – The hydraulic engineering model that was used to produce the current effective Flood Insurance Study.

55. **MODEL, EXISTING (PRE-PROJECT)** – A modification of the Duplicate Effective Model or Corrected Effective Model to reflect any man made modifications that have occurred within the floodplain since the date of the effective model but prior to the construction of the project for which the revision is being requested. If no modification has occurred since the date of the effective model, then this model would be identical to the Corrected Effective Model or Duplicate Effective Model.

56. **MODEL, REVISED (POST-PROJECT)** – A modification of the Existing or Pre-Project Conditions Model, Duplicate Effective Model or Corrected Effective Model to reflect revised or post-project conditions.

57. **MUNICIPALITY or MUNICIPAL** – The county, city or village governmental units enacting, administering and enforcing this zoning ordinance.

58. **NAVD or NORTH AMERICAN VERTICAL DATUM** – Elevations referenced to mean sea level datum, 1988 adjustment.

59. **NGVD or NATIONAL GEODETIC VERTICAL DATUM** – Elevations referenced to mean sea level datum, 1929 adjustment.

60. **NEW CONSTRUCTION** – For flood plain 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.

61. **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.)

62. **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.)

63. **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.

64. **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.

65. **OPEN SPACE USE** – Those uses having a relatively low flood damage potential and not involving structures.

66. **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.

67. **PERSON** – An individual, or group of individuals, corporation, partnership, association, municipality or state agency.

68. **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.

69. **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.

70. **REASONABLY SAFE FROM FLOODING** – Means base flood waters will not inundate the land or damage structures to be removed from the floodplain and that any subsurface waters related to the base flood will not damage existing or proposed buildings.

71. **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.

72. **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.

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

74. **SUBDIVISION** – Has the meaning given in s. 236.02(12), Wis. Stats.

75. **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.

76. **SUBSTANTIAL IMPROVEMENT** – Any repair, reconstruction, rehabilitation, addition or improvement of a building or structure, the cost of which equals or exceeds 50 percent of the equalized assessed value of the structure before the improvement or repair is started. If the structure has sustained substantial damage, any repairs are considered substantial improvement regardless of the work performed. The term does not, however, include either any project for the improvement of a building required to correct existing health, sanitary or safety code violations

identified by the building official and that are the minimum necessary to assure safe living conditions; or any alteration of a historic structure provided that the alteration will not preclude the structure's continued designation as a historic structure.

77. **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.

78. **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.

79. **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.

80. **WATERSHED** – The entire region contributing runoff or surface water to a watercourse or body of water.

81. **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.

82. **WELL** – means excavation opening in the ground made by digging, boring, drilling, driving or other methods, to obtain groundwater regardless of its intended use.

WELLHEAD PROTECTION

SECTION 14.0

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 sewerred 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 on 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—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 sewered
 - 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 is 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.

ADOPTED ANNEXATION ORDINANCES

SECTION 15.0

ADOPTED REZONING ORDINANCES

SECTION 16.0

INTERIM ZONING ORDINANCE

SECTION 17.0

General ordinance of the City of Augusta creating Chapter 9 Section 17 of the City of Augusta Code of Ordinances Interim Zoning Ordinances.

The City Council of the City of Augusta, Eau Claire County, Wisconsin, does ordain as follows:

SECTION 1. Chapter 9 Section 17 - Interim Zoning Ordinances is hereby created

SECTION 2. Section 17.01 of the Code of Ordinances is hereby created to read as follows:

17.01 INTERIM ZONING ORDINANCE TO PRESERVE EXISTING USES WHILE A COMPREHENSIVE ZONING PLAN IS BEING PREPARED.

Pursuant to Wisconsin Statutes §62.23(7a) (b), the existing uses are preserved while a comprehensive zoning plan is being prepared for the following described lands:

That portion of west one half (W½) of Section 34 lying south of Karow Road and Section 33 except the North one quarter (N¼) and those portions within the city of Augusta, all in Township 26 North, Range 6 West, Town of Bridge Creek, Eau Claire County, Wisconsin.

Adopted this 11th day of December, 2018

Approved:

Delton Thorson, Mayor

Attest:

Cynthia A. Anderegg, City Clerk

Publication date: December 20, 2018