

Title 17

ZONING

Chapters:

- 17.01 City Planning
- 17.04 Zoning
- 17.06 Flood Plain Zoning
- 17.08 Subdivision and Plating

17.01.010

Chapter 17.01

CITY PLANNING

Section:

17.01.010 City Plan Commission. For the purpose of guiding and accomplishing a coordinated, adjusted and harmonious development of the community which will, in accordance with existing and future needs, best promote public health, safety, morals, order, convenience, prosperity or the general welfare, as well as efficiency and economy in the process of development, there is created a City Plan Commission which shall consist of those persons as provided in Section 62.23, Wisconsin Statutes. The Commission shall have all powers and duties as provided in Section 62.23, Wisconsin Statutes. (July 20, 1976).

Chapter 17.04

ZONING (New
Chapter)

Sections:

- 17.04.100 Title and Introduction
- 17.04.200 Definitions
- 17.04.300 General Provisions
- 17.04.400 Zoning Districts
- 17.04.500 Conditional Uses
- 17.04.600 Traffic, Parking and Access
- 17.04.700 Modifications
- 17.04.800 Signs
- 17.04.900 Nonconforming Uses, Structures and Lots

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

17.01.101 Authority. These regulations are adopted under the authority granted by Section 62.23 of the Wisconsin Statutes.

17.04.102 Purpose. The purpose of this Ordinance is to promote the health, safety, prosperity, aesthetics, and general welfare of the City of Whitehall.

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

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

17.04.105 Interpretation. In their interpretation and application, the provisions of this Ordinance shall be held to be

minimum requirements and shall be liberally construed in favor of the City and shall not be deemed a limitation or repeal of any other power granted by the Wisconsin Statutes.

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

17.04.107 Changes and Amendments. The Zoning Ordinance for the City of Whitehall, Wisconsin, may be amended, supplemented, or changed by the Common Council upon giving at least ten (10) days' notice, by publication in the Official City Newspaper at least two (2) times in the preceding thirty (30) days of the proposed amendment, supplement or change, and of hearing thereon, an opportunity to any person interested to be heard. Such notice may contain the street names and house or lot numbers for purposes of identification.

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

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

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

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

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

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

17.04.204 Building. Any structure having a roof supported by columns or walls, including mobile homes, whether movable or stationary, used or intended to be used for the shelter or enclosure of persons, animals, equipment, machinery or materials. When separated by division walls from the ground up, without openings, each portion of such building shall be deemed a separate building.

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

17.04.206 Building Height. The vertical distance measured from the mean elevation of the finished lot grade along the street yard face of the structure to the highest point of flat roofs; to the mean height level between the eaves and ridges of gable, gambrel, hip, and pitch roofs; or to the deck line of mansard roofs.

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

17.04.208 Corner Lot. A lot abutting two or more streets at their intersection provided that the corner of such intersection shall have an angle of one-hundred and thirty-five (135) degrees or less, measured on the lot side.

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

17.04.210 Dwelling Unit. One (1) or more rooms designed as a unit for occupancy by not more than one (1) family for living and sleeping purposes.

17.04.211 End of Taper. The point of intersection between the outer edges of the ramp pavement and the mainline pavement.

17.04.212 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.

17.04.213 Family. Any number of persons related by blood, adoption, or marriage, or not to exceed two (2) persons not so related, living together in one dwelling as a single nonprofit housekeeping unit.

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

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

17.04.216 Home Occupation. A customary use carried on for gain or as a hobby entirely within a dwelling or within an accessory building by a member or members of a family therein, and which is clearly incidental and secondary to the residential use of the premises and does not change its character, does not exceed 25% of the area of any floor, and no article is sold or offered for sale on the premises except one produced by such home occupation.

17.04.217 Junk Yard (Dump). Any area used for the outdoor storage, keeping or abandonment of junk or discarded materials, rubbish, trash, cans, bottles, garbage, vehicles, machinery or parts.

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

17.04.219 Loading Area. A complete 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.

17.04.220 Lot. An entire parcel or tract of land occupied or to be occupied by a main building and its accessory buildings, or by a group such as a dwelling group or automobile court and their accessory buildings, including the yards and open spaces required therefor by this Ordinance and other applicable laws.

17.04.221 Lot Lines and Area. The peripheral boundaries of a parcel of land and the total area lying within such boundaries.

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

17.04.223 Manufactured Home. A structure or structures certified and labeled as a manufactured home under 52 U.S.C. secs.5401 to 5406, built after June 15, 1976, that bears a seal indicating it has met the mobile home construction and safety standards of the United States Department of Housing and Urban Development (HUD) standards, is used as a permanent, single family residential dwelling, is installed in accordance with the manufacturer's instructions and is set on an enclosed foundation in accordance with sec. 70.043(1), Admin. Code as certified.

Section 17.04.223(a) is hereby Created to read as follows:

17.04.223(a) Mobile Home. A detached single family dwelling designed for long-term occupancy, designed to be towed or transported under its own power or with the aid of another vehicle, but does not include a manufactured home. Mobile home also means any coach, cabin, trailer, travel trailer, motor home, house car or other structure which is, or was originally constructed or designed to be transported by any motor vehicle upon a public highway and designed, equipped or used for sleeping, eating or living quarters or as a place of business, or is intended to be so used, whether mounted upon wheels or supports or capable of being moved by its own power or transporter by another vehicle, and includes any additions, attachments, foundations, annexed or appurtenances thereto.

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

17.04.225 Multifamily Dwelling. A building containing 3 or more dwelling units.

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

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

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

17.04.229 Parties of Interest. Includes all abutting property owners, all property owners four-hundred (400) feet, and all property owners of opposite frontages.

17.04.230 Private Garage. An accessory building or part of a main building used for the storage only of motor vehicles as an accessory use.

17.04.231 Professional Home Offices. Residences of doctors of medicine, practitioners, dentists, clergymen, architects, landscape architects, professional engineers, registered land surveyors, lawyers, artists, musicians, or other recognized professions used to conduct their professions where the office does not exceed one-half the area of only one floor of the residence and only one nonresident person is employed.

17.04.232 Rear Yard. A yard extending across the full width of a lot whose depth is the shortest distance between the rear lot line and the main building.

17.04.233 Side Yard. A yard between the side line of The lot and the main building extending from the front yard to the rear yard whose width is the shortest distance between said side line and the main building.

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

17.04.235 Street A street or highway not otherwise defined lying within a recorded subdivision with a right-of-way not less than forty (40) feet wide providing primary access to abutting properties.

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

17.04.237 Structural Alterations. Any change in or addition to the supporting members of a structure, including any enlargement or extension of outside building dimensions or building height or depth.

17.04.238 Travel trailer A vehicular portable structure designed as a temporary dwelling for travel, recreation and vacation use, which does not fall within the definition of a mobile home.

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

17.04.240 Variance. A situation where strict application of this Ordinance would result in a practical difficulty or unnecessary hardship, an exception may be granted by the Zoning Board of Appeals.

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

17.04.300 General Provisions -Jurisdiction. The jurisdiction of this Ordinance shall include all lands and waters which are incorporated areas within the City of Whitehall.

17.04.301 Compliance. No structure, land or water shall hereafter be used and no structure or part thereof shall hereafter be located, erected, moved, reconstructed, extended, enlarged, converted, or structurally altered without a Building Permit and without full compliance with the provisions of this Ordinance and all other applicable local, county, and state regulations. The duty of the Building Inspector, with the aid of the Clerk and the Police Department, shall be to investigate all complaints, give notice of violations, and to enforce the provisions of this Ordinance. The Building Inspector and his duly appointed deputies may enter at any reasonable time onto any public or private land or water, or 'into any building to make a building Section 17.04.302 of the Whitehall Municipal Code in regard to Zoning - Building Permit, is hereby repealed and recreated to read as follows:

17.04.302 Building Permit. Applications for a Building Permit shall be made in duplicate to the Building/Zoning Inspector on forms furnished by the

City Clerk and shall include the following where applicable.

- a) Names and addresses of the applicant, owner of the site, architect, professional engineer and contractors.
- b) Description of the subject site by lot, block, and recorded subdivision or my metes and bounds; address of the subject site; type of structure; existing and proposed operation or use of the structure or site; number of employees; and the zoning district within which the subject site lies.
- c) Fees: The fees for building permits shall be \$1.00 for every \$1,000 or part thereof of the cost of the proposed building project, water project, or land use alteration where a permit is required up to the first \$10,000.00 of construction cost (\$2.00 minimum), and 50¢ per \$1,000.00 or part thereof of the cost of the proposed building project, water project, or land alteration for projects over \$10,000.00 of construction cost. In addition, new construction may require inspection fees to be paid, as designed by the Building/Zoning Inspector and/or the City Property Committee at the time of approval of the permit.
- d) Proposed Structure Sketch showing the location, boundaries, dimensions, elevations, uses and size of the following: subject site; existing and proposed structures; existing off-street parking, loading areas and driveways; existing highway access restrictions; existing and proposed street, side and rear yards.
- e) Additional information as may be required by the appropriate body of the City.

The Building Permit shall be granted or denied in writing within thirty (30) days of filing the permit with the Building/Zoning Inspector. Building permits for residential properties which do not require the issuance of a Unified Dwelling Code permit, may be approved by the City Building/Zoning Inspector. All other permits require the approval of the City Property Committee. Building permits shall expire within six (6) months of approval, unless substantial work has commenced. Any permit issued in conflict with the provisions of this Ordinance shall be null and void. If approved, the permit shall be posted in a prominent place on the premises prior to and during the period of construction, alteration, repair or moving. After the issuance of a building permit, the plans and specifications shall not be altered in any respect, except at the written consent of the Property Committee.

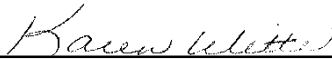
If the Property Committee shall find at any time that this Ordinance is not being complied with, it shall revoke the building permit by written notice posed at the site of the work. When any such permit is revoked, it shall be unlawful to do any further work upon such building or land until the permit is reissued, excepting such work as the Property Committee shall order to be done as a condition precedent to the reissuance of the permit.

Adopted this 10 day of April, 2007

Rod Moen, Mayor \

ATTEST

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Karen Witte, Clerk-Treasurer

Public Hearing on the above amendment was held on April 10, 2007.

17.04.303 Site Restrictions. No land shall be used or no structure erected where the land is held unsuitable for such use or structure by the City Plan Commission by reason of flooding, concentrated run-off, inadequate drainage, adverse soil or rock formation, unfavorable topography, low percolation rate or bearing strength, erosion susceptibility or any other feature likely to be harmful to the health, safety, prosperity, aesthetics, and general welfare of this City. The City Plan Commission, in applying the provisions of this section, shall in writing recite the particular facts upon which it bases its conclusion that the land is not suitable for certain uses. The applicant shall have an opportunity to present evidence contesting such unsuitability if he so desires. Thereafter, the City Plan Commission may affirm, modify, or withdraw its determination of unsuitability.

- a) All lots shall abut a public street, and each fan-shaped lot shall have a minimum frontage of sixty (60) feet, provided that the lot width at the building line is not less than eighty (80) feet.
- b) No building permit shall be issued for a lot which abuts a public street dedicated to only a portion of its proposed width and located on that side thereof from which the required dedication has not been secured.

17.04.304 Use Restrictions. The following use restrictions and regulations shall apply:

- a) Principal Uses. Only those principal uses specified for a district, their essential services, and the following uses shall be permitted in that district.
- b) Accessory Uses and structures are permitted in any district but not until their principal structure is present or under construction.
- c) Conditional uses and their accessory uses are considered as special uses requiring review, public hearing and approval by the City Planning Commission.

- d) Unclassified or Unspecified uses may be permitted by the Zoning Board of Appeals after the City Planning Commission has made a review and recommendation provided that such uses are similar in character to the principal uses permitted in the district
- e) Temporary uses, such as real estate sales field offices or shelters for materials and equipment being used in the construction of a permanent structure, may be permitted by the Zoning Board of Appeals.
- f) Nonconforming uses. The lawful use of land and building existing at the time of the adoption of this ordinance, although such use does not conform to the provisions hereof, may be continued, but if such nonconforming use is discontinued for more than 12 months or changed to another use, any future use of the said premises shall be in conformity with the provisions of this ordinance. No additions or alterations, except for normal maintenance of the structure, shall be permitted to add to the non-conforming use.

17.04.305 Reduction or Joint Use. No lot, yard, parking area, building area, or other space shall be reduced in area or dimension so as not to meet the provisions of this Ordinance. No part of any lot, yard parking area, or other space required for a structure or use shall be used for any other structure or use. No lots, platted within the City as of the effective date of this Ordinance or hereafter platted shall be subdivided into another lot or lots or portions thereof.

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

17.04.307 Penalties . Any person, firm or corporation who fails to comply with the provisions of this Ordinance shall upon conviction thereof, forfeit not less than \$10.00 nor more than \$500.00 and costs of prosecution for each violation. Each day a violation exists or continues shall constitute a separate offense.

17.04.308 State Plumbing and Electrical Codes adopted. All plumbing including the placing of wire and other equipment shall be done in conformity with the Wisconsin State Electrical Code, which is hereby made a part of this Ordinance.

17.04.310 Board of Appeals (Board of Zoning Appeals). A Board of Zoning Appeals is hereby established. The Board shall be appointed and shall have the powers and duties as specified in Section 62.23 (7)(e) Wisconsin Statutes. The powers, of the Board of Zoning Appeals shall be as follows:

- a) To hear and decide appeals where it is alleged that the building inspector and/or the City Property Committee have erred in the enforcement of this Ordinance.
- b) To hear and decide special exceptions to the terms of this Ordinance (variances) and to approve the issuance of conditional use permits as authorized in the various sections hereof.
- c) To authorize upon appeal in specific cases variances from the terms of this ordinance where due to special conditions a literal enforcement of the terms will result in practical difficulty or unnecessary hardship.
- d) To permit, in appropriate cases, a building or premises to be erected or used for such public utility purpose in any location, which is reasonable necessary for the public convenience and welfare.
- e) To interpret the words, terms, rules, regulations, provisions, and restrictions of this ordinance, where there is doubt of the intended meaning, and to determine the location of boundaries of districts where there is uncertainty after the rules in Section 17.04.403 hereof for determining said boundaries have been applied.

In its actions, the board shall impose appropriate conditions and safeguards in harmony with the general purpose and intent of this Ordinance any violation of which shall be considered a violation of this Ordinance.

17.04.311 Hearing and Notice- Board of Zoning Appeals. The Board shall fix a reasonable time for the hearing of the appeal or other matter referred to it and give public notice thereof, as well as due notice to the parties in interest, and decide the same within a reasonable time. Upon the hearing any party may appear in person or by agent or by attorney.

17.04.312 Limitation of Powers of Board of Zoning Appeals. The powers of the Board, except its power of interpretation shall be limited to action of specific appeals and applications, only. No Board action shall change or have the effect of changing any rule, regulation, provision or restriction of this ordinance, without an amendment of this ordinance, but shall effect only its application in a specific case before the Board.

17.04.313 Satellite Dish Systems. Satellite Dish Systems used for the reception of communications (television, radio, etc.) are hereby declared to fall within the scope of "Structure" as per Section 17.04.236, and placement of these dishes must comply with the Building Permit requirements and the yard and space requirements of the Zoning District where the Dish is to be located.

17.04.400 Zoning Districts. Seven (7) Zoning Districts are created as follows:

- a) Residential (R-1)
- b) Residential Multi-Family (R-2)
- c) Business (B)
- d) Industrial - Restricted (I-1)
- e) Industrial (I-2)
- f) Agriculture (A)
- g) Conservancy (C)

17.04.401 Rules for Determining Boundary Lines on the Zoning Map.

Boundaries of the Zoning Districts are hereby established as shown on a map entitled "Zoning Map, City of Whitehall, Wisconsin", which accompanies and is part of this Ordinance. District boundary lines on the zoning map shall be determined as follows:

- a) Where district boundary lines obviously follow road, street, water, lot, property or corporate limit lines, such shall be the boundaries.
- b) In unsubdivided property, dimensions on the map shall be used to locate district boundaries, and in the absence of dimensions, the map scale shall be applied.
- c) Vacation of public streets and alleys shall cause the land vacated to be automatically placed in the same district as the abutting side to which the vacated land reverts.
- d) Lands hereafter annexed to the City shall be subject to regulations of the R District, provided that upon study and recommendation by the City Planning Commission, within 90 days of the date of annexation, the Common Council may adopt other districts for all or a portion of such lands.
- e) If uncertainty exists, the Zoning Board of Appeals established hereby shall determine the location of boundaries.

17.04.402 Uses Permitted or Excluded From Districts. No building shall hereafter be erected, constructed, reconstructed, altered, enlarged, or moved, nor shall any building or land be used for any purpose or use other than that permitted herein in the district in which located, subject to other applicable regulations hereof including the securing of permits and conditional use permits as required by the provisions in certain sections hereof. Each building hereafter erected or moved shall be located on a lot, as defined herein, and there shall be no more than one main building on one lot, unless otherwise provided herein. Each building containing dwelling units or guest rooms shall be erected on a lot at least one line of which shall abut for not less than 25 feet along a permanent, unobstructed easement of access to the lot from a public street.

Section 17.04.403 of the Whitehall Municipal Code in regard to Zoning-Zoning Map- is hereby amended to include the following:

17.04.403 Zoning Map. The following described parcels of land in the City of Whitehall are hereby rezoned as follows:

Parcel #291-00704-0000 described as part of the NE SE 22-22N-08W Less 381/777 and 419/783 as recorded in Vol. 170/471, Parcel address is 19135 Dewey Street, Whitehall. Parcel 291-00708-0005 described as part of the SE SE 22-22N-08W less 381/777, 419/783 and 502/779 as recorded in Vol. 170/471. Parcel address 19135 Dewey Street.

