

Article L: Administration

Sec. 13-1-220 General Administrative System.

This Chapter contemplates an administrative and enforcement officer entitled the "Zoning Administrator" to administer and enforce the same. Certain considerations, particularly with regard to granting of permitted conditional uses, planned unit development conditional uses, changes in zoning districts and zoning map, and amending the text of this Zoning Chapter require review and recommendation by the Plan Commission and ultimate action by the Common Council. A Zoning Board of Appeals is provided to assure proper administration of the Chapter and to avoid arbitrariness.

Sec. 13-1-221 Zoning Administrator,

- (a) **Appointment.** The Common Council shall designate the Zoning Administrator and as the administrative enforcement officer for the provisions of this Chapter. The duty of the Zoning Administrator shall be to interpret and administer this Chapter and to issue, after on-site inspection, all permits required by this Chapter.
- (b) **Duties.** In enforcing and administering this Chapter, the Administrator shall perform the following duties:
- (1) Issue the necessary building permits and occupancy and zoning use permits required by the provisions of this Chapter, provided its provisions have been complied with.
 - (2) Keep an accurate record of all permits, numbered in the order of issuance, in a record book for this purpose.
 - (3) In case of any finding of a violation of a provision of this Chapter, notify, in writing, the actual violator where known, the owner of the property on which the violation has taken place and the Common Council, indicating the nature of the violation and the action necessary to correct it.
 - (4) Receive, file and process for action all applications for conditional uses, variances and amendments to this Chapter which are filed in the zoning office.
 - (5) Initiate, direct and review, from time to time, a study of the provisions of this Chapter and make reports of the recommendations to the Plan Commission for investigation and appropriate action.
 - (6) Carry out such additional responsibilities as are hereinafter set forth by the provisions of this Chapter.
- (c) **Authority.** In the enforcement of this Chapter, the Administrator shall have the power and authority for the following:
- (1) At any reasonable time and for any proper purpose to enter upon any public or private premises and make inspection thereof.

- (2) Upon reasonable cause or question as to proper compliance, to revoke any building or occupancy permit and issue cease and desist orders requiring the cessation of any building, moving, alteration or use which is in violation of the provisions of this Chapter, such revocation to be in effect until reinstated by the Administrator or the Board of Appeals, or take any other action as directed by the Common Council to insure compliance with or to prevent violation of its provisions.
- (3) In the name of the City and with authorization of the Common Council commence any legal proceedings necessary to enforce the provisions of this Chapter or the Building Code, including the collection of forfeitures provided for herein.

Sec. 13-1-222 Role of Specific City Officials in Zoning Administration.

- (a) **Plan Commission.** The Plan Commission, together with its other statutory duties, shall make reports and recommendations relating to the plan and development of the City to the Common Council, other public officials and other interested organizations and citizens. In general, the Plan Commission shall have such powers as may be necessary to enable it to perform its functions and promote municipal planning. Under this Chapter, its functions are primarily recommendatory to the Common Council pursuant to guidelines set forth in this Chapter as to various matters and, always, being mindful of the intent and purposes of this Chapter. Recommendations shall be in writing. A recording thereof in the Commission's minutes shall constitute the required written recommendation. The Commission may, in arriving at its recommendation, on occasion of its own volition, conduct its own public hearing. The Plan Commission shall have the powers to conduct and hold public hearings on all proposed amendments to the City Zoning Ordinance as provided in Sec. 62.23(7)(d) of the Wisconsin Statutes.
- (b) **Common Council.** The Common Council, the governing body of the City, subject to recommendations by the Plan Commission and the holding of public hearings by said Council, has ultimate authority to grant planned unit development applications, issue conditional use permits, make changes and amendments in zoning districts, the zoning map and supplementary floodland zoning map and to amend the text of this Chapter. The Common Council may delegate to the Plan Commission the responsibility to hold some or all public hearings as required under this Chapter.
- (c) **Zoning Board of Appeals.** A Zoning Board of Appeals is established to provide an appeal procedure for persons who deem themselves aggrieved by decisions of administrative officers in enforcement of this Chapter. See Article N of this Chapter for detail provisions.

Sec. 13-1-223 Land Use Permit.

- (a) **Permit Required.** No building shall be erected, moved or structurally altered until a land use permit therefor shall have been applied for and issued.

- (b) **Application.** All applications for a land use permit shall be accompanied by a location sketch in duplicate, drawn to scale, showing the location, actual shape and dimensions of the lot to be built upon, the exact size and location on the lot of the proposed or existing building and accessory building, the lines within which the building shall be erected, altered or moved, the existing or intended use of each building, or part of a building, the number of families the building is intended to accommodate, and such other information with regard to the lot and neighboring lots or buildings as may be necessary to determine and provide for the enforcement of these zoning regulations.
- (c) **Application; Dimensions.** All dimensions shown relating to the location and size of the lot shall be based on actual survey. The lot and the location of the building thereon shall be staked out on the ground before construction is started.
- (d) **Issuance or Denial.** Except as otherwise provided in these zoning regulations, the Zoning Administrator shall issue or refuse to issue a land use permit within ten (10) days after receipt of an application therefor. Refusal to issue a land use permit shall be given in writing, with the reasons for such refusal.
- (e) **Proper Applicants; In General.** The following shall be considered proper applicants for a land use permit or certificate of compliance under the terms of these zoning regulations:
- (1) Record title owner under properly recorded instrument of conveyance;
 - (2) Vendee under properly recorded land contract;
 - (3) Vendee under written contract of sale, agreement to sell, earnest money agreement, or similar real estate agreement;
 - (4) Duly authorized agent for any of the above.
- (f) **Identification.** The Zoning Administrator may request proper proof of the applicant showing that he is a proper applicant, under the terms of this Chapter. His application for a land use permit or certificate of compliance shall not be considered filed until such time as the requested proof is filed with the Zoning Administrator office. The Zoning Administrator may revise the form of application for land use permit and certificate of compliance to conform with the terms of this Chapter. If the applicant is not the fee simple owner of the property involved, the name of the owner of any lienholder shall be included in the application.
- (g) **Time Limitations.** Any land use permit granted under this Chapter shall become null and void within six (6) months after it is issued if construction on the property for which the permit is granted has not been commenced within the six (6) month period. In all such cases where a permit has become null and void, a new application must be filed for a new land use permit before any construction can be commenced at such location. All land use permits granted under the terms of this Chapter shall be valid for only twelve (12) months. Land use permits shall expire on the first anniversary date from their issuance. If a certificate of compliance has not been issued for the property by the expiration date of the land use permit, application for a new land use permit must be made in order to continue work on the premises involved.

- (h) **Conditions for Refusal; Appeal Procedure.** The Zoning Administrator or City Engineer shall not issue a land use permit for any property, the improvement of which might tend to interfere with the exterior lines of planned new streets, highways, parkways, parks or playgrounds, or the exterior lines of planned widening or extending of existing streets, highways, parkways, parks or playgrounds. Any person who feels aggrieved by the decision of the Zoning Administrator or City Engineer may appeal to the Zoning Board of Appeals, which has power in a specific case, by the vote of a majority of its members, to grant a permit for a building or such street, highway, parkway, park or playground, which will as little as practicable increase the cost of opening such street, highway, parkway, park or playground and such board may impose reasonable requirements as a condition of granting such permit, which requirements shall be designed to promote the health, convenience, safety or general welfare of the City. Such board shall refuse a permit where the applicant will not be substantially damaged by placing his building outside the planned street, highway, parkway, park or playground.
- (i) **Fees.** Prior to issuing a land use permit the Zoning Administrator shall collect from the applicant to defray the cost to the city of processing the application, a permit fee.
- (j) **Additional Requirements.** In addition to other requirements of this Chapter, no building, land use or moving permit shall be issued unless:
 - (1) Sanitary sewer and water is available, or installation thereof has been approved by the Council or, alternatively;
 - (2) A sanitary sewer system in accordance with ILHR 82.30, Wis. Adm. Code, and related sections thereof, has been approved for the premises and the premises is in compliance with NR112.01 through NR112.25, Wis. Adm. Code.

Sec. 13-1-224 Certificate of Compliance.

- (a) **In General.** No vacant land shall be occupied or used, and no building erected, altered or moved shall be occupied until a certificate of compliance has been issued by the Zoning Administrator. Such certificate shall show that the building or premises or part thereof and the proposed use thereof are in conformity with the provisions of these zoning regulations. Such certificate shall be applied for when the application is made for a land use permit and shall be issued within ten (10) days after the completion of the work specified in such land permit application, but only if the building or premises and the proposed use thereof conform with all the requirements of these zoning regulations.
- (b) **Temporary Certificate.** Under such rules and regulations as may be established by the Common Council, the Zoning Administrator may issue a temporary certificate of compliance for part of a building.
- (c) **Issuance.** Upon written request from the owner, the Zoning Administrator shall issue a certificate of compliance for any building or premises certifying, after inspection, the extent

and kind of use made of the building or premises, and whether or not such use conforms to the provisions of this Chapter.

Sec. 13-1-225 Site Plan Approval.

- (a) **Site Plan Approval.** All applications for Zoning Permits for any construction, reconstruction, expansion or conversion, (including mobile home parks and subdivisions) except for one (1) and two (2) family residences in Residential Districts, shall require site plan approval by the Plan Commission in accordance with the requirements of this Section.
- (b) **Application.** The applicant for a zoning permit shall also submit a site plan and sufficient plans and specifications of proposed buildings, machinery and operations to enable the Plan Commission or its expert consultants to determine whether the proposed application meets all the requirements applicable thereto in this Chapter.
- (c) **Administration.** The Zoning Administrator shall make a preliminary review of the application and plans and refer them, along with a report of his findings, to the Plan Commission within ten (10) days. The Plan Commission shall review the application and may refer the application and plans to any expert consultants selected by the Common Council to advise whether the application and plans meet all the requirements applicable thereto in this Chapter. Within forty (40) days of its receipt of the application, the Commission shall authorize the Zoning Administrator to issue or refuse a Zoning Permit.
- (d) **Requirements.** In acting on any site plan, the Plan Commission shall consider the following:
 - (1) The appropriateness of the site plan and buildings in relation to the physical character of the site and the usage of adjoining land areas.
 - (2) The layout of the site with regard to entrances and exits to public streets; the arrangement and improvement of interior roadways; the location, adequacy and improvement of areas for parking and for loading and unloading and shall, in this connection, satisfy itself that the traffic pattern generated by the proposed construction or use shall be developed in a manner consistent with the safety of residents and the community, and the applicant shall so design the construction or use as to minimize any traffic hazard created thereby.
 - (3) The adequacy of the proposed water supply, drainage facilities and sanitary and waste disposal.
 - (4) The landscaping and appearance of the completed site. The Plan Commission may require that those portions of all front, rear and side yards not used for off-street parking shall be attractively planted with trees, shrubs, plants or grass lawns and that the site be effectively screened so as not to impair the value of adjacent properties nor impair the intent or purposes of this Section.
- (e) **Effect on Municipal Services.** Before granting any site approval, the Plan Commission may, besides obtaining advice from consultants, secure such advice as may be deemed

necessary from the City Engineer or other municipal officials, with special attention to the effect of such approval upon existing municipal services and utilities. Should additional facilities be needed, the Plan Commission shall forward its recommendations to the Common Council and shall not issue final approval until the Common Council has entered into an agreement with the applicant regarding the development of such facilities.

Sec. 13-1-226 Fees.

The following fees shall be applicable for this Chapter:

- (a) Application for a variance: \$ 25.00
- (b) Petition for Conditional Use Permit: \$ 25.00
- (c) Petition for Rezoning and Zoning Map Amendment: \$ 200.00
- (d) Petition for Zoning Code Text Amendment: \$ 10.00
- (e) Appeal of Administrative Interpretations: \$ 25.00
- (f) Sign Permit Application: \$ 5.00
- (g) Commencing a project/use regulated by this Chapter prior to obtaining necessary City permits shall result in a penalty five (5) times the permit amount, up to a maximum of Five Hundred Dollars (\$500.00).

Sec. 13-1-227 Violations and Penalties.

- (a) **Violations.** It shall be unlawful to use or improve any structure or land, or to use water or air in violation of any of the provisions of this Chapter. In case of any violation, the Common Council, the Zoning Administrator, the Plan Commission or any property owner who would be specifically damaged by such violation may cause appropriate action or proceeding to be instituted to enjoin a violation of this Chapter or cause a structure to be vacated or removed.
- (b) **Remedial Action.** Whenever an order of the Zoning Administrator has not been complied with within thirty (30) days after written notice has been mailed to the owner, the resident agent or occupant of the premises, the Common Council, the Zoning Administrator or the City Attorney may institute appropriate legal action or proceedings.
- (c) **Penalties.** Any person, firm or corporation who fails to comply with the provisions of this Chapter or any order of the Zoning Administrator issued in accordance with this Chapter or resists enforcement shall, upon conviction thereof, be subject to a forfeiture and such additional penalties as provided for in Section 1-1-7 of this Code of Ordinances.

Sec. 13-1-228 through Sec. 13-1-239 Reserved for Future Use.

Article M: Changes and Amendments to the Zoning Code

Sec. 13-1-240 Authority.

Whenever the public necessity, convenience, general welfare or good zoning practice requires, the Common Council may, by ordinance, change the district boundaries established by this Chapter and the Zoning Map incorporated herein and/or the Supplementary Floodland Zoning Map incorporated herein, or amend, change or supplement the text of the regulations established by this Chapter or amendments thereto. Such change or amendment shall be subject to the review and recommendation of the Plan Commission.

Sec. 13-1-241 Initiation of Changes or Amendments.

The Common Council, the Plan Commission, the Zoning Board of Appeals and other government bodies and any private petitioners may apply for an amendment to the text of this Chapter to the District boundaries hereby established or by amendments hereto in the accompanying zoning map made a part of this Chapter and/or the Supplementary Floodland Zoning Map to be made a part of this Chapter by reference.

Sec. 13-1-242 Procedure for Changes or Amendments.

(a) Petition.

