

ARTICLE I

Mobile Home Parks

SEC. 13-1-110 INTENT AND PURPOSE.

It is the intent and purpose of this Article to regulate the placing of mobile homes of all types and varieties in the City of Park Falls with regard to providing adequate standards to protect the public health, safety, morals, convenience and general welfare.

SEC. 13-1-111 PURPOSE.

These mobile home park regulations are established for the following purposes:

- (a) To provide regulations and standards for the development of a safe, health, and well-designed community for permanent mobile home living.
- (b) To provide, in appropriately located areas within specific zoning districts, sites for mobile home living developed at reasonable density consistent with sound standards of public health and safety.
- (c) To comply as much as possible with the objectives and purposes of each zoning district in which mobile home parks are located.
- (d) To insure adequate light, air, access, and open space for each mobile living unit.
- (e) To regulate the mobile home park such that it will complement the land use policy of the zoning district.

SEC. 13-1-112 MOBILE HOME PARK PLACEMENT.

Mobile home parks may be permitted in the R-2 Two- and Multi-Family District as a conditional use pursuant to the provisions of this Article.

SEC. 13-1-113 ADMINISTRATION; AUTHORIZATION OF MOBILE HOME PARKS.

- (a) **Application Conference.** Prior to applying for a conditional use permit, the applicant is required to confer with the Plan Commission. A conference shall be scheduled by the Plan Commission within thirty (30) days after receipt of the following basic information and data, displayed to scale on maps:
 - (1) The boundaries of the property;
 - (2) Existing easements and covenants affecting the property;
 - (3) Land characteristics, such as natural drainage, swamp areas, and wooded areas;
 - (4) Development characteristics, such as surrounding streets, existing buildings, available community sewer, water, and other utilities;
 - (5) An overall land use development plan delineating the street system, parking areas, concrete pads, recreational areas, public and private utility installations,

and additional on-site improvements. Accompanying the land use development plan shall be a phasing plan for the development of the projects.

(b) **Plan Commission Review and Recommendation.**

- (1) The Plan Commission shall review the proposed conditional use permit to determine its conformity with land development trends in the community, standards of the official comprehensive plan, and recognize principles of design, land use planning, and landscape architecture.
- (2) The Plan Commission shall convey in writing to the applicant:
 - a. Approval;
 - b. Approval with conditions;
 - c. Approval with modifications;
 - d. Rejection of the proposal.
- (3) This communication must be made within sixty (60) days of receipt of the conditional use permit application.

(c) **Conditional Use Permit Filing Procedure.**

- (1) Procedure. After receipt of a written report from the Plan Commission, the applicant may file for a conditional use permit in accordance with the provisions of Article E of this Chapter, except that the final determination shall be by the Common Council.
- (2) Findings of Fact. Within thirty (30) days after the close of the public hearing on the proposed conditional use permit, the Common Council shall make a written findings of fact. For the Common Council to make an affirmative recommendation, it must find in each of the following instances that:
 - a. The establishment of a proposed mobile home park will not be detrimental to or endanger the public health, safety, morals, comfort, or general welfare.
 - b. The proposed mobile home park will not be injurious to the use and enjoyment of other property in the immediate vicinity for the purposes already permitted nor substantially diminish and impair property values within the neighborhood.
 - c. The proposed mobile home park will not impede the normal or orderly development and improvement of the surrounding property for uses permitted in the district.
 - d. Adequate utilities, access roads, drainage and/or other necessary facilities have been, are being, or will be provided.
 - e. Adequate measures have been or will be taken to provide ingress and egress to designed as to minimize traffic congestion in the public streets.
- (3) Effect of Denial. No application for a conditional use permit which has been denied wholly or in part by the Common Council shall be resubmitted for a period of one (1) year from the date of said denial, except on the grounds of new evidence or proof of changed conditions found to be valid by the Plan Commission.

SEC. 13-1-114 MOBILE HOME PARK REQUIREMENTS.

Except as otherwise specifically authorized, no mobile home intended for occupancy shall be located within the City of Park Falls except in a mobile home park, the plan of which has been approved by the Common Council, upon the recommendation of the Plan Commission, and appropriate state agencies. Such parks shall meet the following requirements:

- (a) Minimum size -- Ten (10) acres.
- (b) Maximum number of mobile home sites -- Six (6) per acre.
- (c) Minimum width of mobile home site -- Forty (40) feet.
- (d) Maximum height of mobile home trailer -- Twenty-five (25) feet.
- (e) Minimum distance between mobile trailers -- Twenty (20) feet.
- (f) Minimum distance between mobile home and service road -- Ten (10) feet.
- (g) Each mobile home site shall be connected to a public or common water supply system and a public or common sewage disposal system
- (h) All drives, parking areas, and walkways shall be hard surfaced. There shall be one (1) parking space for each mobile home and additional off-street parking spaces for automotive vehicles within the park, totaling not less than one and one-half (1-1/2) parking spaces for each mobile home space
- (i) No mobile home sales offices or other business or commercial use shall be located on the mobile home park site. However, laundries, washrooms, recreation rooms, maintenance equipment, storage and one (1) office are permitted.
- (j) Minimum side yard setback -- Forty (40) feet at all front, side and rear lot lines of the mobile home park.
- (k) Each mobile home shall be placed on a stand of a size to accommodate the use. The stand should provide for practical placement on and removal from the lot of the mobile home and retention of the home on the lot in a stable condition and in satisfactory relationship to its surroundings. The size of a development will be acceptable if it is suitable for the general market to be served by the individual proposal and fits the dimensions of mobile homes anticipated. The location of each mobile home stand shall be at such elevation, distance and accessway that placement and removal of the mobile home is practical. Appropriate materials, property graded, placed, and compacted so as to be durable and adequate for the support of the maximum anticipation loads during all seasons should be used.
- (l) All mobile homes shall meet the construction standards of the Mobile Home Manufacturing Association.
- (m) Mobile home parks shall comply with the sanitation regulations of the Price County Sanitary Code and the appropriate requirements of the Wisconsin Administrative Code.

SEC. 13-1-115 TRAILER CAMPS AND CAMPING GROUNDS.

- (a) A trailer, camper, or tent must be located in a federal, state, town, city or county camp or in a private campground, the plan of which has been approved by the Common Council and appropriate state agencies.

- (b) Each trailer site shall be plainly marked and surfaced.
- (c) Maximum number of trailer sites shall be fifteen (15) per gross acre.
- (d) All drives and parking areas other than those at individual trailer sites shall be surfaced, at least gravel surface.
- (e) Central toilet, shower, and washing facilities shall be provided in sufficient quantity, as determined by the State Department of Health and Social Services requirements.
- (f) Water supply and sewage disposal shall be provided by the Park Falls public systems or shall comply with regulations of the Price County Sanitary Code and applicable State Administrative Codes.
- (g) No trailer shall be less than fifty (50) feet from the front, side, or rear lot lines of the camp.
- (h) Marshland and shoreline areas shall not be altered.

SEC. 13-1-116 THROUGH SEC. 13-1-119 RESERVED FOR FUTURE USE.

ARTICLE J

Signal Receiving Antennas; Wind Energy Systems

SEC. 13-1-120 SIGNAL RECEIVING ANTENNAS.

- (a) **Purpose.** This Section regulating the placement of signal receiving antennas is adopted to:
- (1) Provide uniform regulation of all signal receiving antenna devices;
 - (2) Secure placement of such antennas in an aesthetically sensitive manner while allowing users reasonable reception of signals;
 - (3) Protect the public from injury from antennas that are inadequately mounted, unduly susceptible to wind pressure, improperly installed and wired, or are placed on structures insufficiently designed or constructed to safely support the antenna; and
 - (4) Provide for placement of such antennas in locations that preserve access to rear property areas by firefighting apparatus and emergency personnel.
- (b) **Permit Required.** No owner shall, within the City of Park Falls, build, construct, use or place any type of signal receiving antenna until a permit shall have first been obtained from the Zoning Administrator.
- (c) **Definitions.**
- (1) For purposes of this Section, a "signal receiving antenna" is defined as any apparatus capable of receiving communications from a transmitter or a transmitter relay located in a planetary orbit. This definition includes all types of signal receiving antennas, including, without limitation, parabolic antennas, home earth stations, satellite television disks, UHF and VHF television antennas, and AM, FM, ham and short-wave radio antennas, regardless of the method of mounting.
 - (2) "Owner" means the holder of record of an estate in possession in fee simple, or for life, in land or real property, or a vendee of record under a land contract for the sale of an estate in possession in fee simple or for life but does not include the vendor under a land contract. A tenant in common or joint tenant shall be considered such owner to the extent of his interest. The personal representative of at least one (1) owner shall be considered an owner.
- (d) **Application.** Application for a signal receiving antenna permit shall be made in writing to the Zoning Administrator. With such application, there shall be submitted a fee of Ten Dollars (\$10.00) and a sufficient set of mounting plans and specifications, including a general plot plan showing the location of the proposed signal receiving antenna with respect to streets, lot lines and buildings. If such application meets all requirements of this Section, the application shall be approved.
- (e) **Installation Standards.** Signal receiving antennas installed in any zoning district within the City shall comply with the following provisions:

- (1) Setbacks.
 - a. Any signal receiving antenna and its mounting post shall be located a minimum of ten (10) feet from any property line.
 - b. Subject to the provisions herein, signal receiving antennas shall only be located in the rear yard of any lot. If reasonable reception of signals is not possible with a rear yard placement due to the physical characteristics of the lot and area, the signal receiving antenna shall be placed in the side yard of the lot. In the event that reasonable reception of signals is not possible by locating the signal receiving antenna on the rear or side yard of the property, such antenna may be placed in the front yard or on the roof of structures on the property. For corner lots, a side yard is only a yard that does not face a street.
 - c. If side yard, front yard or roof mounting is requested, the Zoning Administrator shall determine where reasonable reception is possible, based on evidence provided by the person seeking to erect or construct the antenna.
- (2) Mounting. Signal receiving antennas attached to the wall or roof of any principal or accessory structure shall be permitted only if the structure is properly constructed to carry all imposed loading and complies with applicable state and local building code requirements. The Zoning Administrator may require engineering calculations.
- (3) Diameter. The diameter of the signal receiving antenna shall not exceed fifteen (15) feet in diameter, except for systems used to provide community antenna television services.
- (4) Height.
 - a. A ground-mounted signal receiving antenna, including any platform or structure upon which said antenna is mounted or affixed, may not exceed eighteen (18) feet in height, as measured from the ground to the highest point of the dish.
 - b. A roof-mounted antenna may not exceed fifteen (15) feet in height above the surrounding roof line as measured from the lowest point of the existing roof line.
 - c. A ham/short-wave radio antenna is exempted from the aforementioned provisions and may be erected to a height not to exceed 50 feet, as measured from the ground to the highest point of the antenna.
- (5) Wind Pressure. All signal receiving antennas shall be permanently mounted in accordance with the manufacturer's specifications for installation. All such installations shall meet a minimum wind load design velocity of eighty (80) mph.
- (6) Electrical Installations. Electrical installations in connection with signal receiving antennas, including grounding of the system, shall be in accordance with the National Electrical Safety Code, Wisconsin State Electrical Code and the instructions of the manufacturer. In cases of conflict, the stricter requirements shall govern. All cable used to conduct current or signals from

the signal receiving antenna to the receivers shall be installed underground unless installation site conditions preclude underground. If a signal receiving antenna is to be used by two (2) or more residential property owners, all interconnecting electrical connections, cables and conduits must also be buried. The location of all such underground lines, cables and conduits shall be shown on the application for a permit. All signal receiving antennas shall be grounded against direct lightning strikes.

- (7) **Temporary Placement.** No portable or trailer-mounted signal receiving antenna shall be allowed, except for temporary installation for on-site testing and demonstration purposes for periods not exceeding five (5) days. However, such trial placement shall be in accordance with all provisions of this Section. Failure to comply shall result in a citation being issued for violation of this Section. Any person making such temporary placement shall first give written notice to the Zoning Administrator of the date when such placement shall begin and end.
 - (8) **Advertising.** No form of advertising or identification, sign or mural is allowed on the signal receiving antenna other than the customary manufacturer's identification plates.
 - (9) **Interference with Broadcasting.** Signal receiving antennas shall be filtered and/or shielded so as to prevent the emission or reflection of an electromagnetic radiation that would cause any harmful interference with the radio and/or television broadcasting or reception on adjacent properties. In the event that harmful interference is caused subsequent to its installation, the owner of the signal receiving antenna shall promptly take steps to eliminate the harmful interference in accordance with Federal Communications Commission regulations.
 - (10) **Compliance with Federal Regulations.** The installation and use of every signal receiving antenna shall be in conformity with the Federal Cable Communications Policy Act of 1984 and regulations adopted thereunder.
 - (11) **Aesthetic Considerations.** Signal receiving antennas shall be located and designed to reasonably reduce visual impact from surrounding properties at street level.
- (f) **Enforcement.**
- (1) It shall be unlawful to construct, use, build or locate any signal receiving antenna in violation of any provisions of this Section. In the event of any violation, the Common Council or any property owner who would be specifically damaged by such violation may institute appropriate action or proceedings to enjoin a violation of this Section.
 - (2) Any person, firm or corporation who fails to comply with the provisions of this Section shall, upon conviction, be subject to the general penalty found in Section 1-1-7.
- (g) **Exception.**
- (1) The aforementioned regulations shall not apply to signal receiving antennas/dishes less than 48 inches in diameter.