Parcels are currently owned by Douglas R. Kopp

Zoning Changed from A (Agricultural) District to B (Business) District.

The Official Zoning Map is hereby amended to reflect the above change. Public Hearing on this change was held on June 10, 2008.

17.04.404 Limited Number of Buildings Per Lot. There shall be not more than one (1) principal dwelling and two (2) accessory structures, including a private garage, in either Residential District, and the principal dwelling and the accessory structures shall not cover more than 35% of the lot area.

17.04.410 Residential (R-1) Purpose.

- a) To maintain compact residential development around existing residential areas.
- b) To delineate those areas where predominantly residential development has occurred or will be likely to occur.
- c) To guard against surface and sub-surface water pollution.
- d) To protect the integrity of residential areas by prohibiting the incursion of incompatible nonresidential uses.
- e) To locate this zone in areas with soils suitable for residential development.

17.04.411 Principal Permitted Uses in R-1. Only one-family and two-family dwellings, including manufactured homes but not including mobile homes as herein defined. Library, Museum, Churches and Parsonages. Municipal buildings.

17.04.412 Accessory Uses in R-1. Essential Services; household occupation and professional home office; private garages or parking areas.

17.04.413 Uses Permitted with Conditional Use Permit in R-1 District. Mobil Home Parks; multi-family dwellings if lot provides at least 2,000 square feet per housing unit; Town Houses; Public and semi-public uses; government and cultural uses; utilities; schools; clubs; lodges; General Farming (dairying, and stock, animal or poultry raising or feeding); crop and tree farming (including fruit and berry raising and non-commercial plant nurseries and greenhouses); signs larger than two square feet. (Amended 7-10-2012)

17.04.414 Prohibited Uses in R-1. All uses not specifically permitted.

17.04.415 Yards and Spaces Required in R-1 District. No building shall be hereafter constructed which does not comply with the following yard requirements:

- a) Minimum lot area: 8,000 square feet.
- b) Minimum lot width: 80 feet.
- c) Minimum front yard: 30 feet from Street or Alley right-of-way.
- d) Minimum Rear Yard: 25 feet
- e) Minimum Side Yards: 10 feet for each.
- f) Minimum Lot Depth: 100 feet.
- g) Maximum Building Height: 3 stories or 35 feet, whichever is least.
- h) Detached Accessory Structures: May be located in the side yard or rear yard only. When located in the rear yard, the accessory structure must be a minimum of 20 feet behind the principal dwelling or structure, may be placed not less than 3 feet from any adjoining or rear lot line or 4 feet from

any alley. When located in the side yard of a lot, the accessory structure shall provide a side yard of a minimum of 10 feet. Maximum Height of a Detached Accessory Structure shall not exceed the maximum height of the existing principal dwelling or structure.

- i) Attached Accessory Structures: Where the accessory structure is attached to the principal structure, the same front, rear and side yards shall be required as for the principal structure.
- j) Maintenance of existing yards. The lot or yard areas of structures existing at the time of the enactment of this ordinance shall not be diminished below the requirements of this section. Existing buildings may be structurally altered, improved, and replaced as long as such alteration, improvement or replacement does not decrease the front, side or rear yards below their existing footages.

17.04.416 Home Occupations and Professional Home Offices in Dwellings in R-1 District. Permitted within a dwelling only by a member or members of the family residing within the dwelling. Said Home Occupations and Professional Home Office is permitted only if it is clearly incidental and secondary to the residential use of the dwelling, does not change the character of the dwelling, does not exceed 25% of the area of any floor, and no article is sold or offered for sale on the premises except that produced by such home occupation. Not more than one (1) nonresident person shall be employed in the home occupation. One (1) sign showing evidence of use, having an area of not more than two (2) square feet shall be permitted unless otherwise approved with a conditional use permit. Repairing and/or working on automobiles, trucks, motor-cycles, snowmobiles and all other vehicles as a home occupation must be performed inside, and such work outside of buildings is prohibited.

(Amended 7-1-2012)

17.04.417 Construction Standards in R-1 District.

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

- a) Minimum floor area (principal building) is 1040 sq. ft. b) Minimum width of principal structure is 20 feet.
- c) Principal structure must have a permanent foundation meeting the requirements of the State Uniform Dwelling Code, which foundation surrounds the entire perimeter of the structure and completely encloses the space between siding and finished grade.
- d) Must be permanently affixed to the foundation. Manufactured homes must have the running gear and towing hitch removed and have an anchoring system that is totally concealed under the structure.
- e) Must have a standing seam or ribbed pre-finished metal, wood-shake, asphalt or fiberglass shingle roof with a minimum slope of 4:12.

- f) Must have a minimum of 1 ft. to a maximum of 2 ft. eave attached to the entire perimeter of the roof.
- g) Must have exterior wall coverings consisting of any of the following materials or combinations thereof:
 - Aluminum, steel or vinyl siding; Wood or simulated wood; or
 - Brick, stone or stucco

17.04.420 Residential (R 2) District-Purpose:

- a) To maintain in compact residential development around existing residential areas.
- b) To delineate those areas where predominantly multi-family residential development has occurred or will be likely to occur
- c) To guard against surface and sub-surface water pollution
- d) To protect the integrity of residential areas by prohibiting the incursion of incompatible nonresidential uses
- e) To locate this zone in areas with soils suitable for residential development.

17.04.421 Principal Permitted Uses in R-2. Multi-family dwellings if lot is at least 2,000 square feet per dwelling unit; Uses permitted in R-1 District which meet the Construction Standards in R-1 District.

17.04.422 Accessory Uses in R-2. Same accessory uses as in R-1 District.

17.04.423 Uses Permitted with Conditional Use Permit in R-2 District. Hotels, motels provided no other business shall be conducted therein except that which is for the service and convenience of the guest thereof; Same conditional uses as in R-1 District.

17.04.424 Prohibited Uses. All uses not specifically permitted.

17.04.425 Yards and Spaces Required in R-2 District. No building shall be hereafter constructed which does not comply with the following yard requirements:

- a) Minimum lot area: 8,000 square feet or minimum of 2,000 square feet per dwelling unit.
- b) Minimum lot width: 80 feet.
- c) Minimum front yard: 30 feet from Street or Alley right-of way.
- d) Minimum Rear Yard: 40 feet.
- e) Minimum Side Yards: 10 feet for each.
- f) Minimum Lot Depth: 100 feet.
- g) Maximum Building Height: 3 stories or 35 feet, which ever is least.
- h) Detached Accessory Structures: Same as R-1.
- i) Attached Accessory Structures: Same as R-1.
- j) Maintenance of Existing Yards: Same as R-1.

17.04.426 Home Occupations and Professional Home Offices in Dwellings in R-2 District. Permitted within a dwelling only by a member or members of the family residing within the

dwelling. Said Home Occupations and Professional Home Office is permitted only if it is clearly incidental and secondary to the residential use of the dwelling, does not change the character of the dwelling, does not exceed 25% of the area of any floor, and no article is sold or offered for sale on the premises except that produced by such home occupation. Not more than one (1) nonresident person shall be employed in the home occupation. One (1) sign showing evidence of use, having an area of not more than two (2) square feet shall be permitted.

17.04.430 Business (B) District - Purpose:

- a) To delineate areas appropriate for commercial uses in the business districts.
- b) To locate this zone in areas with soils suitable for business development.

17.04.431 Principal Permitted Uses In B.

The following Principal Permitted Uses are allowed in the B District:

- a) Department stores, retail stores, and shops and small service businesses such as: art shops; professional studios; clothing, grocery, fruit, meat, vegetable, confectionery, hardware, drug, sporting goods, stationery, music, variety and notion stores; household appliances, fixture and furnishing stores and repair shops; stores and shops for barbers, beauticians, cabinet makers, electricians, florists, jewelers, watchmakers, locksmiths, painters, plumbers, shoemakers, tailors, dress-makers, pressers, photographers.
- b) Offices and office buildings for business and professional firms including banks, medical and dental offices, attorney offices, insurance offices, public and public-utility offices.
- c) Vehicular sales and service - new and used. Display and sales rooms, parking lots and structures, and when accessory thereto, the retail sale of parts and accessories and the washing, cleaning, greasing and servicing of vehicles, including adjustments and repairs, but not demolition.
- d) Cleaning and dyeing and laundries and laundry pickup stations, self-service laundries and cleaning shops.
- e) Restaurants, bars, taverns, nightclubs.
- f) Frozen food lockers for service to families and individuals.
- g) Liquor stores selling only packaged goods.
- h) Radio (A.M. or F.M.) or television broadcasting stations and transmitters, and micro-wave radio relay structures.
- i) Clubs, lodges, meeting rooms, with seating capacities less than 300 persons.
- j) Bakeries, candy making, ice-cream and soft-drink shops.
- k) Engraving, photo-engraving, photo-finishing, lithographing, printing, publishing, and bookbinding plants.
- l) Household equipment repair shops.
- m) Laboratories; medical, dental and optical; other laboratories of non-hazardous or inoffensive operations when accessory to permitted uses.
- n) Loft buildings.
- o) Paint shops, including sign and other painting.
- p) Repair garages and shops for motor vehicles, including parking,

storage, repair, maintenance and washing of vehicles and parts, but excluding the manufacture of vehicles or parts.

- q) Retail, wholesale and jobbing businesses.
- r) tire repair shops.
- s) Mortuaries.
- t) Gasoline Service Stations.
- u) Hospitals, nursing homes, uses of religious, charitable, educational, or medical nature.
- v) Utilities and essential services.
- w) Hotels, Motels.
- x) Residential uses in buildings where primary use is any of the above permitted uses.
- y) Other retail or wholesale sales and services usually considered to be as appropriate and desirable for inclusion within the business districts as those permitted above, and which will not be dangerous or otherwise detrimental to persons residing or working in the vicinity thereof, or to the public welfare and will not impair the use, enjoyment or value of another property; but not including any uses excluded hereinafter.

17.04.432 Uses Permitted with Conditional Use Permit in B District. The following uses are permitted in B District with a Conditional Use Permit:

- a) Bottling works, bottling non-alcoholic beverages.
- b) Bottled gas storage for local distribution.
- c) Bus, Taxi and Truck terminals, and storage; railroad lines, spurs and passenger terminals.
- d) Dairies, ice cream plants.
- e) Drive-in restaurants, refreshment stands
- f) Hatcheries.
- g) Ice plants, cold storage plants.
- h) Multiple dwellings.
- i) Shops for the following and similar occupations: Blacksmith, mason, tinsmith.
- j) Warehouses.
- k) Vocational and Trade Schools.

17.04.433 Prohibited Uses in B District. Junk yard, salvage yard; any use permitted in either I district, and any use excluded from I districts, unless specifically included in Sections 17.04.431 or 17.04.432; manufacturing and processing other than an accessory use customarily incidental to permit commercial sales and service uses; any use which is objectionable by reason of emission of odor, dust, smoke, gas vibration or noise, or because of subjection of life, health or property to hazard.

17.04.434 Yards and Spaces Required in B District. No building shall be hereafter constructed which does not comply with the following yard requirements:

- a) Minimum lot area: None
- b) Minimum lot width: None
- c) Minimum front yard: None
- d) Minimum rear yard: 40 feet where adjacent to either R Zone, otherwise, no minimum.

- e) Minimum Side Yard: 10 feet where adjacent to either R Zone, otherwise no minimum.
- f) Minimum Lot Depth: 100 feet if sewerred; 200 feet in not sewerred
- g) Maximum Building Height: 50 feet, but not exceeding 45 feet on any portion of a lot less than 20 feet distance from any portion of a lot in any A, R1, R2, or C District.
- h) Maintenance of existing yards. The lot or yard areas of structures existing at the time of the enactment of this ordinance shall not be diminished below the requirements of section. Existing buildings may be structurally altered improved, and replaced as long as such alteration, improvement or replacement does not decrease the front, side or rear yards below their existing footages.

17.04.440 (I-1) District- Purpose. To delineate areas best suited for industrial development because of location, topography, existing facilities and relationship to other land uses. Uses incompatible with industry are not to be permitted.

17.04.441 Principal Permitted Uses in I-1 District.

None. Due to the proximity of said I-1 District to residential areas, all uses are deemed conditional.

17.04.442 Uses Permitted with Conditional Use Permit In I-1 District. The following uses are permitted in I-1 District with a Conditional Use Permit:

- a) Uses permitted In B District
- b) Industrial-type uses consisting of manufacturing, processing, assembling, storing, distributing and transporting of materials, goods and foodstuffs, including but not limited to hatcheries, and uses relative to the processing of feed.

17.04.443 Prohibited Uses in I-1 District. All uses not specifically permitted.

17.04.444 Yards and Spaces Required in I-1 District.

No building shall be hereafter constructed which does not comply with the following yard requirements:

- a) Minimum lot area: 8,000 Square feet
- b) Minimum lot width: None
- c) Minimum front yard: 30 feet
- d) Minimum side yards: Same as in B District
- e) Minimum rearyard: Same as in B District
- f) Minimum lot depth: Same as in B District
- g) Maximum Building Height: 3 stories or 50 feet
- h) Maintenance of existing yards. The lot or yard areas of structures existing at the time of the enactment of this ordinance shall not be diminished below the requirements of this section. Existing buildings may be structurally altered, improved, and replaced as long as such alteration, improvement, or replacement does not decrease the front, side or rear yards below their existing footages.

17.04.450 Industrial (I2) District- Purpose. Same as I1

17.04.451 Principal Permitted Uses in I2 District. Same Section 17.04.442 paragraphs a and b.

17.04.452 Uses Permitted with Conditional Use Permit in I2 District. Same as Section 17.04.442 paragraphs c through r.

17.04.453 Prohibited Uses in I2 District. All uses not specifically permitted.

17.04.454 Yards and Spaces Required in I2 District. Same as I1.

17.04.460 Agriculture (A) District- Purpose:

- a) To delineate and protect the areas best suited for agriculture
- b) To provide for controlled use of the City's resources c) To delineate areas for estate residential.

17.04.461 Principal Permitted Uses in A District. The following Principal Permitted Uses are allowed in the A District:

- a) General farming, including truck farming, dairying and horticultural uses, and stock, animal and poultry raising except that:
 - 1) Hog, goat and sheep raising and cattle feed yards not incidental to general farming, not permitted.
 - 2) No animal barns, pens or kennels, or feeding areas, no fowl raising and no slaughter of animals or fowl shall be permitted closer than 200 feet to any R1 or R2 District.
- b) One family and two family dwellings, one mobile home per farmstead.
- c) Plant nurseries and greenhouses.

17.04.462 Uses Permitted with Conditional Use Permit in A District. The following uses are permitted in A District with a Conditional Use Permit:

- a) Hospitals and clinics, nursing, convalescent and rest homes, homes for the aged, philanthropic and charitable institutions.
- b) Golf courses, country clubs, yacht clubs, tennis courts, swimming pools, and additional recreational facilities and areas, but limited to noncommercial kinds for private and private-club purposes.
- c) Public buildings and uses, including elementary and secondary schools, school athletic fields, parks, playgrounds, libraries, museums, community and recreation centers, police and fire stations, water towers and reservoirs, pumping stations.
- d) Churches, parsonages, convents, child nurseries, nursery schools, and private schools for educational purposes similar to public schools.
- e) Sale, on the premises, of farm products produced on the premises.
- f) Private information and directional signs, any permit

for which shall be valid for one year only, unless renewed.
g) Mobile home parks and travel trailer parks.

17.04.463 Prohibited Uses in A District. All uses not specifically permitted.

17.04.464 Yards and Spaces Required in A District. No building shall hereafter be constructed, nor no land used which does not comply with the following yard requirements:

- a) Minimum lot area: 1 acre
- b) Minimum Lot Width: 160 feet
- c) Minimum front yard: 30 feet
- d) Minimum rear yard: 100 feet for
all buildings
- e) Minimum Side yard: 100 feet
- f) Minimum Lot Depth: 200 feet
- g) Maximum Building Height: 35 feet

17.04.470 Conservancy (C) District- Purpose:

- a) To delineate those areas where substantial development of the land in the form of buildings or structures is prohibited due to:
 - 1) Special or unusual conditions of topography, drainage floodplain or other natural conditions, whereby considerable damage to buildings or structures and possible loss of life may occur due to the processes of nature.
 - 2) The lack of proper facilities or improvements resulting in the land not being suitable for development at the present time.
- b) To delineate areas subject to periodic flooding by adjacent lakes or streams in unincorporated areas.
- c) For the preservation of scenic, historic and scientific areas.
- d) For the preservation of groundwater sources.

17.04.471 Principal Permitted Uses in C District.

The following Principal Permitted Uses are allowed in the C District:

- a) Management of forestry, wildlife and fish.
- b) Harvesting of wild crops, such as marsh hay, ferns, moss, berries, tree fruits and tree seeds.
- c) Facilities and structures for drainage, flood control, hydro-electric power, power transmission, ponding, conservation, erosion control, reclamation, fire prevention.
- d) Parks, Cemeteries, open recreation uses.
- e) Accessory structures such as park buildings, orchards, utilities.
- f) No structure permitted except those housing essential services accessory to the principal or conditional uses.
- g) Uses accessory or customarily incidental to any of the above facilities.