- (1) Petitions for any change to the district boundaries and map(s) or amendments to the text regulations shall be addressed to the Common Council and shall be filed with the City Clerk-Treasurer. The person requesting such action shall provide all information requested on the petition including:
 - a. Name and street address of the petitioner.
 - b. The lot number of any real estate owned by the petitioner adjacent to the area proposed to be changed.
 - c. Legal description of the property to be altered.
 - d. The existing use of all buildings on such land.
 - e. The principal use of all properties within three hundred (300) feet of such land.
 - f. Purpose for which such property is to be used.
 - g. Reciting of facts indicating that the proposed change will not be detrimental to the general public interest and the purposes of this Chapter.
 - h. Names and addresses of all abutting and opposite property owners within three (300) feet of the property to be altered.

- i. Plot plan or survey plat, drawn to scale, showing the property to be rezoned, location of structures, and property lines within three hundred (300) feet of the parcel.
 - j. Any further information requested to the petition or which may be required by the Plan Commission to facilitate the making of a comprehensive report to the Council.
 - (2) Failure to supply such information shall be grounds for dismissal of the petition.
 - (3) A petition for change or amendment submitted by a private property owner shall be prepared in triplicate and filed with the City Clerk-Treasurer and shall be accompanied by the appropriate fee to defray the cost of giving notice, investigation and other administrative processing.
- (b) **Recommendations.** The Common Council or the City Clerk-Treasurer shall cause the petition to be forwarded to the Plan Commission for its consideration and recommendation. The Plan Commission shall review all proposed amendments to the text and zoning map(s) within the corporate limits and shall recommend in writing that the petition be granted as requested, modified or denied. A recording of the recommendation in the Plan Commission's official minutes shall constitute the required written recommendation. In arriving at its recommendation, the Commission may on occasion, of its own volition, conduct its own public hearing on proposed amendment(s).
- (c) **Hearings.**
 - (1) The Common Council, following receipt of recommendation of the Plan Commission, shall hold a public hearing upon each proposed change or amendment, giving notice of the time, place and the change or amendment proposed by publication of a Class 2 notice, under Chapter 985 of the Wisconsin Statutes. At least ten (10) days' prior, written notice shall also be given to the clerk of any municipality within one thousand (1,000) feet of any land to be affected by the proposed change or amendment.
 - (2) The Common Council may delegate to the Plan Commission the responsibility to hold public hearings as required under this Section.
- (d) **Council's Action.** Following such hearing and after consideration of the Plan Commission's recommendations, the Common Council shall vote on the proposed ordinance effecting the proposed change or amendment. A three-fourths (3/4) vote of the full Common Council membership is required to override the Plan Commission's determination.

Sec. 13-1-243 Protest.

- (a) In the event of a protest against amendment to the zoning map, duly signed and acknowledged by the owners of twenty percent (20%) or more, either of the areas of the land included in such proposed change, or by the owners of twenty percent (20%) or more of the land immediately adjacent extending one hundred (100) feet therefrom, or by the owners of twenty percent (20%) 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 Common Council membership.

- (b) In the event of protest against amendment to the text of the regulations of this Chapter, duly signed and acknowledged by twenty percent (20%) of the number of persons casting ballots in the last general election, it shall cause a three-fourths (3/4) vote of the full Common Council membership to adopt such amendment.

Sec. 13-1-244 through Sec. 13-1-259 Reserved for Future Use.

Sec. 13-1-260 Appeals to the Zoning Board of Appeals.

- (a) **Scope of Appeals.** Appeals to the Zoning Board of Appeals may be taken by any person aggrieved or by any officer, department, board or bureau of the City affected by any decision of the administrative officer. Such appeal shall be taken within thirty (30) days of the alleged grievance or judgment in question by filing with the officer(s) from whom the appeal is taken and with the Board of appeals a notice of appeal specifying the grounds thereof, together with payment of a filing fee as may be established by the Common Council. The officer(s) from whom the appeal is taken shall forthwith transmit to the Board of Appeals all papers constituting the record of appeals upon which the action appeals from was taken.
- (b) **Stay of Proceedings.** An appeal shall stay all legal proceedings in furtherance of the action appealed from, unless the officer from whom the appeal is taken certified to the Board of Appeals that, by reason of facts stated in the certificate, a stay would, in his opinion, cause immediate peril to life or property. In such cases, proceedings shall not be stayed otherwise than by a restraining order which may be granted by the Board of Appeals or by a court of record on application, on notice to the officer from whom the appeal is taken and on due cause shown.
- (c) **Powers of Zoning Board of Appeals.** In addition to these powers enumerated elsewhere in this Code of Ordinances, the Board of Appeals shall have the following powers:
- (1) **Errors.** To hear and decide appeals where it is alleged there is error in any order, requirement, decision or determination made by the Zoning Administrator or Building Inspector.
 - (2) **Variances.** To hear and grant appeals for variances as will not be contrary to the public interest where, owing to practical difficulty or unnecessary hardship, so that the spirit and purposes of this Chapter shall be observed and the public safety, welfare and justice secured. Use variances shall not be granted.
 - (3) **Interpretations.** To hear and decide application for interpretations of the zoning regulations and the boundaries of the zoning districts after the Plan Commission has made a review and recommendation.
 - (4) **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 Plan Commission has made a review and recommendation. Whenever the Board permits such a substitution, the use may not thereafter be changed without application.
 - (5) **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 and the Plan Commission has made a review and recommendation.

- (6) **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 and the Plan Commission has made a review and recommendation. The permit shall be temporary, revocable, subject to any condition 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 Chapter shall be required.
- (7) **Permits.** The Board may reverse, affirm wholly or partly, modify the requirements appealed from and may issue or direct the issue of a permit.
- (8) **Power of Board in Shoreland Zoning Cases Under Chapter 3.** To exercise the powers under Title 13, Chapter 3 of this Code of Ordinances with respect to territory of the City governed by provisions of the Chippewa County Shoreland Zoning Code.

Sec. 13-1-261 Hearing on Appeals.

The Board of Appeals shall fix a reasonable time for the hearing, cause notice thereof to be published in the official newspaper not less than seven (7) days prior thereto, (Class 2 Notice pursuant to Chapter 985, Wis. Stats.) cause notice to be given to the appellant or applicant and the administrative officer(s) appealed from by regular mail or by personal service not less than five (5) days prior to the date of hearing. In every case involving a variance, notice shall also be mailed not less than five (5) days prior to the hearing of the fee owners of records of all land within one hundred (100) feet of any part of the subject building or premises involved in the appeal.

Sec. 131-262 Decisions of Board of Appeals.

- (a) **Hearing Within Forty-five (45) Days of Filing.** Each appeal shall be heard within forty-five (45) days from the time of filing.
- (b) **Decision Within Thirty (30) Days of Hearing.** The Board of 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 Zoning Administrator.
- (c) **Conditions.** Conditions may be placed upon any zoning permit ordered or authorized by the Board of Appeals.
- (d) **Validity.** Variances, substitutions or use permits granted by the Board shall expire within eighteen (18) months unless substantial work has commenced pursuant to such grant.

Sec. 13-1-263 Variances.

(a) **Purpose.**

- (1) A request for a variance may be made when an aggrieved party can submit proof that strict adherence to the provisions of this Zoning Code would cause him undue hardship or create conditions causing greater harmful effects than the initial condition. A variance granted to a nonconforming use brings that use into conformance with the district and zoning requirements.
- (2) The Board of Appeals may authorize upon appeal, in specific cases, such variance from the terms of the Zoning Code as will not be contrary to the public interest, where owing to special conditions a literal enforcement of the provisions of the Zoning Code will result in unnecessary hardship and so that the spirit of the Zoning Code shall be observed and substantial justice done. No variance shall have the effect of allowing in any district uses prohibited in that district, permit a lower degree of flood protection that the flood protection elevation for the particular area or permit standards lower than those required by state law.
- (3) For the purposes of this Section, "unnecessary hardship" shall be defined as an unusual or extreme decrease in the adaptability of the property to the uses permitted by the zoning district which is caused by facts, such as rough terrain or good soil conditions, uniquely applicable to the particular piece of property as distinguished from those applicable to most or all property in the same zoning district.

(b) **Application for Variances.** The application for variation shall be filed with the City Clerk-Treasurer. Applications may be made by the owner or lessee of the structure, land or water to be affected. The application shall contain the following information:

- (1) Name and address of applicant and all abutting and opposite property owners of record.
- (2) Statement that the applicant is the owner or the authorized agent of the owner of the property.
- (3) Address and description of the property.
- (4) A site plan showing an accurate depiction of the property.
- (5) Additional information required by the Board of Zoning Appeals or Zoning Administrator.

(c) **Public Hearing of Application.** The Board of Appeals shall conduct at least one (1) public hearing on the proposed variation. Notice of such hearing shall be given not more than thirty (30) days and not less than seven (7) days before the hearing in one (1) or more of the newspapers in general circulation in the City, and shall give due notice to the parties in interest, the Zoning Administrator and the Common Council. At the hearing the appellant or applicant may appear in person, by agent or by attorney. The Board shall thereafter reach its decision within thirty (30) days after the final hearing and shall transmit a written copy of its decision to the appellant or applicant, Zoning Administrator and Common Council.

- (d) **Findings.** No variance to the provisions of this Chapter shall be granted by the Board of Appeals unless it finds beyond a reasonable doubt that all the following facts and conditions exist and so indicated in the minutes of the proceedings:
- (1) **Preservation of Intent.** No variance shall be granted that is not consistent with the purpose and intent of the regulations for the districts in which the development is located. No variance shall have the effect of permitting a use in any district that is not a stated permitted use, accessory use, or conditional use in that particular district. A variance may be granted where, owing to special conditions, a literal enforcement will result in practical difficulty or unnecessary hardship. Such variance shall not be contrary to the public interest and shall be so conditioned that the spirit and purposes of this Chapter shall be observed and the public safety, welfare and justice secured. With respect to pre-existing lots in residential districts, as determined in accord with Section 13-1-103, no variance shall be required so as to allow the owner or occupant of a pre-existing substandard lot to rebuild, replace or repair a porch or a deck which existed as of the date of adoption of this Chapter so long as in the course of such repair, rebuilding or replacement the original footprint of said porch or deck is not exceeded.
 - (2) **Exceptional Circumstances.** There must be unique, 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 Code should be changed.
 - (3) **Economic Hardship and Self-Imposed Hardship Not Grounds for Variance.** No variance shall be granted solely on the basis of economic gain or loss. Self-imposed hardships shall not be considered as grounds for the granting of a variance. The purpose of the variance must not be solely based upon a desire to increase the value or income potential of the property.
 - (4) **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.
 - (5) **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 the Zoning Code or the public interest.
- (e) **Decisions of the Board.** The concurring vote of four (4) members of the Board shall be necessary to reverse any order, requirement, decision, or determination of any such administrative officials or to decide in favor of the applicant on any matter upon which it is required to pass under this Chapter or to affect any variation therefrom.
- (f) **Form of Decision.** The final disposition of an appeal or requested variance shall be in the form of a written decision or order stated in the minutes. Such decision shall state the reasons for the Board of Appeals' determination and its findings of fact and shall either

affirm, reverse, vary or modify the order, requirement, decision or determination appealed, in whole or in part, dismiss the appeal or grant or deny the application for a variance.

- (g) **Conditions.** The Board may impose such requirements and conditions with respect to location, construction, maintenance and operation, in addition to any which may be stipulated in this Chapter, as the Board may deem necessary for the protection of adjacent properties and the public interest and welfare.

Sec. 13-1-264 Review by Court of Record.

Any person or persons aggrieved by any decision of the Board of Appeals may present to a 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 offices of the Board of Appeals.

Sec. 13-1-265 through Sec. 13-1-279 Reserved for Future Use.

Article 0: Mobile Home Parks

(Reserved for Future Use)

Article P: Definitions

Sec. 13-1-300 Definitions.

- (a) For the purposes of this Chapter, the following definitions shall be used, unless a different definition is specifically provided for a section. Words used in the present tense include the future, words in the singular number include the plural number, and words in the plural number include the singular number; the word "shall" is mandatory and not directory. The word "person" includes an individual, all partnerships, associations, and bodies political and corporate. The word "used" or "occupied" as applied to any land or building shall be construed to include the words "intended", "arranged", or "designed to be used or occupied".
- (1) **Abutting.** Have a common property line or district line.
 - (2) **Accessory Apartment.** A separate complete housekeeping unit that is substantially contained within the structure of a single-family dwelling, but can be isolated from it.
 - (3) **Accessory Use or Structure.** A use or detached structure subordinate to the principal use of a structure, parcel of land or water and located on the same lot or parcel serving a purpose incidental to the principal use or the principal structure.
 - (4) **Acre, Net.** The actual land devoted to the land use, excluding public streets, public lands or unusable lands, and school sites contained within 43,560 square feet.
 - (5) **Airport, Public.** Any airport which complies with the definition contained in Sec. 114.013(3), Wis. Stats., or any airport which serves or offers to serve common carriers engaged in air transport.
 - (6) **Alley.** A public or private right-of-way not more than twenty-one (21) feet wide which affords only a secondary means of access to the side or rear of an abutting property.
 - (7) **Apartment.** A suite of rooms or a room in a multiple dwelling, which suite or room is arranged, intended or designed to be occupied as a residence of a single family, individual or group of individuals, with separate facilities and utilities which are used or intended to be used for living, sleeping, cooking and eating.
 - (8) **Arterial Street.** A public street or highway used or intended to be used primarily for large volume or heavy through traffic. Arterial streets shall include freeways and expressways as well as arterial streets, highways and parkways.
 - (9) **Automobile Wrecking Yard.** Any premises on which two (2) or more self propelled vehicles not in running order or operating condition are stored in the open.
 - (10) **Basement.** A story partly or wholly underground. The height of a basement shall be the vertical distance between the surface of the basement floor and the surface of the floor next above it. A basement shall be counted as a story for the purposes of height measurements if the vertical distance between the ceiling and the main level

- of the adjoining ground is more than five (5) feet, or if used for business purposes, or if used for living purposes by other than the owner and his immediate family, and a janitor or servants of the owner.
- (11) **Bed and Breakfast Establishment Building.** A building that provides four (4) or fewer sleeping rooms for temporary occupancy for compensation by transient guests who are traveling for business or pleasure and is the owner's personal residence and occupied by the owner at the time of rental. The partnership form of ownership shall be allowed under this definition.
- (12) **Block.** A tract of land bounded by streets or by a combination of streets and public parks or other recognized lines of demarcation.
- (13) **Boarding House.** A building other than a hotel or restaurant where meals or lodging are regularly furnished by prearrangement 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.
- (14) **Buffer Zone.** A designated neutral area designed to separate conflicting land uses. A natural vegetative screening of trees, shrubs or other planting is usually employed in such a designated area.
- (15) **Buildable Lot Area.** The portion of a lot remaining after required yards have been provided.
- (16) **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. When a building is divided into separate parts by unpierced walls extending from the ground up, each part shall be deemed a separate building.
- (17) **Building, Accessory.** A building or portion of a building subordinate to the main building and used for a purpose customarily incidental to the permitted use of the main building or the use of the premises. An automobile trailer or other vehicle or part thereof or other building shall not be used as a dwelling or lodging place and shall not be considered an accessory building or use.
- (18) **Building, Detached.** A building surrounded by open space on the same lot.
- (19) **Building, Heights of.** The vertical distance from the average curb level in front of the lot or the finished grade at the building line, whichever is higher, to the highest point of the coping of a flat roof, to the deck line of a mansard roof or to the average height of the highest gable of a gambrel, hip or pitch roof.
- (20) **Building, Principal or Main.** The building on a lot in which is conducted the principal use as permitted on such lot by the regulations of the district in which it is located.
- (21) **Building Setback Line.** A line parallel to the lot line at a distance parallel to it, regulated by the yard requirements set up in this Code.
- (22) **Building, Principal.** A building in which the principal use of the lot on which it is located is conducted.