SEC. 13-1-121 SPECIAL USE PERMITS REQUIRED--WIND ENERGY SYSTEMS.

- (a) **Approval Required.** No owner shall, within the City, build, construct, use or place any type or kind of wind energy system without holding the appropriate conditional use permit for said system.
- (b) **Separate Permit Required for each System.** A separate conditional use permit shall be required for each system. Said permit shall be applicable solely to the systems, structures, use and property described in the permit.
- (c) **Basis of Approval.** The Common Council shall base its determinations on general considerations as to the effect of such grant on the health, general welfare, safety and economic prosperity of the City and, specifically, of the immediate neighborhood in which such use would be located, including such considerations as the effect on the established character and quality of the area, its physical attractiveness, the movement of traffic, the demand for related services, the possible hazardous, harmful, noxious, offensive or nuisance effect as a result of noise, dust, smoke or odor and such other factors as would be appropriate to carry out the intent of the Zoning Code.
- (d) **Definitions.** "Wind energy systems" shall mean "windmills" which are used to produce electrical or mechanical power.

SEC. 13-1-122 PERMIT PROCEDURE--WIND ENERGY SYSTEMS.

- (a) **Application.** The permit application for a wind energy system shall be made to the Zoning Administrator on forms provided by the City. The application shall include the following information:
 - (1) The name and address of the applicant.
 - (2) The address of the property on which the system will be located.
 - (3) Applications for the erection of a wind energy conversion system shall be accompanied by a plat or survey for the property to be served showing the location of the generating facility and the means by which the facility will provide power to structures. If the system is intended to provide power to more than one (1) premises, the plat or survey shall show all properties to be served and the means of connection to the wind energy conversion system. A copy of all agreements with system users off the premises shall accompany the application. The application shall further indicate the level of noise to be generated by the system and provide assurances as to the safety features of the system. Energy easements shall accompany the application.
 - (4) An accurate and complete written description of the use for which special grant is being requested, including pertinent statistics and operational characteristics.
 - (5) Plans and other drawings showing proposed development of the site and buildings, including landscape plans, location of parking and service areas, driveways, exterior lighting, type of building material, etc., if applicable;
 - (6) Any other information which the Common Council or Zoning Administrator may deem to be necessary to the proper review of the application.

- (7) The Zoning Administrator shall review the application and, if the application is complete and contains all required information, shall refer it to the Common Council.
- (b) **Hearing.** Upon referral of the application, the Common Council shall schedule a public hearing thereof as soon as practical and the Common Council shall notice said hearing as deemed appropriate.
- (c) **Determination.** Following public hearing and necessary study and investigation, the Common Council shall, as soon as practical, render its decision and a copy be made a permanent part of the Council's minutes. Such decision shall include an accurate description of the special use permitted, of the property on which permitted, and any and all conditions made applicable thereto, or, if disapproved, shall indicate the reasons for disapproval. The Common Council may impose any conditions or exemptions necessary to minimize any burden on the persons affected by granting the special use permit.
- (d) **Termination.** When a special use does not continue in conformity with the conditions of the original approval, or where a change in the character of the surrounding area or of the use itself cause it to be no longer compatible with surrounding areas, or for similar cause based upon consideration for the public welfare, the special grant may be terminated by action of the Common Council following a public hearing thereon.
- (e) **Changes.** Subsequent change or addition to the approved plans or use shall first be submitted for approval to the Common Council and if, in the opinion of the Council, such change or addition constitutes a substantial alteration, a public hearing before the Common Council shall be required and notice thereof be given.
- (f) **Approval Does Not Waive Permit Requirements.** The approval of a permit under this Article shall not be construed to waive the requirement to obtain electrical, building or plumbing permits prior to installation of any system.

SEC. 13-1-123 SPECIFIC REQUIREMENTS REGARDING WIND ENERGY SYSTEMS.

- (a) **Additional Standards.** Wind energy conversion systems, commonly referred to as windmills," which are used to produce electrical power, shall also satisfy the requirements of this Section in addition to those found elsewhere in this Article.
- (b) **Application.** Applications for the erection of a wind energy conversion system shall be accompanied by a plat of survey for the property to be served showing the location of the generating facility and the means by which the facility will provide power to structures. If the system is intended to provide power to more than one (1) premises, the plat of survey shall show all properties to be served and the means of connection to the wind energy conversion system. A copy of all agreements with system users off the premises shall accompany the application. The application shall further indicate the level of noise to be generated by the system and provide assurances as to the safety features of the system. Energy easements shall accompany the application.

- (c) **Construction.** Wind energy conversion systems shall be constructed and anchored in such a manner to withstand wind pressure of not less than forty (40) pounds per square foot in area.
- (d) **Noise.** The maximum level of noise permitted to be generated by a wind energy conversion system shall be fifty (50) decibels, as measured on a dB(A) scale, measured at the lot line.
- (e) **Electro-magnetic Interference.** Wind energy conversion system generators and alternators shall be filtered and/or shielded so as to prevent the emission of radio-frequency energy that would cause any harmful interference with radio and/or television broadcasting or reception. In the event that harmful interference is caused subsequent to the granting of a conditional use permit, the operator of the wind energy conversion system shall promptly take steps to eliminate the harmful interference in accordance with Federal Communications Commission regulations.
- (f) **Location and Height.** Wind energy conversion systems shall be located in the rear yard only and shall meet all setback and yard requirements for the district in which they are located and, in addition, shall be located not closer to a property boundary than a distance equal to their height. Wind energy conversion systems are exempt from the height requirements of this Chapter; however, all such systems over seventy-five (75) feet in height shall submit plans to the Federal Aviation Administration (FAA) to determine whether the system is to be considered an object affecting navigable air space and subject to FAA restrictions. A copy of any FAA restrictions imposed shall be included as a part of the wind energy conversion system conditional use permit application.
- (g) **Fence Required.** All wind energy conversion systems shall be surrounded by a security fence not less than six (6) feet in height. A sign shall be posted on the fence warning of high voltages.
- (h) **Utility Company Notification.** The appropriate electric power company shall be notified, in writing, of any proposed interface with that company's grid prior to installing said interface. Copies of comments by the appropriate utility company shall accompany and be part of the application for a conditional use permit.

SEC. 13-1-124 THROUGH SEC. 13-1-129 RESERVED FOR FUTURE USE.

ARTICLE K

Accessory Uses and Structures; Fences and Hedges; Home Occupations

SEC. 13-1-130 ACCESSORY USES OR STRUCTURES.

- (a) **Definition.** "Accessory building" is a subordinate building, the use of which is purely incidental to the main building and has less area than seventy-five percent (75%) of the habitable area of the principal building; this definition shall include all private garages for the storage and housing of all motor vehicles of any and every kind.
- (b) **Compliance.** Any accessory use or structure shall conform to the applicable regulations of the district in which it is located, except as specifically otherwise provided.
- (c) **Placement Restrictions -- Residential District.** An accessory use or structure in a residential district may be established subject to the following regulations:
 - (1) Accessory Building Number Limits. In any residential district or commercial district, in addition to the principle building, a detached building and one (1) additional accessory building may be placed on a lot.
 - (2) Accessory Building Size and Construction Limits. Detached garages and other detached accessory buildings shall be less than eighteen (18) feet in height. Accessory buildings shall not occupy more than thirty percent (30%) of a required area for a rear yard or a side yard or be located within three (3) feet of any other accessory building. An accessory building shall not be nearer than ten (10) feet to the principle structure unless the applicable building code regulations in regard to one (1) hour fire-resistive construction are complied with. In no event can the accessory uses or structures be forward of the front line of the principal structure.
 - (3) Attached Buildings. All structures that are attached to the primary building, including attached garages and screen porches, are not accessory buildings subject to this Section, but they shall comply with all yard and setback requirements of the principal building.
- (d) **Use Restrictions -- Residential District.** Accessory uses or structures in residential districts shall not involve the conduct of any business, trade or industry except for home occupations as defined herein and shall not be occupied as a dwelling unit.
- (e) **Landscaping and Decorative Uses.** Accessory structures and vegetation used for landscaping and decorating may be placed in any required yard area. Permitted structures and vegetation include flag poles, ornamental light standards, lawn furniture, sun dials, bird baths, trees, shrubs and flowers and gardens.
- (f) **Temporary Uses.** Temporary accessory uses such as real estate sale field offices or shelters for materials and equipment being used in the construction of the permanent structure may be permitted by the Zoning Administrator.
- (g) **Outdoor Lighting.** Outdoor lighting installations shall not be permitted closer than three (3) feet to an abutting property line and, where not specifically otherwise regulated, shall not exceed fifteen (15) feet in height and shall be adequately shielded or hooded so that no excessive glare or illumination is cast upon the adjoining properties.
- (h) **Lawn Accessories.** Walks, drives, paved terraces and purely decorative garden accessories such as pools, fountains, statuary, flag poles, etc., shall be permitted in setback areas but not closer than three (3) feet to an abutting property line other than a street line.
- (i) **Retaining Walls.** Retaining walls may be permitted anywhere on the lot, provided,

however, that no individual wall shall exceed six (6) feet in height, and a terrace of at least three (3) feet in width shall be provided between any series of such walls and provided further that along a street frontage no such wall shall be closer than three (3) feet to the property line.

SEC. 13-1-131 OUTSIDE STORAGE OF FIREWOOD.

- (a) No person shall store firewood in the front yard on residentially zoned property, except that firewood may be temporarily stored in the front yard for a period of thirty (30) days from the date of its delivery.
- (b) Firewood should be neatly stacked and may not be stacked closer than two (2) feet to any lot line and not higher than six (6) feet from grade.
- (c) All brush, debris and refuse from processing of firewood shall be promptly and properly disposed of within fifteen (15) days and shall not be allowed to remain on the premises.
- (d) Not more than thirty percent (30%) of the side and rear yard may be used for storage of firewood at any one (1) time.

SEC. 13-1-132 FENCES.

- (a) **Fences Defined.** For the purpose of this Section, a "fence" is herein defined as an enclosed barrier consisting of vegetation, wood, stone or metal intended to prevent ingress or egress. No fence shall be constructed of unsightly or dangerous materials which would constitute a nuisance.
- (b) **Permit Required.** No person shall install a fence in the City without first obtaining a fence permit and complying in all respects with the terms and conditions and this Ordinance. A fence permit shall be valid only for the term of issuance, unless sooner suspended or revoked. A fence permit is not required for painting, maintenance, or repair or replacement of less than sixteen (16) lineal feet of a fence.
 - (1) **Permit Application.** A fence permit application shall be filed with the Zoning Administrator, consisting of the following:
 - i. A fully completed fence permit application form and payment of full permit fee.
 - ii. A drawing, site plan or plat map displaying property boundaries, the location of the buildings and structures on the property, the proposed location of the fence and its distances from the existing structures on the property.
 - iii. If the fence is proposed to be installed on rented or leased property, the written consent of the owner(s) of the property.
 - iv. Other information as may be required by the Zoning Administrator to assist in the review of the application.
 - (2) **Permit Fee.** A Five (\$5.00) Dollar permit fee shall be remitted upon submittal of the fence application. If any fence is installed, in full or part, prior to the issuance of a permit, five (5) times fees shall be charged for the permit.
 - (3) **Application Review and Approval Required. Permit Issuance.** The Zoning Administrator shall review, approve and issue the fence permit provided that the application is in compliance with this ordinance and the standards of this ordinance for the fence to be installed have been met.

The fence permit may contain reasonable conditions stated in the permit.

- (4) **Completion of Installation** - A fence authorized by a fence permit shall be fully installed in accordance with this Ordinance and permit conditions, within one hundred eighty (180) days of the date of permit issuance. A fence permit shall expire one hundred eighty (180) days after the date of issuance. After a fence permit expires, no work requiring such a permit shall be commenced, resumed or undertaken until a new permit is issued or the original permit is extended.
 - i. A permit applicant may file a written request for an extension of the fence permit stating the reason for the request, for up to one hundred eighty (180) additional days to complete the fence installation. The zoning administrator, in administering this code, shall grant the request if good cause is shown.
- (c) **Fences Categorized.** Fences shall be categorized into three (3) classifications:
 - (1) **Boundary Fence.** A fence placed on or within three (3) feet of the property lines of adjacent properties.
 - (2) **Protective Fence.** A fence constructed to enclose a hazard to the public health, safety and welfare.
 - (3) **Architectural or Aesthetic Fence.** A fence constructed to enhance the appearance of the structure or the landscape.
- (d) **Approved Fence Materials.** All fences shall meet the following material requirements:
 - (1) Fences to be situated in side and/or rear yards shall be constructed using materials suitable for residential-style fencing, including, but not limited to brick, fieldstone, wrought iron, vinyl, chain link (with a minimum thickness of nine (9) gauge and a required top rail support), stockade or board-on-board wood.
 - (2) No fence shall be constructed of used or discarded materials in disrepair, including, but not limited to pallets, tree trunks, trash, Ores, junk, or other similar items. Materials not specifically manufactured for fencing, such as railroad ties, wooden doors, landscape timbers or utility poles shall not be used for or in the construction of a fence.
 - (3) Residential front yard fences shall be fifty (50%) percent open (see-through) and be of split rail or wrought iron.
- (e) **Setback and Height of Fences Regulated.** Fences and walls are allowed in all yards provided they are within the height limitations as follows unless otherwise stated:
 - (1) In front yards, not to exceed four (4) feet in height, except at corner lots where it may not exceed three (3) feet.
 - (2) In side and rear yards not to exceed six (6) feet.
- (f) **Security Fences.** Security fences are permitted on the property lines in all districts except residential districts, but shall not exceed ten (10) feet in height and shall be of an open type similar to woven wire or wrought iron fencing.
- (g) **Prohibited Fences.** No fence shall be constructed which is a picket fence or is designed to electrically shock or which uses barbed wire, provided, however, that barbed wire may be used in industrially zoned areas if the devices securing the barbed wire to the fence are ten (10) feet above the ground or height and project toward the fenced property and away from any public area. Additionally, barb wire may be placed on top a fence at least six (6) feet in height that surrounds a public utility structure and/or equipment.