17.04.472 Uses Permitted with Conditional Use Permit in C District. The following uses are permitted in C District with a Conditional Use Permit:

- a) Crop and tree farming
- b) Fuel transmission lines and related facilities.
- c) Recreational uses
- d) Government and cultural uses

17.04.473 Prohibited Uses in C District. Uses involved in the dumping, filling, cultivation, mineral, soil or peat removal or any other use that would disturb the natural fauna, flora, watercourses, water regimen or topography. All uses not specifically permitted

THE COMMON COUNCIL OF THE CITY OF WHITEHALL DO ORDAIN AS FOLLOWS:

Sections 17.04.418 and 17.04.427 of the Whitehall Municipal Code in regard to Zoning, are hereby created to read as follows:

17.04.418 Zero Lot Line Housing.

- a) Zero lot line housing is a permitted use in R-1 Residential District. This section shall supersede the regulations for this district, to the extent that this section differs from them. Zero lot line housing shall otherwise be subject to the same restrictions of those sections not superseded by this section.
- b) "Zero lot line housing" in this section is defined as a horizontal (side-by-side) duplex intended to be sold and owned as separate residences, where a common wall between the units is approximately perpendicular to the street right-of-way and is centered in approximately the middle of a residential lot.
- c) The lot width and area requirements in R-1 Residential District shall not apply to zero lot line housing so long as the lot of record before division and upon which the single structure sits meets the minimum width and area requirements of the particular district in which it is located. The outside walls of the single structure shall be set back a minimum of ten (10) feet from the side property lines of the lot of record before subdivision. The side yard setback shall be measured along a line parallel to the street from the closest point of the single structure to the side property line.
- d) The common wall between the two units shall be constructed as fire walls to the specifications of State Building Codes in effect at the time of commencement of the construction of the structure.
- e) Notwithstanding any other provision of this section to the contrary, each unit of a zero lot line structure, after division of the residential lot, may not be conveyed unless each unit's portion of the divided residential lot is at least 4,000 square feet.
- f) Zero Lot line structures may be served by single water and sewer laterals, provided that the laterals shall be divided at the curb and separate exterior utility shutoff's shall be installed for each unit.
- g) Within thirty (30) days from the issuance of a Building Permit for the construction of a zero lot line structure, the builder or his designee or attorney shall record in the Trempealeau County real estate records, appropriate documents as provided by Section 703, Wisconsin Statutes,

which provide for the maintenance of common areas and facilities of the structure and grounds and a method for resolution of disputes with respect to maintenance of the structure, its facilities and grounds. Such document shall be designated as being permanent, running with the land and shall be binding upon all owners of units of the structure. A copy of the recorded document, showing the recording data, shall be provided to the City for its records prior to the final building inspection.

17.04.427 Zero Lot Line Housing.

- a) Zero lot line housing is a permitted use in R-2 Residential District. This section shall supersede the regulations for this district, to the extent that this section differs from them. Zero lot line housing shall otherwise be subject to the same restrictions of those sections not superseded by this section.
- b) "Zero lot line housing" is defined as a multi-family dwelling intended to be sold and owned as separate residences, where common walls between the units are centered in approximately the middle of a residential lot.
- c) The lot width and area requirements in R-2 Residential District shall not apply to zero lot line housing so long as the lot of record before division and upon which the single structure sits meets the minimum width and area requirements of the particular district in which it is located. The outside walls of the single structure shall be set back a minimum of ten (10) feet from the side property lines of the lot of record before subdivision. The side yard setback shall be measured along a line parallel to the street from the closest point of the single structure to the side property line.
- d) The common walls between the units shall be constructed as fire walls to the specifications of State Building Codes in effect at the time of commencement of the construction of the structure.
- e) Notwithstanding any other provision of this section to the contrary, each unit of a zero lot line structure, after division of the residential lot, may not be conveyed unless each unit's portion of the divided residential lot is at least 2,000 square feet.
- f) Zero Lot line structures may be served by single water and sewer laterals, provided that the laterals shall be divided at the curb and separate exterior utility shutoff's shall be installed for each unit.
- g) Within thirty (30) days from the issuance of a Building Permit for the construction of a zero lot line structure, the builder or his designee or attorney shall record in the Trempealeau County real estate records, appropriate documents as provided by Section 703, Wisconsin Statutes, which provide for the maintenance of common areas and facilities of the structure and grounds and a method for resolution of disputes with respect to maintenance of the structure, its facilities and grounds. Such document shall be designated as being permanent, running with the land and shall be binding upon all

owners of units of the structure. A copy of the recorded document, showing the recording data, shall be provided to the City for its records prior to the final building inspection.

Adopted this 9 day of May, 2006.

SECTION 17.04.500 CONDITIONAL USES

17.04.501 Review and Approval of Conditional Uses. The Plan Commission shall review the site, existing and proposed structures, architectural plans, neighboring uses, parking areas, driveway locations, highway access, traffic generation and circulation, drainage, sewerage and water systems, and the proposed operation.

- a) Conditions, such as landscaping, architectural design, type of construction, construction commencement and completion dates, sureties, lighting, fencing, planting screens, operation control, hours of operation, improved traffic circulation, deed restrictions, highway access restrictions, increased yards, or parking requirements, may be required by the City Plan Commission upon its finding that these are necessary to fulfill the purpose and intent of this Ordinance.
- b) Compliance with all other provisions of this Ordinance, such as lot width and area, yards, height, parking, "loading, traffic, highway access, and performance standards, shall be required of all conditional uses.

17.04.510 Public and Semipublic Uses. The following public and semipublic uses shall be conditional uses and may be permitted as specified:

- a) Airports, airstrips, and land fields in the A District, providing that these facilities meet the regulations contained in Chapter 114, Sections 135 and 136 of the Wisconsin Statutes.
- b) Governmental and Cultural Uses, such as administrative offices, fire and police stations, community centers, libraries, public emergency shelters, parks, playgrounds and museums in all Residential, Agricultural, Business and Industrial Districts.
- c) Utilities in all districts provided all principal structures and uses are not less than fifty (50) feet from any Residential District lot line.
- d) Public Passenger Transportation Terminals, such as heliports, bus barns, bus and rail depots, except airports, airstrips, and landing fields, in all Business and Industrial Districts provided all principal structures and uses are not less than 100 feet from any Residential District Boundary.
- e) Public, Parochial, and Private, Preschool, Elementary, and Secondary schools and churches in the Residential and Agricultural Districts provided the lot area is not less than one (1) acre and all principal structures and uses are not less than fifty (50) feet from any lot line.
- f) Colleges, Universities, Hospitals, sanitariums, religious, charitable, penal and correctional institutions, cemeteries and crematories in the A District provided all principal structures and uses are not less than fifty (50) feet from any lot line.

17.04.520 Residential Uses. The following residential and quasi-residential uses shall be conditional uses and may be permitted as specified:

a) Planned Residential Developments, such as cluster developments, garden apartments, row housing, and group housing in the Residential Districts. The proper preservation, care, and maintenance by the original and all subsequent owners of the exterior design; all common structures, facilities, utilities, access and open spaces shall be assured by deed restrictions enforceable by the community.

The following provisions shall be complied with:

- 1) Development Minimum 10 acres
- 2) Lot Area Minimum of 2/3 of the minimum lot area for the district which located. Minimum 3,000 Sq. ft. for row houses.
Width Minimum of 2/3 of the minimum lot width for the district in which located. Minimum 20 ft. in row houses.
- 3) Building Area Maximum lot coverage of 40 percent
- 4) Yards Street Minimum 20 ft.
Rear Minimum 50 ft.
Side Minimum 20 ft. from street right-of way, exterior property lines of the development and other buildings.
- 5) Donation of Public Park - One (1) out of every ten (10) acres or one (1) acre for every twenty (20) dwelling units, whichever is the least.
- b) Clubs, fraternities, lodges, and meeting places of non-commercial nature in the Residential Districts, provided all principal structures and uses are not less than twenty-five (25) feet from any lot line.
- c) Rest Homes, nursing homes, homes for the aged, clinics, and children's nurseries in the Residential Districts, provided all principal structures and uses are not less than fifty (50) feet from any lot line.
- d) Mobile Home Parks in the Residential Districts and Agricultural District with the following requirements:
 - 1) Minimum size - five acres.
 - 2) Minimum size lot per mobilehome 3,000 sq. ft.
 - 3) Minimum width of mobilehome site - 40 ft.
 - 4) Minimum distance between mobile home trailers - 20 ft.
 - 5) Minimum distance between mobile home and service road - 10 ft.
 - 6) Each mobile home site shall be connected to a public

water supply system and a public sewage disposal system or a private sewage disposal and water system, in accordance with H77 of the Wisconsin Administrative Code, approved by the State Department of Health and Social Services and the Department of Natural Resources.

- 7) All drives, parking areas and walkways shall be hard surfaced. There shall be one parking space for each mobile home plus additional parking spaces within the park for automotive vehicles, the combined total of which shall be not less than one and a quarter parking spaces for each; mobile home space.
 - 8) No mobile home sales office 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 office are permitted.
 - 8) Minimum side yard setback - 40 feet at all front, side and rear lot lines of the mobile home park.
 - 9) All mobile homes shall meet the construction standards of the Mobile Homes Manufacturing Association.
 - 10) Each mobile home park shall be completely enclosed, except for permitted entrances and exits by:
 - (a) A temporary plant of fast-growing material, capable of reaching a height of 15 feet or more, and
 - (b) A permanent evergreen planting, the individual trees to be of such a number and so arranged that within ten (10) years, they will have formed a dense screen. Such permanent planting shall be grown or maintained to a height of not less than 15 feet.
- e) Travel Trailer Camps. No Travel Trailer shall be occupied in, in the City of Whitehall except in a Federal, state or county camp or in a private campsite. Private campsites shall meet the following conditions:
- 1) Each Trailer site shall be plainly marked and surfaced.
 - 2) Maximum number of trailer sites shall be 15 per acre
 - 3) All drives and parking areas other than those at individual trailer sites shall be hard surfaced.
 - 4) Central toilet, shower and washing facilities shall be provided in sufficient quantity, as determined by the State Department of Health and Social Services requirements in accordance with H78 Wisconsin Administrative Code.
 - 5) The water supply shall be approved by the State Department of Health and Social Services.
 - 6) The manner of sewage disposal shall be approved by the State Department of Health and Social Services.
 - 7) No Travel Trailer shall be less than 50 feet from the front, side or rear lot lines of the camp.
 - 8) Marshland and shoreland areas shall not be altered.

17.04.560

17.04.560 Junk and Salvage Yards. Junk and Salvage Yards are prohibited in all Districts of the City of Whitehall. No person shall use any building or premises for the buying, selling, gathering, delivery, shipping, storing or salvaging of old iron, bottles, paper, rags, farm machinery, vehicles or other materials commonly included in the term "junk". Storage of two (2) or more unlicensed vehicles on the same premises shall be prima facie evidence of operation of a junk or salvage yard.

SECTION 17.04.600 TRAFFIC, PARKING AND ACCESS

17.04.610 Traffic Visibility. No obstructions, such as structures, parking or vegetation, shall be permitted in any district between the heights of two and one-half (2) feet and ten (10) feet above the plane through the mean curb-grades within the triangular space formed by any two existing or proposed intersecting street or alley right-of-way lines and a line joining points on such lines located a minimum of twenty (20) feet from their intersection. In the case of arterial streets intersecting with other arterial streets or railways, the corner cut-off distances establishing the triangular vision clearance space shall be increased to fifty (50) feet.

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

a) Each loading space shall be not less than twelve (12) feet in width, thirty-five (35) feet in length, and have a minimum vertical clearance of fourteen (14) feet, and may occupy all or any part of any required yard.

b) Required Number of Off-Street Loading Spaces:

- 1) Schools 1
- 2) Hospitals 1
- 3) Funeral home 1
- 4) Offices, hotels, retail establishments, service, wholesale, warehouse, manufacturing, processing or repairing uses:
 - Under 10,000 Square feet None
 - 10,000 to 25,000 Sq. Ft. 1
 - 25,001 to 40,000 Sq.Ft. 2
 - 40,001 to 60,000 Sq. Ft. 3
 - 60,001 to 100,000 Sq. Ft. 4 each
 - additional 50,000 Sq. Ft- 1 Addition

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

- a) Adequate access to a public street shall be provided for each parking space, and driveways shall be at least ten (10) feet wide for one and two family dwellings and a minimum of twenty-four (24) feet for all other uses.
- b) Size of each parking space shall be not less than 180 square feet exclusive of the space required for ingress and egress.

- c) Location to be on the same lot as the principal use or not over four-hundred (400) feet from the principal use. No parking stall or driveway except in residential districts shall be closer than twenty-five (25) feet to a residential district lot line or a street line opposite a residential district.
- d) All off-street parking areas shall be graded and surfaced so as to be dust-free and properly drained. Any parking area for more than five (5) vehicles shall have the aisles and spaces clearly marked.
- e) Curbs or Barriers shall be installed so as to prevent the parked vehicles from extending over any lot lines.
- f) Number of parking stalls required are as follows:

Single family dwellings and mobile homes	2 stalls for each dwelling unit.
Multi-Family dwellings	1.5 stalls for each dwelling unit.
Hotels, Motels	1 stall for each guest room plus 1 stall for each 3 employees
Hospitals, clubs, lodges, dormitories, lodging and boarding houses	1 stall for each 2 beds plus 1 stall for each 3 employees
Sanitariums, institutions, rest and nursing homes	1 stall for each 5 beds plus 1 stall for each 3 employees
Medical and dental clinics	3 stalls for each doctor.
Churches, theaters, auditoriums, community centers, vocational and night schools, and other places of public assembly	1 stall for each 5 seats.
Colleges, secondary and elementary schools	1 stall for each 2 employees plus 1 stall for each 10 students of 16 years of age or more
Restaurants, bars, places of entertainment, repair shops, retail and service stores	1 stall for each 150 square feet of floor area
Manufacturing and processing plants, laboratories, and warehouses	1 stall for each 3 employees
Financial Institutions, business, Government and professional offices	1 stall for each 300 square feet of floor area
Funeral homes	1 stall for each 4 seats
Bowling alleys	5 stalls for each alley

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

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

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

- a) Islands between driveway openings shall be provided with a minimum of twelve (12) feet between all driveways and six (6) feet at all lot lines.
- b) Openings for vehicular ingress and egress shall not exceed twenty-four (24) feet and shall not be less than twelve (12) feet at the street right-of-way line. Not more than one-half the frontage shall be occupied by the openings.
- c) At street intersections, a driveway shall not provide direct ingress or egress to or from the street intersection area and shall not occupy areas of the roadway deemed necessary the Common Council for effective traffic control or for highway signs or signals.
- d) No driveway apron shall extend out into the street further than the face of the curb, and under no circumstances shall such driveway apron extend into the gutter area. All driveway entrances and approaches shall be so constructed that they shall not interfere with the drainage of streets, side ditches or roadside areas or with any existing structure on the right of way. When required by the Common Council to provide for adequate surface water drainage along the street, the property owner shall provide any necessary culvert pipe at his own expense.
- e) No more than one driveway entrance and approach shall be constructed for any lot or premises except where deemed necessary and feasible for safety, convenience and utility of the street, by the Common Council.
- f) All driveway entrances and approaches which are constructed across sidewalks shall be paved in accordance with the requirements for sidewalk construction in chapter 12.08 of this code insofar as such requirements are applicable, including thickness requirements in Chapter 12.08.070.

SECTION 17.04.700 M:ODIFTICATIONS.

17.04.710 Height Modifications. Height requirements stipulated elsewhere in this Ordinance maybe modified as follows:

- a) Established building height limits shall not apply to belfries, cupolas, spires, monuments, radio or television antenna, flag poles, chimneys or flues, silos, water towers or to poles, towers and other structures for essential services, nor to similar structures or necessary mechanical appurtenances extending from a roof upward and not occupying more than 25 percent of the area of such roof as projected into a horizontal plane.
- b) When permitted in a district, public buildings, community buildings, schools, churches, hospitals, and other institutions public utilities and public service buildings and those for essential services, may be erected to a height not exceed 75 feet, provided the side yard width and rear yard depth be each increased 1 foot over and above the district requirements for each 2 feet of building height above the height limit.

17.04.720 Yard Modifications. The yard requirements stipulated elsewhere in this Ordinance may be modified as follows:

- a) Uncovered porches and steps to building entrances may extend not more than 12 feet into any required front yard or rear yard and not more than 3 feet into any required side yard.
- b) Architectural projections, such as chimneys, flues, sills, eaves, belt courses, and ornaments, may project into any required yard⁷ but such projection ay not exceed two (2) feet.
- c) Residential Fences are permitted on the property lines in residential districts, but shall not in any case exceed a height of six (6) feet shall not exceed a height of four (4) feet in the street yard, and shall not be closer than two (2) feet to any public right-of-way or easement. Where fences are placed on the property line, the owner shall maintain both sides of the fence and yard.
- d) Security Fences are permitted on the property lines in all districts except residential districts but shall be of an open type similar to woven wire iron fencing.

17.04.730 Accessory Uses. Accessory Uses and detached accessory structures may be located in the side yard or rear yard only. When located in the rear yard, the accessory structure must be a minimum of twenty (20) feet behind the principal dwelling or structure, may be placed not less than 3 feet from any adjoining or rear lot line or four (4) feet from any alley. When located in the side yard of a lot, the accessory structure shall provide a side yard of a minimum of 10 feet.

17.04.740 -- 17.04.750

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

17.04.750 Satellite Dish Systems. Satellite Dish Systems used for the reception of communications (television, radio, etc.) are hereby declared to fall within the scope of "Structure" as per Section 17.04.236, and placement of these dishes must comply with the Building Permit requirements of the yard and space requirements of the Zoning District where the Dish is to be located.