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- (23) **Business.** An occupation, employment or enterprise which occupies time, labor and materials, or wherein merchandise is exhibited or sold, or where services are offered.
- (24) **Canopy.** A rigid structure attached to and extending outward from a building, designed to protect the building and/or people under the canopy from the sun, rain or snow.
- (25) **Carport.** An automobile shelter having one (1) or more sides open.
- (26) **Cellar.** That portion of a building having more than half of the floor-to-ceiling height below the average grade of the adjoining ground. This portion is not a completed structure and serves as a substructure or foundation for a building.
- (27) **Channel.** Those floodlands normally occupied by a stream of water under average annual high-water flow conditions while confined within generally well-established banks.
- (28) **Clinic.** An establishment for medical examination and treatment of patients, but without provisions for keeping such patients overnight on the premises (except for veterinary clinics). For purposes of this Chapter, a doctor's or dentist's office in a residence, when it complies with the requirements of this Chapter relating to such office shall not be considered a clinic, but any doctor's or dentist's office in a residence, when it complies with the requirements of this Chapter relating to such office shall not be considered a clinic, but any doctor's or dentist's office which is not part of his/her home, or the office of two (2) or more doctors or dentists, whether in a residence or not, shall be considered a clinic.
- (29) **Club or Lodge.** A building or portion thereof or premises owned by a corporation, association, person or persons for a social, educational or recreational purpose, but not primarily for profit or to render a service which is customarily carried on as business.
- (30) **Community Living Arrangement.** The following facilities licensed or operated or permitted under the authority of the Wisconsin State Statutes: Child welfare agencies under Section 48.60, group foster homes for children under Section 48.02(7m) and community-based residential facilities under Section 50.01, but does not include day care centers, nursing homes, general hospitals, special hospitals, prisons and jails. The establishment of a community living arrangement shall be in conformance with applicable Sections of the Wisconsin State Statutes, including Sections 46.03(22), 69.97(15), 62.23(7)(i) and 62.23(7a), and amendments thereto, and also the Wisconsin Administrative Code.
- (31) **Conditional Use.** The occupations, vocations, skills, arts, businesses, professions or uses specifically designated in each zoning district, which for their respective conduct, exercise or performance in such designated districts may require reasonable, but special, peculiar, unusual or extraordinary limitations, facilities, plans, structures, thoroughfares, condition modification, or regulations in such district for the promotion or preservation of the general public welfare, health, convenience or safety therein and in the City and, therefore, may be permitted in such district only by a conditional use permit.

- (32) **Controlled Access Arterial Street.** The condition in which the right of owners or occupants of abutting land or other persons to access, light, air or view in connection with an arterial street is fully or partially controlled by public authority.
- (33) **Corner Lot.** The setback measured from the property line is twenty-five (25) feet on all street sides. The front of the lot is considered to be the way the house faces on the lot.
- (34) **Conservation Standards.** Guidelines and specifications for soil and water conservation practices and management enumerated in the **Technical Guide**, prepared by the USDA Soil Conservation Service for Chippewa County, adopted by the County Soil and Water Conservation District Supervisors, and containing suitable alternatives for the use and treatment of land based upon its capabilities from which the landowner selects that alternative which best meets his needs in developing his soil and water conservation.
- (35) **Development.** Any man-made change to improved or unimproved real estate, including but not limited to construction of or additions or substantial improvements to buildings, other structures, or accessory uses, mining, dredging, filling, grading, paving, excavation or drilling operations or disposition of materials.
- (36) **District, Basic.** A part or parts of the City for which the regulations of this Chapter governing the use and location of land and building are uniform.
- (37) **District, Overlay.** Overlay districts, also referred to herein as regulatory areas, provide for the possibility of superimposing certain additional requirements upon a basic zoning district without disturbing the requirements of the basic district. In the instance of conflicting requirements, the more strict of the conflicting requirements shall apply.
- (38) **Dwelling.** A 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.
- (39) **Dwelling Unit.** Any room or group of rooms located within a dwelling and forming a single habitable unit, which are used or intended to be used for living, sleeping, cooking and eating.
- (40) **Dwelling, Efficiency.** A dwelling unit consisting of one (1) principal room with no separate sleeping rooms.
- (41) **Dwelling, Single-Family.** A detached building designed for or occupied by one (1) family.
- (42) **Dwelling, Two-Family.** A detached building containing two (2) separate dwelling (or living) units, designed for occupancy by not more than two (2) families.
- (43) **Dwelling, Multiple-Family.** A residential building designed for or occupied by three (3) or more families, with the number of families in residence not to exceed the number of dwelling units provided.
- (44) **Elderly Day Care Home.** Locations which provide day care and food service for adults who are unable to be left alone while other family members are at work or

- otherwise not at home during the day. Overnight lodging is not to be provided at a day care center.
- (45) **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.
- (46) **Family.** An individual living alone, or two (2) or more people related by marriage or blood living as a single unit; or a group of not more than four (4) people that need not be related by blood living in a single unit for housekeeping, as distinguished from a hotel, club, lodge or rooming house.
- (47) **Family Day Care Home.** A dwelling also licensed as a day care center by the State Department of Health and Social Services where, for compensation of consideration, a resident of the dwelling provides group care for at least four (4), but not more than eight (8), children between the ages of infancy and seven (7) years of age at a location other than the child's own home or the home of relatives or guardians.
- (48) **Farming — General.** General farming shall include floriculture, forest and game management, orchards, raising of grain, grass, mint and seedcrops, raising of fruits, nuts and berries, sod farming and vegetable farming. General farming includes the operating of such an area for one (1) or more of the above uses with the necessary accessory uses for treating or storing the produce, provided, however, that the operation of any such accessory uses shall be secondary to that of the normal farming activities.
- (49) **Farmstead.** A single-family residential structure located on a parcel of land, which primary land use is associated with agriculture.
- (50) **Floor Area.** The square feet of floor space within the outside line of walls and includes the total of all space on all floors of a building, but not including porches, garages or space in a basement or cellar when the same is used for storage or incidental uses.
- (51) **Floor Area — Business and Manufacturing Buildings.** For the purpose of determining off-street parking and off-street loading requirements, the sum of the gross horizontal areas of the floors of the building, or portion thereof, devoted to a use requiring off-street parking or loading. This area shall include elevators and stairways, accessory storage areas located within selling or working space occupied by counters, racks or closets and any basement floor area devoted to retailing activities, to the production or processing of goods, or to business or professional offices. However, floor area, for the purposes of determining off-street parking spaces, shall not include floor area devoted primarily to storage purposes except as otherwise noted herein.

- (52) **Foster Family Home.** The primary domicile of a foster parent which is four (4) or fewer foster children and which is licensed under Section 48.62 of the Wisconsin Statutes and amendments thereto.
- (53) **Frontage.** All the property butting on one (1) side of a street between two (2) intersecting streets or all of the property abutting on one (1) side of a street between an intersecting street and the dead end of a street.
- (54) **Frontage, Reversed.** Where the rear lot line of a corner lot coincides with all or part of the side lot line of an adjoining lot in the same block.
- (55) **Garage (Private).** A detached accessory building or portion of the principal building, designed, arranged, used or intended to be used for storage of automobiles of the occupant of the premises.
- (56) **Garage — Public.** Any building or portion thereof, not accessory to a residential building or structure, used for equipping, servicing, repairing, leasing or public parking of motor vehicles.
- (57) **Garage, Storage.** Any building or premises used for the storage only of motor-driven vehicles, pursuant to previous arrangements, not to transients, where no equipment, parts, fuel, grease or oil are sold and vehicles are not equipped, serviced, repaired, hired or sold.
- (58) **Gasoline Station.** Any area of land, including structures thereon, that is used for the sale of gasoline or other motor vehicle fuel, and oil or other lubrication substances; sale of motor vehicle accessories; and which may include facilities used or designed to be used for polishing, greasing, washing, spraying, dry cleaning or otherwise cleaning such vehicles.
- (59) **Grade.** When used as a reference point in measuring the height of a building, the "grade" shall be the average elevation of the finished ground at the exterior walls of the main building.
- (60) **Group Foster Home.** Any facility operated by a person required to be licensed by the State of Wisconsin under State Statute Section 48.62 for the care and maintenance of five (5) to eight (8) foster children.
- (61) **Home Occupation.** An accessory use of a dwelling unit for gainful employment involving the manufacture, provision or sale of goods and/or services that is clearly secondary to the residential use and does not change the character of the structure as a residence and meets all the applicable limitations of this Chapter.
- (62) **Hospital.** An institution intended primarily for the medical diagnosis, treatment and care of patients being given medical treatment. A hospital shall be distinguished from a clinic by virtue of providing for twenty-four (24) hour care.
- (63) **Hotel.** A building in which lodging, with or without meals, is offered to transient guests for compensation and in which there are more than five (5) sleeping rooms with no cooking facilities in any individual room or apartment.
- (64) **Institution.** A building occupied by a nonprofit corporation or a nonprofit establishment for public use.

- (65) **Interchange.** A grade-separated intersection with one (1) or more direct connections for vehicular travel between the intersecting streets or highways.
- (66) **Junk.** Any scrap, waste, reclaimable material or debris, whether or not stored or used in conjunction with dismantling, processing, salvage, storage, baling, disposal or other use or disposition. Junk includes, but is not limited to, vehicles, tires, vehicle parts, equipment, paper, rags, metal, glass, building materials, household appliances, brush, wood and lumber.
- (67) **Junkyard.** Any place at which personal property is or may be salvaged for reuse, resale or reduction or similar disposition and is owned, possessed, collected, accumulated, dismantled or assorted, including but not limited to used or salvaged or new scrapped base metal or metals, their compounds or combinations, used for salvaged rope, bags, paper, rags, glass, rubber, lumber, millwork, brick and similar property, except animal matter; and used motor vehicles, machinery or equipment which are used, owned or possessed for the purpose of wrecking or salvaging parts therefrom.
- (68) **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.
- (69) **Lodging House.** A building where lodging only is provided for compensation for not more than three (3) persons not members of the family.
- (70) **Lot.** A division of land occupied or designed to be occupied by one (1) building and its accessory buildings or uses, including open spaces required by this Chapter. A lot may be a parcel of land designated in a plat laid out prior to the effective date of this amendment, whether or not such division abuts a public street or other officially approved place recorded in the office of the Register of Deeds, or any part of a larger division when such parts comply with the requirements of this Chapter as to width and area for the district in which it is located. No land included in any street, highway or railroad right-of-way shall be included in computing lot area.
- (71) **Lot, Corner.** A lot abutting two (2) or more streets at their intersection provided that the corner of such intersection shall have an angle of one hundred thirty-five degrees (135°) or less, measured on the lot side.
- (72) **Lot, Interior.** A lot situated on a single street which is bounded by adjacent lots along each of its other lines and is not a corner lot.
- (73) **Lot, Through.** A lot which has a pair of opposite lot lines along two (2) substantially parallel streets and which is not a corner lot. On a through lot, both street lines shall be deemed front lot lines.
- (74) **Lot, Substandard.** A parcel of land held in separate ownership having frontage on a public street, or other approved means of access, occupied or intended to be occupied by a principal building or structure, together with accessory building and uses, having insufficient size to meet the lot width, lot area, yard, off-street parking areas or other open space provisions of this code as pertaining to the district wherein located.

- (75) **Lot Area.** The area of contiguous land bounded by lot lines, exclusive of land designated for public thoroughfares.
- (76) **Lot Coverage (Residential).** The area of a lot occupied by the principal building or buildings and accessory buildings.
- (77) **Lot Coverage (Except Residential).** The area of a lot occupied by the principal building or buildings and accessory buildings, including any driveways, parking areas, loading areas, storage areas and walkways.
- (78) **Lot Depth.** The shortest horizontal distance between the front lot line and the rear lot line measured at a ninety (90) degree angle from the road right-of-way.
- (79) **Lot Line.** A property boundary line of any lot held in single or separate ownership, except that where any portion of the lot extends into the abutting street or alley, the lot line shall be deemed to be the abutting street or alley right-of-way line.
- (80) **Lot Line, Front.** A line separating the lot from the street or approved private road.
- (81) **Lot Line, Rear.** A lot line which is opposite and most distant from the front lot line and, in the case of an irregular or triangular-shaped lot, a line ten (10) feet in the length within the lot, parallel to and at the maximum distance from the front lot line.
- (82) **Lot Line, Side.** Any lot boundary line not a front line or a rear lot line.
- (83) **Lot of Record.** A lot which has been recorded in the Office of the Register of Deeds prior to the effective date of this Chapter.
- (84) **Lot Width.** The horizontal distance between the side lot lines at the building setback line.
- (85) **Manufactured Home.** Each manufactured home shall comply with all of the following requirements and limitations:
- a. It shall comply with the standards established under 42 USC 5401 to 5425.
 - b. The home shall be a double wide of at least twenty-four (24) feet in width and thirty-six (36) feet in length.
 - c. The home shall be installed on an approved foundation in conformity with the uniform building code. The wheels and axles shall be removed. The enclosed foundation system shall be approved by the Building Inspector and/or City Engineer; the Building Inspector may require a plan to be certified by a registered architect or engineer to ensure proper support for the home.
 - d. The home shall be equipped with foundation siding which in design, color and texture appears to be an integral part of the adjacent exterior wall of the manufactured home.
 - e. The home shall be covered by a roof pitched at a minimum slope of two (2) inches in twelve (12) inches, which is permanently covered with non-reflective material.
 - f. The home shall have a pitched roof, overhanging eaves and such other features required of all new single family dwellings located within the City of Bloomer.
- (86) **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.