- (h) **Fences to be Repaired.** All fences shall be maintained and kept in a state of good repair.
- (i) **Temporary Fences.** Fences erected for the protection of planting or to warn of construction hazard, or for similar purposes, shall be clearly visible or marked with colored streamers or other such warning devices at four (4) foot intervals. Such fences shall comply with the setback requirements set forth in this Section. The issuance of a permit shall not be necessary for temporary fences as described herein, but said fences shall not be erected for more than forty-five (45) days.
- (j) **Nonconforming Fences.** Any fence existing on the effective date of this Municipal Code and not in conformance with this Section may be maintained, but no alteration, modification or improvement of said fence shall comply with this Section.

SEC. 13-1-133 SWIMMING POOLS.

- (a) **Definition.** A private or residential swimming pool is an outdoor structure containing a body of water in a receptacle or other container having a depth for water at any point greater than one and one-half (1-1/2) feet located above or below the surface of ground elevation, used or intended to be used solely by the owner, operator or lessee thereof and his family, and by friends invited to use it, and includes all structural facilities, appliances and appurtenances, equipment and other items used and intended to be used for the operation and maintenance of a private or residential swimming pool.
- (b) **Exempt Pools.** Storable children's swimming or wading pools, with a maximum dimension of fifteen (15) feet and a maximum wall height of fifteen (15) inches and which are so constructed that it may be readily disassembled for storage and reassembled to its original integrity are exempt from the provisions of this Section.
- (c) **Construction Requirements.** In addition to such other requirements as may be reasonably imposed by the Zoning Administrator, the Zoning Administrator shall not issue a permit for construction as provided for in Subsection (b), unless the following construction requirements are observed:
 - (1) All materials and methods of construction in the construction, alteration addition, remodeling or other improvements and pool installation shall be in accord with all state regulations and code and with any and all Ordinances of the City now in effect or hereafter enacted.
 - (2) All plumbing work shall be in accordance with all applicable Ordinances of the City and all state codes. Every private or residential swimming pool shall be provided with a suitable draining method and, in no case, shall waters from any pool be drained into the sanitary sewer system, onto lands of other property owners adjacent to that on which the pool is located on in the general vicinity.
 - (3) All electrical installations, including lighting and heating but not limited thereto, which are provided for, installed and used in conjunction with a private swimming pool shall be in conformance with the state laws and City Ordinances regulating electrical installations
- (d) **Setbacks and Other Requirements.**
 - (1) Private swimming pools shall be erected or constructed on rear or side lots only and only on a lot occupied by a principal building. No swimming pool shall be erected or

- constructed on an otherwise vacant lot. A lot shall not be considered vacant if the owner owns the contiguous lot and said lot is occupied by a principal building.
- (2) No swimming pool shall be located, constructed or maintained closer to any side or rear lot line than is permitted in the Zoning Code for an accessory building, and in no case shall the water line of any pool be less than six (6) feet from any lot line.

SEC. 13-1-134 HOME OCCUPATIONS.

- (a) **Purpose.** The purpose of this Section is to regulate the conditions under which occupations may be carried on at homes in order that such home occupations may not undermine the general intents and purposes of this Chapter and the specific purposes of the residential districts.
- (b) **Conditions of Use.** The following regulations shall be applicable to home occupations:
- (1) Only those occupations which, by their nature, can be carried out safely in homes without generating any nuisance or hazards are allowed.
 - (2) Such occupations shall not have more than one (1) principal and one (1) assistant involved in the operation other than family members living on the premises.
 - (3) Home occupations may not occupy more than twenty-five percent (25%) of the total floor area of the house.
 - (4) Activities which involve the manufacture, utilization, processing or storage of inflammable and explosive materials shall not be carried out.
 - (5) No operation producing any form of glare or heat shall be carried out as home occupations.
 - (6) Home occupations shall not produce noise or sound that may be heard in the adjacent property.
 - (7) No odors or vibrations may emanate from home occupations.
 - (8) No activity shall emit radioactive or electrical disturbances outside the premises that are dangerous or may adversely affect the use of neighboring premises.
 - (9) There shall be no outside storage of any kind related to the home occupation.

SEC. 13-1-135 OUTDOOR FURNACES SEC. 13-1-135 OUTDOOR FURNACES

- (a) The installation and maintaining of a furnace outside a dwelling or business shall be subject to the following restrictions:
- (1) An outdoor furnace shall be housed in an accessory building or the appearance of the outdoor furnace shall be that it looks like an accessory building;
 - (2) The exhaust stack of an outdoor furnace shall not exceed 10 feet above the lowest point of the roof line of the building that it serves;
 - (3) Only wood shall be burned in an outdoor furnace. All other materials, including, but not limited to, garbage, trash, newspaper, cardboard, shall not be burned in an outdoor furnace, with the exception that paper may be burned in an outdoor furnace for the purpose of kindling to start the furnace;
 - (4) Outdoor furnaces shall not be constructed or maintained in R-1 district; and
 - (5) Installation of an outdoor furnace shall first be approved by the Planning Commission.

- (2) *Such occupations shall not have more than one (1) principal and one (1) assistant involved in the operation other than family members living on the premises.*
- (3) *Home occupations may not occupy more than twenty-five (25%) of the total floor area of the house.*
- (4) *Activities which involve the manufacture, utilization, processing or storage of flammable and explosive materials shall not be carried out.*
- (5) *No operation producing any form of glare or heat shall be carried out as home occupations.*
- (6) *Home occupations shall not produce noise or sound that may be heard in the adjacent property.*
- (7) *No odors or vibrations may emanate from home occupations.*
- (8) *No activity shall emit radioactive or electrical disturbances outside the premises that are dangerous or may adversely affect the use of neighboring premises.*
- (9) *There shall be no outside storage of any kind related to the home occupation.*

SEC. 13-1-135 OUTDOOR FURNACES

- (a) *The installation and maintaining of a furnace outside a primary dwelling or business shall be subject to the following restrictions:*
 - (1) *An outdoor furnace shall have the appearance of an accessory building;*
 - (2) *If there is an adjacent residence 30 feet or less from an outdoor furnace, the outdoor furnace stack height must be at least 2 feet greater than the roof line of the highest adjacent residence within 30 feet;*
 - (3) *Only clean wood shall be burned in an outdoor furnace. All other materials, including, but not limited to, garbage, trash, newspaper, cardboard, shall not be burned in an outdoor furnace, with the exception that paper may be burned in an outdoor furnace for the purpose of kindling to start the furnace;*
 - (4) *Outdoor furnaces shall not be constructed or maintained in R-1 district;*
 - (5) *Installation of an outdoor furnace shall require a "Conditional Use Permit" issued by the Planning Commission prior to installation of an outdoor furnace;*
 - (6) *Outdoor furnaces shall not be operated and items may not be burned in an outdoor furnace during the months of April, May, June, July, August, September and October;*
 - (7) *All outdoor furnaces shall meet or exceed the Environmental Protection Agency (EPA) emission standards that exist as of the date of installation.*
 - (8) *If a written complaint is filed about an outdoor furnace, the Plan Commission will conduct an investigation to determine if modifications need to be made to the furnace. If no additional modifications can be made to the furnace, and a health hazard exists, an order to discontinue use shall be issued.*

SEC. 13-1-136 THROUGH SEC. 13-1-139 RESERVED FOR FUTURE USE.

ARTICLE L

Administration

SEC. 13-1-140 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. 13-1-141 ZONING ADMINISTRATOR.

The Common Council designates the Assessor/Building Inspector as the Zoning Administrator, 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. The Zoning Administrator shall further:

- (a) Maintain records of all permits issued, inspections made, work approved and other official actions.
- (b) Record the lowest floor elevations of all structures erected, moved, altered or improved in the floodland districts
- (c) Establish that all necessary permits that are required for floodland uses by state and federal law have been secured.
- (d) Inspect all structures, lands and waters as often as necessary to assure compliance with this Chapter.
- (e) Investigate all complaints made relating to the location of structures and the use of structures, lands and waters, give notice of all violations of this Chapter to the owner, resident, agent or occupant of the premises and report uncorrected violations to the City Attorney in a manner specified by him.
- (f) Prohibit the use or erection of any structure, land or water until he has inspected and approved such use or erection
- (g) Request assistance and cooperation from the Police Department and City Attorney as deemed necessary.

SEC. 13-1-142 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, except for issuance of conditional use permits, 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.

- (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 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 M of this Chapter for detail provisions.

SEC. 13-1-143 SITE PLAN APPROVAL

- (a) **Site Plan Approval.** All applications for Zoning Permits for any construction, reconstruction, expansion or conversion, 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 thirty (30) 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 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
- (2) The adequacy of the proposed water supply, drainage facilities and sanitary and waste disposal.
 - (3) 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. 13-1-144 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. 13-1-145 CLASSIFICATION OF UNLISTED USES.

- (a) **Purpose.** In order to ensure that the Zoning Ordinance will permit all similar uses in each district, the Zoning Board of Appeals, upon its own initiative or upon a written application, shall determine whether a use not specifically listed as a permitted use or a conditional use in Commercial, Residential, or Industrial Districts shall be deemed a

permitted use or a conditional use in one (1) or more districts on the basis of similarity to uses specifically listed

- (b) **Application.** Application for determination that a specific use should be included as a permitted use or a conditional use in Commercial, Residential, or Industrial Districts shall be made in writing to the Zoning Administrator and shall include a detailed description of the proposed use and such other information as may be required by the Zoning Board of Appeals to facilitate the determination.
- (c) **Investigation.** The Zoning Board of Appeals shall make or have made such investigations as it deems necessary to compare the nature and characteristics of the proposed use with those of the uses specifically listed in this Chapter and to make a determination of its classification.
- (d) **Determination.** The determination of the Zoning Board of Appeals shall be rendered in writing within sixty (60) days from application and shall include findings supporting the conclusion.
- (e) **Effective Date of Determination.** Within five (5) days following the date of a decision, the Zoning Board of appeals shall transmit to the Common Council and petitioner written notice of the decision, at which time the classification of the unlisted use shall become effective.

SEC. 13-1-146 THROUGH SEC. 13-1-149 RESERVED FOR FUTURE USE.

ARTICLE M

Changes and Amendments to the Zoning Code

SEC. 13-1-150 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 Shoreland-Wetland 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. 13-1-151 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. 13-1-152 PROCEDURE FOR CHANGES OR AMENDMENTS.

- (a) **Required Information.** 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, describe the premises to be rezoned or the portions of text of regulations to be amended, list the reasons justifying the petition, specify the proposed use, if applicable, and have attached the following, if petition be for change of district boundaries:
- (1) Plot plan, drawn to a scale of one (1) inch equals one hundred (100) feet showing the area proposed to be rezoned, its location, its dimensions, the location and classification of adjacent zoning districts and the location and existing use of all properties within three hundred (300) feet of the area proposed to be rezoned
 - (2) Owners' names and addresses of all properties lying within two hundred (200) feet of the area proposed to be rezoned.
 - (3) Fee receipt from the City Clerk-Treasurer in the amount of Twenty Dollars (\$20.00).
 - (4) Together with additional information as may be required by the Plan Commission or Common Council.
- (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) a. 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.
- b. 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.
- c. Written notice of the hearing shall also be sent by regular mail to the owners of land included in such proposed amendment, to owners of land immediately adjacent extending two hundred (200) feet therefrom, and to owners of the land directly opposite thereto extending two hundred (200) feet from the street frontage of such opposite land, except in those cases in which the zoning ordinance is proposed to be changed to enact permanent zoning classifications of property annexed to the City. In such instances, the notice of the proposed amendments shall be provided as required in Sec. 62.23(7)(d), Wis. Stats.
- (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.

SEC. 13-1-153 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 to 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 [provided that the street right-of-way doesn't extend more than one hundred (100) feet from the property affected by the proposed zoning change or amendment; owners outside this area shall not have standing to protest.] A protest may be filed any time after the first publication of the notice of hearing but may be filed not later than the time the

Council first considers the Plan Commission's recommendation. All protests shall be filed with the City Clerk-Treasurer.

- (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. 13-1-154 THROUGH SEC. 13-1-159 RESERVED FOR FUTURE USE.

ARTICLE N

Appeals

SEC. 13-1-160 APPEALS TO THE ZONING BOARD OF APPEALS.

- (a) **Scope of Appeals.** Appeals to the 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 reasonable 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 the required filing fee. 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) **Meetings.**
- (1) Open to Public. All meetings and hearings of the Board of Appeals shall be open to the public, except that the Board may go into executive session to deliberate after a hearing or an appeal. The final vote on an appeal shall be taken in open session by roll call vote, recorded and open for public inspection in the Board's office. Public notice of all regular and special meetings shall be given to the public and news media as required by the Wisconsin Open Meeting Law.
 - (2) Special Meetings. Special meetings may be called by the Chairman or by the Secretary of the Board of Appeals at the request of two (2) members. Notice of a special meeting shall be mailed to each member at least forty-eight (48) hours prior to the time set for the meeting, or announcement of the meeting shall be made at any meeting at which all members are present.
 - (3) Hearings. Hearings may be held at any regular or special meeting at the time set by the Chairman.
 - (4) Quorum. A quorum for any meeting or hearing shall consist of four (4) members, but a lesser number may meet and adjourn to a specified time.
- (d) **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, Building Inspector or other administrative official in the enforcement of the Zoning Code or any ordinance adopted under Sections 62.23 or 62.231 (wetlands), 87.30 or 144.26 (flood plains) or Chapter 91 (farmland preservation), Wis. Stats.