THE COMMON COUNCIL OF THE CITY OF WHITEHALL DO ORDAIN AS FOLLOWS:

Section 17.04.800 of the Whitehall Municipal Code in regard to Signs is hereby repealed and recreated to read as follows:

SECTION 17.04.800 SIGNS.

17.04.810 Permitted Signs. The following types of signs maximum sizes and number and location restrictions are in effect for all signs in the City of Whitehall:

- a) Directory Signs. Directory signs advertise a business or activity conducted and area of interest or a service available at a specific location. Such signs shall not be more than twelve (12) square feet in gross area. Directory signs are permitted in the Business Industrial Agricultural and Conservancy Districts. Permit required.
- b) Profession or Occupation Directory Signs - Signs advertising a customary home occupation or professional office. Such signs shall not exceed two (2) square feet in gross area shall be attached to the building and if illuminated shall be indirectly lighted. Permitted in all Districts. Permit required.
- c) Signs advertising the sale, rent or lease of property on which the sign is placed. Such signs shall not exceed eight (8) square feet in gross area and may be placed at the right-of-way line of the highway. Permitted in all Districts. Such signs shall be temporary. No permit required.
- d) General Advertising Signs. Signs that advertise a general brand or product; an area of interest; a business conducted; or a service available. Such signs shall not be more than three-hundred (300) square feet in gross area and erected outside a line parallel to and five (5) feet from the highway or street right-of-way line. Permitted in Business and Industrial Districts only. Permit required.
- e) Business Signs. Signs attached to commercial and industrial buildings advertising a business conducted or a service available on the premises. No sign shall exceed forty (40) square feet in gross area be higher than four (4) feet above the top of the roof line or exceed the maximum height limitation permitted in the district. Permitted in Business and Industrial Districts only. Permit required.
- f) Public Signs. On premise signs that advertise a public or semipublic use. Such signs shall not exceed twelve (12) square feet in gross area. There shall be no more than one sign for each street upon which the property faces. Such signs may be placed at the right-of-way line of the street. Permitted in 11 Districts. Permit Required.
- g) Recreation Directory Signs indicating the direction to a cottage resort, residence or similar use. Such signs shall not be more than four (4) square feet in gross area. Where a common posting standard is provided all such signs shall be attached to the standard recreational directory. Signs may be placed at the right-of-way line. Permitted in all districts. Permit required.


*amended
to include
paragraph (h)*

THE COMMON COUNCIL OF THE CITY OF WHITEHALL DO ORDAIN AS FOLLOWS:

Section 17.04.810 of the Whitehall Municipal Code in regard to Signs - Permitted Signs, is hereby amended to include the following:

17.04.810 Permitted Signs. The following types of signs, maximum sizes and number and location restrictions are in effect for all signs in the City of Whitehall:

- h) Election Campaign Signs. These are temporary signs, advertising candidates or soliciting votes in support of or against any proposition or issue at any general, primary, special, school, or other election. Signs must be placed a minimum of one (1) foot behind sidewalks, or at least fifteen (15) feet from the pavement edges in areas without sidewalks. Signs may only be put up less than forty-five (45) days before any election, and must be removed within seven (7) days following the election. The maximum area of signs in Residential areas of the City shall be eleven (11) square feet per sign, and signs shall not exceed six (6) feet in height in Residential areas. No permit is required.



Karen Witte, Clerk-Treasurer

Public Hearing on the above amendment was held on April 10, 2007.

17.04.811 Exceptions to Sign Regulations. The following signs and related items shall not be included in the application of the regulations contained in this Section:

- a) Signs not exceeding one (1) square foot in area and bearing only property numbers,, or names of occupants of premises.
- b) Flags and insignia of any government except when displayed in connection with commercial promotions.
- c) Legal notices, identifications information or directional signs erected by governmental bodies.
- d) Integral decorative or architectural features of buildings, except letters trademarks, moving parts or moving lights.
- e) Signs directing and guiding traffic and parking on private property, but bearing no advertising nature.
- f) Signs erected by National, State, County or Municipal Government Agencies,, including traffic and informational signs.
- g) Temporary Signs such as real estate (which advertises sale or rental of the premises upon which it is posted),, political and construction site or similar-type signs provided such signs do not exceed twenty-five (25) square feet of display surface.
- h) Window signs that are located inside a premises,, directing attention to a business or profession conducted on the premises or to a product, service or entertainment sold or offered on said premises shall be permitted without a permit.

17.04.815 Permits for signs. Permits are required to place, replace, construct, reconstruct, hang, locate, or relocate signs as listed in this Section. Applications for permits must be made to the City Clerk/Building Inspector using the same forms listed on the application for building permit, as per Section 17.04.302. The application for sign permit shall include information about the sign, including: Dimensions; Materials; Illumination; Wiring; Height above grade; Distance from lot line; by whom the sign is to be erected, located or reconstructed; and a sketch/diagram of the sign. Fees for the permit are \$5.00 per sign.

17.04.820 Construction and Maintenance Regulations For Signs.

- a) Installation. All signs shall be properly secured, supported and braced and shall be kept in reasonable structural condition and shall be kept clean and well painted at all times. Bolts or screws shall not be fastened to window frames. Every sign and its framework, braces, anchors and other supports shall be constructed of such material and with such workmanship as to be safe and satisfactory to the City Council.
- b) General Requirements:
 - 1) Awnings. The lowest part of any awning shall be seven (7) feet above the sidewalk. Signs are allowed directly on the awning or hanging on the frame, but not below seven (7) feet.
 - 2) Animated Signs. Signs with any moving parts, beacon lights or moving lights shall not be permitted,, except revolving signs are permitted.
 - 3) Flashing Signs. Flashing signs are prohibited. Bare reflecting-type bulbs of any kind are not allowed for a flashing or non-flashing sign unless they are properly shaded so as not to interfere with surrounding properties.

- 4) Roof Signs. No sign shall be located so as to project above the parapet line unless approved by the City Council.
 - 5) Illuminated Signs. Any illuminated signs shall not interfere with surrounding properties or traffic.
 - 6) Projection. Signs including supports shall not project beyond five (5) feet of the face of the wall to which attached. The lowest part of any projecting sign shall be seven (7) feet above the sidewalk.
 - 7) Blanketing (the unreasonable obstruction of view of a sign caused by the placement of another sign) of signs is not allowed.
 - 8) Maintenance. All signs,, including supports and attachments shall be properly maintained and have an appearance that is neat and clean.
- c) Signs on Public Rights-of-Way. Signs shall not be permitted on public rights-of-way except for traffic control parking and directional signs and as otherwise specified in this Section.

17.04.825 Specific Requirements.

- a) Temporary Sign Limitations.
- 1) All temporary signs such as real estate,, construction site and political signs shall be removed within ten (10) days after their use has discontinued.
 - 2) Temporary signs may be placed on a property but shall not be located on public right-of-way/ and shall not interfere with driveway vision clearance.
 - 3) Portable Signs Such signs shall be limited in use to thirty (30) days at a time and not more frequently than three (3) times per year at any one property. The maximum size shall be twenty-five (25) square feet on each face, back-to-back.
- b) Electronic Message Unit Signs.
- 1) Such signs may be used only to advertise activities conducted on the premises or to present public service information.
 - 2) Segmented messages must be displayed for not less than one-half (1/2) second or more than ten (10) seconds.

17.04.830 Prohibited Characteristics of Signs.

- a) No sign shall be placed as to interfere with the visibility or effectiveness of any official traffic sign or signal, or with driver vision at any access point or intersection.
- b) No sign located within or adjacent to Residential Districts shall contain,, include or be illuminated by flashing light(s).
- c) No sign will be permitted that resembles the size shape, or form or color of official traffic control signs,, Signals or devices.
- d) No sign shall contain,, include or be composed of any conspicuous animated or moving part.
- e) No sign shall contain more than three hundred (300) square feet in gross area.

- f) No sign may project more than five (5) feet onto the street right-of-way. The lowest part of any projecting sign shall be seven (7) feet above the sidewalk.
- g) No sign in a conspicuous state of disrepair shall be permitted to exist. The City Council may order removal on a twenty (20) day public notice or immediately if public danger exists.
- h). No sign shall be erected so that any portion of the sign or its supports attached to interfere with the free use of any fire escape, exit, any required stairway, door, ventilate: or window.
- i) No sign shall be erected that will interfere with, obstruct, confuse or mislead traffic.

17.04.840 Existing Signs. Any sign which becomes a nonconforming sign at the effective date of this Ordinance or which becomes a nonconforming sign at any future date, may be continued provided that no increase in size, illumination or flashing of such sign shall be made and further provided the following:

- a) Any sign, including structures and all supporting members, shall be discontinued and removed not more than five (5) years after the date that such sign becomes a nonconforming sign, unless such nonconforming sign shall be made to conform to all of the regulations of the district in which it is located.
- b) No sign in a conspicuous state of disrepair shall be permitted to exist. The City Council may order removal on a twenty (20) day public notice or immediately if public danger exists.

17.04.850 Dangerous and Abandoned Signs; Violations.

- a) All signs shall be removed by the owner or lessee of the premises upon which the sign is located when a business which it advertises has not been conducted for a period of six (6) months or when, in the judgment of the City Council, such sign is so old, dilapidated or has become so out of repair as to be dangerous or unsafe, whichever occurs first. If the owner or lessee fails to remove it, the City Council may remove the sign at the cost of the owner, following adequate written notice. The owner may appeal the City Council's decision to the Board of Appeals.
- b) Alterations. Any sign which was erected before the adoption of this Section shall not be rebuild or relocated without conforming to all the requirements of this Ordinance.
- d) Violations. All signs constructed or maintained in violation of any of the provisions of this Ordinance are hereby declared public nuisances within the meaning this this Code of Ordinances. In addition to the above penalty provisions for violation of this Section, the City Council may bring an action to abate the nuisance in the manner set forth in the Wisconsin State Statutes.

SECTION 17.04.900 NONCONFORMING USES, STRUCTURES AND LOTS

17.04.910 Existing Nonconforming Uses. The lawful nonconforming use of a structure, land or water existing at the time of the adoption or amendment of this Ordinance may be continued, some uses for specific periods of time, although the use does not conform with the provisions of this Ordinance; however:

- a) Only that portion of the land or water in actual use may be so continued and the structure may not be extended, enlarged, reconstructed, substituted, moved, or structurally altered except when required to do so by law or order or so as to comply with the provisions of this Ordinance.
- b) Structural repairs or alterations shall not exceed Fifty(50) percent of the City's equalized assessed value of the structure at the time of its becoming a nonconforming use unless it is permanently changed to conform to the use provisions of this Ordinance.
- c) Substitution of new equipment may be permitted by the Board of Zoning Appeals, if such equipment will reduce the incompatibility of the nonconforming use with the neighboring uses.

17.04.911 Abolishment or Replacement of Existing Nonconforming Uses.

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

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

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

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

17.04.920 Substandard Lots. In any residential district, a one-family detached dwelling and its accessory structures may be erected by the owner of record at the time of adoption of the Zoning Ordinance on any legal lot or parcel of record in the County Register of Deeds Office before the effective date or amendment of this Ordinance. The Dwelling unit and its accessory structures may not cover more than thirty-five (35) percent of the lot area

THE COMMON COUNCIL OF THE CITY OF WHITEHALL DO ORDAIN AS FOLLOWS:

Chapter 17.06 of the Whitehall Municipal Code in regard to Flood Plain Zoning is hereby repealed and recreated to read as follows:

Chapter 17.06-FLOODPLAIN ZONING

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

1.1 STATUTORY AUTHORIZATION

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

1.2 FINDING OF FACT

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

1.3 STATEMENT OF PURPOSE

This ordinance is intended to regulate floodplain development to:

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

- (7) Discourage the victimization of unwary land and homebuyers;
- (8) Prevent increases in flood heights that could increase flood damage and result in conflicts between property owners; and
- (9) Discourage development in a floodplain if there is any practicable alternative to locate the activity, use or structure outside of the floodplain.

1.4 **TITLE**

This ordinance shall be known as the Floodplain Zoning Ordinance for the City Of Whitehall, Wisconsin.

1.5 **GENERAL PROVISIONS**

(1) **AREAS TO BE REGULATED**

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

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

(2) **OFFICIAL MAPS & REVISIONS**

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

OFFICIAL MAPS : Based on the FIS

Flood Insurance Rate Map (FIRM), panel numbers 55121C0165D, 55121C0252D, 55121C0255D and 55121C0256D, dated April 4, 2011; with corresponding profiles that are based on the Flood Insurance Study (FIS) dated April 4, 2011 and Volume number 55121CV000A

(3) ESTABLISHMENT OF DISTRICTS

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

- (a) The Floodway District (FW) is the channel of a river or stream and those portions of the floodplain adjoining the channel required to carry the regional floodwaters.
- (b) The Floodfringe District (FF) is that portion of the floodplain between the regional flood limits and the floodway.
- (c) The General Floodplain District (GFP) is those areas that have been or may be covered by floodwater during the regional flood.

(4) LOCATING FLOODPLAIN BOUNDARIES

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

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

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

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

(5) REMOVAL OF LANDS FROM FLOODPLAIN

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

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

(6) COMPLIANCE

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

(7) MUNICIPALITIES AND STATE AGENCIES REGULATED

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

(8) ABROGATION AND GREATER RESTRICTIONS

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

(9) INTERPRETATION

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

(10) WARNING AND DISCLAIMER OF LIABILITY

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

(11) SEVERABILITY

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

(12) ANNEXED AREAS FOR CITIES AND VILLAGES

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

(13) GENERAL DEVELOPMENT STANDARDS

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

2.0 GENERAL STANDARDS APPLICABLE TO ALL FLOODPLAIN DISTRICTS

2.1 HYDRAULIC AND HYDROLOGIC ANALYSES

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

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

- (b) Increase regional flood height due to floodplain storage area lost, which equals or exceeds 0.01 foot.
- (2) The zoning administrator shall deny permits if it is determined the proposed development will obstruct flow or increase regional flood heights 0.01 foot or more, based on the officially adopted FIRM or other adopted map, unless the provisions of sub. (3) are met.
- (3) Obstructions or increases equal to or greater than 0.01 foot may only be permitted if amendments are made to this ordinance, the official floodplain zoning maps, floodway lines and water surface profiles, in accordance with s. 8.0.

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

2.2 WATERCOURSE ALTERATIONS

No land use permit to alter or relocate a watercourse in a mapped floodplain shall be issued until the local official has notified in writing all adjacent municipalities, the Department and FEMA regional offices and required the applicant to secure all necessary state and federal permits. The flood carrying capacity of any altered or relocated watercourse shall be maintained.

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

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

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

2.4 PUBLIC OR PRIVATE CAMPGROUNDS

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

- (1) The campground is approved by the Department of Health Services.
- (2) A land use permit for the campground is issued by the zoning administrator.
- (3) The character of the river system and the elevation of the campground is such that a 72-hour warning of an impending flood can be given to all campground occupants.
- (4) There is an adequate flood warning procedure for the campground that offers the minimum notice required under this section to all persons in the campground. This procedure shall include a written agreement between the campground owner, the municipal emergency government coordinator and the chief law enforcement official which specifies the flood elevation at which evacuation shall occur, personnel responsible for monitoring flood elevations, types of warning systems to be used and the procedures for notifying at-risk parties, and the methods and personnel responsible for conducting the evacuation.
- (5) This agreement shall be for no more than one calendar year, at which time the agreement shall be reviewed and updated - by the officials identified in sub. (4) - to remain in compliance with all applicable regulations, including those of the state Department of Health Services and all other applicable regulations.
- (6) Only camping units are allowed.
- (7) The camping units may not occupy any site in the campground for more than 180 consecutive days, at which time the camping unit must be removed from the floodplain for a minimum of 24 hours.
- (8) All camping units that remain on site for more than 30 days shall be issued a limited authorization by the campground operator, a written copy of which is kept on file at the campground. Such authorization shall allow placement of a camping unit for a period not to exceed 180 days and shall ensure compliance with all the provisions of this section.
- (9) The municipality shall monitor the limited authorizations issued by the campground operator to assure compliance with the terms of this section.
- (10) All camping units that remain in place for more than 180 consecutive days must meet the applicable requirements in either s. 3.0 or s. 4.0 for the floodplain district in which the structure is located.
- (11) The campground shall have signs clearly posted at all entrances warning of the flood hazard and the procedures for evacuation when a flood warning is issued.
- (12) All service facilities, including but not limited to refuse collection, electrical service, natural gas lines, propane tanks, sewage systems and wells shall be properly anchored and placed at or floodproofed to the flood protection elevation.

3.0 FLOODWAY DISTRICT (FW)

3.1 APPLICABILITY

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

3.2 PERMITTED USES

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

- they are not prohibited by any other ordinance;
 - they meet the standards in s. 3.3 and 3.4; and
 - all permits or certificates have been issued according to s. 7.1:
- (1) Agricultural uses, such as: farming, outdoor plant nurseries, horticulture, viticulture and wild crop harvesting.
 - (2) Nonstructural industrial and commercial uses, such as loading areas, parking areas and airport landing strips.
 - (3) Nonstructural recreational uses, such as golf courses, tennis courts, archery ranges, picnic grounds, boat ramps, swimming areas, parks, wildlife and nature preserves, game farms, fish hatcheries, shooting, trap and skeet activities, hunting and fishing areas and hiking and horseback riding trails, subject to the fill limitations of s. 3.3(4).
 - (4) Uses or structures accessory to open space uses, or classified as historic structures that comply with ss. 3.3 and 3.4.
 - (5) Extraction of sand, gravel or other materials that comply with s. 3.3(4).