- (87) **Mobile Home.** That which is or was as originally constructed, designed to be transported by any motor vehicle upon a public highway and designed, equipped and used primarily for sleeping, eating and living quarters, or is intended to be so used; and includes any additions, attachments, annexes, foundations and appurtenances. In addition, a mobile home cannot qualify as a "manufactured home" as that term is defined herein.
- (88) **Mobile Home Lot.** A parcel of land for the placement of a single mobile home and the exclusive use of its occupants.
- (89) **Mobile Home Park.** A parcel of land which has been developed for the placement of mobile homes and is owned by an individual, a firm, trust, partnership, public or private association, or corporation. Individual lots within a mobile home park is also any lot on which two (2) or more mobile homes are parked for the purpose of permanent habitation and including any associated service, storage, recreation and other community service facilities designed for the exclusive use of park occupants.
- (90) **Mobile Home Subdivision.** A land subdivision, as defined by Chapter 236 of the Wisconsin Statutes and any City Land Division Ordinance, with lots intended for the placement of individual mobile home units. Individual homesites are in separate ownership as opposed to the rental arrangements in mobile home parks.
- (91) **Modular Unit.** A modular unit is a factory fabricated transportable building unit designed to be used by itself or to be incorporated with similar units at a building site into a modular structure to be used for residential, commercial, educational, or industrial purposes.
- (92) **Motel.** A building or group of buildings containing rooms which are offered for compensation for the temporary accommodation of travelers or tourists.
- (93) **Nonconforming Lot.** A lot of record existing on the date of passage of this Chapter which does not have the minimum width or contain the minimum area for the zone in which it is located.
- (94) **Nonconforming Uses.** Any structure, use of land, use of land and structure in combination or characteristic of use (such as yard requirement or lot size) which was existing at the time of the effective date of this Code or amendments thereto and which is not in conformance with this Code. Any such structure conforming in respect to use but not in respect to frontage, width, height, area, yard, parking, loading or distance requirements shall not be considered a nonconforming use, but shall be considered nonconforming with respect to those characteristics.
- (95) **Nursing Home.** An establishment used as a dwelling place by the aged, infirm, chronically ill or incurably afflicted, in which not less than three (3) persons live or are kept or provided for on the premises for compensation, excluding clinics and hospitals and similar institutions devoted to the diagnosis, treatment or the care of the sick or injured.
- (96) **Open Sales Area.** Any open land or area used or occupied for the purpose of displaying for sale new or secondhand merchandise, including, but not limited to,

- passenger cars or trucks, farm machinery, construction machinery, motor scooters or motorcycles, boats, trailers, aircraft and monuments. No repair work is done in such area except for incidental repair of items to be displayed and sold on the premises.
- (97) **Outdoor Storage Areas.** Any open land or area used for the purpose of storage of any product or part of a product either before, during or after manufacture, servicing or repair, and not displayed for retail sale. This does not include open sales areas.
- (98) **Parking Lot.** A structure or premises containing five (5) or more parking spaces open to the public.
- (99) **Parking Space.** An off-street space available for the parking of a motor vehicle and which is held to be an area the dimensions of which are ten (10) feet by eighteen (18) feet or which covers one hundred eighty (180) square feet, exclusive of passageways and driveways appurtenant thereto and giving access thereto.
- (100) **Parties in Interest.** Includes all abutting property owners, all property owners within one hundred (100) feet, and all property owners of opposite frontages.
- (101) **Places of Assembly.** Places where people gather or congregate for amusement, worship, learning, etc. This includes schools, churches, theaters, playgrounds, etc.
- (102) **Plan Commission.** Where the phrase "Plan Commission" appears, this refers to the Plan Commission of the City. The Plan Commission is appointed by the Mayor and confirmed by the Common Council pursuant to Sec. 62.23, Wis. Stats.
- (103) **Planned Development.** A tract of land which contains or will contain two (2) or more principal buildings, developed under single ownership or control; the development of which is unique and of a substantially different character than that of surrounding areas. A planned development allows for flexibility not available under normal zoning district requirements.
- (104) **Premise.** The area of land surrounding a structure and forming one (1) enclosure with it.
- (105) **Private Individual Sewage Treatment System.** A sewage treatment and disposal system serving a single structure with a septic tank and soil absorption field located on the same lot as the structure. This term includes alternative sewage systems, substitutes for the septic tank or soil absorption field, a holding tank, a system serving more than one (1) structure or a system located on a different parcel than the structure.
- (106) **Private Individual Water System.** A system supplying water for human consumption with a well and pump serving a single structure located on the same lot as the structure. This term includes alternative water supply systems, substitutes for the well or pump, a system serving more than one (1) structure or a system located on a different parcel than the structure.
- (107) **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

- professionals, used to conduct their professions where the office does not exceed one-half (1/2) the area of only one (1) floor of the residence and only one (1) non-resident person is employed.
- (108) **Public Airport.** Any airport which complies with the definition contained in Sec. 114.002(18m), Wis. Stats., or any airport which serves or offers to serve common carriers engaged in air transport.
- (109) **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 (1) of the street yards on a corner lot.
- (110) **Recreational Vehicle.** Any vehicle or structure designed and used for temporary, seasonal human living quarters which meets all of the following qualifications:
- Is not used as the permanent residence of the owner or occupant;
 - Is used for temporary living quarters by the owner or occupant while engaged in recreation or vacation activities;
 - Is towed or self-propelled on public streets or highways incidental to such recreation or vacation activities;
 - Examples of such vehicles include van campers, tent camping trailers, self-contained travel trailers, pick-up campers, camping buses, and self-contained, self-accommodations.
- (111) **Recreational Vehicle Camp.** A park, court, campsite, lot, parcel or tract of land designed, maintained or intended for the purpose of supplying the location or accommodations for any recreational vehicles as defined herein, and upon which said recreational vehicles are parked.
- (112) **Restaurant.** A business establishment consisting of a kitchen and dining room, whose primary purpose is to prepare and serve food to be eaten by customers seated in the dining room.
- (113) **Restaurant, Drive-in.** A business establishment consisting of a kitchen, with or without a dining room, where food is prepared and packaged to be eaten either off the premises or within automobiles parked on the premises.
- (114) **Retail.** The sale of goods or merchandise in small quantities to the consumer.
- (115) **Roadside Stand.** A structure having a ground area of not more than three hundred (300) square feet, not permanently fixed to the ground that is readily removable in its entirety, covered or uncovered and not wholly enclosed, and used solely for the sale of farm products produced on the premises.
- (116) **Rooming Unit.** Any room or group of rooms forming a single habitable unit used or intended to be used for living and sleeping, but not for cooking or eating purposes.
- (117) **School.** A building or group of building maintained by the public or by a private organization for the purpose of education and which is accredited by the State of Wisconsin. Schools include pre-school and grades kindergarten through twelve (12),

- but not trade schools that do not teach the state required courses for high school graduation in addition to the vocational instruction.
- (118) **School, Commercial.** A school limited to special instructions such as business, art, music, trades, handicraft, dancing or riding.
- (119) **Setback.** The minimum horizontal distance between the front lot line and the nearest point of the foundation of that portion of the building to be enclosed. The overhang cornices shall not exceed twenty-four (24) inches. any overhang of the cornice in excess of twenty-four (24) inches shall be compensated by increasing the setback by an amount equal to the excess of cornice over twenty-four (24) inches. Uncovered steps shall not be included in measuring the setback.
- (120) **Sheltered Care Facility.** A private home which provides separate sleeping accommodations and kitchen facilities for its occupants, but also maintains some means of contact with a central control office or building. This facility may include joint recreational and eating facilities.
- (121) **Shopping Center.** A concentration of retail stores and service establishments in a suburban area with generous parking space and planned to serve the community or neighborhood.
- (122) **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 structure.
- (123) **Signs.** Any medium, including its structure, 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.
- (124) **Site Plan.** Includes but is not limited to a drawing to scale of not less than one (1) inch equals fifty (50) feet, showing all physical aspects such as buildings, setback dimensions, sidewalks, driveways, playgrounds, parking, and so forth which pertain to the proposed development and its relation to the surrounding area in conformance to the zoning of the area in which the development will exist.
- (125) **Story.** That portion of a building included between the surface of any floor and the surface of the next floor above it, or if there is no floor above it, then the space between the floor and the ceiling next above it. Any portion of a story exceeding fourteen (14) feet in height shall be considered as an additional story for each fourteen (14) feet or fraction thereof. A basement having one-half (1/2) or more of its height above grade shall be deemed a story for purposes of height regulation.
- (126) **Story, Half.** That portion of a building under a gable, hip or mansard roof, the wall plates of which, on at least two (2) opposite exterior walls, are not more than four and one-half (4-1/2) feet above the finished floor of such story. In the case of one (1) family dwellings, two (2) family dwellings and multi-family dwellings less than three

- (3) stories in height, a half (1/2) story in a sloping roof shall not be counted as a story for the purposes of this Code.
- (127) **Street.** Property other than an alley or private thoroughfare or travelway which is subject to public easement or right-of-way for use as a thoroughfare and which is twenty-one (21) feet or more in width.
- (128) **Street, Arterial.** A public street or highway intended to be used primarily for fast or heavy through traffic. Arterial streets and highways shall include freeways and expressways, as well as major thoroughfares, highways and parkways.
- (129) **Street Yard.** A yard extending across the full width of the lot, the depot of which shall be the minimum horizontal distance between the existing street or highway right-of-way line and a line parallel thereto through the nearest point of the principal structure. Corner lots shall have two (2) street yards.
- (130) **Structure.** Anything constructed or erected, the use of which requires a permanent location on the ground or attached to something having a permanent location on the ground.
- (131) **Structural Alterations.** Any change in the supporting members of a structure, such as foundations, bearing walls, columns, beams or girders.
- (132) **Temporary Structure.** A movable structure not designed for human occupancy nor for the protection of goods or chattels and not forming an enclosure, such as billboards.
- (133) **Tourist Camp.** A tract or parcel of land on which one (1) or more automobile trailers, tents or camp cabins are located, open to the public free or for a fee.
- (134) **Use.** The purpose or activity for which the land or building thereof is designed, arranged or intended, or for which it is occupied or maintained.
- (135) **Use, Accessory.** A subordinate building or use which is located on the same lot on which the principal building or use is situated and which is reasonably necessary and incidental to the conduct of the primary use of such building or main use, when permitted by district regulations.
- (136) **Use, Permitted.** A use which may be lawfully established in a particular district or districts, provided it conforms with all requirements, regulations, and standards of such district.
- (137) **Use, Principal.** The main use of land or building as distinguished from subordinate or accessory use.
- (138) **Utilities.** Public and private facilities, such as water wells, water and sewage pumping stations, water storage tanks, electrical power substations, static transformer stations, telephone and telegraph exchanges, microwave radio relays and gas regulation stations, inclusive of associated transmission facilities, but not including sewage disposal plants, municipal incinerators, warehouses, shops, storage yards and power plants.
- (139) **Variance.** A departure from the terms of this Chapter as applied to a specific building, structure or parcel of land, which the Board of Appeals may permit, contrary

to the regulations of this Chapter for the district in which such buildings, structure or parcel of land is located, when the Board of Appeals finds that a literal application of such regulation will affect a limitation on the use of the property which does not generally apply to other properties in the same district, and for which there is no compensation or gain to the property and does not endanger the public health, safety or welfare.

- (140) **Vehicle, Motor.** Every device in, upon or by which any person or property is or may be transported.
- (141) **Vision Setback Area.** An unoccupied triangular space at the intersection of highways or streets with other highways or streets or at the intersection of highways or streets with railroads. Such vision clearance triangle shall be bounded by the intersecting highway, street or railroad right-of-way lines and a setback line connecting points located on such right-of-way lines by measurement from this intersection as specified in this Chapter.
- (142) **Wall, Retaining.** A structure designed to resist the lateral displacement of soil or other materials.
- (143) **Yard.** An open space on the same lot with a building, unobstructed by structures except as otherwise provided herein.
- (144) **Yard, Front.** A yard extending the full width of the lot between the front lot line and the nearest part of the principal building excluding uncovered steps. On corner lots, the front yard shall be considered as parallel to the street upon which the lot has its least dimensions.
- (145) **Yard, Rear.** A yard extending the full width of the lot between the rear lot line to the nearest part of the principal building, including eaves.
- (146) **Yard, Side.** A yard on each side of the principal building extending from the nearest part of the principal building, including eaves to the lot line and from the front yard line to the rear yard line.
- (147) **Zero Lot Line.** The concept whereby two (2) respective dwelling units within a building shall be on separate and abutting lots and shall meet on the common property line between them, thereby having zero space between said units.
- (148) **Zoning Permit.** A permit issued by the Zoning Administrator to certify that the use of lands, structures, air and waters subject to this Chapter are or shall be used in accordance with the provisions of said Chapter.

Title 13 ► Chapter 2

Floodplain and Shoreland–Wetland Zoning

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ORDINANCE 13-03

—To Repeal and Recreate Title 13, Chapter 2 of the City Code; Floodplain and Shoreland-Wetland Zoning—

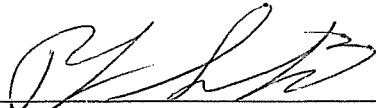
The Common Council of the City of Bloomer does hereby ordain as follows:

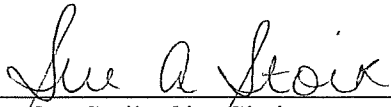
Section One: That Title 13, Chapter 2 of the City Code, entitled Floodplain and Shoreland-Wetland Zoning, be repealed and recreated, said recreated chapter to read as is set forth in the attached Exhibit "A" to this ordinance.