- (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.
 - (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.
- (e) **Board Action.** In exercising the powers under Subsection (d), the Board of Appeals may reverse or affirm, wholly or partly, or may modify the order, requirement, decision or determination appealed from, and may make such order, requirement, decision or determination as ought to be made and, to that end, shall have all the powers of the officer from whom the appeal is taken, and may issue or direct the issuance of a permit.
- (f) **Voting.**
- (1) **Personal Interest.** No Board of Appeals member shall participate in the decision of or vote upon any case in which the member is financially interested, directly or indirectly, but the Chairman shall direct an alternate member to act instead. Disqualification of a member for interest shall not decrease the number of votes required for acting upon any matter, but such member may be counted in determining whether a quorum is present for the transaction of business.

- (2) **Record of Vote.** The Secretary shall record the vote of each member on every question in the minutes or, if the member is absent or fails to vote, shall indicate such fact in the record of the proceedings.

SEC. 13-1-161 APPLICATIONS FOR HEARINGS.

- (a) **Time of Appeal.** Appeals shall be filed within thirty (30) days after the date of receipt of the written decision or order from which the appeal is taken by filing in duplicate a notice of appeal with the Zoning Administrator. The date of receipt of the decision shall not be counted in determining the time for filing of the appeal. Sundays and holidays shall be counted, except if the last day falls on a Saturday, Sunday or legal holiday, the time for filing shall be extended to the next secular day.
- (b) **Who May Appeal.** Appeals or applications to the Board may be made by:
- (1) The owner, mortgagee, purchaser under a land contract, optionee or occupant under a written lease for one (1) year or more of the property for which relief is sought.
 - (2) Any officer (other than the Zoning Administrator), department, board or bureau affected by a decision or order of the Zoning Administrator.
 - (3) Any person aggrieved and whose use and enjoyment of property within the City is directly and adversely affected by a decision or order of the Building Inspector, Zoning Administrator or the requested Board action.
- (c) **Appeal and Application Forms.** Every appeal or application shall be made upon forms furnished by the Zoning Administrator which have been approved by the Board of Appeals. A scale drawing shall accompany each form showing the location and size of the property, existing improvements, all abutting properties and improvements thereon and change or addition requested. The applicant or appellant shall provide all information requested on the form and any additional information requested in writing by the Chairman or Secretary of the Board of Appeals which is necessary to inform the Board of the facts of the appeal. Failure to supply such information shall be grounds for dismissal of the appeal or application.
- (d) **Filing Appeal or Application.** The appellant or applicant shall file the required appeal form in duplicate with the Zoning Administrator. The Zoning Administrator shall deliver one (1) copy to the officer or body from whose decision an appeal is taken. Upon receipt of an appeal, the Zoning Administrator or other officer or body responsible for the original determination shall transmit to the Secretary of the Board of Appeals all notes or papers relating to the order or decision from which the appeal is being taken.
- (e) **Election to Have Appeal or Application Handled as a Contested Case.** The applicant or appellant may elect to have the appeal or application handled as a contested case. The appeal or application form shall explain that a contested case includes the right of all parties to cross-examine witnesses, to object to improper evidence and to have a record of the proceedings made by a court reporter or qualified stenographer or by tape recording. Election to have the matter treated as a

contested case must be made in writing at the time of filing of the appeal or application.

- (f) **Fee.** All appeals and applications filed with the Zoning Administrator shall be accompanied by payment of the required fee. If the appellant or applicant elects the contested-case method, he or she shall also pay the amount determined by the Board of Appeals to cover the additional administrative costs involved.
- (g) **Insufficient Notice.** No appeal or application shall be considered by the Board of Appeals unless it is made on the required form. Upon receipt of any communication purporting to be an appeal or application, the Zoning Administrator shall supply the applicant with the proper forms which must be filed within ten (10) days, in addition to the thirty (30) days specified in Subsection (a), in order to be considered by the Board of Appeals.

SEC. 13-1-162 HEARINGS.

- (a) **Notice of Hearing.** Notice of the time, date and place of the hearing of an appeal or application shall be given in the following manner:
 - (1) By mail or personal service to the appellant or applicant and to the Zoning Administrator or other administrative official or body from whose decision an appeal is taken and Secretary of the Plan Commission not less than ten (10) days prior to the date of the hearing.
 - (2) In every case involving a variance, conditional use, exception, planned unit development or public utility exception, the City Clerk-Treasurer shall mail notice to the owners of record of all land within the area included in the application and within one hundred (100) feet of any part of the building or premises affected not less than ten (10) days prior to the hearing. Names and last-known addresses of such owners shall be furnished by the applicant at the time of filing the appeal or application.
 - (3) By publication of a Class 2 notice under Chapter 985, Wis. Stats.
 - (4) Notice of an application for construction of a building in the bed of a future street, highway or parkway shall be published in the official newspaper not less than fifteen (15) days prior to the hearing.
 - (5) Notice of an application for a proposed special exception in a shoreland-wetland district shall be mailed to the district office of the Wisconsin Department of Natural Resources at least ten (10) days prior to the hearing.
- (b) **Time of Hearing, Docketing.** Each appeal or application properly filed shall be numbered serially, docketed in a special book provided therefor and placed upon the calendar by the Secretary of the Board of Appeals. Cases docketed more than fifteen (15) days preceding a regular meeting shall be set for hearing at such meeting. Cases docketed seven (7) days or less prior to a regular meeting shall be scheduled by the Secretary, or his designee, for a hearing on the second regular meeting day thereafter unless otherwise directed by the Chairman.
- (c) **Appearances.** The appellant or applicant may appear in person or by his agent or attorney. In the absence of an appearance for or against an appeal or application, the

- Board of Appeals may dismiss the appeal or application or may dispose of the matter on the record before it.
- (d) **Oath.** Unless waived by the appellant or applicant and the Chairman, all witnesses shall be sworn before testifying by the Chairman or presiding officer.
 - (e) **Compelling Attendance of Witnesses.** The Chairman, or, in his absence, the presiding officer, may compel the attendance of witnesses by subpoena. Written request for subpoenas shall be filed with the Secretary of the Board of Appeals not less than two (2) days prior to the hearing except by special permission of the Chairman.
 - (f) **Order of Hearing.** Appeals and applications shall be heard in numerical order except for good cause shown.
 - (g) **Order of Business.**
 - (1) **General Hearing.** At the hearing, the order of business shall be as follows:
 - a. Statement of the nature of the case by the Chairman.
 - b. Appellant's side of the case.
 - c. Questions by Board members.
 - d. Zoning Administrator's side of the case.
 - e. Questions by Board members.
 - f. Statements by interested persons such as neighbors or abutting landowners.
 - g. Questions by Board members.
 - h. Appellant's or applicant's rebuttal.
 - (2) **Contested Cases.** If the applicant or appellant elects to have his or her appeal or application treated as a contested case, the order of business shall be as follows:
 - a. Call to order by the Chairman.
 - b. Appellant or applicant's opening statement.
 - c. Zoning Administrator's opening statement.
 - d. Opening statement of persons aggrieved and other interested parties. The right to make an opening statement is limited to persons who will present evidence.
 - e. Applicant's or appellant's case-in-chief.
 - f. Questions by Board members.
 - g. Cross-examination. No more than one (1) person for each party shall cross-examine witnesses. The Chairman may limit the number of parties who may cross-examine.
 - h. Zoning Administrator's case-in-chief
 - i. Questions by Board members.
 - j. Cross-examination as under (2)g.
 - k. Case-in-chief of other parties.
 - l. Questions by Board members
 - m. Cross-examination under (2)g
 - n. Rebuttal by appellant or applicant. Rebuttal is limited to matters raised by the adverse parties by way of evidence or argument.

- o. Statements of opinion of neighbors or abutting land owners -- not subject to cross-examination.
- p. Closing statements of those who made or waived opening statements.
- (h) **Evidence and Official Notice.** Except in contested case hearings, written and oral testimony will be received. In contested case hearings, no hearsay evidence will be allowed or relied upon as the sole evidence of any factual determination. The Board of Appeals may take official notice of the ordinances of the City, the zoning and location of the subject property and geographical features or other facts which are common knowledge in the City or can be verified by reference to public record. In contested case hearings, all witnesses shall be sworn and no person shall be permitted to testify unless he or she submits to cross-examination. See Sec. 227.08, Wis. Stats.
- (i) **Adjournments.** When all appeals or applications cannot be disposed of on the day set, the Board of Appeals may adjourn from day to day or to a day certain, as it may order, and such adjourned day shall be construed as a continuance of the hearing. Notice of such adjournment shall be given to the absent members of the Board of Appeals.
- (j) **Withdrawal.** An appellant or applicant may withdraw an appeal at any time prior to the decision, but a pending motion to grant or dismiss the appeal shall have precedence over withdrawal. Withdrawal of the appeal shall not entitle the appellant or applicant to remission of the filing fee.

SEC. 13-1-163 DECISION AND DISPOSITION OF CASES.

- (a) **Time of Decision.** The Board of Appeals shall render its decision either at the termination of the hearing or within thirty (30) days thereafter and shall notify the parties in interest and the Zoning Administrator in writing of its decision.
- (b) **Form of Decision.** The final disposition of an appeal or application shall be in the form of a written decision or order signed by the Chairman and Secretary of the Board of Appeals. Such decision shall state the reasons for the Board's determination with findings of fact and conclusions of law 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 special exception, conditional use or variance.
- (c) **Basis of Decision; Findings.** At the conclusion of a hearing, the Board should reduce to writing its findings of fact and conclusions of law regarding the proper interpretation and application of the Zoning Code
- (d) **Vote Required.** All orders or decisions of the Board of Appeals granting a variance, exception or conditional use or reversing any action or order of the Administrator require the affirmative vote of four (4) members. Whenever only four (4) members of the Board are present and the vote stands three (3) to one (1) in favor of the appellant or applicant, the matter shall be laid over for consideration and final determination at the next meeting of the Board or a special meeting noticed and called for that purpose.

- (e) **Conditions.** Variances or conditions imposed in any permit shall be stated in the decision or order embodying the Board's decision and shall also be set forth in the building, conditional use or occupancy permit issued under that order by the Zoning Administrator. A permit shall be valid only as long as the conditions upon which it is granted are observed. Whenever the Board grants an application or appeal affecting the use of any premises, such authorization shall be deemed revoked unless the owner, occupant or his agent shall, upon request, file with the Board Secretary a written report certifying that all conditions or limitations imposed by the Board have been conformed to and maintained. Variances, substitutions or conditional use permits approved by the Board shall expire six (6) months after issuance if the performance of work is required and substantial work has not commenced.
- (f) **Filing of Decision.** Every order or decision of the Board of Appeals shall be immediately filed with the Secretary who shall thereupon forward the decision to the Zoning Administrator and mail a copy to the applicant or appellant. Copies of decisions granting conditional uses or variances in a floodplain, shoreland or wetland district shall be mailed to the district office of the Wisconsin Department of Natural Resources.
- (g) **Reconsideration.**
 - (1) **Resubmission.** No appeal or application which has been dismissed or denied shall be considered again without material alteration or revision within one (1) year of the Board's decision, except pursuant to court order or by motion to reconsider made by a member voting with the majority or as provided in Subsection (g)(2) below.
 - (2) **Rehearing.** No rehearing shall be held except upon the affirmative vote of four (4) or more members of the Board upon finding that substantial, new evidence is submitted which could not reasonably have been presented at the previous hearing. Requests for rehearing shall be in writing, shall state the reasons for the request and shall be accompanied by necessary data and diagrams. Rehearings shall be subject to the same notice requirements as original hearings.

SEC. 13-1-164 VARIATIONS.

- (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 than 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 Variation.** The application for variation shall be filed pursuant to Section 13-1-161.
- (c) **Public Hearing of Application.** The public hearing for a variance shall be conducted pursuant to Section 13-1-162.
- (d) **Prohibited Variances.** The Board of Appeals shall not grant use variances in floodplain or wetland and conservancy districts. In all other districts, no use variance shall be granted unless the applicant has first petitioned for a zoning amendment or a conditional use permit, if applicable, and upon a showing that no lawful and feasible use of the subject property can be made in the absence of such variance. Any use variance granted shall be limited to the specific use described in the Board's decision and shall not permit variances in yard, area or other requirements of the district in which located.
- (e) **Action of the Board of Appeals; Standards.** For the Board to grant a variance, it must find that:
 - (1) Denial of variation may result in hardship to the property owner due to physiographical consideration. There must be exceptional, extraordinary or unusual circumstances or conditions applying to the lot or parcel, structure, use or intended use that do not apply generally to other properties or uses in the same district and the granting of the variance would not be of so general or recurrent nature as to suggest that the Zoning Code should be changed.
 - (2) The conditions upon which a petition for a variation is based are unique to the property for which variation is being sought and 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.
 - (3) The purpose of the variation is not based exclusively upon a desire to increase the value or income potential of the property.
 - (4) The granting of the variation will not be detrimental to the public welfare or injurious to the other property or improvements in the neighborhood in which the property is located.
 - (5) The proposed variation will not undermine the spirit and general and specific purposes of the Zoning Code, specifically the standards of Sec. 13-1-66.
- (f) **Conditions.** The Board of Appeals may impose such conditions and restrictions upon the premises benefited by a variance as may be necessary to comply with the standards established in this Section.