- (6) Functionally water-dependent uses, such as docks, piers or wharves, dams, flowage areas, culverts, navigational aids and river crossings of transmission lines, and pipelines that comply with chs. 30 and 31, Stats.
- (7) Public utilities, streets and bridges that comply with s. 3.3(3).

3.3 **STANDARDS FOR DEVELOPMENTS IN FLOODWAY AREAS**

(1) **GENERAL**

- (a) Any development in floodway areas shall comply with s. 2.0 and have a low flood damage potential.
- (b) Applicants shall provide the following data to determine the effects of the proposal according to s. 2.1:
 - 1. A cross-section elevation view of the proposal, perpendicular to the watercourse, showing if the proposed development will obstruct flow; or
 - 2. An analysis calculating the effects of this proposal on regional flood height.
- (c) The zoning administrator shall deny the permit application if the project will increase flood elevations upstream or downstream 0.01 foot or more, based on the data submitted for par. (b) above.

(2) **STRUCTURES**

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

- (a) The structure is not designed for human habitation and does not have a high flood damage potential.
- (b) It must be anchored to resist flotation, collapse, and lateral movement;
- (c) Mechanical and utility equipment must be elevated or flood proofed to or above the flood protection elevation; and
- (d) It must not obstruct flow of flood waters or cause any increase in flood levels during the occurrence of the regional flood.

(3) PUBLIC UTILITIES, STREETS AND BRIDGES

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

- (a) Adequate floodproofing measures are provided to the flood protection elevation; and
- (b) Construction meets the development standards of s. 2.1.

(4) FILLS OR DEPOSITION OF MATERIALS

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

- (a) The requirements of s. 2.1 are met;
- (b) No material is deposited in the navigable channel unless a permit is issued by the Department pursuant to ch. 30, Stats., and a permit pursuant to s. 404 of the Federal Water Pollution Control Act, Amendments of 1972, 33 U.S.C. 1344 has been issued, if applicable, and the other requirements of this section are met;
- (c) The fill or other materials will be protected against erosion by riprap, vegetative cover, sheet piling or bulkheading; and

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

3.4 PROHIBITED USES

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

- (1) Habitable structures, structures with high flood damage potential, or those not associated with permanent open-space uses;
- (2) Storing materials that are buoyant, flammable, explosive, injurious to property, water quality, or human, animal, plant, fish or other aquatic life;
- (3) Uses not in harmony with or detrimental to uses permitted in the adjoining districts;
- (4) Any private or public sewage systems, except portable latrines that are removed prior to flooding and systems associated with recreational areas and Department-approved campgrounds that meet the applicable provisions of local ordinances and ch. COMM 83, Wis. Adm. Code;
- (5) Any public or private wells which are used to obtain potable water, except those for recreational areas that meet the requirements of local ordinances and chs. NR 811 and NR 812, Wis. Adm. Code;
- (6) Any solid or hazardous waste disposal sites;
- (7) Any wastewater treatment ponds or facilities, except those permitted under s. NR 110.15(3)(b), Wis. Adm. Code;
- (8) Any sanitary sewer or water supply lines, except those to service existing or proposed development located outside the floodway which complies with the regulations for the floodplain area occupied.

4.0 FLOODFRINGE DISTRICT (FF)

4.1 APPLICABILITY

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

4.2 PERMITTED USES

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

4.3 STANDARDS FOR DEVELOPMENT IN FLOODFRINGE AREAS

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

(1) RESIDENTIAL USES

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

- (a) The elevation of the lowest floor, excluding the basement or crawlway, shall be at or above the flood protection elevation on fill. The fill shall be one foot or more above the regional flood elevation extending at least 15 feet beyond the limits of the structure. The Department may authorize other floodproofing measures if the elevations of existing streets or sewer lines makes compliance with the fill standards impractical;
- (b) The basement or crawlway floor may be placed at the regional flood elevation if it is floodproofed to the flood protection elevation. No basement or crawlway floor is allowed below the regional flood elevation;

- (c) Contiguous dryland access shall be provided from a structure to land outside of the floodplain, except as provided in par. (d).
- (d) In developments where existing street or sewer line elevations make compliance with par. (c) impractical, the municipality may permit new development and substantial improvements where access roads are at or below the regional flood elevation, if:
 - 1. The municipality has written assurance from police, fire and emergency services that rescue and relief will be provided to the structure(s) by wheeled vehicles during a regional flood event; or
 - 2. The municipality has a natural disaster plan approved by Wisconsin Emergency Management and the Department.

(2) ACCESSORY STRUCTURES OR USES

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

(3) COMMERCIAL USES

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

(4) MANUFACTURING AND INDUSTRIAL USES

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

(5) STORAGE OF MATERIALS

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

(6) PUBLIC UTILITIES, STREETS AND BRIDGES

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

- (a) When failure of public utilities, streets and bridges would endanger public health or safety, or where such facilities are deemed essential, construction of and substantial improvements to such facilities may only be permitted if they are floodproofed in compliance with s. 7.5 to the flood protection elevation;
- (b) Minor roads or non-essential utilities may be constructed at lower elevations if they are designed to withstand flood forces to the regional flood elevation.

(7) SEWAGE SYSTEMS

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

(8) WELLS

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

(9) SOLID WASTE DISPOSAL SITES

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

(10) DEPOSITION OF MATERIALS

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

(11) MANUFACTURED HOMES

- (a) Owners or operators of all manufactured home parks and subdivisions shall provide adequate surface drainage to minimize flood damage, and prepare, secure approval and file an evacuation plan, indicating vehicular access and escape routes, with local emergency management authorities.
- (b) In existing manufactured home parks, all new homes, replacement homes on existing pads, and substantially improved homes shall:
 - 1. have the lowest floor elevated to the flood protection elevation; and
 - 2. be anchored so they do not float, collapse or move laterally during a flood
- (c) Outside of existing manufactured home parks, including new manufactured home parks and all single units outside of existing parks, all new, replacement and substantially improved manufactured homes shall meet the residential development standards for the floodfringe in s. 4.3(1).

(12) MOBILE RECREATIONAL VEHICLES

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

5.0 GENERAL FLOODPLAIN DISTRICT (GFP)

5.1 APPLICABILITY

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

5.2 PERMITTED USES

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

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

5.3 STANDARDS FOR DEVELOPMENT IN THE GENERAL FLOODPLAIN DISTRICT

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

5.4 **DETERMINING FLOODWAY AND FLOODFRINGE LIMITS**

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

- (1) Require the applicant to submit two copies of an aerial photograph or a plan which shows the proposed development with respect to the general floodplain district limits, stream channel, and existing floodplain developments, along with a legal description of the property, fill limits and elevations, building floor elevations and flood proofing measures;
- (2) Require the applicant to furnish any of the following information deemed necessary by the Department to evaluate the effects of the proposal upon flood height and flood flows, regional flood elevation and to determine floodway boundaries:
 - (a) A typical valley cross-section showing the stream channel, the floodplain adjoining each side of the channel, the cross-sectional area to be occupied by the proposed development, and all historic high water information;
 - (b) Plan (surface view) showing elevations or contours of the ground; pertinent structure, fill or storage elevations; size, location and layout of all proposed and existing structures on the site; location and elevations of streets, water supply, and sanitary facilities; soil types and other pertinent information;
 - (c) Profile showing the slope of the bottom of the channel or flow line of the stream;
 - (d) Specifications for building construction and materials, floodproofing, filling, dredging, channel improvement, storage, water supply and sanitary facilities.
- (3) Transmit one copy of the information described in pars. (1) and (2) to the Department Regional office along with a written request for technical assistance to establish regional flood elevations and, where applicable, floodway data. Where the provisions of s. 7.1(2)(c) apply, the applicant shall provide all required information and computations to delineate floodway boundaries and the effects of the project on flood elevations.

6.0 NONCONFORMING USES

6.1 GENERAL

(1) APPLICABILITY

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

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

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

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

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

- (c) The municipality shall keep a record which lists all nonconforming uses and nonconforming structures, their present equalized assessed value, the cost of all modifications or additions which have been permitted, and the percentage of the structure's total current value those modifications represent;
- (d) No modification or addition to any nonconforming structure or any structure with a nonconforming use, which over the life of the structure would equal or exceed 50% of its present equalized assessed value, shall be allowed unless the entire structure is permanently changed to a conforming structure with a conforming use in compliance with the applicable requirements of this ordinance. Contiguous dry land access must be provided for residential and commercial uses in compliance with s. 4.3(1). The costs of elevating a nonconforming building or a building with a nonconforming use to the flood protection elevation are excluded from the 50% provisions of this paragraph;
- (e) 1. Except as provided in subd. 2., if any nonconforming structure or any structure with a nonconforming use is destroyed or is substantially damaged, it cannot be replaced, reconstructed or rebuilt unless the use and the structure meet the current ordinance requirements. A structure is considered substantially damaged if the total cost to restore the structure to its pre-damaged condition equals or exceeds 50% of the structure's present equalized assessed value.

2. For nonconforming buildings that are damaged or destroyed by a nonflood disaster, the repair or reconstruction of any such nonconforming building may be permitted in order to restore it after the nonflood disaster, provided that the nonconforming building will meet all of the minimum requirements under applicable FEMA regulations (44 CFR Part 60), or the regulations promulgated thereunder.
- (f) A nonconforming historic structure may be altered if the alteration will not preclude the structures continued designation as a historic structure, the alteration will comply with s. 3.3 (1), flood resistant materials are used, and construction practices and floodproofing methods that comply with s. 7.5 are used.

6.2 FLOODWAY AREAS

- (1) No modification or addition shall be allowed to any nonconforming structure or any structure with a nonconforming use in a floodway area, unless such modification or addition:
 - (a) Has been granted a permit or variance which meets all ordinance requirements;

- (b) Meets the requirements of s. 6.1;
 - (c) Will not increase the obstruction to flood flows or regional flood height;
 - (d) Any addition to the existing structure shall be floodproofed, pursuant to s. 7.5, by means other than the use of fill, to the flood protection elevation;
 - (e) If any part of the foundation below the flood protection elevation is enclosed, the following standards shall apply:
 - 1. The enclosed area shall be designed by a registered architect or engineer to allow for the efficient entry and exit of flood waters without human intervention. A minimum of two openings must be provided with a minimum net area of at least one square inch for every one square foot of the enclosed area. The lowest part of the opening can be no more than 12 inches above the adjacent grade;
 - 2. The parts of the foundation located below the flood protection elevation must be constructed of flood-resistant materials;
 - 3. Mechanical and utility equipment must be elevated or floodproofed to or above the flood protection elevation; and
 - 4. The use must be limited to parking or limited storage.
- (2) No new on-site sewage disposal system, or addition to an existing on-site sewage disposal system, except where an addition has been ordered by a government agency to correct a hazard to public health, shall be allowed in a floodway area. Any replacement, repair or maintenance of an existing on-site sewage disposal system in a floodway area shall meet the applicable requirements of all municipal ordinances and ch. COMM 83, Wis. Adm. Code.
- (3) No new well or modification to an existing well used to obtain potable water shall be allowed in a floodway area. Any replacement, repair or maintenance of an existing well in a floodway area shall meet the applicable requirements of all municipal ordinances and chs. NR 811 and NR 812,

6.3 FLOODFRINGE AREAS

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

- (2) Where compliance with the provisions of par. (1) would result in unnecessary hardship and only where the structure will not be used for human habitation or be associated with a high flood damage potential, the Board of Adjustment/Appeals, using the procedures established in s. 7.3, may grant a variance from those provisions of par. (1) for modifications or additions, using the criteria listed below. Modifications or additions which are protected to elevations lower than the flood protection elevation may be permitted if:
 - (a) No floor is allowed below the regional flood elevation for residential or commercial structures;

 - (b) Human lives are not endangered;

 - (c) Public facilities, such as water or sewer, will not be installed;

 - (d) Flood depths will not exceed two feet;

 - (e) Flood velocities will not exceed two feet per second; and

 - (f) The structure will not be used for storage of materials as described in s. 4.3(5).

- (3) If neither the provisions of par. (1) or (2) above can be met, one addition to an existing room in a nonconforming building or a building with a nonconforming use may be allowed in the floodfringe, if the addition:
 - (a) Meets all other regulations and will be granted by permit or variance;
 - (b) Does not exceed 60 square feet in area; and
 - (c) In combination with other previous modifications or additions to the building, does not equal or exceed 50% of the present equalized assessed value of the building.
- (4) All new private sewage disposal systems, or addition to, replacement, repair or maintenance of a private sewage disposal system shall meet all the applicable provisions of all local ordinances and ch. COMM 83, Wis. Adm. Code.
- (5) All new wells, or addition to, replacement, repair or maintenance of a well shall meet the applicable provisions of this ordinance and ch. NR 811 and NR 812, Wis. Adm. Code.

7.0 ADMINISTRATION

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

7.1 ZONING ADMINISTRATOR

- (1) The zoning administrator is authorized to administer this ordinance and shall have the following duties and powers:
 - (a) Advise applicants of the ordinance provisions, assist in preparing permit applications and appeals, and assure that the regional flood elevation for the proposed development is shown on all permit applications.
 - (b) Issue permits and inspect properties for compliance with provisions of this ordinance, and issue certificates of compliance where appropriate.
 - (bm) Inspect all damaged floodplain structures and perform a substantial damage assessment to determine if substantial damage to the structures has occurred.
 - (c) Keep records of all official actions such as:
 1. All permits issued, inspections made, and work approved;
 2. Documentation of certified lowest floor and regional flood elevations for floodplain development;
 3. Records of water surface profiles, floodplain zoning maps and ordinances, nonconforming uses and structures including changes, appeals, variances and amendments.
 4. All substantial damage assessment reports for floodplain structures.
 - (d) Submit copies of the following items to the Department Regional office:
 1. Within 10 days of the decision, a copy of any decisions on variances, appeals for map or text interpretations, and map or text amendments;

2. Copies of any case-by-case analyses, and any other information required by the Department including an annual summary of the number and types of floodplain zoning actions taken.
 3. Copies of substantial damage assessments performed and all related correspondence concerning the assessments.
- (e) Investigate, prepare reports, and report violations of this ordinance to the municipal zoning agency and attorney for prosecution. Copies of the reports shall also be sent to the Department Regional office.
- (f) Submit copies of text and map amendments and biennial reports to the FEMA Regional office.

(2) LAND USE PERMIT

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

(a) GENERAL INFORMATION

1. Name and address of the applicant, property owner and contractor;
2. Legal description, proposed use, and whether it is new construction or a modification;

(b) SITE DEVELOPMENT PLAN

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

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

(c) DATA REQUIREMENTS TO ANALYZE DEVELOPMENTS

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

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

(d) EXPIRATION

All permits issued under the authority of this ordinance shall expire 6 months after issuance.

(3) CERTIFICATE OF COMPLIANCE

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

- (a) The certificate of compliance shall show that the building or premises or part thereof, and the proposed use, conform to the provisions of this ordinance;
 - (b) Application for such certificate shall be concurrent with the application for a permit;
 - (c) If all ordinance provisions are met, the certificate of compliance shall be issued within 10 days after written notification that the permitted work is completed;
 - (d) The applicant shall submit a certification signed by a registered professional engineer, architect or land surveyor that the fill, lowest floor and floodproofing elevations are in compliance with the permit issued. Floodproofing measures also require certification by a registered professional engineer or architect that floodproofing measures meet the requirements of s. 7.5.
- (4) OTHER PERMITS

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

7.2 ZONING AGENCY

- (1) The Property Committee shall:
 - (a) oversee the functions of the office of the zoning administrator; and
 - (b) review and advise the Governing body on all proposed amendments to this ordinance, maps and text.
- (2) This zoning agency shall not

- (a) grant variances to the terms of the ordinance in place of action by the Board of Adjustment/Appeals; or
- (b) amend the text or zoning maps in place of official action by the Governing body.

7.3 BOARD OF ADJUSTMENT/APPEALS

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

(1) POWERS AND DUTIES

The Board of Adjustment/Appeals shall:

- (a) Appeals - Hear and decide appeals where it is alleged there is an error in any order, requirement, decision or determination made by an administrative official in the enforcement or administration of this ordinance.
- (b) Boundary Disputes - Hear and decide disputes concerning the district boundaries shown on the official floodplain zoning map.
- (c) Variances - Hear and decide, upon appeal, variances from the ordinance standards.

(2) APPEALS TO THE BOARD

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

appealed.

(b) NOTICE AND HEARING FOR APPEALS INCLUDING VARIANCES

1. Notice - The board shall:

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

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

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

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

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

5. Either affirm, reverse, vary or modify the order, requirement, decision or determination appealed, in whole or in part, dismiss the appeal for lack of jurisdiction or grant or deny the variance application;
6. Include the reasons for granting an appeal, describing the hardship demonstrated by the applicant in the case of a variance, clearly stated in the recorded minutes of the Board proceedings.

(3) BOUNDARY DISPUTES

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

- (a) If a floodplain district boundary is established by approximate or detailed floodplain studies, the flood elevations or profiles shall prevail in locating the boundary. If none exist, other evidence may be examined.
- (b) In all cases, the person contesting the boundary location shall be given a reasonable opportunity to present arguments and technical evidence to the Board.
- (c) If the boundary is incorrectly mapped, the Board should inform the zoning committee or the person contesting the boundary location to petition the governing body for a map amendment according to s. 8.0.