Section Two: That this ordinance shall take effect upon its adoption and publication as required by law.

Dated this 7th day of August, 2013.

CITY OF BLOOMER

By: 
Randy Summerfield, Mayor

By: 
Sue Stoik, City Clerk

Annexed Area Only

Chippewa Co. Zone

Article A: Introduction

Sec. 13-2-1 Statutory Authorization.

This Chapter for floodplain protection is adopted pursuant to the authorization contained in Sections 62.23, 62.231, 87.30 and 144.26, Wis. Stats.

Sec. 13-2-2 Finding of Fact.

The uncontrolled development and use of the shoreland-wetlands, floodplains, rivers or streams of the City of Bloomer, Wisconsin, would adversely affect the public health, safety, convenience and general welfare and impairs its tax base. The Legislature of Wisconsin has delegated responsibility to all municipalities to further the maintenance of safe and healthful conditions; prevent and control water pollution; protect spawning grounds, fish and aquatic life; control building sites, placement of structures and lands uses; and preserve shore cover and natural beauty.

Sec. 13-2-3 Statement of Purpose.

To promote the public health, safety, convenience and general welfare, and protect life, health and property, this Chapter has been established to:

- (a) Maintain the storm and flood water storage capacity of wetlands.
- (b) Prevent and control water pollution by preserving wetlands which filter or store sediments, nutrients, heavy metals or organic compounds that would otherwise drain into navigable waters.
- (c) Protect fish spawning grounds, fish, aquatic life and wildlife by preserving wetlands and other fish and aquatic habitat.
- (d) Prohibit certain uses detrimental to the shoreland-wetland area.
- (e) Preserve shore cover and natural beauty by restricting shoreland-wetland excavation, filling and other earth moving activities.
- (f) Minimize expenditures of public moneys for costly flood control projects.
- (g) Reduce rescue and relief efforts, generally undertaken at the expense of the taxpaying public.
- (h) Prevent business interruptions which usually result in the loss of local incomes.
- (i) Reduce damage to public facilities such as utilities, municipal buildings, streets and bridges which may be located in the floodplains.
- (j) Prevent the occurrence of future flood blight areas on floodplains.
- (k) Discourage the victimization of unwary land and home buyers.

13-2-3

- (1) Prevent increases in regional flood heights which could increase damage during floods and which may result in conflicts or litigation between property owners.

Sec. 13-2-4 Title.

This Chapter shall be known as the Floodplain and Shoreland-Wetland Zoning Ordinance for the City of Bloomer.

Sec 13-2-5 through Sec. 13-2-9 Reserved for Future Use.

Article B: General Provisions

Sec. 13-2-10 Compliance with Chapter.

- (a) **Compliance.** Any development, as defined in Section 13-2-110, in floodplains and shoreland-wetlands shall be in full compliance with the terms of this Chapter. (However, see Article H of this Chapter for the standards applicable to nonconforming uses.) It is the responsibility of the applicant to secure all other necessary permits from appropriate federal, state and local agencies, including those required by the U.S. Army Corps of Engineers under Section 404 of the Federal Water Pollution Control Act amendments of 1972, 33 U.S.C. 1334.
- (b) **Municipalities and State Agencies Regulated.** Unless specifically exempted by law, all cities, villages, towns and counties are required to comply with this Chapter and obtain all necessary permits. State agencies are required to comply if Sec. 13.48(13), Wis. Stats., applies. The construction, reconstruction, maintenance and repair of state highways and bridges by the Wisconsin Department of Transportation are exempt when Sec. 30.12(4)(a), Wis. Stats., applies.

Sec. 13-2-11 Abrogation and Greater Restrictions; Interpretation of Chapter.

- (a) **Greater Restrictions.** This Chapter supersedes all the provisions of any municipal zoning ordinance enacted under Sections 61.35, 62.23 or 87.30, Wis. Stats., which relate to floodplains and shoreland-wetlands except that where another municipal zoning ordinance is more restrictive than the provisions contained in this Chapter, that ordinance shall continue in full force and effect to the extent of the greater restrictions, but not otherwise. The more restrictive of either the shoreland-wetland district or floodplain district regulations shall apply when a property is located in both zoning districts.
- (b) **Abrogation.** It is not otherwise intended by this Chapter to repeal, abrogate or impair any existing easements, covenants or deed restrictions; however, where this Chapter imposes greater restrictions, the provisions of this Chapter shall prevail.
- (c) **Interpretation.** In their interpretation and application, the provisions of this Chapter shall be held to minimum requirements liberally construed in favor of the governing body and shall not be deemed a limitation on or repeal of any other powers granted by the Wisconsin Statutes. Where a provision of this Chapter is required by a standard in Chapters NR 116 or NR 117, Wisconsin Administrative Code, and where the meaning of the Chapter provision is unclear, the provision shall be interpreted in light of the Chapters NR 116 or NR 117, standards in effect on the date of the adoption of this Chapter or in effect on the date of the most recent text amendment to this Chapter.

Sec. 13-2-12 Warning and Disclaimer of Liability.

The degree of flood protection intended to be provided by this Chapter is considered reasonable for regulatory purposes and is based on engineering experience and scientific methods of study. Larger floods may occur or the flood height may be increased by manmade or natural causes, such as ice jams and bridge openings restricted by debris. This Chapter does not imply that areas outside of the delineated floodplain or permitted land uses within the floodplain will be totally free from flooding and associated flood damages. Nor does this Chapter create a liability on the part of or a cause of action against the City or any officer or employee thereof for any flood damage that may result from reliance on this Chapter.

Sec. 13-2-13 Annexed Lands.

The Chippewa County Shoreland Zoning provisions in effect on the date of annexation remain in effect administered by the City for all areas annexed by the City after May 7, 1982. These annexed lands are described on the City's official zoning map. The Chippewa County Shoreland Zoning provisions are incorporated by reference for the purpose of administering this Section and are on file in the office of the Zoning Administrator.

Sec. 13-2-14 Severability.

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

Sec. 13-2-15 Zoning Maps.

The maps designated below are hereby adopted and made part of this Chapter. They are on file in the office of the Clerk-Treasurer of the City of Bloomer:

- (a) Floodplain zoning maps titled "Flood Insurance Rate Map, City of Bloomer, Wisconsin, Chippewa County," dated August 19, 1991.
- (b) Wisconsin Wetland Inventory Maps stamped "FINAL" on December 20, 1985.
- (c) Comprehensive Zoning Base Map, titled "City of Bloomer Zoning Map" and dated June 6, 1991.

Sec. 13-2-16 through Sec. 13-2-19 Reserved for Future Use.

Article C: Shoreland–Wetland Zoning District

Sec. 13-2-20 District Boundaries of Shoreland–Wetlands.

- (a) The shoreland-wetland zoning district includes all wetlands in the City of Bloomer which are five (5) acres or more in size and are shown on the final Wetland Inventory Map that has been adopted and made a part of this Chapter in Section 13-2-15 and which are:
 - (1) Within one thousand (1,000) feet of the ordinary highwater mark of navigable lakes, ponds or flowages. Lakes, ponds or flowages in the municipality shall be presumed to be navigable if they are shown on the United States Geological Survey quadrangle maps or other zoning base maps which have been made a part of this Chapter in Section 13-2-15.
 - (2) Within three hundred (300) feet of the ordinary highwater mark of navigable rivers or streams or to the landward side of the floodplain, whichever distance is greater. Rivers and streams shall be presumed to be navigable if they are designated as either continuous or intermittent waterways on the United States Geological Survey quadrangle maps or other zoning base maps which have been incorporated by reference and made a part of this Chapter in Section 13-2-15. Floodplain zoning maps adopted in Section 13-2-15 shall be used to determine the extent of floodplain areas.
- (b) Determinations of navigability and ordinary highwater mark location shall initially be made by the Zoning Administrator. When questions arise, the Zoning Administrator shall contact the appropriate district office of the Department for a final determination of navigability or ordinary highwater mark.
- (c) When an apparent discrepancy exists between the shoreland-wetland district boundary shown on the official zoning maps and the actual field conditions at the time the maps were adopted, the Zoning Administrator shall contact the appropriate district office of the Department to determine if the shoreland-wetland district boundary as mapped is in error. If Department staff concur with the Zoning Administrator that a particular area was incorrectly mapped as a wetland, the Zoning Administrator shall have the authority to immediately grant or deny a land use or building permit in accordance with the regulations applicable to the correct zoning district. In order to correct wetland mapping errors shown on the official zoning maps, the Zoning Administrator shall be responsible for initiating a map amendment within a reasonable period.
- (d) Under Sec. 144.26(2m), Wis. Stats., notwithstanding any other provision of law or administrative rule, wetland zoning ordinances required under the Wisconsin Statutes (Sec. 61.351 for villages or 62.231 for cities) and Chapter NR 117, Wis. Adm. Code, do not apply to lands adjacent to farm drainage ditches if:
 - (1) Such lands are not adjacent to a natural navigable stream or river;
 - (2) Those parts of the drainage ditches adjacent to such lands were not navigable streams before ditching; and
 - (3) Such lands are maintained in nonstructural agricultural use.

Sec. 13-2-21 Permitted Uses in Shoreland–Wetlands.

The following uses are permitted subject to the provisions of Chapters 30 and 31, Wis. Stats., and the provisions of other local, state and federal laws, if applicable:

- (a) Activities and uses which do not require the issuance of a zoning permit, provided that no wetland alteration occurs:
 - (1) Hiking, fishing, trapping, hunting, swimming, snowmobiling and boating;
 - (2) The harvesting of wild crops, such as marsh hay, ferns, moss, wild rice, berries, tree fruits and tree seeds, in a manner that is not injurious to the natural reproduction of such crops;
 - (3) The practice of silviculture, including the planting, thinning and harvesting of timber;
 - (4) The pasturing of livestock;
 - (5) The cultivation of agricultural crops; and
 - (6) The construction and maintenance of duck blinds.
- (b) Uses which do not require the issuance of a zoning permit and which may involve wetland alterations only to the extent specifically provided below:
 - (1) The practice of silviculture, included limited temporary water level stabilization measures which are necessary to alleviate abnormally wet or dry conditions that would have an adverse impact on the conduct of silvicultural activities if not corrected;
 - (2) The cultivation of cranberries, including limited wetland alterations necessary for the purpose of growing and harvesting cranberries;
 - (3) The maintenance and repair of existing drainage systems, where permissible under Sec. 30.20, Wis. Stats., to restore pre-existing levels of drainage, including the minimum amount of filling necessary to dispose of dredged spoil, provided that the filling is permissible under Chapter 30, Wis. Stats., and that dredged spoil is placed on existing spoil banks where possible;
 - (4) The construction and maintenance of fences for the pasturing of livestock, including limited excavating and filling necessary for such construction or maintenance;
 - (5) The construction and maintenance of piers, docks and walkways, observation decks and trail bridges built on pilings, including limited excavating and filling necessary for such construction or maintenance;
 - (6) The installation and maintenance of sealed tiles for the purpose of draining lands outside the shoreland-wetland zoning district provided that such installation or maintenance is done in a manner designed to minimize the adverse impact upon the natural functions of the shoreland-wetland listed in Section 13-2-23(a) of this Chapter; and
 - (7) The maintenance, repair, replacement and construction of existing highways and bridges, including limited excavating and filling necessary for such maintenance, repair, replacement or reconstruction.

- (c) Uses which are allowed upon the issuance of a conditional use permit and which may include wetland alterations only to the extent specifically provided below:
- (1) The construction and maintenance of roads which are necessary for the continuity of the municipal street system, the provision of essential utility and emergency services or to provide access to uses permitted under this Section provided:
 - a. The road cannot, as a practical matter, be located outside the wetland;
 - b. The road is designed and constructed to minimize the adverse impact upon the natural functions of the wetland listed in Section 13-2-23(a);
 - c. The road is designed and constructed with the minimum cross-sectional area practical to serve the intended use;
 - d. Road construction activities are carried out in the immediate area of the roadbed only; and
 - e. Any wetland alteration must be necessary for the construction or maintenance of the road.
 - (2) The construction and maintenance of nonresidential buildings provided that:
 - a. The building is used solely in conjunction with a use permitted in the shoreland-wetland district or for the raising of waterfowl, minnows or other wetland or aquatic animals;
 - b. The building cannot, as a practical matter, be located outside the wetland;
 - c. The building does not exceed five hundred (500) square feet in floor area; and
 - d. Only limited filling and excavating necessary to provide structural support for the building is allowed.
 - (3) The establishment and development of public and private parks and recreation areas, outdoor education areas, historic, natural and scientific areas, game refuges and closed areas, fish and wildlife habitat improvement projects, game bird and animal farms, wildlife preserves and public boat launching ramps, provided that:
 - a. Any private development allowed under this paragraph shall be used exclusively for the permitted purpose;
 - b. Only limited filling and excavating necessary for the development of public boat launching ramps, swimming beaches or the construction of park shelters or similar structures is allowed;
 - c. The construction and maintenance of roads necessary for the uses permitted under this paragraph are allowed only where such construction and maintenance meets the criteria in Subsection (c)(1) above; and
 - d. Wetland alterations in game refuges and closed areas, fish and wildlife habitat improvement projects, game bird and animal farms and wildlife preserves shall be for the purpose of improving wildlife habitat or to otherwise enhance wetland values.
 - (4) The construction and maintenance of electric and telephone transmission lines and water, gas and sewer lines and related facilities and the construction and maintenance of railroad lines provided that:

13-2-21

- a. The transmission and distribution lines and related facilities and railroad lines cannot, as a practical matter, be located outside the wetland;
- b. Only limited filling or excavating necessary for such construction or maintenance is allowed; and
- c. Such construction or maintenance is done in a manner designed to minimize the adverse impact upon the natural functions of the wetland listed in Section 13-2-23(a).

Sec. 13-2-22 Prohibited Uses in Shoreland–Wetlands.

- (a) Any use not listed in Section 13-2-21 is prohibited, unless the wetland or a portion of the wetland has been rezoned by amendment of this Chapter in accordance with Section 13-2-23 and Article J.
- (b) The use of a boathouse for human habitation and the construction or placement of a boathouse or fixed houseboat below the ordinary highwater mark of any navigable waters are prohibited.

Sec. 13-2-23 Rezoning Shoreland–Wetlands.