SEC. 13-1-165 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. 13-1-166 THROUGH SEC. 13-1-169 RESERVED FOR FUTURE USE.

ARTICLE O

Definitions

SEC. 13-1-170 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; the singular number includes the plural number; and the plural number includes the singular number. The word "shall" is mandatory and not permissive.
- (1) Abutting. Have a common property line or district line.
 - (2) 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.
 - (3) Advertising Sign. An advertising sign, billboard, or poster panel which directs attention to a business, commodity, service, or entertainment not exclusively related to the premises where such "advertising sign" is located or to which it is affixed, but does not include those business signs, billboards, or poster panels which direct attention to the business on the premises to a brand name of a product or commodity with which the business is specifically identified and which is sold on the premises.
 - (4) Alley. A public way which affords only a secondary means of access to abutting property.
 - (5) Apartment. A dwelling unit that is part of a structure and primarily used as a home, residence or place of abode.
 - (6) Apartment Hotel. A structure that contains one (1) or more apartments primarily used by the occupant(s) as a home, residence or place of abode and five (5) or more rooms where sleeping accommodations are offered for pay to transients.
 - (7) 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.
 - (8) 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.
 - (9) Basement. A portion of a building with the floor located below the mean grade level. For the purpose of this Chapter, any such basement with more than four (4) feet above grade level shall be counted as a story. No dwelling unit shall be situated in a basement having less than four (4) feet above grade level.
 - (10) Billboard. An advertising device, either freestanding or attached to a building, which is used to display information not related to the use or ownership of the establishment of the property upon which it is located.

- (11) **Block.** A tract of land bounded by streets or by a combination of streets and public parks or other recognized lines of demarcation.
- (12) **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.
- (13) **Buildable Lot Area.** The portion of a lot remaining after required yards have been provided.
- (14) **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.
- (15) **Building, Detached.** A building surrounded by open space on the same lot.
- (16) **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.
- (17) **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.
- (18) **Building Principal.** A building in which the principal use of the lot on which it is located is conducted.
- (19) **Business.** An occupation, employment or enterprise which occupies time, labor and materials, or wherein merchandise is exhibited or sold, or where services are offered.
- (20) **Channel.** Those floodlands normally occupied by a stream of water under average annual high-water flow conditions while confined within generally well-established banks.
- (21) **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.
- (22) **Conditional Uses.** Uses of a special nature as to make impractical their predetermination as a principal use in a district.
- (23) **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 Price 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.

- (24) 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.
- (25) Corner Lot. On corner lots, the setback shall be measured from the street line on which the lot fronts. The setback from the side street shall be equal to seventy-five percent (75%) of the setback required on residences fronting on the side street -- but the side yard setback shall in no case restrict the buildable width to less than thirty (30) feet. Said corner lots shall be consisting of a parcel of property abutting on two (2) or more streets at their intersection providing that the interior angle of such intersection is less than one hundred thirty-five degrees (135°).
- (26) 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.
- (27) 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.
- (28) 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.
- (29) 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.
- (30) Dwelling Unit. A group of rooms constituting all or part of a dwelling, which are arranged, designed, used or intended for use exclusively as living quarters for one (1) family.
- (31) Dwelling Efficiency. A dwelling unit consisting of one (1) principal room with no separate sleeping rooms.
- (32) Dwelling, Single-Family. A detached building designed for or occupied by one (1) family.
- (33) Dwelling, Two-Family. A detached building containing two (2) separate dwelling (or living) units, designed for occupancy by not more than two (2) families.
- (34) 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.

- (35) **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.
- (36) **Family.** The body of persons who live together in one (1) dwelling unit as a single housekeeping entity.
- (37) **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.
- (38) **Farmstead.** A single-family residential structure located on a parcel of land, which primary land use is associated with agriculture.
- (39) **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.
- (40) **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.
- (41) **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.
- (42) **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.
- (43) **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.
- (44) **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.

- (45) 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.
- (46) Institution. A building occupied by a nonprofit corporation or a nonprofit establishment for public use.
- (47) 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.
- (48) Junkyard. Any area, lot, land, parcel, building or structure or part thereof used for the storage, collecting, processing, purchase, sale or abandonment of wastewater, rags, scrap metal or other scrap or discarded goods, materials, machinery or two (2) or more unregistered, inoperable motor vehicles or other type of junk.
- (49) 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.
- (50) Lodging House. A building where lodging only is provided for compensation for not more than three (3) persons not members of the family.
- (51) Lot. A parcel of land having frontage on a public street, or other officially approved means of access, occupied or intended to be occupied by a principal structure or use and sufficient in size to meet the lot width, lot frontage, lot area and other open space provisions of this Code as pertaining to the district wherein located. No land included in any street, highway, or railroad right-of-way shall be included in computing lot area.
- (52) 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 (135x) or less, measured on the lot side.
- (53) 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.
- (54) 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.
- (55) 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 buildings 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.
- (56) Lot Coverage (residential). The area of a lot occupied by the principal building or buildings and accessory building.

- (57) **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.
- (58) **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.
- (59) **Lot Lines and Area.** The peripheral boundaries of a parcel of land and the total area lying within such boundaries.
- (60) **Lot Width.** The horizontal distance between the side lot lines measured at the building setback line.
- (61) **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.
- (62) **Mobile Home.** A manufactured home that is HUD certified and labeled under the National Mobile Home Construction and Safety Standards Act of 1974. A mobile home is a transportable structure, being eight (8) feet or more in width (not including the overhang of the roof), built on a chassis and designed to be used as a dwelling with or without permanent foundation when connected to the required utilities.
- (63) **Mobile Home Lot.** A parcel of land for the placement of a single mobile home and the exclusive use of its occupants.
- (64) **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 are rented to individual mobile home users. 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.
- (65) **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.
- (66) **Modular Unit.** A modular unit is a factor 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.
- (67) **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.

- (68) **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.
- (69) **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.
- (70) **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.
- (71) **Parking Lot.** A structure or premises containing five (5) or more parking spaces open to the public.
- (72) **Parties in Interest.** Includes all abutting property owners, all property owners within one hundred (100) feet, and all property owners of opposite frontages.
- (73) **Places of Assembly.** Places where people gather or congregate for amusement, worship, learning, etc. This includes schools, churches, theaters, playgrounds, etc.
- (74) **Professional Offices.** Offices of doctors of medicine, practitioners, dentists, clergymen, architects, landscape architects, professional engineers, registered land surveyors, lawyers, artists, teachers, authors, musicians, or other recognized professions.
- (75) **Professional Home Offices.** Residences of doctors of medicine, practitioners, dentists, clergymen, architects, landscape architects, professional engineers, registered land surveyors, lawyers, artists, teachers, authors, musicians, or other recognized professions, used to conduct their professions where the office does not exceed one-half (1/2) the area of only one (1) floor of the residence and only one (1) nonresident person is employed.
- (76) **Public Airport.** Any airport which complies with the definition contained in Section 114.013(3), Wisconsin Statutes, or any airport which serves or offers to serve common carriers engaged in air transport.
- (77) **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.

- (78) **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.
- (79) **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.
- (80) **Retail.** The sale of goods or merchandise in small quantities to the consumer.
- (81) **Roadside Stand.** A structure having a ground area of not more than three hundred (300) square feet, not permanently fixed to the ground, readily removable in its entirety, not fully enclosed and to be used solely for the sale of farm products produced on the premises.
- (82) **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.
- (83) **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.
- (84) **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 a neighborhood.
- (85) **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.
- (86) **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.
- (87) **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.
- (88) **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.
- (89) 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.
- (90) 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.
- (91) 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.
- (92) Structural Alterations. Any change in the supporting members of a structure, such as foundations, bearing walls, columns, beams or girders.
- (93) 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.
- (94) Travel Trailer or Motor Home. A vehicular portable structure designed as a temporary dwelling for travel, recreation, and vacation use, which does not fall within the definition of mobile or modular unit.
- (95) 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.
- (96) 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.
- (97) Use, Principal. The main use of land or building as distinguished from subordinate or accessory use.
- (98) 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.
- (99) Vision Clearance. An unoccupied triangular space at the street corner of a corner lot which is bounded by the street lines and a setback line connecting points specified by measurement from the corner on each street line.
- (100) Yard. An open space on the same lot with a structure, unoccupied and unobstructed from the ground upward except the vegetation. The street and rear yards extend the full width of the lot.
- (101) 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.

- (102) 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.

CHAPTER 2

Shoreland-Wetland Zoning

Article A Statutory Authorization, Findings of Fact, Statement of Purpose and Title

- 13-2-1 Statutory Authorization
- 13-2-2 Findings of Fact and Purpose
- 13-2-3 Title of Chapter
- 13-2-4 thru
13-2-9 Reserved for Future Use

Article B General Provisions

- 13-2-10 Compliance
- 13-2-11 Municipalities and State Agencies Regulated
- 13-2-12 Abrogation and Greater Restrictions
- 13-2-13 Interpretation
- 13-2-14 Severability
- 13-2-15 thru
13-2-19 Reserved for Future Use

Article C Shoreland-Wetland Zoning District

- 13-2-20 Purpose of Shoreland-Wetland Zoning
- 13-2-21 Official Shoreland-Wetland Zoning Maps
- 13-2-22 District Boundaries
- 13-2-23 Permitted Uses
- 13-2-24 Prohibited Uses
- 13-2-25 Nonconforming Structures and Uses
- 13-2-26 thru
13-2-29 Reserved for Future Use

Article D Administrative Provisions

- 13-2-30 Zoning Administrator
- 13-2-31 Zoning Permits
- 13-2-32 Fees
- 13-2-33 Recording
- 13-2-34 Revocation
- 13-2-35 Board of Appeals
- 13-2-36 Amending Shoreland-Wetland Zoning Regulations
- 13-2-37 thru
13-2-39 Reserved for Future Use

Article E **Penalties: Definitions**

13-2-40 Enforcement and Penalties
13-2-41 Definitions

ARTICLE A

Statutory Authorization, Findings of Fact, Statement of Purpose and Title

SEC. 13-2-1 STATUTORY AUTHORIZATION.

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

SEC. 13-2-2 FINDINGS OF FACT AND PURPOSE.

- (a) **Findings of Fact.** Uncontrolled use of the shoreland-wetlands and the pollution of the navigable waters of the City of Park Falls would adversely affect the public health, safety, convenience and general welfare and impair the tax base. The Legislature of Wisconsin has delegated responsibility to all municipalities to:
- (1) Promote the public health, safety, convenience, and general welfare;
 - (2) Maintain the storm and flood water storage capacity of wetlands;
 - (3) Prevent and control water pollution by filtering or storage of sediments, nutrients, heavy metals or organic compounds that would otherwise drain into navigable waters and to maintain storm and flood water capacity;
 - (4) Protect fish spawning grounds, fish, aquatic life and wildlife by preserving wetlands and other fish and aquatic habitat;
 - (5) Prohibit certain uses detrimental to the shoreland-wetland area; and
 - (6) Preserve shore cover and natural beauty by restricting the removal of natural shoreland cover and controlling shoreland-wetland excavation, filling and other earth moving activities.

SEC. 13-2-3 TITLE OF CHAPTER.

Shoreland-Wetland Zoning Ordinance/Chapter for the City of Park Falls, Wisconsin.

SEC. 13-2-4 THROUGH SEC. 13-2-9 RESERVED FOR FUTURE USE.

ARTICLE B

General Provisions

SEC. 13-2-10 COMPLIANCE.

The use of wetlands and the alteration of wetlands within the shoreland area of the City of Park Falls shall be in full compliance with the terms of this Chapter and other applicable local, state or federal regulations. (However, see Section 13-2-25 of this Chapter for the standards applicable to nonconforming uses.) All permitted development shall require the issuance of a zoning permit unless otherwise expressly excluded by a provision of this Chapter.

SEC. 13-2-11 MUNICIPALITIES AND STATE AGENCIES REGULATED.

Unless specifically exempted by law, all cities, villages, town and counties are required to comply with this Chapter and obtain all necessary permits. State agencies are required to comply if Section 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 Section 30.12(4)(a), Wis. Stats., applies.

SEC. 13-2-12 ABROGATION AND GREATER RESTRICTIONS.

- (a) This Chapter supersedes all the provisions of any municipal zoning ordinance enacted under Section 62.23 or 87.30, Wis. Stats., which relate to 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.
- (b) This Chapter is not intended to repeal, abrogate or impair any existing deed restrictions, covenants or easements. However, where this Chapter imposes greater restrictions, the provisions of this Chapter shall prevail.

SEC. 13-2-13 INTERPRETATION.

In their interpretation and application, the provisions of this Chapter shall be held to be minimum requirements and shall be liberally construed in favor of the municipality and shall not be deemed a limitation or repeal of any other powers granted by the Wisconsin Statutes. Where a provision of this Chapter is required by a standard in Chapter NR 117, Wis. Adm. Code, and where the Chapter provision is unclear, the provision shall be interpreted in light of the Chapter 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. 13-2-14 SEVERABILITY.

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

SEC. 13-2-15 THROUGH SEC. 13-2-19 RESERVED FOR FUTURE USE.