(4) VARIANCE

- (a) The Board may, upon appeal, grant a variance from the standards of this ordinance if an applicant convincingly demonstrates that:
 1. Literal enforcement of the ordinance provisions will cause unnecessary hardship;
 2. The hardship is due to adoption of the floodplain ordinance and unique property

conditions, not common to adjacent lots or premises. In such case the ordinance or map must be amended;

3. The variance is not contrary to the public interest; and
4. The variance is consistent with the purpose of this ordinance in s. 1.3.

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

1. The variance may not cause any increase in the regional flood elevation;
2. Variances can only be granted for lots that are less than one-half acre and are contiguous to existing structures constructed below the RFE;
3. Variances shall only be granted upon a showing of good and sufficient cause, shall be the minimum relief necessary, shall not cause increased risks to public safety or nuisances, shall not increase costs for rescue and relief efforts and shall not be contrary to the purpose of the ordinance.

(c) A variance shall not:

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

preclude its continued designation as an historic structure.

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

7.4 TO REVIEW APPEALS OF PERMIT DENIALS

- (1) The Zoning Agency (s. 7.2) or Board shall review all data related to the appeal. This may include:
 - (a) Permit application data listed in s. 7.1(2).
 - (b) Floodway/floodfringe determination data in s. 5.4.
 - (c) Data listed in s. 3.3(1)(b) where the applicant has not submitted this information to the zoning administrator.
 - (d) Other data submitted with the application, or submitted to the Board with the appeal.
- (2) For appeals of all denied permits the Board shall:
 - (a) Follow the procedures of s. 7.3;
 - (b) Consider zoning agency recommendations; and
 - (c) Either uphold the denial or grant the appeal.
- (3) For appeals concerning increases in regional flood elevation the Board shall:

- (a) Uphold the denial where the Board agrees with the data showing an increase in flood elevation. Increases equal to or greater than 0.01 foot may only be allowed after amending the flood profile and map and all appropriate legal arrangements are made with all adversely affected property owners.
- (b) Grant the appeal where the Board agrees that the data properly demonstrates that the project does not cause an increase equal to or greater than 0.01 foot provided no other reasons for denial exist.

7.5 FLOODPROOFING

- (1) No permit or variance shall be issued until the applicant submits a plan certified by a registered professional engineer or architect that the floodproofing measures will protect the structure or development to the flood protection elevation.
- (2) Floodproofing measures shall be designed to:
 - (a) Withstand flood pressures, depths, velocities, uplift and impact forces and other regional flood factors;
 - (b) Protect structures to the flood protection elevation;
 - (c) Anchor structures to foundations to resist flotation and lateral movement; and
 - (d) Insure that structural walls and floors are watertight to the flood protection elevation, and the interior remains completely dry during flooding without human intervention.
- (3) Floodproofing measures could include:
 - (a) Reinforcing walls and floors to resist rupture or collapse caused by water pressure or

- (b) Adding mass or weight to prevent flotation.
- (c) Placing essential utilities above the flood protection elevation.
- (d) Installing surface or subsurface drainage systems to relieve foundation wall and basement floor pressures.
- (e) Constructing water supply wells and waste treatment systems to prevent the entry of flood waters.
- (f) Putting cutoff valves on sewer lines or eliminating gravity flow basement drains.

7.6 PUBLIC INFORMATION

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

8.0 AMENDMENTS

8.1 GENERAL

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

- (1) Any change to the official floodplain zoning map, including the floodway line or boundary of any floodplain area.

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

Note: Consult the FEMA web site - www.fema.gov - for the map change fee schedule.

8.2 PROCEDURES

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

- (1) The proposed amendment shall be referred to the zoning agency for a public hearing and recommendation to the governing body. The amendment and notice of public hearing shall be submitted to the Department Regional office for review prior to the hearing. The amendment procedure shall comply with the provisions of s. 62.23, Stats., for cities and villages or s. 59.69, Stats., for counties.
- (2) No amendments shall become effective until reviewed and approved by the Department.
- (3) All persons petitioning for a map amendment that obstructs flow, increasing regional flood

height 0.01 foot or more, shall obtain flooding easements or other appropriate legal arrangements from all adversely affected property owners and notify local units of government before the amendment can be approved by the governing body.

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

9.0 ENFORCEMENT AND PENALTIES

Any violation of the provisions of this ordinance by any person shall be unlawful and shall be referred to the municipal attorney who shall expeditiously prosecute all such violators. A violator shall, upon conviction, forfeit to the municipality a penalty specified in s. 87.30, Stats, together with a taxable cost of such action. Each day of continued violation shall constitute a separate offense. Every violation of this ordinance is a public nuisance and the creation may be enjoined and the maintenance may be abated by action at suit of the municipality, the state, or any citizen thereof pursuant to s. 87.30, Stats.

10.0 DEFINITIONS

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

- 1) "A ZONES" - Those areas shown on the Official Floodplain Zoning Map which would be inundated by the regional flood. These areas may be numbered or unnumbered A Zones. The A Zones may or may not be reflective of flood profiles, depending on the availability of data for a given area.
- 2) "ACCESSORY STRUCTURE OR USE" - A facility, structure, building or use which is accessory or incidental to the principal use of a property, structure or building.
- 3) "BASE FLOOD" - Means the flood having a one percent chance of being equaled or exceeded in any given year, as published by FEMA as part of a FIS and depicted on a FIRM.
- 4) "BASEMENT" - Any enclosed area of a building having its floor sub-grade, i.e., below ground level, on all sides.

- 5) "BUILDING" - See STRUCTURE.
- 6) "BULKHEAD LINE" - A geographic line along a reach of navigable water that has been adopted by a municipal ordinance and approved by the Department pursuant to s. 30.11, Stats., and which allows limited filling between this bulkhead line and the original ordinary highwater mark, except where such filling is prohibited by the floodway provisions of this ordinance.
- 7) "CAMPGROUND" - Any parcel of land which is designed, maintained, intended or used for the purpose of providing sites for nonpermanent overnight use by 4 or more camping units, or which is advertised or represented as a camping area.
- 8) "CAMPING UNIT" - Any portable device, no more than 400 square feet in area, used as a temporary shelter, including but not limited to a camping trailer, motor home, bus, van, pick-up truck, tent or other mobile recreational vehicle.
- 9) "CERTIFICATE OF COMPLIANCE" - A certification that the construction and the use of land or a building, the elevation of fill or the lowest floor of a structure is in compliance with all of the provisions of this ordinance.
- 10) "CHANNEL" – A natural or artificial watercourse with definite bed and banks to confine and conduct normal flow of water.
- 11) "CRAWLWAYS" OR "CRAWL SPACE" - An enclosed area below the first usable floor of a building, generally less than five feet in height, used for access to plumbing and electrical utilities.
- 12) "DECK" – An unenclosed exterior structure that has no roof or sides, but has a permeable floor which allows the infiltration of precipitation.
- 13) "DEPARTMENT" - The Wisconsin Department of Natural Resources.
- 14) "DEVELOPMENT" - Any artificial change to improved or unimproved real estate, including, but not limited to, the construction of buildings, structures or accessory structures; the construction of additions or alterations to buildings, structures or accessory structures; the repair of any damaged structure or the improvement or renovation of any structure, regardless of percentage of damage or improvement; the placement of buildings or structures; subdivision layout and site preparation; mining, dredging, filling, grading, paving, excavation or drilling operations; the storage, deposition or extraction of materials or equipment; and the installation, repair or removal of public or private sewage disposal systems or water supply facilities.
- 15) "DRYLAND ACCESS" - A vehicular access route which is above the regional flood elevation and which connects land located in the floodplain to land outside the floodplain, such as a road with its surface above

regional flood elevation and wide enough for wheeled rescue and relief vehicles.

- 16) "ENCROACHMENT" - Any fill, structure, equipment, building, use or development in the floodway.
- 17) "EXISTING MANUFACTURED HOME PARK OR SUBDIVISION" - A parcel of land, divided into two or more manufactured home lots for rent or sale, on which the construction of facilities for servicing the lots is completed before the effective date of this ordinance. At a minimum, this would include the installation of utilities, the construction of streets and either final site grading or the pouring of concrete pads
- 18) "EXPANSION TO EXISTING MOBILE/MANUFACTURED HOME PARK" - The preparation of additional sites by the construction of facilities for servicing the lots on which the manufactured homes are to be affixed. This includes installation of utilities, construction of streets and either final site grading, or the pouring of concrete pads.
- 19) "FEDERAL EMERGENCY MANAGEMENT AGENCY (FEMA)" - The federal agency that administers the National Flood Insurance Program.
- 20) "FLOOD INSURANCE RATE MAP" (FIRM) - A map of a community on which the Federal Insurance Administration has delineated both special flood hazard areas (the floodplain) and the risk premium zones applicable to the community. This map can only be amended by the Federal Emergency Management Agency.
- 21) "FLOOD" or "FLOODING" – A general and temporary condition of partial or complete inundation of normally dry land areas caused by one of the following conditions:
 - ✓ The overflow or rise of inland waters,
 - ✓ The rapid accumulation or runoff of surface waters from any source,
 - ✓ The inundation caused by waves or currents of water exceeding anticipated cyclical levels along the shore of Lake Michigan or Lake Superior, or
 - ✓ The sudden increase caused by an unusually high water level in a natural body of water, accompanied by a severe storm, or by an unanticipated force of nature, such as a seiche, or by some similarly unusual event.
- 22) "FLOOD FREQUENCY" - The probability of a flood occurrence which is determined from statistical analyses. The frequency of a particular flood event is usually expressed as occurring, on the average once in a specified number of years or as a percent (%) chance of occurring in any given year.
- 23) "FLOODFRINGE" - That portion of the floodplain outside of the floodway which is covered by flood

waters during the regional flood and associated with standing water rather than flowing water.

- 24) "FLOOD HAZARD BOUNDARY MAP" - A map designating approximate flood hazard areas. Flood hazard areas are designated as unnumbered A-Zones and do not contain floodway lines or regional flood elevations. This map forms the basis for both the regulatory and insurance aspects of the National Flood Insurance Program (NFIP) until superseded by a Flood Insurance Study and a Flood Insurance Rate Map.
- 25) "FLOOD INSURANCE STUDY" - A technical engineering examination, evaluation, and determination of the local flood hazard areas. It provides maps designating those areas affected by the regional flood and provides both flood insurance rate zones and base flood elevations and may provide floodway lines. The flood hazard areas are designated as numbered and unnumbered A-Zones. Flood Insurance Rate Maps, that accompany the Flood Insurance Study, form the basis for both the regulatory and the insurance aspects of the National Flood Insurance Program.
- 26) "FLOODPLAIN" - Land which has been or may be covered by flood water during the regional flood. It includes the floodway and the floodfringe, and may include other designated floodplain areas for regulatory purposes.
- 27) "FLOODPLAIN ISLAND" - A natural geologic land formation within the floodplain that is surrounded, but not covered, by floodwater during the regional flood.
- 28) "FLOODPLAIN MANAGEMENT" - Policy and procedures to insure wise use of floodplains, including mapping and engineering, mitigation, education, and administration and enforcement of floodplain regulations.
- 29) "FLOOD PROFILE" - A graph or a longitudinal profile line showing the relationship of the water surface elevation of a flood event to locations of land surface elevations along a stream or river.
- 30) "FLOODPROOFING" - Any combination of structural provisions, changes or adjustments to properties and structures, water and sanitary facilities and contents of buildings subject to flooding, for the purpose of reducing or eliminating flood damage.
- 31) "FLOOD PROTECTION ELEVATION" - An elevation of two feet of freeboard above the water surface profile elevation designated for the regional flood. (Also see: FREEBOARD.)
- 32) "FLOOD STORAGE" - Those floodplain areas where storage of floodwaters has been taken into account during analysis in reducing the regional flood discharge.
- 33) "FLOODWAY" - The channel of a river or stream and those portions of the floodplain adjoining the channel required to carry the regional flood discharge.
- 34) "FREEBOARD" - A safety factor expressed in terms of a specified number of feet above a calculated

flood level. Freeboard compensates for any factors that cause flood heights greater than those calculated, including ice jams, debris accumulation, wave action, obstruction of bridge openings and floodways, the effects of watershed urbanization, loss of flood storage areas due to development and aggregation of the river or stream bed.

- 35) "HABITABLE STRUCTURE" - Any structure or portion thereof used or designed for human habitation.
- 36) "HEARING NOTICE" - Publication or posting meeting the requirements of Ch. 985, Stats. For appeals, a Class 1 notice, published once at least one week (7 days) before the hearing, is required. For all zoning ordinances and amendments, a Class 2 notice, published twice, once each week consecutively, the last at least a week (7 days) before the hearing. Local ordinances or bylaws may require additional notice, exceeding these minimums.
- 37) "HIGH FLOOD DAMAGE POTENTIAL" - Damage that could result from flooding that includes any danger to life or health or any significant economic loss to a structure or building and its contents.
- 38) "HISTORIC STRUCTURE" - Any structure that is either:
- ✓ Listed individually in the National Register of Historic Places or preliminarily determined by the Secretary of the Interior as meeting the requirements for individual listing on the National Register,
 - ✓ Certified or preliminarily determined by the Secretary of the Interior as contributing to the historical significance of a registered historic district or a district preliminarily determined by the Secretary to qualify as a registered historic district,
 - ✓ Individually listed on a state inventory of historic places in states with historic preservation programs which have been approved by the Secretary of the Interior, or
 - ✓ Individually listed on a local inventory of historic places in communities with historic preservation programs that have been certified either by an approved state program, as determined by the Secretary of the Interior; or by the Secretary of the Interior in states without approved programs.
- 39) "INCREASE IN REGIONAL FLOOD HEIGHT" - A calculated upward rise in the regional flood elevation, equal to or greater than 0.01 foot, based on a comparison of existing conditions and proposed conditions which is directly attributable to development in the floodplain but not attributable to manipulation of mathematical variables such as roughness factors, expansion and contraction coefficients and discharge.
- 40) "LAND USE" - Any nonstructural use made of unimproved or improved real estate. (Also see DEVELOPMENT.)

- 41) "MANUFACTURED HOME" - A structure transportable in one or more sections, which is built on a permanent chassis and is designed to be used with or without a permanent foundation when connected to required utilities. The term "manufactured home" includes a mobile home but does not include a "mobile recreational vehicle."
- 42) "MOBILE RECREATIONAL VEHICLE" - A vehicle which is built on a single chassis, 400 square feet or less when measured at the largest horizontal projection, designed to be self-propelled, carried or permanently towable by a licensed, light-duty vehicle, is licensed for highway use if registration is required and is designed primarily not for use as a permanent dwelling, but as temporary living quarters for recreational, camping, travel or seasonal use. Manufactured homes that are towed or carried onto a parcel of land, but do not remain capable of being towed or carried, including park model homes, do not fall within the definition of "mobile recreational vehicles."
- 43) "MUNICIPALITY" or "MUNICIPAL" - The county, city or village governmental units enacting, administering and enforcing this zoning ordinance.
- 44) "NAVD" or "NORTH AMERICAN VERTICAL DATUM" – Elevations referenced to mean sea level datum, 1988 adjustment.
- 45) "NGVD" or "NATIONAL GEODETIC VERTICAL DATUM" - Elevations referenced to mean sea level datum, 1929 adjustment.
- 46) "NEW CONSTRUCTION" - For floodplain management purposes, "new construction" means structures for which the start of construction commenced on or after the effective date of floodplain zoning regulations adopted by this community and includes any subsequent improvements to such structures. For the purpose of determining flood insurance rates, it includes any structures for which the "start of construction" commenced on or after the effective date of an initial FIRM or after December 31, 1974, whichever is later, and includes any subsequent improvements to such structures.
- 47) "NONCONFORMING STRUCTURE" - An existing lawful structure or building which is not in conformity with the dimensional or structural requirements of this ordinance for the area of the floodplain which it occupies. (For example, an existing residential structure in the floodfringe district is a conforming use. However, if the lowest floor is lower than the flood protection elevation, the structure is nonconforming.)
- 48) "NONCONFORMING USE" - An existing lawful use or accessory use of a structure or building which is not in conformity with the provisions of this ordinance for the area of the floodplain which it occupies. (Such as a residence in the floodway.)
- 49) "OBSTRUCTION TO FLOW" - Any development which blocks the conveyance of floodwaters such that this development alone or together with any future development will cause an increase in regional flood height.
- 50) "OFFICIAL FLOODPLAIN ZONING MAP" - That map, adopted and made part of this ordinance, as

described in s. 1.5(2), which has been approved by the Department and FEMA.

- 51) "OPEN SPACE USE" - Those uses having a relatively low flood damage potential and not involving structures.
- 52) "ORDINARY HIGHWATER MARK" - The point on the bank or shore up to which the presence and action of surface water is so continuous as to leave a distinctive mark such as by erosion, destruction or prevention of terrestrial vegetation, predominance of aquatic vegetation, or other easily recognized characteristic.
- 53) "PERSON" - An individual, or group of individuals, corporation, partnership, association, municipality or state agency.
- 54) "PRIVATE SEWAGE SYSTEM" - A sewage treatment and disposal system serving one structure with a septic tank and soil absorption field located on the same parcel as the structure. It also means an alternative sewage system approved by the Department of Commerce, including a substitute for the septic tank or soil absorption field, a holding tank, a system serving more than one structure or a system located on a different parcel than the structure.
- 55) "PUBLIC UTILITIES" - Those utilities using underground or overhead transmission lines such as electric, telephone and telegraph, and distribution and collection systems such as water, sanitary sewer and storm sewer.
- 56) "REASONABLY SAFE FROM FLOODING" - Means base flood waters will not inundate the land or damage structures to be removed from the special flood hazard area and that any subsurface waters related to the base flood will not damage existing or proposed buildings.
- 57) "REGIONAL FLOOD" - A flood determined to be representative of large floods known to have occurred in Wisconsin. A regional flood is a flood with a one percent chance of being equaled or exceeded in any given year, and if depicted on the FIRM, the RFE is equivalent to the BFE.
- 58) "START OF CONSTRUCTION" - The date the building permit was issued, provided the actual start of construction, repair, reconstruction, rehabilitation, addition, placement, or other improvement was within 180 days of the permit date. The actual start means either the first placement of permanent construction on a site, such as the pouring of slab or footings, the installation of piles, the construction of columns, or any work beyond initial excavation, or the placement of a manufactured home on a foundation. Permanent construction does not include land preparation, such as clearing, grading and filling, nor does it include the installation of streets and/or walkways, nor does it include excavation for a basement, footings, piers or foundations or the erection of temporary forms, nor does it include the installation on the property of accessory buildings, such as garages or sheds not occupied as dwelling units or not part of the main structure. For an alteration, the actual start of construction means the first alteration of any wall, ceiling, floor or other structural part of a building, whether or not that alteration affects the external dimensions of the building.