- (a) Rezoning of a shoreland-wetland shall require amendment of the Final Wisconsin Wetland Inventory map adopted in Section 13-2-15 pursuant to procedures established in Article J. In order to insure that any amendment will be consistent with the shoreland protection objectives of Sec. 144.26, Wis. Stats., the municipality shall not rezone a wetland in a shoreland-wetland zoning district, or any portion thereof, where the proposed rezoning may result in a significant adverse impact upon any of the following:
 - (1) Storm and flood water storage capacity.
 - (2) Maintenance of dry season stream flow or the discharge of groundwater to a wetland, the recharge of groundwater from a wetland to another area or the flow of groundwater through a wetland;
 - (3) Filtering or storage of sediments, nutrients, heavy metals or organic compounds that would otherwise drain into navigable waters;
 - (4) Shoreline protection against soil erosion;
 - (5) Fish spawning, breeding, nursery or feeding grounds;
 - (6) Wildlife habitat; or
 - (7) Areas of special recreational, scenic or scientific interest, including scarce wetland types of habitat of endangered species.
- (b) Upon notification of a proposed amendment as required by Article J, if the district office of the Department determines that a proposed rezoning may have a significant adverse impact upon any of the criteria listed in Subsection (a), the Department shall so notify the

City of its determination either prior to or during the public hearing held on the proposed amendment.

- (c) If the Department notifies the municipal planning agency in writing that a proposed amendment may have a significant adverse impact upon any of the criteria listed in Subsection (a), that proposed amendment, if approved by the City, shall not become effective until more than thirty (30) days have elapsed since written notice of the Council approval was mailed to the Department, as required by Article J. If, within the thirty (30) day period, the Department notifies the Common Council that the Department intends to adopt a superseding shoreland-wetland zoning ordinance for the municipality under Sections 62.231(6) or 61.351(6), Wis. Stats., the proposed amendment shall not become effective until that ordinance adoption procedure is completed or otherwise terminated. The record of the Common Council decision on the proposed amendment shall advise the petitioner of the provisions of this Section.

Sec. 13-2-24 through Sec. 13-2-29 Reserved for Future Use.

Article D: General Provisions for All Floodplains

Sec. 13-2-30 Areas to Be Regulated.

Areas regulated by this Chapter include all lands within the corporate limits of the City of Bloomer that would be inundated by the "regional flood" defined in the Definitions, Section 13-2-110(a) of this Chapter, and include "floodplain islands" where emergency rescue and relief routes would be inundated by the regional flood.

Sec. 13-2-31 District Boundaries.

The regional floodplain areas within the jurisdiction of this Chapter are hereby divided into three districts: the Floodway District (FW), Flood Fringe District (FF) and General Floodplain District (GFP), defined as follows:

- (a) The Floodway District (FW) consists of the channel of a river or stream and those portions of the floodplain adjoining the channel that are required to carry and discharge the regional flood waters.
- (b) The Flood Fringe District (FF) consists of that portion of the floodplain between the regional flood limits and the floodway.
- (c) The General Floodplain District (GFP) consists of all areas which have been or may be hereafter covered by flood water during the regional flood. It encompasses both the Floodway and Flood Fringe Districts.

Sec. 13-2-32 Locating Floodplain Boundaries.

- (a) Where an apparent discrepancy exists between the location of the outermost boundary of the Flood Fringe District or General Floodplain District shown on the official floodplain zoning map and actual field conditions, the location of the district boundary line shall be initially determined by the Zoning Administrator using the criteria set forth in Subsections (b) or (c) below. Where the Zoning Administrator finds that there is a significant difference between the district boundary shown on the map and the actual field conditions, the map shall be amended using the procedures established in Section 13-2-38 and Article J. Disputes between the Zoning Administrator and an applicant on the location of the district boundary line shall be settled according to Section 13-2-83.
- (b) Where flood profiles exist, the location of the district boundary line shall be determined by the Zoning Administrator using both the scale appearing on the map and the elevations shown on the water surface profile of the regional flood. Where a discrepancy exists between the map and the location indicated by the regional flood elevations and actual field conditions, the regional flood elevations shall govern. A map amendment is required where

there is a significant discrepancy between the map and actual field conditions. The Zoning Administrator shall have the authority to immediately grant or deny a land use permit on the basis of a district boundary derived from the elevations shown on the water surface profile of the regional flood, whether or not a map amendment is required. The Zoning Administrator shall be responsible for initiating any map amendments required under this Section within a reasonable period of time.

- (c) Where flood profiles do not exist, the location of the district boundary line shall be determined by the Zoning Administrator using the scale appearing on the map, visual on-site inspection and any available information provided by the Department. Where there is a significant difference between the district boundary line shown on the map and actual field conditions, the map shall be amended. Where a map amendment has been approved by both the Common Council and the Department, the Zoning Administrator shall have the authority to grant or deny a land use permit.

Sec. 13-2-33 Removal of Lands from Floodplain.

Compliance with the provisions of this Chapter shall not be grounds for removing lands from the floodplain district, unless they are removed by filling to a height of at least two (2) feet above the regional flood elevation, the fill is contiguous to land lying outside the floodplain district and the map is amended pursuant to Article J. To remove the land from flood insurance requirements, FEMA must first revise the flood insurance rate map or issue a letter of map amendment or revision.

Sec. 13-2-34 Hydraulic and Hydrologic Analyses.

- (a) No development, except as provided in Subsection (b) below, shall be allowed in floodplain areas which will:
 - (1) Cause an obstruction to flow, defined in Section 13-2-110(a) as any development which physically blocks the conveyance of floodwaters by itself or in conjunction with future similar development causing an increase in regional flood height; or
 - (2) Cause an increase in regional flood height due to floodplain storage area lost, which is equal to or exceeding 0.01 foot.
- (b) Obstructions or increases equal to or greater than 0.01 foot may only be permitted if amendments are made to this Chapter, the official floodplain zoning maps, including floodway lines and water surface profiles, in accordance with Section 13-2-38 and Article J, and only if the total cumulative effect of the proposed development will not increase the height of the regional flood more than 1.0 foot for the affected hydraulic reach of the stream.

- (c) The Zoning Administrator shall deny permits where it is determined the proposed development will cause an obstruction to flow or increase in regional flood height of 0.01 foot or greater.

Sec. 13-2-35 Mobile Homes and Manufactured Homes.

- (a) Owners or operators of all manufactured or mobile home parks and subdivisions located in the regional floodplain shall provide for adequate surface drainage to minimize flood damage.
- (b) All new, replacement or substantially improved manufactured or mobile homes to be placed or improved on a site located in the regional floodplain shall:
- (1) Be elevated to the flood protection elevation;
 - (2) Meet the residential development standards for the flood fringe in Section 13-2-52(b); and
 - (3) Be anchored so that they do not float, collapse or move laterally during a flood.

Sec. 13-2-36 Watercourse Alterations.

Prior to any alteration or relocation of a watercourse and prior to the issuance of any land use permit which may be required for the alteration or relocation of a watercourse, the Zoning Administrator shall notify, in writing, adjacent municipalities, the appropriate district office of the Department of Natural Resources and the appropriate office of FEMA and shall require the applicant to secure all necessary state and federal permits. The flood carrying capacity within the altered or relocated portion of any watercourse shall be maintained.

Sec. 13-2-37 Floodproofing.

- (a) Where floodproofing measures are required, they shall be designed to:
- (1) Withstand the flood pressures, depths, velocities, uplift and impact forces and other factors associated with the regional flood; and
 - (2) Assure protection to the flood protection elevation; and
 - (3) Provide anchorage of structures to foundations to resist flotation and lateral movement; and
 - (4) Shall insure that the structural walls and floors are watertight and completely dry without human intervention during flooding to the flood protection elevation.
- (b) No permit or variance shall be issued until the applicant submits a plan or document certified by a registered professional engineer or architect that the floodproofing measures

are adequately designed to protect the structure or development to the flood protection elevation for the particular area.

- (c) Floodproofing measures could include:
 - (1) Reinforcement of walls and floors to resist rupture or collapse caused by water pressure or floating debris;
 - (2) Addition of mass or weight to structures to prevent flotation;
 - (3) Placement of essential utilities above the flood protection elevation;
 - (4) Surface or subsurface drainage systems, including pumping facilities, to relieve external foundation wall and basement floor pressures;
 - (5) Construction of water supply wells and waste treatment systems to prevent the entrance of flood waters into such systems;
 - (6) Cutoff valves on sewer lines and the elimination of gravity flow basement drains.

Sec. 13-2-38 Amendments.

- (a) When amendments are required, the procedures in Article J shall apply. Actions which require an amendment include, but are not limited to, the following:
 - (1) Any change to the official floodplain map including the floodway line or boundary of the floodplain area;
 - (2) Correction of significant discrepancies between the water surface profiles and floodplain zoning maps;
 - (3) Any fill in the floodplain which raises the elevation of the filled area to a height at or above the flood protection elevation and is contiguous to land lying outside the floodplain;
 - (4) Any fill or encroachment into the floodplain that will obstruct flow or cause an increase of 0.01 foot or more in the height of the regional flood; and
 - (5) Any upgrading of floodplain zoning ordinances required by NR 116.05, Wis. Adm. Code., or otherwise required by law, or for changes by a municipality.
- (b) No amendment to the maps or text of this Chapter shall become effective until reviewed and approved by the Department of Natural Resources.
- (c) All persons petitioning for a map amendment which involves an obstruction to flow causing an increase in the height of the regional flood of 0.01 foot or more shall obtain flooding easement, or other appropriate legal arrangements, from all affected local units of government and property owners before the City may approve an amendment which would result in such an increase to the regional flood elevation.
- (d) When considering amendments to the official floodplain zoning map, in areas where no water surface profiles exist, the City shall consider data submitted by the Department, the Zoning Administrator's visual on-site inspections and other available information.

Sec. 13-2-39 Reserved for Future Use.

Article E: Floodway District (FW)

Sec. 13-2-40 Applicability.

The provisions of this Article shall apply to all areas mapped as floodway on the official floodplain zoning maps and to those portions of the General Floodplain District determined to be floodway.

Sec. 13-2-41 Permitted Uses.

The following open space uses are permitted within the Floodway District and in the floodway portion of the General Floodplain District, provided that they are not prohibited by any other ordinance and provided further that they meet all of the standards contained in Section 13-2-42, and all permits or certificates have been issued:

- (a) Agricultural uses, such as: general farming, pasturing, outdoor plant nurseries, horticulture, viticulture, truck farming, forestry, sod farming and wild crop harvesting.
- (b) Nonstructural industrial and commercial uses, such as: loading areas, parking areas and airport landing strips.
- (c) Private and public recreational uses, such as: golf courses, tennis courts, driving ranges, archery ranges, picnic grounds, boat launching ramps, swimming areas, parks, wildlife and nature preserves, game farms, fish hatcheries, shooting preserves, target ranges, trap and skeet ranges, hunting and fishing areas, hiking and horseback riding trails.
- (d) Uses or structures accessory to open space uses, or essential for historical areas, providing they are not in conflict with the provisions of Sections 13-2-42 and 13-2-43.
- (e) Extraction of sand, gravel or other materials pursuant to Section 13-2-42(d).
- (f) Functionally water-dependent uses such as docks, piers or wharves, including those docks, piers or wharves used as part of a marina, other water-related uses, such as dams, flowage areas, culverts, navigational aids and river crossings of transmission lines and pipelines may be allowed if all other necessary local, state and federal permits are secured, including Chapters 30 or 31 permits from the Department.
- (g) Public utilities, streets and bridges, according to Section 13-2-42(c).

Sec. 13-2-42 Standards for Developments in Floodway Areas.

(a) General Requirements.

- (1) Any development in floodway areas shall:
 - a. Meet all of the provisions of Article D; and
 - b. Have a low flood damage potential.

- (2) Applicants shall provide the following data for the Zoning Administrator to determine the effects of the proposal according to Section 13-2-34:
 - a. A cross-section elevation view of the proposal, perpendicular to the watercourse, indicating whether the proposed development will obstruct flow; or
 - b. An analysis calculating the effects of this proposal on regional flood height.
- (3) The Zoning Administrator shall deny the permit application where there is determined the project will increase flood elevations upstream or downstream 0.01 foot or more, based on the data submitted for Subsection 13-2-42(a)(2) above.
- (b) **Structures.** Only structures which are accessory to permitted open space uses, or are essential for historical areas, or are functionally dependent on a waterfront location, may be allowed by permit, providing the structures meet all of the following criteria:
 - (1) The structures are not designed for human habitation;
 - (2) The structures are designed and placed on the building site so as to cause an increase less than 0.01 foot in flood height and offer minimum obstruction to the flow of flood waters. Structures shall be constructed with the longitudinal axis parallel to the direction of flow of flood waters, and approximately on the same line as those of adjoining structures;
 - (3) The structures are firmly anchored to prevent them from floating away and restricting bridge openings or other restricted sections of the stream or river; and
 - (4) The structures have all service facilities, such as electrical and heating equipment at or above the flood protection elevation for that particular area.
- (c) **Utilities.** Public utilities, streets and bridges may be allowed, provided that:
 - (1) Adequate floodproofing measures are provided to the flood protection elevation;
 - (2) Construction does not cause an increase in the regional flood height according to Section 13-2-34, except where the water surface profiles, floodplain zoning maps and floodplain zoning ordinance are amended as needed, to reflect any changes resulted from such construction.
- (d) **Fills.** Fills or deposition of materials may be allowed by permit, provided that:
 - (1) The requirements of Section 13-2-34 are met;
 - (2) The fill or deposition of materials does not encroach on the channel area between the ordinary high-water mark on each bank of the stream unless a permit has been granted by the Department of Natural Resources pursuant to Chapter 30, Wis. Stats., and a permit pursuant to Section 404 of the Federal Water Pollution Control Act, Amendments of 1972, 33 U.S.C. 1334, has been issued, if applicable, and the other requirements of this Section are met;
 - (3) The fill or other materials will be protected against erosion by riprap, vegetative cover, sheet piling and/or bulkheading sufficient to prevent erosion; and provided that
 - (4) Such fills are not associated with private or public solid waste disposal.

Sec. 13-2-43 Prohibited Uses.