ARTICLE C

Shoreland-Wetland Zoning District

SEC. 13-2-20 PURPOSE OF SHORELAND-WETLAND ZONING.

This Chapter is adopted to maintain safe and healthful conditions, to prevent and control water pollution, to protect fish spawning grounds, fish and aquatic life and wildlife habitation, to preserve shore cover and natural beauty and to control building and development in wetlands whenever possible. When development is permitted in a wetland, the development should occur in a manner which minimizes adverse impacts upon the wetland.

SEC. 13-2-21 OFFICIAL SHORELAND-WETLAND ZONING MAPS.

The following maps are hereby adopted and made a part of this Chapter and are on file in the office of the Clerk-Treasurer:

- (a) Wisconsin Wetland Inventory maps stamped "FINAL" on June 13, 1986.
- (b) Flood Insurance Rate Map (FIRM) prepared by the Federal Emergency Management Agency (FEMA) and dated December 15, 1989.
- (c) United States Geological Survey maps dated 1984.

SEC. 13-2-22 DISTRICT BOUNDARIES.

- (a) The shoreland-wetland zoning district includes all wetlands in the City of Park Falls, Wisconsin, which are five (5) acres or more and are shown on the final Wetland Inventory Map that has been adopted and made a part of this Chapter in Section 13-2-21 and which are:
 - (1) Within one thousand (1,000) feet of the ordinary high-water mark of navigable lakes, ponds or flowages. Lakes, ponds or flowages in the City of Park Falls 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 incorporated by reference and made a part of this Chapter in Section 13-2-21 of this Chapter.
 - (2) Within three hundred (300) feet of the ordinary high-water 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 13-2-21. Floodplain Zoning Maps shall be used to determine the extent of floodplain areas in the City.
- (b) Determinations of navigability and ordinary high-water mark shall initially be made by the Zoning Administrator. When questions arise, the Zoning Administrator shall contact the appropriate district office of the Department for the final determination of navigability or ordinary high-water mark.

- (c) When an apparent discrepancy exists between the shoreland-wetland district boundary shown on the official shoreland-wetland 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 the Department staff concurs 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 shoreland-wetland zoning maps, the Zoning Administrator shall be responsible for initiating a shoreland-wetland map amendment within a reasonable period.

SEC. 13-2-23 PERMITTED USES.

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, including the following, provided they are in keeping with the City's Zoning Code:
 - (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, including 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 ditches, where permissible under Section 30.20, Wis. Stats., or of other existing drainage systems 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 13-2-38(c) of this Chapter; and
 - (7) The maintenance, repair, replacement and reconstruction 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 in this Section, provided that:
 - 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 13-2-38(c) of this Chapter;
 - 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) of this Section; and
 - d. Wetland alterations in game refuges and closed areas, fish and wildlife habitat improvement projects, game bird and animal farms, 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 distribution lines, and related facilities provided that:
- a. The utility transmission and distribution 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 13-2-38(c) of this Chapter.

SEC. 13-2-24 PROHIBITED USES.

- (a) Any use not listed in Section 13-2-23 of this Chapter is prohibited, unless the wetland or a portion of the wetland has been rezoned by amendment of this Chapter in accordance with Section 13-2-38 of this Chapter.
- (b) The use of a boathouse for human habitation and the construction or placement of a boathouse or fixed houseboat below the ordinary high-water mark of any navigable waters are prohibited.

SEC. 13-2-25 NONCONFORMING STRUCTURES AND USES.

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 the Chapter, including the routine maintenance of such a building or structure, may be continued, subject to the following conditions:

- (a) The shoreland-wetland provisions of this Chapter authorized by Sec. 62.231, Wis. Stats., shall not limit the repair, reconstruction, renovation, remodeling, or expansion of a nonconforming structure in existence on the effective date of the shoreland-wetland provisions, or of any environmental control facility in existence on May 7, 1982, related to such a structure. All other modifications to nonconforming structures are subject to Sec. 62.23(7)(h), Wis. Stats., which limits total lifetime structural repairs and alterations to fifty percent (50%) of current fair market value.
- (b) 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.

- (c) 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 Sections 62.231 or 61.351, 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.
- (d) The maintenance and repair of nonconforming boathouses which are located below the ordinary high-water mark of any navigable waters shall comply with the requirements of Section 30.121, Wis. Stats.
- (e) Uses which are nuisances under common law shall not be permitted to continue as nonconforming uses.

SEC. 13-2-26 THROUGH SEC. 13-2-29 RESERVED FOR FUTURE USE.

ARTICLE D

Administrative Provisions

SEC. 13-2-30 ZONING ADMINISTRATOR.

The Assessor/Building Inspector's office is appointed for the purpose of administering and enforcing this Chapter. The Zoning Administrator shall have the following duties and powers:

- (a) Advise applications as to the provisions of this Chapter and assist them in preparing permit applications and appeal forms.
- (b) Issue permits and certificates of compliance and inspect properties for compliance with this Chapter.
- (c) Keep records of all permits issued, inspections made, work approved and other official actions.
- (d) 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.
- (e) 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.
- (f) Investigate and report violations of this Chapter to the appropriate City planning agency and the District Attorney, corporation counsel or City Attorney.

SEC. 13-2-31 ZONING PERMITS.

- (a) **When Required.** Unless another Section of this Chapter specifically exempts certain types of development from this requirement, a zoning permit shall be obtained from the Zoning Administrator before any new development, as defined in Section 13-2-41(b)(4) of this Chapter, or any change in the use of an existing building or structure is initiated.
- (b) **Application.** An application for a permit shall be made to the Zoning Administrator upon forms furnished by the City and shall include, for the purpose of proper enforcement of these regulations, the following information:
 - (1) General Information.
 - a. Name, address and telephone number of applicant, property owner and contractor, where applicable.
 - b. Legal description of the property and a general description of the proposed use or development.
 - c. Whether or not a private water or sewage system is to be installed.
 - (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. Dimensions and area of the lot;
 - b. Location of any structures with distances measured from the lot lines and centerline of all abutting streets or highways;

- c. Description of any existing or proposed on-site sewage systems or private water supply systems;
 - d. Location of the ordinary high-water mark of any abutting navigable waterways;
 - e. Boundaries of all wetlands;
 - f. Existing and proposed topographic and drainage features and vegetative cover;
 - g. Location of floodplain and floodway limits on the property as determined from floodplain zoning maps;
 - h. Location of existing or future access roads; and
 - i. Specifications and dimensions for areas of proposed wetland alteration.
- (c) **Expiration.** All permits issued under the authority of this Chapter shall expire one (1) year from the date of issuance.
- (d) **Certificates of Compliance.**
- (1) Except where no zoning permit or conditional use permit is required, 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, subject to the following provisions:
 - a. The certificate of compliance shall show that the building or premises or part thereof and the proposed use thereof conform to the provisions of this Chapter.
 - b. Application for such certificate shall be concurrent with the application for a zoning or conditional use permit.
 - c. The certificate of compliance shall be issued within ten (10) days after notification of the completion of the work specified in the zoning or conditional use permit, providing the building or premises and proposed use thereof conform with all the provisions of this Chapter.
 - (2) The Zoning Administrator may issue a temporary certificate of compliance for a building, premises, or part thereof pursuant to rules and regulations established by the Common Council.
 - (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 ordinance adoption, 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.
- (e) **Conditional Use Permits.**
- (1) Application. Any use listed as a conditional use in this Ordinance 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 Sections 13-2-35.
 - (2) Conditions. Upon consideration of the permit application and the standards applicable to the conditional uses designated in Section 13-2-23(c), the Board of Appeals shall attach such conditions to a conditional use permit, in addition to those required elsewhere in this Ordinance, as are necessary to further the purposes of this Chapter as listed in Section 13-2-2. Such conditions may

include specifications for, without limitation because of specific enumeration, type of shore cover; erosion controls; increased setbacks; specific sewage disposal and water supply facilities; landscaping and planting screens; period of operation; operational control; sureties deed restrictions; location of piers, docket, parking areas and signs; and type of construction. To secure information upon which to base its determination, the Board of Appeals may require the applicant to furnish, in addition to the information required for a zoning permit, other pertinent information which is necessary to determine if the proposed use is consistent with the purposes of this Chapter.

SEC. 13-2-32 FEES.

The City of Park Falls Common Council may, by resolution, establish fees for processing zoning permits, public hearings, legal notice publications, conditional use permits, and rezoning petitions, which fees are posted in the Clerk's office.

SEC. 13-2-33 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.

SEC. 13-2-34 REVOCATION.

Where the conditions of a zoning permit are violated, the permit shall be revoked by the Board of Appeals.

SEC. 13-2-35 BOARD OF APPEALS.

- (a) **Appointment.** The Mayor shall appoint a Board of Appeals under Title 2, Chapter 4 of this Code of Ordinances and Section 62.23(7)(e), Wis. Stats., consisting of five (5) members subject to confirmation by the Common Council. The Board of Appeals shall adopt rules for the conduct of the business of the Board of Appeals as required by Section 62.23(7)(e)3, Wis. Stats.
- (b) **Powers and Duties.** The Board of Appeals:
 - (1) Shall 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) May authorize, upon appeal, a variance from the dimensional standards of this Chapter where an applicant convincingly demonstrates:
 - a. That literal enforcement of the terms of the Chapter will result in unnecessary hardship for the applicant;
 - b. That the hardship is due to special conditions unique to the property and is not self-created or based solely on economic gain or loss;
 - c. That such variance is not contrary to the public interest as expressed by the purpose of this Chapter; and

- d. That such variance will not grant or increase any use of property which is prohibited in the zoning district.
- (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 community affected by any order, requirement, decision or determination of the Zoning Administrator or other administrative official. Such appeals shall be taken within a reasonable time, as provided by the rules of the Board, by filing with the official from whom the appeal is taken and with the Board of Appeals, a notice of appeal specifying the reasons therefore. The Zoning Administrator or other official from whom the appeal is taken shall transmit to the Board all the papers constituting the record on which the appeal action was taken.
- (d) **Public Hearings.**
 - (1) Before making a decision on an appeal, the Board of Appeals shall, within a reasonable period of time, hold a public hearing. The Board shall give public notice of the hearing by publishing a Class 2 notice under Ch. 985, Wis. Stats., specifying the date, time and place of the hearing and the matters to come before the Board. At the public hearing, any party may appear in person, by agent or by attorney and present testimony.
 - (2) A copy of such notice shall be mailed to the parties in interest and the appropriate district office of the Department at least ten (10) days prior to all public hearings on issues involving shoreland-wetland zoning.
- (e) **Decisions.**
 - (1) The final disposition of an appeal, or application for a variance, to the Board of Appeals shall be in the form of a written decision, made within a reasonable time after the public hearing, signed by the Board chairperson. Such decision shall state the specific facts which are the basis of the Board's determination and shall either affirm, reverse 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 for a variance.
 - (2) A copy of such decision shall be mailed to the parties in interest and the appropriate district office of the Department within ten (10) days after the decision is issued.

SEC. 13-2-36 AMENDING SHORELAND-WETLAND ZONING REGULATIONS.

The Common Council may, from time to time, alter, supplement or change the district boundaries and the regulations contained in this Chapter in accordance with the requirements of Section 62.23(7)(d)2, Wis. Stats., NR 117, Wis. Adm. Code, and the following:

- (a) A copy of each proposed text or map amendment shall be submitted to the appropriate district office of the Department within five (5) days of the submission of the proposed amendment to the City Plan Commission.
- (b) All proposed text and map amendments to the shoreland-wetland zoning regulations shall be referred to the City Plan Commission, and a public hearing shall be held as required by Section 62.23(7)(d)2, Wis. Stats. The appropriate district office of the Department shall be provided with written notice of the public hearing at least ten (10) days prior to such hearing.

- (c) In order to insure that this Chapter will remain consistent with the shoreland-protection objectives of Sec. 144.26, Wis. Stats., the Common Council may 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 wetland functions:
 - (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 and habitat of endangered species.
- (d) Where 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 (c) of this Section, the Department shall so notify the City of its determination either prior to or during the public hearing held on the proposed amendment.
- (e) The appropriate district office of the Department shall be provided with:
 - (1) A copy of the recommendations and report, if any, of the City Plan Commission on the proposed text or map amendment within ten (10) days after the submission of those recommendations to the Common Council; and
 - (2) Written notice of the Common Council's action on the proposed text or map amendment within ten (10) days after the action is taken.
- (f) If the Department notifies the City Plan Commission in writing that a proposed amendment may have a significant adverse impact upon any of the criteria listed in Subsection (c) of this Section, that proposed amendment, if approved by the Common Council, may not become effective until more than thirty (30) days have elapsed since written notice of the Common Council approval was mailed to the Department, as required by Subsection (e) of this Section. 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 City under Section 62.231(6), Wis. Stats., the proposed amendment may not become effective until the ordinance adoption procedure under Section 62.231(6), Wis. Stats., is completed or otherwise terminated.

SEC. 13-2-37 THROUGH SEC. 13-2-39 RESERVED FOR FUTURE USE.

ARTICLE E

Penalties; Definitions

SEC. 13-2-40 ENFORCEMENT AND PENALTIES.

Any development, building or structure or accessory building or structure constructed, altered, added to, modified, rebuilt or replaced, or any use or accessory use established after the effective date of this Chapter in violation of the provisions of this Chapter, by any person, firm, association, corporation (including building contractors or their agents) shall be deemed a violation. The Zoning Administrator shall refer violations to the Common Council and the City Attorney who shall prosecute such violations. Any person, firm, association or corporation who violates or refuses to comply with any of the provisions of this Chapter shall be subject to a forfeiture as specified in Sec. 1-1-7, "General Penalties," of this Code of Ordinances, together with the taxable costs of such action. Each day of continued violation shall constitute a separate offense. Every violation of this Chapter is a public nuisance and the creation thereof may be enjoined and the maintenance thereof may be abated by action at suit of the City, the State or any citizen thereof pursuant to Section 87.30(2), Wis. Stats.