- 59) "STRUCTURE" - Any manmade object with form, shape and utility, either permanently or temporarily attached to, placed upon or set into the ground, stream bed or lake bed, including, but not limited to, roofed and walled buildings, gas or liquid storage tanks, bridges, dams and culverts.
- 60) "SUBDIVISION" - Has the meaning given in s. 236.02(12), Wis. Stats.
- 61) "SUBSTANTIAL DAMAGE" - Damage of any origin sustained by a structure, whereby the cost of restoring the structure to its pre-damaged condition would equal or exceed 50 percent of the equalized assessed value of the structure before the damage occurred.
- 62) "UNNECESSARY HARDSHIP" - Where special conditions affecting a particular property, which were not self-created, have made strict conformity with restrictions governing areas, setbacks, frontage, height or density unnecessarily burdensome or unreasonable in light of the purposes of the ordinance.
- 63) "VARIANCE" - An authorization by the board of adjustment or appeals for the construction or maintenance of a building or structure in a manner which is inconsistent with dimensional standards (not uses) contained in the floodplain zoning ordinance.
- 64) "VIOLATION" - The failure of a structure or other development to be fully compliant with the floodplain zoning ordinance. A structure or other development without required permits, lowest floor elevation documentation, floodproofing certificates or required floodway encroachment calculations is presumed to be in violation until such time as that documentation is provided.
- 65) "WATERSHED" - The entire region contributing runoff or surface water to a watercourse or body of water.
- 66) "WATER SURFACE PROFILE" - A graphical representation showing the elevation of the water surface of a watercourse for each position along a reach of river or stream at a certain flood flow. A
- 67) water surface profile of the regional flood is used in regulating floodplain areas.
- 68) "WELL" - means an excavation opening in the ground made by digging, boring, drilling, driving or other methods, to obtain groundwater regardless of its intended use.

Adopted this 28th day of March 2011

Karen Witte, Clerk

Chapter 17.08

SUBDIVISION AND PLATTING

Sections:

- 17.08.010 Purpose and General Provisions
- 17.08.020 Definitions
- 17.08.030 Procedure
- 17.08.040 Plats and Data
- 17.08.050 Design Standards
- 17.08.060 Required Improvements
- 17.08.070 Reservations and Dedications
- 17.08.080 Construction
- 17.08.090 Variances

17.08.010 Purpose. The purpose of this chapter is to promote public health, safety and general welfare of the community and these regulations are designed to lessen congestion in the streets and highways; to further the orderly layout and use of land; to secure safety from fire, panic and other dangers; to provide adequate light and air; to prevent the overcrowding of land; to avoid undue concentration of population; to facilitate adequate provision for transportation, water, sewer, schools, parks, playgrounds and other public requirements; to facilitate the further resubdivision of larger tracts into smaller parcels of land. These regulations are made with the reasonable consideration, among other things, of the character of the City with a view of conserving the value of the buildings placed upon land, providing the best possible environment for human habitation, and for encouraging the most appropriate use of land throughout the City. (August 10, 1976).

17.08.011 Jurisdiction. This ordinance applies to any division of land within the City or its extra-territorial plat approval jurisdiction which results in a subdivision as defined herein. (August 10, 1976).

17.08.012 Subdivisions Created by Successive Divisions. Where it is not practicable to require that a final plat of a subdivision created by successive divisions be filed in accordance with this chapter, the Council may in lieu thereof, order an assessor's plat to be made under Section 70.27, Wisconsin Statutes, and may assess the cost thereof as provided in such section, or to the sub divider. Regardless of the type of plat filed, any such subdivision shall comply with all provisions of this title to the extent that they may reasonably be applied. (August 10, 1976).

17.08.013 Land Unsuitable for Subdivision. No land shall be subdivided for residential use which is held by the Council to be unsuitable for such use by reason of flooding or bad drainage, adverse earth or rock formation or topography or any other feature likely to be harmful to the health, safety, or welfare of the future residents in the proposed subdivision or of the community. (August 10, 1976 Section 18.02.03).

17.08.014 Greater Restrictions. This Ordinance shall not repeal, impair or modify private covenants or public ordinances except that it shall apply whenever the regulations it imposes are more restrictive. (August 10, 1976 Section 18.0 .04)

17.08.015 Compliance. The proposed subdivision shall conform to:

- a) the provisions of Chapter 236, Wisconsin Statutes; b) All applicable Ordinances of the City of Whitehall;
- c) The rules of the Wisconsin Department of Health and Social Services relating to lot size and lot elevation, if the subdivision is not served by a public sewer and provision for such service has not been made;
- d) The rules of the Wisconsin Department of Transportation relating to safety of access and the preservation of the public interest and investment in the streets, if the subdivision or any lot contained therein abuts on a state trunk highway or connecting street.

(August 10, 1976 Section 18.0/..05).

17.08.016 Enforcement and Penalties. Any person, association, partnership, or corporation who violates any provision of this Chapter or any order, rule or regulation made hereunder shall be subject to a penalty as provided in Chapter 1.08 of this Municipal Code. Each day a violation exists shall constitute a separate offense. In addition, the remedies provided by Sections 236.30 and 236.31 Wis. Stats., shall be available to the City. (August 10, 1976 Section 18.02.06).

17.08.020 Definitions. The following definitions shall apply to this Chapter:

17.08.021 Subdivision. Subdivision is a division of a lot, parcel or tract of land by the owner thereof or his agent for the purpose of sale or of building development where:

- a) The act of division creates five (5) or more parcels or building sites of 1 acres or less in area; or
- b) Five (5) or more parcels or building sites of 1

acres or less in area are created by successive divisions within a period of five (5) years. (August 10, 1976, Section 18.03.01).

17.08.022 Streets:

- a) Major Arterials or Highways - A major arterial or highway is a street used, or intended to be used, primarily for fast or heavy through traffic.
 - b) Minor Arterials - A minor arterial is a street designed for moderate and multipurpose use designed to connect major arterials or highways.
 - c) Collector - A collector street is a street used, or intended to be used, to carry traffic from minor streets to the major system of arterial streets including the principal entrance streets to residential developments.
 - d) Local Street - A local Street is a street used, or intended to be used, primarily for access to abutting properties.
 - e) Alley - Alley means a public or private right of way shown on a plat, which provides secondary access to a lot, block or parcel of land.
- (August 10, 1976, Section 18.03.02).

17.08.030 Procedure. Before filing a preliminary plat, a subdivider should consult with the Plan Commission and/or its staff for advice regarding general requirements affecting the proposed development. A sketch of the proposed subdivision drawn on a topographic survey map should be submitted. The subdivider should provide a location map showing the relationship of the proposed subdivision to traffic arteries and existing community facilities. (August 10, 1976, Section 18.04.01).

17.08.031 Preliminary Plat Review.

- a) The subdivider shall submit to the Council and to those agencies having the authority to object to plats under provisions in Chapter 236 of the Wisconsin Statutes, a preliminary plat. The preliminary plat shall be prepared in accordance with this ordinance, and the subdivider shall comply with the procedures of Sections 236.11 and 236.12 of the Wisconsin Statutes.
- b) After review of the preliminary plat and negotiations with the subdivider on changes deemed advisable and the kind and extent of public improvement which will be required, the Council shall within sixty (60) days of its submission approve, approve conditionally, or reject the plat. The subdivider shall be notified in writing of any conditions of approval or the reasons for rejection.
- c) Approval of the preliminary plat shall entitle the subdivider to approval of the layout shown by such plat if the final plat conforms substantially to such layout, and conditions of approval have been met.

- d) Whenever it is proposed to replat a recorded subdivision or subdivisions, or any part of a recorded subdivision or subdivisions, the Council shall hold a public hearing on the proposed preliminary plat of the replat before taking action. When a preliminary plat of a replat is filed with the Council, the City Clerk shall schedule a public hearing before the City Plan Commission. The Clerk shall mail notices of the proposed replat and of the scheduled hearing thereon at least ten (10) days prior to the time of such hearing to the owners of the property situated within the limits of the exterior boundaries of the proposed replat, and to the owners of all properties within a radius of 200 feet of the exterior boundaries of the proposed replat.
(August 10, 1976, Section 18.04.02).

17.08.032 Final Plat Review.

- a) The final plat and such copies as shall be required shall be submitted within six (6) months of the approval of the preliminary plat. However, if approval of the preliminary plat must be obtained from another approving authority subsequent to the approval by the Council, the final plat shall be submitted within six (6) months of such approval. The Council may waive failure to comply with this requirement. If the final plat is not submitted within the time specified in Section 236.11 of the Wisconsin Statutes, the governing body may refuse to approve the final plat.
- b) The Council shall approve or reject the final plat within sixty (60) days of its submission, unless the time is extended by agreement with the subdivider. Reasons for rejection shall be stated in the minutes of the Council meeting and a copy of thereof or a written statement of such reasons shall be supplied to the subdivider.
- c) Failure of the Council to approve or reject such plat within the time specified in Section 126.11 of the Wisconsin Statutes, the time having not been extended and no unsatisfied objections having been filed, the plat shall be deemed approved.
- d) If the original of the final plat has been filed with another approving authority, the subdivider may file a true copy of such plat in lieu of the original. However, before approval of the Council will be inscribed on the original of the final plat, the surveyor or the subdivider shall certify the respects in which the original of the final plat differs from a true copy, and all modifications must first be approved.
- e) After the final plat has been approved by the council and required improvements either installed or a contract and sureties insuring their installation is filed, the clerk

shall cause the certificate inscribed upon the plat attesting to such approval to be duly executed and the plat returned to the subdivider for recording with the County Register of Deeds. The Register of Deeds cannot record the plat unless it is offered within the time specified in Section 236.25 of the Wisconsin Statutes. (August 10, 1976, Section 18.04.03).

17.08.033 Subdivisions Outside the City. In planning and developing a subdivision in an unincorporated area of Trempealeau County within 1miles of the corporate limits of the City of Whitehall as provided by Section 236.02(2) of the Wisconsin Statutes, the subdivider or his agent shall follow the procedures outlined in Section 17.08.030 through 17.08.033 of this Ordinance and Sections 236.10 and 236.12, Wisconsin Statutes. (August 10, 1976, Section 18.04.04).

17.08.040 Plats and Data:

17.08.041 Preliminary Plat.

- a) The preliminary plat shall be drawn with waterproof, nonfading black ink or legibly drawn with pencil on tracing cloth, or tracing paper of good quality, on a scale of not more than 100 feet to an inch and shall be in sufficient detail and contain such information as will enable the Council to determine whether the design of the final plat will conform to this Chapter.
 - b) Supplementary Information. The subdivider shall furnish the following information with his preliminary plat:
 - 1) A brief description of the improvements such as grading, paving, tree planting, installation of utilities which the subdivider proposes to make and the time when he proposes to make them.
 - 2) A brief description of the deed restrictions, if any, which will be put on the plat.
 - 3) The location, right of way with the names of all existing streets, alleys or other public ways, easements, railroad and utility rights of way, and all section, and quarter section lines within the exterior boundaries of the plat or immediate adjacent thereto.
 - 4) Existing zoning on and adjacent to the proposed subdivision.
 - c) The City Engineer, with the approval of the City Plan Commission, may require that borings and soundings be made in specified areas to ascertain subsurface soil, rock and water conditions, including depth to bedrock and depth to ground water table.
- (August 10, 1976 Section 18.05.01).

17.08.042 Final Plat. A final plat prepared by a registered

land surveyor shall be required for all subdivisions. It shall conform to the preliminary plat as approved and comply in all respects with the requirements of Chapter 236 of the Wisconsin Statutes. The Final plat shall be accompanied by detailed construction plans of all improvements required of the subdivider. (August 10, 1976 Section 18.05.02).

17.08.050 Design Standards:

17.08.051 Streets and Alleys.

- a) In any new subdivision, the street layout shall conform to the arrangement, width and location indicated on the official map or general plan of the City. If the City has not yet adopted such a plan, the street layout shall recognize the functional classification of the various types of streets and shall be developed and located in proper relation to existing and proposed streets, to the topography, to such natural features as streams and tree growth, to public convenience and safety, to the proposed use of the land to be served by such street, and to the most advantageous development of adjoining areas. The subdivision shall be designed so as to provide each lot with satisfactory access to a public street.
- b) Street widths, grades, and curvatures shall be as follows:

1) Street Widths:

<u>Type of Street</u>	Minimum R.O.W.	Minimum Roadway Width (Curb to Curb)
Major Arterials or Highways	120 feet	Dual 34 feet
Minor Arterials	100 feet	Dual 34 feet
Collector Streets	80 feet	44 feet
Local Streets	66 feet	40 feet
Alley	24 feet	20 feet

2) Street Grades

Type of Street

Arterials (Major or Minor)	8 percent
Collector, Local Streets, Alleys	10 percent

The grade of any street shall in no case exceed ten (10) percent or be less than one-half () of one percent.

- 3) Radii of Curvature. 1- Then a continuous street center line deflects at any one point by more than ten degrees, a circular curve shall be introduced having a radius of curvature on said center line of not less than the following:

<u>Type of Street</u>	Curvature
Arterials, (Major and Minor)	300 feet
Collector Streets	200 feet
Local .streets	100 feet

A tangent at least 100 feet in length shall be provided between reverse curves on arterial and collector streets.

- c) Cul de sacs shall not exceed 500 feet in length and shall terminate with a turnaround of not less than 100 feet in diameter.
(August 10, 1976, Section 18.06.01).

17.08.052 Intersections:

- a) Irregular streets intersect and cross their alignment shall be continuous and street jogs or off-center intersections shall be avoided.
 - b) Streets shall intersect within 15 degrees of perpendicular to the intersected street.
 - c) No more than two (2) streets shall intersect at one point unless approved by the Council.
 - d) The number of intersections along arterials and highways shall be held to a minimum. Wherever practicable the distance between such intersections shall not be less than 1,200 feet.
- (August 10, 197 Section 18.0 .02).

17.08.053 Easements. Easements across lots are centered on rear or side lot lines shall be provided for the installation of utilities when necessary, and shall be at least 12 feet wide and continuous from block to block. When an easement is centered

on a rear or side lot line the width of the easement in each lot can be added together to meet the width requirement. (August 10, 1976, Section 18.06.03).

17.08.054 Blocks.

- a) The length, width, and shapes of blocks shall be suited to the planned use of the land, zoning requirements, needed for convenient access, control and safety of street traffic, and the limitations and opportunities of topography.
 - b) Block lengths in residential areas shall not be more than 1,500 feet nor less than 400 feet measured along the long portion of the block or blocks are odd shaped and not square. The short portion of the block may be less than 400 feet to accomplish the full utilization of the land.
 - c) Pedestrian crosswalks not less than 10 feet wide may be required by the Council through the center of blocks more than 900 feet in length were deemed essential to provide circulation and access to community facilities.
 - d) Blocks shall have sufficient width to provide for two tiers of lots of appropriate depth except where otherwise required to separate residential development from through traffic.
- (August 10, 1976, Section 18.06.04).

17.08.055 Lots.

- a) The size, shape and facing of lots with a setback line of not less than thirty (30) feet shall be appropriate for the topography of the subdivision and for the type of development and use contemplated. b) Residential lots shall have a minimum depth of 100 feet and a minimum width of 80 feet at the building line.
- c) Residential lots fronting on major streets should be platted with extra depth to permit generous distances between the buildings and such streets.
- d) Corner lots for residential use shall have width sufficient to provide a building setback of at least thirty (30) feet from each street.
- e) Every lot shall front or abut on a public street.
- f) Side lot lines shall be substantially at right angles or radial to street lines.
- g) A tract subdivided into parcels containing one or more acres shall be arranged to allow the resubdivision of any such parcels into normal lots in accordance with the

provisions of these subdivision standards.

- h) Lots shall follow municipal boundary lines whenever practicable, rather than cross them.

(August 10, 1976, Section 18.06.05).

17.08.060 Required Improvements.

17.08.061 General Provisions. The following provisions shall apply to the subdivisions platted within the City and may be applied to subdivisions platted within the extraterritorial plat approval jurisdiction of the City:

- a) The improvements required under these regulations shall be constructed by the subdivider and at the subdivider's expense prior to filing with the City Council of the final plat for final approval, in accordance with the specifications and under the supervision of the officials having jurisdiction; or
- b) In lieu of constructing the improvements of Paragraph a) above, the subdivider shall furnish the City Council with a surety performance bond or other form of surety running to the City of Whitehall sufficient to cover the subdivided cost of such required improvements, as estimated by the City Engineer, thereby to secure the actual construction and installation of such improvements immediately after final approval of the plat or at a time in accordance with the requirements of the City Council.
- c) In the event that the procedure under Paragraph b) is followed, the construction of all improvements required by these rules and regulations must be completed within two (2) years from the date of approval of the final plat by the City Council unless good cause can be shown for the granting of an extension of time by authority of the City Council.