All uses not listed as permitted uses in Section 13-2-41 are prohibited, in addition to the following uses which are always prohibited, in floodways and the floodway portions of the general floodplain:

- (a) The storage of any materials that are capable of floating, flammable, explosive or injurious to property water quality or human, animal, plant, fish or other aquatic life;
- (b) Any uses which are not in harmony with, or which may be detrimental to, the uses permitted in the adjoining districts;
- (c) All 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 Chapter ILHR 83, Wisconsin Administrative Code;
- (d) All public or private wells which are used to obtain water for ultimate human consumption, except those for recreational areas that meet the requirements of local ordinances and Chapters NR 111 and NR 112, Wis. Adm. Code.
- (e) All solid and hazardous waste disposal sites, whether public or private.
- (f) All wastewater treatment ponds or facilities except those permitted under Sec. NR 110.15(3)(b), Wis. Adm. Code.
- (g) All sanitary sewer or water lines except those to service existing or proposed development outside the floodway which complies with the regulations for the floodplain area occupied.

Sec. 13-2-44 through Sec. 13-2-49 Reserved for Future Use.

Article F: Flood Fringe District (FF)

Sec. 13-2-50 Applicability.

The provisions of this Article shall apply to all areas within the Flood Fringe District, as shown on the official floodplain zoning maps, and to those portions of the General Floodplain District that are determined to be in the flood fringe area.

Sec. 13-2-51 Permitted Uses.

Any structures, land use or development, including accessory structures and uses, are allowed within the Flood Fringe District and flood fringe portions of the General Floodplain District, provided that the standards contained in Article D and Section 13-2-52 are met, that the use is not prohibited by this or any other ordinance or any other local, state or federal regulation and that all permits or certificates required by Chapter have been issued.

Sec. 13-2-52 Standards for Development in Flood Fringe Areas.

- (a) **Standards.** All of the provisions of Article D shall apply in addition to the requirements of this Section according to the use requested.
- (b) **Residential Uses.** Any structure or building used for human habitation, which is to be erected, constructed, reconstructed, altered or moved into the flood fringe area shall meet or exceed the following standards:
 - (1) The lowest floor excluding the basement or crawlway shall be at or above the flood protection elevation (which is a point two [2] feet above the regional flood elevation) except where Subsection (2) below is applicable. The fill elevation shall be one (1) foot or more above the regional flood elevation extending at least fifteen (15) feet beyond the limits of the structure. The Department may authorize other floodproofing measures where existing streets or sewer lines are at elevations which make compliance impractical provided the Board of Appeals grants a variance due to dimensional restrictions.
 - (2) The basement or crawlway floor may be placed at the regional flood elevation providing it is floodproofed to the flood protection elevation. No permit or variance shall allow any floor, basement or crawlway below the regional flood elevation.
 - (3) Contiguous dryland access, defined in Section 13-2-110 as a vehicle access route above regional flood elevation shall be provided from a structure or building to land which is outside of the floodplain, except as provided in Subsection (4).
 - (4) In existing developments where existing streets or sewer lines are at elevations which make compliance with Subsection (3) impractical, the City may permit new

development and substantial improvements where access roads are at or below the regional flood elevation, provided:

- a. The City has written assurance from the appropriate local units of police, fire and emergency services that rescue and relief will be provided to the structure(s) by wheeled vehicles, considering the anticipated depth, duration and velocity of the regional flood event; or
 - b. The City has an adequate natural disaster plan concurred with the Division of Emergency Government and approved by the Department.
- (c) **Accessory Structures or Uses.** An accessory structure or use (not connected to a principal structure, including nonresidential agricultural structures), shall meet all the applicable provisions of Section 13-2-42(a), (b) and (d) and 13-2-43. A lesser degree of protection, compatible with these criteria and the criteria in Subsection (d) may be permissible for an accessory structure or use providing that the site is not inundated to a depth greater than two (2) feet or subjected to flood velocities greater than two (2) feet per second upon the occurrence of the regional flood.
- (d) **Commercial Uses.** Any commercial structure or building which is to be erected, constructed, reconstructed, altered or moved into the flood fringe area shall meet the requirements of Section 13-2-52(b) above. Storage yards, parking lots and other accessory land uses may be at lower elevations, subject to the requirements of Subsection (f). However, no such area in general use by the public shall be inundated to a depth greater than two (2) feet or subjected to flood velocities greater than two (2) feet per second upon the occurrence of the regional flood. Inundation of such yards or parking areas exceeding two (2) feet may be allowed provided an adequate warning system exists to protect life and property.
- (e) **Manufacturing, Agricultural and Industrial Uses.** Any manufacturing, agricultural or industrial structure or building which is to be erected, constructed, reconstructed, altered or moved into the flood fringe area shall be protected to the flood protection elevation utilizing fill, levees, floodwalls, adequate floodproofing measures in accordance with Section 13-2-37, or any combination thereof. On streams or rivers having prolonged flood durations, greater protection may be required to minimize interference with normal plant operations. A lesser degree of protection, compatible with the criteria in Subsections (d) and (f) may be permissible for storage yards, parking lots and accessory structures or uses.
- (f) **Storage or Processing of Materials.** The storage or processing of materials that are buoyant, flammable, explosive or which, in times of flooding, could be injurious to property, water quality or human, animal, fish, plant or aquatic life shall be at or above the flood protection elevation for the particular area or floodproofed in compliance with Section 13-2-37. Adequate measures shall be taken to assure that said materials will not enter the river or stream during flooding.
- (g) **Public Utilities, Streets and Bridges.** All utilities, streets and bridges should be designed to be compatible with the local comprehensive floodplain development plans; and

- (1) When failure or interruption of public utilities, streets and bridges would result in danger to the public health or safety or where such facilities are essential to the orderly functioning of the area, construction of and substantial improvements to such facilities may only be permitted if they are floodproofed in compliance with Section 13-2-37 to the flood protection elevation;
 - (2) Minor or auxiliary roads or nonessential utilities may be constructed at lower elevations providing they withstand flood forces to the regional flood elevation.
- (h) **Sewage Systems.** All on-site sewage disposal systems shall be floodproofed to the flood protection elevation and shall meet the applicable provisions of all local ordinances and Chapter ILHR 83, Wisconsin Administrative Code.
- (i) **Wells.** All wells, whether public or private, shall be floodproofed to the flood protection elevation and shall meet the applicable provisions of Chapters NR 111 and NR 112, Wis. Adm Code.
- (j) **Solid Waste Disposal Sites.** All solid or hazardous waste disposal sites, whether public or private, are prohibited in flood fringe areas.
- (k) **Deposition of Materials.** Any materials deposited for any purpose may only be allowed if all the provisions of this Chapter are met.

Sec. 13-2-53 through Sec. 13-2-59 Reserved for Future Use.

Article G: General Floodplain District (GFP)

Sec. 13-2-60 Applicability.

The provisions for this district shall apply to all floodplains in the City for which "regional flood" data, as defined in the Definitions, Section 13-2-110(a), is not available, or where regional flood data is available but floodways have not been delineated. As adequate regional flood data becomes available and floodways are delineated for portions of this district, such portions shall be placed in the Flood Fringe or Floodway District, as appropriate.

Sec. 13-2-61 Permitted Uses.

The General Floodplain District encompasses both floodway and flood fringe areas. Therefore, a determination shall be made pursuant to Section 13-2-63 to determine whether the proposed use is located within a floodway or flood fringe area. Those uses permitted in floodways and flood fringe areas are allowed within the general floodplain district according to the standards of Section 13-2-62 and provided that all permits or certificates required under this Chapter have been issued.

Sec. 13-1-62 Standards for Development in the General Floodplain District.

Once it is determined according to Section 13-2-63 that a proposed use is located within a floodway, the provisions of Article E shall apply. Once determined that the proposed use is located within the flood fringe, the provisions of Article F shall apply. All provisions of the remainder of this Chapter apply to either district.

Sec. 13-1-63 Determining Floodway and Flood Fringe Limits.

Upon receiving an application for development within the general floodplain district, the Zoning Administrator shall:

- (a) Require the applicant to submit, at the time of application, two (2) copies of an aerial photograph or a plan which accurately locates the proposed development with respect to the general floodplain district limits, channel of stream, existing floodplain developments, together with all pertinent information such as the nature of the proposal, legal description of the property, fill limits and elevations, building floor elevations and flood proofing measures.

- (b) Require the applicant to furnish any of the following additional information as is deemed necessary by the Department for evaluation of the effects of the proposal upon flood height and flood flows, the regional flood elevation and where applicable to determine the boundaries of the floodway:
 - (1) A typical valley cross-section showing the channel of the stream, the floodplain adjoining each side of the channel, the cross-sectional area to be occupied by the proposed development and all historic high-water information.
 - (2) Plan (surface view) showing: elevations or contours of the ground; pertinent structure, fill or storage elevations; size, location and spatial arrangement 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.
 - (3) Profile showing the slope of the bottom of the channel or flow line of the stream.
 - (4) Specifications for building construction and materials, floodproofing, filling, dredging, channel improvement, storage of materials, water supply and sanitary facilities.
- (c) Transmit one (1) copy of the information described in Subsections (a) and (b) to the Department District office along with a written request for technical assistance to establish regional flood elevations and, where applicable, floodway data. Where the provisions of Section 13-2-81(a)(3) apply, the applicant shall provide all required information and computations, to delineate floodway boundaries and the effects of the project on flood elevations.

Sec. 13-2-64 through Sec. 13-2-69 Reserved for Future Use.

Article H: Nonconforming Uses

Sec. 13-2-70 Nonconforming Structures and Uses — General Provisions.

The lawful use of a building, structure or property which existed at the time this Chapter, or an applicable amendment to this Chapter, took effect and which is not in conformity with the provisions of this Chapter, including the routine maintenance of such a building or structure, may be continued, subject to the following conditions:

- (a) If a nonconforming use or the use of a nonconforming structure is discontinued for twelve (12) consecutive months, any future use of the building, structure or property shall conform to the appropriate provisions of this Chapter.
- (b) Any legal nonconforming use of property which does not involve the use of a structure and which existed at the time of the adoption or subsequent amendment of this Chapter adopted under Sec. 62.231, Wis. Stats., may be continued although such use does not conform with the provisions of this Chapter. However, such nonconforming use may not be extended or increased.
- (c) The maintenance and repair of nonconforming boathouses which are located below the ordinary highwater mark of any navigable waters shall comply with the requirements of Sec. 30.121, Wis. Stats.
- (d) Uses which are nuisances under common law shall not be permitted to continue as nonconforming uses.

Sec. 13-2-71 Shoreland–Wetlands; Nonconforming Structures.

Notwithstanding Sec. 62.34(7)(h), Wis. Stats., the repair, reconstruction, renovation, remodeling or expansion of a legal nonconforming structure in existence at the time of adoption or subsequent amendment of this Chapter adopted under Sec. 62.231, Wis. Stats., or of an environmental control facility in existence of May 7, 1982, related to that structure, is permitted under Sec. 62.231(5), Wis. Stats. Section 62.23(7)(h), Wis. Stats., applies to any environmental control facility that was not in existence on May 7, 1982, but was in existence on the effective date of this Chapter or amendment.

Sec. 13-2-72 Floodplains — General Provisions.

- (a) No modifications or additions to a nonconforming use or a nonconforming structure shall be permitted unless they are made in conformity with the provisions of this Chapter for the area of the floodplain it occupies. For the purpose of this Section, the words "modification"

and "addition" shall include, but not be limited to, any alteration, addition, modification, structural repair, rebuilding or replacement of any such existing use, structure or accessory structure or use. Ordinary maintenance repairs are not considered modifications or additions; such ordinary maintenance repairs include internal and external painting, decorating, paneling and the replacement of doors, windows and other nonstructural components, and the maintenance, repair or replacement of existing private sewage or water supply systems or connections to public utilities.

- (b) No modification or addition to any nonconforming structure or any structure with a nonconforming use which, over the life of the structure, would exceed fifty percent (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 Chapter and contiguous dry land access is provided in compliance with Section 13-2-52(b).
- (c) As requests are received for modifications or additions to nonconforming uses or nonconforming structures in the floodplain, a record shall be kept which lists the nonconforming uses and nonconforming structures, their present equalized assessed value and the cost of those additions or modifications which have been permitted.
- (d) If any nonconforming structure or any structure with a nonconforming use is destroyed or is so badly damaged that it cannot be practically restored, it cannot be replaced, reconstructed or rebuilt unless the provisions of Article E are met. For the purpose of this Subsection, restoration is deemed impractical where the total cost of such restoration would exceed fifty percent (50%) of the present equalized assessed value of the structure.

Sec. 13-2-73 Floodway Areas.

- (a) No modifications or additions shall be allowed to any nonconforming structure or any structure with a nonconforming use in a floodway area, unless such modification or addition:
 - (1) Has been granted a permit or variance; and
 - (2) Meets the requirements of Section 13-2-72; and
 - (3) Will not increase the obstruction to flood flows; and
 - (4) Any addition to the existing structure shall be floodproofed, pursuant to Section 13-2-37, by means other than the use of fill, to the flood protection election.
- (b) No new on-site sewage disposal system, or addition to an existing on-site sewage disposal system, except where an addition has been ordered by a government agency to correct a hazard to public health, shall be allowed in a floodway area. Any replacement, repair or maintenance of an existing on-site sewage disposal system in a floodway area shall meet the applicable provisions of local ordinances and Chapter ILHR 83, Wis. Adm. Code.
- (c) No new well used to obtain water for ultimate human consumption, or modifications to an existing well, shall be allowed in a floodway area. Any replacement, repair or maintenance

of an existing well in a floodway area shall meet the applicable provisions of all municipal ordinances and Chapters NR 111 and NR 112, Wis. Adm. Code.

Sec. 13-2-74 Flood Fringe Areas.