SEC. 13-2-41 DEFINITIONS.

- (a) For the purpose of administering and enforcing this Chapter, the terms or words used herein shall be interpreted as follows: Words used in the present tense include the future; words in the singular number include the plural number; words in the plural number include the singular number. The word "shall" is mandatory, not permissive. All distances unless otherwise specified shall be measured horizontally.
- (b) The following terms used in this Chapter mean:
- (1) Accessory Structure or Use. A detached subordinate structure or a use which is clearly incidental to, and customarily found in connection with, the principal structure or use to which it is related and which is located on the same lot as that of the principal structure or use.
 - (2) Boathouse. As defined in Section 30.121(1), Wis. Stats., a permanent structure used for the storage of watercraft and associated materials and includes all structures which are totally enclosed, have roofs or walls or any combination of structural parts.
 - (3) Class 2 Public Notice. Publication of a public hearing notice under Chapter 985, Wis. Stats., in a newspaper of circulation in the affected area. Publication is required on two (2) consecutive weeks, the last at least seven (7) days prior to the hearing.
 - (4) Conditional Use. A use which is permitted by some ordinances provided that certain conditions specified in the ordinance are met and that a permit is granted by the Board of Appeals or, where appropriate, the City Plan Commission, if designated by the Common Council
 - (5) Department. The Wisconsin Department of Natural Resources.
 - (6) Development. Any man-made change to improved or unimproved real estate, including, but not limited to, the construction of buildings, structures or

accessory structures; the construction of additions or substantial alterations to buildings, structures or accessory structures; the placement of buildings or structures; ditching, lagooning, dredging, filling, grading, paving, excavation or drilling operations; and the deposition or extraction of earthen materials.

- (7) Drainage System. One (1) or more artificial ditches, tile drains or similar devices which collect surface runoff or groundwater and convey it to a point of discharge.
- (8) Environmental Control Facility. Any facility, temporary or permanent, which is reasonably expected to abate, reduce or aid in the prevention, measurement, control or monitoring of noise, air or water pollutants, solid waste and thermal pollution, radiation or other pollutants, including facilities installed principally to supplement or to replace existing property or equipment not meeting or allegedly not meeting acceptable pollution control standards or which are to be supplemented or replaced by other pollution control facilities.
- (9) Fixed Houseboat. As defined in Section 30.121(1), Wis. Stats., a structure not actually used for navigation which extends beyond the ordinary high-water mark of a navigable waterway and is retained in place either by cables to the shoreline or by anchors or spudpoles attached to the bed of the waterway.
- (10) Navigable Waters. Lake Superior, Lake Michigan, all natural inland lakes within Wisconsin, and all streams, ponds, sloughs, flowages and other waters within the territorial limits of this State, including the Wisconsin portion of boundary waters, which are navigable under the laws of this State. Under Section 144.26(2)(d), Wis. Stats., notwithstanding any other provision of law or administrative rule promulgated thereunder, shoreland ordinances required under Section 62.231, Wis. Stats., and Chapter NR 117, Wis. Adm. Code, do not apply to lands adjacent to farm drainage ditches if:
 - a. Such lands are not adjacent to a natural navigable stream or river;
 - b. Those parts of such drainage ditches adjacent to such lands were not navigable streams before ditching; and
 - c. Such lands are maintained in nonstructural agricultural use.(NOTE: The Wisconsin Supreme Court has declared navigable bodies of water that have a bed differentiated from adjacent uplands and levels or flow sufficient to support navigation by a recreational craft of the shallowest draft on an annually recurring basis [*Muench v. Public Service Commission*, 261 Wis. 492 (1952) and *DeGaynor and Co., Inc. v. Department of Natural Resources*, 70 Wis. 2d 936 (1975)]. For example, a stream which is navigable by skiff or canoe during normal spring high water is navigable, in fact, under the laws of this state though it may be dry during other seasons.)
- (11) Ordinary High-Water Mark. The point on the bank or shore up to which the presence and action of surface water is so continuous so as to leave a distinctive mark such as by erosion, destruction or prevention of terrestrial vegetation, predominance of aquatic vegetation or other easily recognized characteristic.
- (12) Planning Agency. The City Plan Commission created under Section 62.23(1), Wis. Stats.

- (13) **Regional Flood.** A flood determined to be representative or large floods known to have generally occurred in Wisconsin and which may be expected to occur or be exceeded on a particular stream because of like physical characteristics, once in every one hundred (100) years.
- (14) **Shorelands.** Lands within the following distances from the ordinary high-water mark of navigable waters; one thousand (1,000) feet from a lake, pond or flowage; and three hundred (300) feet from a river or stream or to the landward side of the floodplain, whichever distance is greater.
- (15) **Shoreland-Wetland District.** The zoning district, created in this shoreland-wetland zoning ordinance, comprised of shorelands that are designated as wetlands on the wetlands inventory maps which have been adopted and made a part of this Chapter as described in Section 13-2-11 of this Chapter.
- (16) **Unnecessary Hardship.** That circumstance where special conditions, which were not self-created, affect a particular property and make strict conformity with the restrictions governing area, setbacks, frontage, height or density unnecessarily burdensome or unreasonable in light of the purpose of this Chapter.
- (17) **Variance.** An authorization granted by the Board of Appeals to construct, alter or use a building or structure in a manner that deviates from the dimensional standards of this Chapter.
- (18) **Wetlands.** Those areas where water is at, near or above the land surface long enough to support aquatic or hydrophytic vegetation and which have soils indicative of wet conditions.
- (19) **Wetland Alteration.** Any filling, flooding, draining, dredging, ditching, tiling, excavating, temporary water level stabilization measures or dike and dam construction in a wetland area.

CHAPTER 3

Floodplain Zoning

Article A Introduction

- 13-3-1 Statutory Authorization
- 13-3-2 Finding of Fact
- 13-3-3 Statement of Purpose
- 13-3-4 Title of Chapter
- 13-3-5 thru
13-3-9 Reserved for Future Use

Article B General Provisions

- 13-3-10 Areas to be Regulated
- 13-3-11 District Boundaries; Floodplains on the Flood Insurance Rate Map (FIRM)
- 13-3-12 Locating Floodplain Boundaries
- 13-3-13 Removal of Lands From Floodplain
- 13-3-14 Compliance with Chapter
- 13-3-15 Abrogation and Greater Restrictions; Interpretation of Chapter
- 13-3-16 Warning and Disclaimer of Liability
- 13-3-17 Severability
- 13-3-18 General Standards Applicable to All Floodplain Districts
- 13-3-19 Annexed Areas

Article C Floodway District (FW)

- 13-3-20 Applicability
- 13-3-21 Permitted Uses
- 13-3-22 Standards for Developments in Floodway Areas
- 13-3-23 Prohibited Uses
- 13-3-24 thru
13-3-29 Reserved for Future Use

Article D Flood Fringe District (FF)

- 13-3-30 Applicability
- 13-3-31 Permitted Uses
- 13-3-32 Standards for Development in Flood Fringe Areas
- 13-3-33 Mobile Homes and Manufactured Homes
- 13-3-34 thru
13-3-39 Reserved for Future Use

<u>Article E</u>	<u>General Floodplain District (GFP)</u>
13-3-40	Applicability
13-3-41	Permitted Uses
13-3-42	Standards for Development in the General Floodplain District
13-3-43	Determining Floodway and Flood Fringe Limits
13-3-44 thru 13-3-49	Reserved for Future Use

<u>Article F</u>	<u>Nonconforming Uses</u>
13-3-50	General
13-3-51	Floodway Areas
13-3-52	Flood Fringe Areas
13-3-53 thru 13-3-59	Reserved for Future Use

<u>Article G</u>	<u>Administration</u>
13-3-60	Zoning Administrator
13-3-61	Administrative Procedures
13-3-62	Zoning Agency
13-3-63	Board of Appeals
13-3-64	Review Appeals of Permit Denials
13-3-65	Flood Proofing
13-3-66	Public Information
13-3-67 thru 13-3-69	Reserved for Future Use

<u>Article H</u>	<u>Amendments</u>
13-3-70	Amendments Generally
13-3-71	Amendment Procedures
13-3-72 thru 13-3-79	Reserved for Future Use

<u>Article I</u>	<u>Enforcement and Penalties</u>
13-3-80	Enforcement and Penalties
13-3-81 thru 13-3-89	Reserved for Future Use

<u>Article J</u>	<u>Definitions</u>
13-3-90	Definitions

ARTICLE A

Introduction

SEC. 13-3-1 STATUTORY AUTHORIZATION.

This Chapter for floodplain protection is adopted pursuant to the authorization contained in Sections 61.35, 62.23 and 87.30, Wis. Stats.

SEC. 13-3-2 FINDING OF FACT.

The uncontrolled development and use of the floodplains, rivers or streams of the City of Park Falls, Wisconsin, would adversely affect the public health, safety, convenience and general welfare and impairs its tax base.

SEC. 13-3-3 STATEMENT OF PURPOSE.

The purpose of this Chapter is to provide a uniform basis for the preparation, implementation and administration of sound floodplain regulations for all floodplains within the City of Park Falls to:

- (a) Protect life, health and property;
- (b) Minimize expenditures of public moneys for costly flood control projects;
- (c) Minimize rescue and relief efforts, generally undertaken at the expense of the general public;
- (d) Minimize business interruptions which usually result in the loss of local incomes;
- (e) Minimize damage to public facilities on the floodplains such as water mains, sewer lines, streets and bridges;
- (f) Minimize the occurrence of future flood blight areas on floodplains;
- (g) Discourage the victimization of unwary land and home buyers; and
- (h) Prevent increases in regional flood heights that could increase flood damage and may result in conflicts or litigation between property owners.

SEC. 13-3-4 TITLE OF CHAPTER.

This Chapter shall be known as the Floodplain Zoning Ordinance for the City of Park Falls, Wisconsin.

SEC. 13-3-5 THROUGH SEC. 13-3-9 RESERVED FOR FUTURE USE.

ARTICLE B

General Provisions

SEC. 13-3-10 AREAS TO BE REGULATED.

Areas regulated by this Chapter include all lands within the corporate limits of the City of Park Falls that would be inundated by the "regional flood" defined in the Definitions, Section 13-3-90(a) of this Chapter, and include "floodplain islands" where emergency rescue and relief routes would be inundated by the regional flood.

SEC. 13-3-11 DISTRICT BOUNDARIES; FLOODPLAINS ON THE FLOOD INSURANCE RATE MAP (FIRM).

- (a) **Official Map.** The boundary of the floodplain districts including the floodway, flood fringe, and other floodplain districts are those areas designated as floodplains or A-Zones on the following map: Flood Insurance Rate Map (FIRM) prepared by Federal Emergency Management Agency (FEMA). This map, dated December 15, 1989, is the official floodplain zoning map and has been approved by the Department of Natural Resources and the Federal Emergency Management Agency (FEMA) and is on file in the office of the City Clerk-Treasurer. If more than one (1) map is referenced, the regional flood profiles govern boundary discrepancies according to Section 13-3-12.
- (b) **Districts.** 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:
 - (1) 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.
 - (2) The Flood Fringe District (FF) consists of that portion of the floodplain between the regional flood limits and the floodway.
 - (3) 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. 13-3-12 LOCATING FLOOD PLAIN 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 Article H. Disputes between the Zoning Administrator and an applicant on the location of the district boundary line shall be settled according to Section 13-3-63.

- (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. 13-3-13 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 H. 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. 13-3-14 COMPLIANCE WITH CHAPTER.

- (a) **Compliance.** The use or development, as defined in Section 13-3-90(a), or use within the areas to be regulated by this Chapter shall be in compliance with the terms of this Chapter and other applicable local, state and federal regulations.
- (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. 13-3-15 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 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.

- (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 Chapter NR 117, Wisconsin Administrative Code, and where the meaning of the Chapter provision is unclear, the provision shall be interpreted in light of the Chapter NR 116 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. 13-3-16 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. 13-3-17 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. 13-3-18 GENERAL STANDARDS APPLICABLE TO ALL FLOODPLAIN DISTRICTS.

- (a) **Hydraulic and Hydrologic Analyses.**
 - (1) No development, except as provided in Subsection (a)(2) below, shall be allowed in floodplain areas which will:
 - a. Cause an obstruction to flow, defined in Section 13-3-90(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
 - b. Cause an increase in regional flood height due to floodplain storage area lost, which is equal to or exceeding 0.01 foot

- (2) 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 Article H, 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.
 - (3) 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.
- (b) **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.
 - (c) **Chapters 30, 31, Wis. Stats., Development.** Development which requires a permit from the Department of Natural Resources, under Chapters 30 and 31, Wis. Stats., such as docks, piers, wharves, bridges, culverts, dams and navigational aids may be allowed provided the necessary local permits are obtained and necessary amendments to the official floodway lines, water surface profiles, floodplain zoning maps or floodplain zoning ordinance are made according to Article H.

SEC. 13-3-19 ANNEXED AREAS.