- (a) No modification or addition shall be allowed to any nonconforming structure or any structure with a nonconforming use in the flood fringe area unless such modification or addition has been granted a permit or variance and, except where Subsection (b) is applicable, the modification or addition shall be placed on fill or is floodproofed to the flood protection elevation in compliance with the applicable regulations for that particular use in a floodfringe area in Article F.
- (b) Where compliance with the provisions of Subsection (a) above would result in unnecessary hardship and only where the structure will not be either used for human habitation or to be associated with a high flood damage potential, the Board of Appeals, using the procedure in Section 13-2-83, may grant a variance from those provisions of Subsection (a) 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:
 - (1) No floor is allowed below the regional flood elevation for residential or commercial structures;
 - (2) Human lives are not endangered;
 - (3) Public facilities, such as water or sewer, will not be installed;
 - (4) Flood depths will not exceed two (2) feet;
 - (5) Flood velocities will not exceed two (2) feet per second; and
 - (6) The structure will not be used for storage of materials that are buoyant, flammable, explosive or injurious to human, animal, plant, fish or other aquatic life.
- (c) An addition to an existing room in a nonconforming building or a building with a nonconforming use may be allowed in the flood fringe on a one (1) time basis only, if the addition:
 - (1) Meets all other regulations and will not be granted by permit or variance;
 - (2) Does not exceed existing (60) square feet in area; and
 - (3) In combination with other previous modifications or additions to the building, does not exceed fifty percent (50%) of the present equalized assessed value of the building.
- (d) All new on-site private sewage disposal systems, or addition to, replacement, repair or maintenance of an on-site sewage disposal system in a floodfringe area shall meet all the applicable provisions of all local ordinances of Chapter ILHR 83, Wis. Adm. Code.
- (e) All new wells, or addition to, replacement, repair or maintenance of a well shall meet the applicable provisions of this Chapter and Ch. NR 111 and NR 112, Wis. Adm. Code.

Sec. 13-2-75 through Sec. 13-2-79 Reserved for Future Use.

Article I: Administration

Sec. 13-2-80 Zoning Administrator.

The Zoning Administrator is hereby authorized to administer the provisions of this Chapter. The Zoning Administrator shall have the following duties and powers:

- (a) Advise applicants as to the provisions of this Chapter, assist them 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 this Chapter and issue Certificates of Compliance when appropriate.
- (c) Keep records of all official actions such as:
 - (1) All permits issued.
 - (2) Inspections made.
 - (3) Work approved.
 - (4) Documentation of certified lowest floor and regional flood elevations for floodplain development.
 - (5) Records of water surface profiles, floodplain zoning maps and ordinances, nonconforming uses and structures including changes, appeals, variances and amendments.
- (d) Submit copies of decisions on variances, conditional use permits, appeals for a map or text interpretation, and map or text amendments within ten (10) days after they are granted or denied, to the appropriate district office of the Department.
- (e) Investigate, prepare reports and report violations of this Chapter to the Plan Commission and to the City Attorney for prosecution. Copies of the violation reports shall also be sent to the appropriate district office of the Department of Natural Resources.
- (f) Submit copies of map and text amendments and biennial reports to the Regional Office of FEMA.
- (g) Have access to any structure or premises between the hours of 8:00 a.m. and 6:00 p.m. for the purpose of performing these duties.

Sec. 13-2-81 Administrative Procedures.

- (a) **Building/Zoning Permits.** Unless another section of this Chapter specifically exempts certain types of development from this requirement, a building or zoning permit shall be obtained from the Zoning Administrator before any development, as defined in Section 13-2-110, including any change in the use of an existing building or structure, is initiated. Application for a land use permit shall be made to the Zoning Administrator upon forms furnished and shall include, for the purpose of proper enforcement of these regulations, the following data:

- (1) **General Information:**
 - a. Name, address and telephone number of the applicant, property owner and contractor-builder;
 - b. Legal description of the property and a general description of the proposed use or development indicating new construction or a modification to an existing structure.
- (2) **Site Development Plan:** The site development plan shall be drawn to scale and submitted as a part of the permit application form and shall contain the following information:
 - a. Location, dimensions, area and elevation of the lot noted on a copy of the Wetland Inventory Map, if applicable.
 - b. Location and boundaries of wetlands;
 - c. Specifications and dimensions for areas of proposed wetland alteration;
 - d. Existing and proposed topographic and drainage features and vegetative cover;
 - e. Location of the ordinary highwater mark of any abutting navigable waterways;
 - f. Location of any structures with distances measured from the lot lines and centerline of all abutting streets or highways;
 - g. Location of any existing or proposed on-site sewage systems or private water supply systems;
 - h. Location and elevation of existing or future access roads;
 - i. Location of floodplain and floodway limits on the property as determined from the official floodplain zoning maps;
 - j. The elevation of the lowest floor of proposed buildings and any fill using National Geodetic and Vertical Datum (NGVD);
 - k. Data sufficient to determine the regional flood elevation at the location of the development and to determine whether or not the requirements of Article D are met. This may include any of the information noted in Section 13-2-63.
- (3) **Data Requirements to Analyze Developments:**
 - a. The applicant shall provide all computations and survey data required to show the effects of the project on flood heights, velocities and floodplain storage for all subdivision proposals, as "subdivision" is defined in Sec. 236.02(3), Wis. Stats., and other proposed developments exceeding five (5) acres in area or where the estimated cost exceeds One Hundred Twenty-Five Thousand Dollars (\$125,000.00). The applicant shall provide:
 1. Regional flood elevation data.
 2. Vehicular access to lands outside the floodplain.
 3. Adequate surface drainage to minimize flood damage.The estimated cost of the proposal shall include all structural development, landscaping improvements, access and road development, electrical and plumbing and similar items reasonably applied to the overall development costs, but need not include land costs.

- b. The Department will determine elevations and evaluate the proposal where the applicant is not required to provide computations as above and inadequate data exists. The City may transmit additional information, such as the date in Section 13-2-63 where appropriate, to the Department with the request for analysis.
- (4) **Expiration:** All permits issued under the authority of this Chapter shall expire six (6) months from the date of issuance.
- (b) **Certificate of Compliance.**
- (1) No land shall be occupied or used, and no building which is hereafter constructed, altered, added to, modified, rebuilt or replaced shall be occupied, until a certificate of compliance is issued by the Zoning Administrator, except where no building, zoning or conditional use 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 Chapter.
 - b. Application of such certificate shall be concurrent with the application for a permit.
 - c. The certificate of compliance shall be issued within ten (10) days after notification of completion of the work specified in the permit, providing the building or premises or proposed use conforms with all the provisions of this Chapter.
 - d. For floodplain development, the applicant shall submit a certification signed by a registered professional engineer or registered land surveyor that the fill and lowest floor elevations are in compliance with the permit issued, including any required floodproofing. Floodproofing adequacy may also be certificated by a registered professional architect.
 - (2) The Zoning Administrator may issue a temporary certificate of compliance for a building, premises or part thereof according to rules and regulations established by the City.
 - (3) Upon written request from the owner, the Zoning Administrator shall issue a certificate of compliance for any building or premises existing at the time of adoption of this Chapter, certifying after inspection the extent and type of use made of the building or premises and whether or not such use conforms to the provisions of this Chapter.
- (c) **Other Permits.** It is the responsibility of the applicant to secure all other necessary permits from all appropriate Federal, State and local agencies, including those required by the U.S. Army Corps of Engineers under Section 404 of the Federal Water Pollution Control Act amendments of 1972, 33 U.S.C. 1334.

Sec. 13-2-82 Fees.

The Common Council may, by resolution, adopt fees for the following:

- (a) Building zoning permits.

- (b) Certificates of compliance.
- (c) Public hearings.
- (d) Legal notice publications.
- (e) Conditional use permits.

Sec. 13-2-83 Permit Recording; Revocation.

- (a) **Recording.** Where a zoning permit or conditional use permit is approved, an appropriate record shall be made by the Zoning Administrator of the land use and structures permitted.
- (b) **Revocation.** Where the conditions of a zoning permit or conditional use permit are violated, the permit shall be revoked by the Board of Appeals.

Sec. 13-2-84 Board of Appeals; Responsibilities.

- (a) **Statutory Authorization.** The Mayor shall appoint a Board of Appeals under Sec. 62.23(7)(e), Wis. Stats., and Title 2, Chapter 4, of this Code of Ordinances, consisting of five (5) members subject to confirmation by the Common Council. The Board of Appeals shall adopt rules for the conduct of their business as required by Sec. 62.23(7)(e), Wis. Stats.
- (b) **Powers and Duties.** The Board of Appeals shall:
 - (1) **Appeals.** Hear and decide appeals where it is alleged there is error in any order, requirement, decision or determination made by an administrative official in the enforcement or administration of this Chapter.
 - (2) **Variances.** Hear and decide, upon appeal, variances from the dimensional standards of this Chapter.
- (c) **Appeals to the Board.** Appeals to the Board of Appeals may be taken by any person aggrieved or by an officer, department, board or bureau of the municipality affected by any decision of the Zoning Administrator or other administrative officer. Such appeal shall be taken within thirty (30) days, as provided by the rules of the Board, by filing with the Zoning Administrator and with the Board of Appeals a notice of appeal specifying the reasons for appeal. The official whose decision is in question shall transmit to the Board all the papers constituting the record concerning the matter appealed.
- (d) **Notice and Hearing for Appeals Including Variances.**
 - (1) **Notice.** The Board of Appeals shall fix a reasonable time for a hearing on the appeal or application. The Board shall give adequate public notice by publishing a Class 1 notice under Ch. 985, Wis. Stats., specifying the date, time and place of the hearing and the matters to come before the Board. Notice shall be given to the parties in interest. Written notice shall be given to the appropriate district office of the Department at least ten (10) days prior to the hearings on proposed variances,

conditional uses, and appeals for map or text interpretations. At the public hearing, any party may appear in person or by agent or attorney.

- (2) **Decision.** A decision regarding the appeal or application shall be made as soon as practical. Copies of all decisions on variances, conditional uses and appeals for map or text interpretations shall be submitted to the appropriate district office of the Department within ten (10) days after they are granted or denied. The final disposition of an appeal or application to the Board of Appeals shall be in the form of a written resolution or order signed by the chairman and secretary of the Board of Appeals. Such resolution shall state the specific facts which are the basis of the Board's determination and shall 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 prosecution or grant the application.
- (e) **Boundary Disputes.** The following procedure shall be used by the Board of Appeals in hearing disputes concerning the district boundaries shown on the official floodplain zoning map:
- (1) Where a floodplain district boundary is established by approximate or detailed floodplain studies the regional flood elevations or profiles for the point in question shall be the governing factor in locating the district boundary. If no regional flood elevations or profiles are available to the board, other available evidence may be examined.
 - (2) In all cases, the person contesting the location of the district boundary shall be given a reasonable opportunity to present arguments and technical evidence to the Board of Appeals.
 - (3) Where it is determined that the district boundary is incorrectly mapped, the Board should either inform the planning agency or the person contesting the location of the boundary to petition the governing body for a map amendment.
- (f) **Variance.**
- (1) The Board of Appeals may, upon appeal, grant a variance from the dimensional standards of this Chapter where an applicant convincingly demonstrates that:
 - a. Literal enforcement of the provisions of the Chapter will result in unnecessary hardship on the applicant.
 - b. The hardship is due to adoption of this Chapter and special conditions unique to the property, not common to a group of adjacent lots or premises (in such case the Chapter or map must be amended);
 - c. Such variance is not contrary to the public interest;
 - (2) A variance shall *not*:
 - a. Grant or increase any use of property prohibited in the zoning district;
 - b. Be granted for a hardship based solely on an economic gain or loss;
 - c. Be granted for a hardship which is self-created;
 - d. Damage the rights or property values of other persons in the area;

- e. Permit a lower degree of flood protection in any floodplain area than the flood protection elevation. In the floodfringe area, a lower degree of flood protection than the flood protection elevation may only be allowed pursuant to Section 13-2-74.
- f. Allow development below the regional flood elevation;
- (g) When a variance is granted in a floodplain area, the Board shall notify the applicant in writing that increased flood insurance premiums may result. A copy of this notification shall be maintained with the variance appeal record.

Sec. 13-2-85 Conditional Use Permits.

- (a) **Application.** Any use listed as a conditional use in this Chapter shall be permitted only after an application has been submitted to the Zoning Administrator and a conditional use permit has been granted by the Board of Appeals, following the procedures in Section 13-2-84(d). To secure information upon which to base its determination, the Plan Commission may require the applicant to furnish, in addition to the information required for a building/zoning permit, other pertinent information which is necessary to determine if the proposed use is consistent with the purpose of this Chapter.
- (b) **Conditions.** Upon consideration of the permit application and the standards applicable to the permitted uses in this Chapter, the Plan Commission shall attach such conditions to a conditional use permit, in addition to those required elsewhere in this Chapter, as are necessary to further the purposes of this Chapter as listed in Section 13-2-3. Such conditions may include specifications for, without limitation because of specific enumeration: type of shore cover; erosion protection measures; increased side yard setbacks; specific sewage disposal and water supply facilities; landscaping and planting screens; period of operation; operational control; sureties; deed restrictions; location of piers, docks, parking areas and signs; and type of construction.

Sec. 13-2-86 Review Appeals of Permit Denials.

- (a) The Board of Appeals shall review all data constituting the basis for the appeal of permit denial. This data may include (where appropriate):
 - (1) Permit application data listed in Section 13-2-81(a);
 - (2) Floodway/flood fringe determination data in Section 13-2-63;
 - (3) Data listed in Section 13-2-42(a) where the applicant has not submitted this information to the Zoning Administrator.
 - (4) Other data submitted to the Zoning Administrator with the permit application or submitted to the Board with the appeal.

- (b) For appeals of all denied permits, the Board shall:
 - (1) Follow the procedures of Section 13-2-84;
 - (2) Consider City Agency recommendations;
 - (3) Either uphold the denial or grant the appeal.
- (c) For appeals concerning increases in regional flood elevation, the Board shall:
 - (1) Uphold the denial where the Board agrees with the data showing an increase in flood elevation. Increases equal to or greater than 0.01 foot may only be allowed after amending the flood profile and map and any appropriate legal arrangements are made with all adversely affected property owners.
 - (2) Grant the appeal where the Board agrees that the data properly demonstrates that the project does not cause an increase equal to or greater than 0.01 foot provided no other reasons for denial exist.

Sec. 13-2-87 Public Information.

- (a) Where useful, marks on bridges or buildings or other markers may be set to show the depth of inundation during the regional flood at appropriate locations within the floodplain.
- (b) All available information in the form of maps, engineering data and regulations shall be readily available and should be widely distributed.
- (c) All legal descriptions of property in the floodplain should include information relative to the floodplain zoning classification when such property is transferred.

Sec. 13-2-88 and Sec. 13-2-89 Reserved for Future Use.