The Price County floodplain zoning provisions in effect on the date of annexation shall remain in effect and shall be enforced by the municipality for all areas annexed by the municipality until the municipality adopts and enforces an ordinance which meets the requirements of Ch. NR 116, Wis. Adm. Code. These annexed lands are described on the municipality's official zoning map. County floodplain zoning provisions are incorporated by reference for the purpose of administering this Section and are on file in the office of the municipal zoning administrator.

ARTICLE C

Floodway District (FW)

SEC. 13-3-20 APPLICABILITY.

The provisions of this Article shall apply to all areas within the Floodway District, as shown on the official floodplain zoning maps, and to the floodway portion of the General Floodplain District, as determined pursuant to Section 13-3-43 of this Chapter.

SEC. 13-3-21 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 13-3-22, and all permits or certificates have been issued according to Article G.

- (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) Nonstructural 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, according to Section 13-3-23.
- (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 13-3-22 and 13-3-23.
- (e) Extraction of sand, gravel or other materials pursuant to Section 13-3-22(d).
- (f) Functionally water-dependent uses such as: docks, piers or wharves used as part of a marina, and other water-related uses, such as dams, flowage areas, culverts, navigational aids and river crossings of transmission lines, and pipelines, according to Chapters 30 and 31, Wis. Stats.
- (g) Public utilities, streets and bridges, according to Section 13-3-22(c).

SEC. 13-3-22 STANDARDS FOR DEVELOPMENTS IN FLOODWAY AREAS.

- (a) **General Requirements.**
 - (1) Any development in floodway areas shall:
 - a. Meet all of the provisions of Section 13-3-18; 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 13-3-18(a):
 - 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 13-3-22(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 constructed 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 by permit provided that:
 - (1) Adequate flood-proofing measures are provided to the flood protection elevation;
 - (2) Construction does not cause an increase in the regional flood height according to Section 13-3-18(a), 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 permitted provided that:
 - (1) The requirements of Section 13-3-18(a) 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. 13-3-23 PROHIBITED USES.

All uses not listed as permitted uses in Section 13-3-21 are prohibited within the floodway district and in the floodway portion of the general floodplain district including the following uses which are always prohibited in the floodway:

- (a) Structures in, on, or over floodway areas which are designed for human habitation, associated with high flood damage potential, or not associated with permanent open-space uses;
- (b) 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;
- (c) Any uses which are not in harmony with, or which may be detrimental to, the uses permitted in the adjoining districts;
- (d) Any private or public sewage systems, except portable latrines that are removed prior to flooding, and systems associated with recreational areas and Department-approved campgrounds that meet the applicable provisions of local ordinances and Chapter ILHR 83, Wisconsin Administrative Code;
- (e) Any 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.
- (f) Any solid and hazardous waste disposal sites, whether public or private.
- (g) Any wastewater treatment ponds or facilities except those permitted under Sec. NR 110.15(3)(b), Wis. Adm. Code.
- (h) Any 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. 13-3-24 THROUGH SEC. 13-3-29 RESERVED FOR FUTURE USE.

ARTICLE D

Flood Fringe District (FF)

SEC. 13-3-30 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 pursuant to Section 13-3-64 of this Chapter.

SEC. 13-3-31 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 Section 13-3-32 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 Article G have been issued.

SEC. 13-3-32 STANDARDS FOR DEVELOPMENT IN FLOOD FRINGE AREAS.

- (a) **Standards.** All of the provisions of Section 13-3-18 shall apply hereto.
- (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 elevation of the lowest flood 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 13-3-90, 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 13-3-22(a), (b) and (d) and 13-3-23. 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 13-3-32(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 13-3-65, 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 13-3-65. 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 13-3-65 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, pursuant to Section 13-3-65, 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. 13-3-33 MOBILE HOMES AND MANUFACTURED HOMES.

- (a) Owners or operators of all mobile manufactured home parks and subdivisions located in the regional floodplain shall provide for adequate surface drainage to minimize flood damage.
- (b) All new, replacement, and substantially improved mobile manufactured 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 13-3-33(b); and
 - (3) Be anchored so they do not float, collapse, or move laterally during a flood.

SEC. 13-3-34 THROUGH SEC. 13-3-39 RESERVED FOR FUTURE USE.

ARTICLE E

General Floodplain District (GFP)

SEC. 13-3-40 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 13-3-90(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. 13-3-41 PERMITTED USES.

The General Floodplain District encompasses both floodway and flood fringe areas. Therefore, a determination shall be made pursuant to Section 13-3-43 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 13-3-42 and provided that all permits or certificates required under Section 13-3-61 have been issued.

SEC. 13-3-42 STANDARDS FOR DEVELOPMENT IN THE GENERAL FLOODPLAIN DISTRICT.

Once it is determined according to Section 13-3-43 that a proposed use is located within a floodway, the provisions of Article C shall apply. Once determined that the proposed use is located within the flood fringe, the provisions of Article D shall apply. All provisions of the remainder of this Chapter apply to either district.

SEC. 13-3-43 DETERMINING FLOODWAY AND FLOOD FRINGE LIMIT.

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 Sec. 13-3-61(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. 13-3-44 THROUGH SEC. 13-3-49 RESERVED FOR FUTURE USE.

ARTICLE F

Nonconforming Uses

SEC. 13-3-50 GENERAL.

Insofar as the standards in this Article are not inconsistent with the provisions of Section 62.23(7)(h), Wis. Stats., they shall apply to all nonconforming structures and nonconforming uses. These regulations apply to the modification of, or addition to, any structure and to the use of any structure or premises which was lawful before passage of this Chapter or any amendment thereto. The existing lawful use of a structure or building or its accessory use which is not in conformity from the provisions of this Chapter may be continued subject to the following conditions:

- (a) No modifications or additions to a nonconforming use shall be permitted unless they are made in conformity with the provisions of this Chapter for the area of floodplain occupied. 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; these 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) If a nonconforming use or the use of a nonconforming structure is discontinued for twelve (12) consecutive months, it is no longer permitted and any future use of the property, and any structure or building thereon shall be made to conform to the applicable requirements of this Chapter.
- (c) As requests are received for modifications or additions to nonconforming uses or nonconforming structures in the floodway, 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) 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 37c) 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 13-3-32(b)(3) or (4).
- (e) 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 use and the structure meet the requirements of this Chapter. 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. 13-3-51 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 13-3-50; and
 - (3) Will not increase the obstruction to flood flows or regional flood height; and
 - (4) Any addition to the existing structure shall be floodproofed, pursuant to Section 13-3-65, by means other than the use of fill, to the flood protection elevation.
- (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. 13-3-52 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, in addition, the modification or addition shall be placed on fill or floodproofed to the flood protection elevation in compliance with the applicable regulations for that particular use in Section 13-3-32, except where Subsection (b) is applicable.
- (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 13-3-63, 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 described in Section 13-3-32(f).

- (c) If neither the provisions of Subsections (a) nor (b) above can be met, 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 private sewage disposal systems, or addition to, replacement, repair or maintenance of a private sewage disposal system shall meet all the applicable provisions of all local ordinances 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. 13-3-53 THROUGH SEC. 13-3-59 RESERVED FOR FUTURE USE.

ARTICLE G

Administration

(NOTE: This Article provides for the appointment of appropriate boards and staff and the development of necessary policies and procedures to administer the floodplain zoning ordinance in accordance with this Article. Where a zoning administrator, planning agency or a board of adjustment/appeals has already been appointed to administer a zoning ordinance adopted under Section 62.23(7), Wis. Stats., these officials shall also administer the floodplain zoning ordinance.)

SEC. 13-3-60 ZONING ADMINISTRATOR.

The City 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 the following items to the Department district office:
 - (1) Within ten (10) days of the decision, a copy of any decisions on variances, appeals for map or text interpretations, and map or text amendments;
 - (2) Copies of any case-by-case analyses and any other information required by the Department, including an annual summary of the number and types of floodplain zoning actions taken.
- (e) Investigate, prepare reports and report violations of this Chapter to the appropriate City committee and to the municipal 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

SEC. 13-3-61 ADMINISTRATIVE PROCEDURES.

- (a) **Land Use Permit.** A land use permit shall be obtained from the Zoning Administrator before any new "development," as defined in Section 13-3-90(a), or any change in the use of an existing building or structure, including sewage disposal

systems and water supply facilities, may be 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 and address of the applicant, property owner and contractor-builder;
- b. Legal description of the property, type of proposed use and an indication as to whether new construction or a modification to an existing structure is involved;

(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;
- b. Location of the ordinary high-water mark of any abutting navigable waterways;
- c. Location of any structures with distances measured from the lot lines and centerline of all abutting streets or highways;
- d. Location of any existing or proposed on-site sewage systems or private water supply systems;
- e. Location and elevation of existing or future access roads;
- f. Location of floodplain and floodway limits on the property as determined from the official floodplain zoning maps;
- g. The elevation of the lowest floor of proposed buildings and any fill using National Geodetic and Vertical Datum (NGVD);
- h. Data sufficient to determine the regional flood elevation at the location of the development and to determine whether or not the requirements of Article C or Article D of this Chapter are met.
- i. Data sufficient to determine if the proposed development will cause either an obstruction to flow or an increase in regional flood height or discharge according to Section 13-3-18(a). This may include any of the information noted in Section 13-3-22(a).

(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. An analysis of the effect of the development on the regional flood profile, velocity of flow and floodplain storage capacity.
 2. A map showing location and details of vehicular access to lands outside the floodplain.
 3. A surface drainage plan with adequate details showing how flood damage will be minimized.

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 municipality may transmit additional information, such as the data in Section 13-3-43(b) where appropriate, to the Department with the request for analysis.
- (4) **Expiration:** All permits issued under the authority of this Chapter shall expire one (1) year from the date of issuance.
- (b) **Certificate of Compliance.** 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 permit is required subject to the following provisions:
 - (1) 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.
 - (2) Application of such certificate shall be concurrent with the application for a permit.
 - (3) 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.
 - (4) 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. Floodproofing measures also require certificate by a registered architect or professional engineering that floodproofing adequacy meets the requirements of Section 13-3-65.
- (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. 13-3-62 ZONING AGENCY.

- (a) The Plan Commission shall have the following duties and powers to:
 - (1) Oversee the functions of the office of the Zoning Administrator;
 - (2) Review and make recommendations to the Common Council on all proposed amendments to the floodplain zoning ordinance map and text;
 - (3) Maintain a complete public record of all its proceedings.
- (b) The zoning agency shall not grant variances to the terms of this Chapter nor amend the text or zoning maps in place of official action by the Board of Appeals or Common Council.

SEC. 13-3-63 BOARD OF APPEALS.

- (a) **Statutory Authorization.** The appropriate board created by Chapter 62.23(7)(e), Wis. Stats., for cities or villages is hereby authorized to act as Board of Appeals for the purposes of this Chapter. The Board of Appeals shall exercise the powers conferred by Wisconsin Statutes and adopt rules for the conduct of business. The Zoning Administrator may not be the Secretary of the Board.
- (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) Boundary Disputes. Hear and decide disputes concerning the district boundaries shown on the official floodplain zoning map.
 - (3) 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 shall:
 - a. Fix a reasonable time for the hearing;
 - b. Publish adequate Class 1 notice pursuant to the Wisconsin Statutes, specifying the date, time, place and subject of the hearing;
 - c. Assure that notice shall be mailed to the parties in interest and the district office of the Department at least ten (10) days in advance of the hearing.
 - (2) Hearing. Any party may appear in person or by an agent or attorney. The Board shall:
 - a. Resolve boundary disputes according to Subsection (d);
 - b. Decide variance applications according to Subsection (e);
 - c. Decide appeals of permit denials according to Section 13-3-64.
 - (3) Decision. The final decision regarding the appeal or variance application shall:
 - a. Be made within a reasonable time;
 - b. Be sent to the district office of the Department within ten (10) days of the decision;
 - c. Be a written determination signed by the chairperson or secretary of the board;
 - d. State the specific facts which are the basis for the Board's decision;
 - e. Either affirm, reverse, vary or modify the order, requirement, decision or determination appealed, in whole or in part, dismiss the appeal for lack of jurisdiction or grant or deny the application for a variance;

- f. Include the reasons for justifications for granting an appeal, with a description of the hardship or practical difficulty demonstrated by the applicant in the case of a variance, clearly stated in the recorded minutes of the board proceedings.
- (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 inform the zoning committee or the person contesting the location of the boundary to petition the governing body for a map amendment according to Article H
- (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 the floodplain ordinance 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;
 - d. Such variance is consistent with the purpose of this Chapter.
 - (2) A variance shall not:
 - a. Grant, extend 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 the floodplain than the flood protection elevation;
 - f. Allow any floor, basement or crawlway below the regional flood elevation;
 - g. allow actions without the requirement amendment to this Chapter or map(s) described in Section 13-3-70.
- (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. 13-3-64 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 13-3-61(a);
 - (2) Floodway/flood fringe determination data in Section 13-3-43;
 - (3) Data listed in Section 13-3-22(a)(2)b 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 13-3-63;
 - (2) Consider Zoning 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. 13-3-65 FLOOD PROOFING.

- (a) 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. Where floodproofing measures, as defined in Section 13-3-90(a) 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;
 - (2) Assure protection to the flood protection elevation;
 - (3) Provide anchorage of structures to foundations to resist flotation and lateral movement;
 - (4) Insure that the structural walls and floors are watertight and the interior remains completely dry during flooding without human intervention.
- (b) Flood 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 the systems;

- (6) Cutoff valves on sewer lines or elimination of gravity flow basement drains.

SEC. 13-3-66 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. 13-3-67 THROUGH SEC. 13-3-69 RESERVED FOR FUTURE USE.