If no extension is granted, the City, at its option may cause all uncompleted required work to be constructed, and the parties executing the bond shall be firmly bound for the payment of all necessary costs thereof.

- d) The approval of the final plat by the City Council shall constitute acceptance of the dedication of any public street, road, or highway dedicated

in such plat.

e) City Council may cause the city to enter into a cost-sharing agreement with a developer approving that developer's proposal for developments to a subdivision to the City. The cost-sharing agreement would provide that the City assume the responsibility to finance fifty percent (50%) of the expense of improvements required by Section

17.08.063 of this Ordinance. Prior to voting on whether to enter into a cost-sharing agreement regarding a particular development or subdivision the Council may consider the following factors including but not limited to: whether the land proposed for development is proximately located to existing municipal water sewer and streets; whether the City can negotiate an acceptable Development Agreement with the developer and affected property owners; and whether the property meets the requirements of the City's Subdivision Ordinance. The City Council shall issue a written determination after the vote has been taken giving reasons for its decision to enter into or not to enter into a cost-sharing agreement regarding a particular development or subdivision.

(August 10, 1976, Section 18.07.01).

17.08.062 Monuments. The subdivision shall be monumented as required by Section 236.15, Wisconsin Statutes, which is hereby adopted by reference. (August 10, 1976 Section 18.07.02).

17.08.063 Streets and Utilities. Before a final plat of a subdivision located within the corporate limits will be approved, the subdivider shall either install the following facilities, give satisfactory proof that he has contracted to install such facilities, or file with the plat a surety bond insuring that such facilities will be installed within the time required by the Council:

- a) Water and sanitary sewer mains and laterals to each lot line, where connection to existing systems can be reasonably provided, as approved by the Council.
- b) Streets graded to full width and the roadway graded to subgrade and surfaced with six (6) inches crushed stone as approved by the Council.
- c) Water and sanitary sewer mains and street grading within all intersections.
- d) All plans for water and sanitary sewer mains and laterals together with grading of streets

shall
first be submitted to the City Engineer for approval,
after all such installations must be inspected and
approved by the City Engineer.

- e) Curbs and gutters, sidewalks, street surfacing,
storm water drainage facilities, and pumping
stations and force mains may be required upon the
recommendation of the City Engineer and approval
by the City Council.
- f) All gas, electrical power, telephone and cable television
facilities shall be installed in the ground unless
otherwise
allowed due to exceptional topography or other
physical barrier. Where installed in the ground, all
electrical power, telephone and cable television
facilities shall be installed in one common trench.

(August 10, 1976, Section 18.07.03).

17.08.064 Erosion and Sediment Control. The Council
shall review each plat on the basis of size, topography,
erosion hazards and other factors relating to sedimentation to
determine the need for erosion and sediment control measures.

If it is determined
that such measures are needed, the engineer should direct the
subdivider to undertake such erosion and sediment control as
the engineer deems necessary. (August 10, 1976,
Section 18.07.04).

17.08.065 Stage Development. In all instances where
it shall appear to the satisfaction of the City Council that
the whole of the plat and its subdivision cannot immediately
be fully improved with respect to the installation of all
improvements required to be made by the subdivider, by
reason
of unavoidable delay in the acquisition of land necessary
for such improvements, or by reason of the unavoidable delay
in obtaining necessary engineering data and information, or
for
any other good cause or reason, the City Council may in its sole
discretion authorize the subdivider to proceed with the
installation of improvements required under this ordinance on a
portion or part of said subdivision and in such event the
requirements of this ordinance shall apply to that portion or part
thereof authorized for immediate improvement. (August 10, 1976
Section 18.07.05).

17.08.070 Reservations and Dedications. In the design of a
plat, due consideration shall be given by the subdivider and the
Council to the reservation of suitable sites of adequate area
for future schools, parks, playgrounds, and other public purposes.
The Council may require that suitable sites of adequate area be
dedicated or reserved for future public uses such as parks, play-
grounds, and open spaces. In locating such sites, consideration
shall be given to preserving scenic and historic sites, stands
of fine trees, marshes and shorelines. Reservation of land for
public acquisition shall be for a period not to exceed three (3)

years from the date the plat is officially recorded. (August 10, 1976, Section 18.08.01).

17.08.080 Construction.

17.08.081 Commencement. No construction or installation of improvements shall commence in a proposed subdivision until the preliminary plat has been approved and the engineer has given written authorization. (August 10, 1976, Section 18.09.01).

17.08.082 Building Permits. No building permits shall be issued for erection of a structure on any lot of record until all the requirements of this Ordinance have been met. (August 10, 1976, Section 18.09.02).

17.08.083 Plans. The following plans and accompanying construction specifications may be required by the engineer before authorization of construction or installation of improvements:

- a) Street plans and profiles showing existing and proposed grades, elevations, and cross sections of the required improvements.
- b) Sanitary sewer plans and profiles showing the locations, grades, sizes and elevations and materials of required facilities.
- c) Water main plans and profiles showing the location, sizes, elevations, and materials of required facilities.
- d) Any additional special plans or information as required.

(August 10, 1976, Section 18.09.03).

17,08,082 Inspection. The subdivider, prior to commencing any work within the subdivision, shall make arrangements with the City Engineer to provide for adequate inspection. The City Engineer shall inspect and approve all completed work prior to approval of the final plat or release of the sureties. (August 10, 1976, Section 18.09.04).

17.08.090 Variances. When in the judgment of the Council it would be inappropriate to apply literally any provision of this Ordinance, because the subdivision is located outside the corporate limits or because extraordinary hardship would result, it may waive or vary such provision so that substantial justice may be done and the public interest secured, provided that in no event shall the requirement of filing and recording the plat be waived. Such relief shall be granted without detriment to the public good, without impairing the intent and purpose of this Ordinance, or the desirable general development of the City. (August 10, 1976, Section 18.10.01).

Chapter 17.12

REQUIRED IMPROVEMENTS IN NONRESIDENTIAL DISTRICTS

Sections:

- 17.12.010 Purpose
- 17.12.020 Definitions
- 17.12.030 General Provisions
- 17.12.040 Street and Utility Improvements
- 17.12.050 Stage Development
- 17.12.060 Waiver of Requirements

17.12.010 Purpose. The purpose of this Chapter is to promote public health, safety and general welfare of the community and to provide and facilitate adequate provision for transportation, water, sewerage, and other public requirements in nonresidential areas throughout the City. (August 10, 1976 Section 19.01.01).

17.12.020 Definitions. "Nonresidential development" shall mean any improvement, alteration, repair or change of land use in a nonresidential district which requires the issuance of a building permit pursuant to Chapter 17.04 of the Code. (August 10, 1976 Section 19.01.02).

17.12.030 General provisions. The following provisions shall apply to any nonresidential development within the City:

- a) The improvements required under these regulations shall be constructed by the person or corporate entity applying for the building permit, hereinafter known as the developer, and at the developer's expense, prior to the developer's application for a building permit; or
- b) In lieu of constructing the improvements of paragraph a) above, the developer shall furnish the City Council with a surety performance bond or other form of surety running to the City of Whitehall sufficient to cover the development cost of such required improvements, as estimated by the City Engineer, thereby to secure the actual construction and installation of such improvements immediately after the issuance of a building permit or at a time in accordance with the requirements of the City Council.
- c) In the event that the procedure under Paragraph b) is followed, the construction of all improvements required by these rules and regulations must be completed within two (2) years from the date of

issuance of the permit, unless good cause can be shown for the granting of an extension of time by authority of the City Council. If no extension is granted, the City, at its option, may cause all uncompleted required work to be constructed, and the parties executing the bond shall be firmly bound for the payment of all necessary costs thereof.

(August 10, 1976, Section 19.01.03).

17.12.040 Street and Utility Improvements. Before a Building permit for a nonresidential development will be approved and issued, the developer shall either install the following facilities, give satisfactory proof that he has contracted to install such facilities, or file with the application for permit a surety bond insuring that such facilities will be installed within the time required by the City Council:

- a) Water and sanitary sewer mains and laterals to each lot line, where connection to existing systems can be reasonably provided, as approved by the Council.
- b) Streets graded to full width and the roadway graded to subgrade and surfaced with six(6) inches of crushed stone as approved by the Council.
- c) Water and sanitary sewer mains and street grading within all intersections.
- d) All plans for water and sanitary sewer mains and laterals together with grading of streets shall first be submitted to the City Engineer for approval, and all such installations must be inspected and approved by the Engineer.
- e) Curbs and gutters, sidewalks, street surfacing, storm water drainage facilities, and pumping stations and force mains may be required upon the recommendation of the City Engineer and approval by the City Council.
- f) All gas, electrical power, telephone and Cable Television facilities shall be installed in the ground, unless otherwise allowed due to exceptional topography or other physical barrier. Where installed in the ground, all electrical power, telephone and cable television facilities shall be installed together in one common trench.

(August 10, 1976, Section 19.01.04).

17.12.050 Stage Development. In all instances where it shall appear to the satisfaction of the City Council that the whole area to be developed cannot immediately be fully improved with respect to the installation of all improvements required to be made by the developer, by reason of unavoidable delay in obtaining necessary engineering data and information, or for any other good cause or reason, the City Council may in its sole discretion authorize the developer to proceed

with the installation of said development and in such event the requirements of this Ordinance shall apply to that portion or part thereof authorized for immediate improvement. (August 10, 1976, Section 19.01.05).

17.12.060 Waiver of Requirements. When in the judgment of the Council it would be inappropriate to apply literally any provisions of this chapter, because extraordinary hardship would result, it may waive or vary such provision so that substantial justice may be done and the public interest secured, provided that in no event shall the requirement of obtaining a building permit be waived. Such relief shall be granted without detriment to the public good, without impairing the intent and purpose of this chapter, or the desirable general development of the City.

(August 10, 1976, Section 19.01.06).

CHAPTER 17.08

SHORELAND-WETLAND ZONING ORDINANCE
For the City of Whitehall, Wisconsin

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SHORELAND-WETLAND ZONING ORDINANCE FOR THE _____ City _____ OF Whitehall

1.0 STATUTORY AUTHORIZATION, FINDINGS OF FACT, STATEMENT OF PURPOSE AND TITLE

1.1 STATUTORY AUTHORIZATION

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

1.2 FINDING OF FACT AND PURPOSE

Uncontrolled use of the shoreland-wetlands and pollution of the navigable waters of the municipality 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 preserving wetlands which filter or store sediments, nutrients, heavy metals or organic compounds that would otherwise drain into navigable waters;
- (4) Protect fish, their spawning grounds, other aquatic life and wildlife by preserving wetlands and other 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.

2.0 GENERAL PROVISIONS

2.1 COMPLIANCE

The use of wetlands and the alteration of wetlands within the shoreland area of the municipality shall be in full compliance with the terms of this ordinance and other applicable local, state or federal regulations. (However, see section 4.0 of this ordinance, 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 ordinance.

2.2 MUNICIPALITIES AND STATE AGENCIES REGULATED

Unless specifically exempted by law, all cities, villages, towns, and counties are required to comply with this ordinance and obtain all necessary permits. State agencies are required to comply if 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.

2.3 ABROGATION AND GREATER RESTRICTIONS

- 2.31 This ordinance supersedes all the provisions of any municipal zoning ordinance enacted under sections 61.35, 62.23 or 87.30, Wis. Stats., which relate to floodplains and shoreland-wetlands, except that where another municipal zoning ordinance is more restrictive than this ordinance, that ordinance shall continue in full force and effect to the extent of the greater restrictions, but not otherwise.
- 2.32 This ordinance is not intended to repeal, abrogate or impair any existing deed restrictions, covenants or easements. However, where this ordinance imposes greater restrictions, the provisions of this ordinance shall prevail.

2.4 INTERPRETATION

In their interpretation and application, the provisions of this ordinance shall be held to be minimum requirements and shall be liberally construed in favor of the municipality and shall not be deemed a limitation or repeal of any other powers granted by the Wisconsin Statutes. Where a provision of this ordinance is required by a standard in chapter NR 117, Wis. Adm. Code, and where the ordinance 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 ordinance or in effect on the date of the most recent text amendment to this ordinance.

2.5 SEVERABILITY

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

2.6 ANNEXED AREAS

The Trempealeau County shoreland zoning provisions in effect on the date of annexation remain in effect administered by the municipality for all areas annexed by the municipality after May 7, 1982. These annexed lands are described on the municipality's official zoning map. The Trempealeau County shoreland 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.

3.0 SHORELAND-WETLAND ZONING DISTRICT

3.1 SHORELAND-WETLAND ZONING MAPS

The following maps are hereby adopted and made part of this ordinance and are on file in the office of the municipal Clerk:

- (1) Wisconsin Wetland Inventory maps stamped "FINAL" on Feb 19
19 92
- (2) Floodplain zoning maps titled Flood Insurance
-- R & t e M a p----- and
dated November 16, 1990
- (3) United States Geological Survey maps dated September 24, 1978
- (4) Zoning maps titled city of Whitehall and
dated June 12, 1984

3.2 DISTRICT BOUNDARIES

3.21 The shoreland-wetland zoning district includes all wetlands in the municipality which are five acres or more and are shown on the final Wetland Inventory Map that has been adopted and made a part of this ordinance 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 municipality shall be presumed to be navigable if they are shown on the United States Geological Survey quadrangle maps or other zoning base maps which have been incorporated by reference and made a part of this ordinance.

(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 ordinance. Floodplain zoning maps adopted in section 3.1(2) shall be used to determine the extent of floodplain areas.

3.22 Determinations of navigability and ordinary high-water mark location shall initially be made by the zoning administrator. When questions arise, the zoning administrator shall contact the appropriate district office of the Department for a final determination of navigability or ordinary high-water mark.

3.23 When an apparent discrepancy exists between the shoreland-wetland district boundary shown on the official zoning maps and actual field conditions at the time the maps were adopted, the zoning administrator shall contact the appropriate district office of the Department to determine if the shoreland-wetland district boundary as mapped, is in error. If Department staff concur with the zoning administrator that a particular area was incorrectly mapped as a wetland, the zoning administrator shall have the authority to immediately grant or deny a zoning permit in accordance with the regulations applicable to the correct zoning district. In order to correct wetland mapping errors or acknowledge exempted wetlands designated in section 3.24 and 3.25, the zoning administrator shall be responsible for initiating a map amendment within a reasonable period.

3.24 FILLED WETLANDS

Wetlands which are filled prior to Feb. 19, 1991 the date on which the municipality received final wetland inventory maps, in a manner which affects their wetland characteristics to the extent that the area can no longer be defined as wetland, are not subject to this ordinance.

3.25 WETLANDS LANDWARD OF A BULKHEAD LINE

Wetlands located between the original ordinary high water mark and a bulkhead line established prior to May 7, 1982 under s. 30.11, Stats. are not subject to this ordinance.

3.3 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:

3.31 Activities and uses which do not require the issuance of a zoning permit, provided that no wetland alteration occurs:

(1) Hiking, fishing, trapping, hunting, swimming, snowmobiling and boating;

(2) The harvesting of wild crops, such as marsh hay, ferns, moss, wild rice, berries, tree fruits and tree seeds, in a manner that is not injurious to the natural reproduction of such crops;

(3) The practice of silviculture, including the planting, thinning and harvesting of timber;

(4) The pasturing of livestock

<S> The cultivation of agricultural crops; and

(6) The construction and maintenance of duck blinds.

3.32 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 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 otherwise permissible 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, 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 adverse impacts upon the natural functions of the shoreland-wetland listed in section 6.13 of this ordinance; 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.

3.33 Uses which are allowed upon the issuance of a zoning Permit and which may include wetland alterations only to the extent specifically provided below:

(1) The construction and maintenance of roads which are necessary for the continuity of the municipal street system, the provision of essential utility and emergency services or to provide access to uses permitted under section 3.3, of this ordinance, provided that:

<a> The road cannot, as a practical matter, be located outside the wetland;

 The road is designed and constructed to minimize adverse impacts upon the natural functions of the wetland listed in section 6.13 of this ordinance;

- <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;
- The building cannot, as a practical matter, be located outside the wetland;
- (c) The building does not exceed 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;
- 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 section 3.33(1) of this ordinance; and
- (d) Wetland alterations in game refuges and closed areas, fish and wildlife habitat improvement projects, game bird and animal farms and wildlife preserves shall be for the purpose of improving wildlife habitat or to otherwise enhance wetland values.

(4) The construction and maintenance of electric and telephone transmission lines, water and gas distribution lines and sewage collection lines and related facilities and the construction and maintenance of railroad lines 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 adverse impacts upon the natural functions of the wetland listed in section 6.13 of this ordinance.

3.4 PROHIBITED USES

- 3.41 Any use not listed in section 3.3 of this ordinance is prohibited, unless the wetland or a portion of the wetland has been rezoned by amendment of this ordinance in accordance with section 6.0 of this ordinance.
- 3.42 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.

4.0 NONCONFORMING STRUCTURES AND USES

- 4.1 The lawful use of a building, structure or property which existed at the time this ordinance, or an applicable amendment to this ordinance, took effect and which is not in conformity with the provisions of the ordinance, including the routine maintenance of such a building or structure, may be continued, subject to the following conditions:
- 4.2 The shoreland-wetland provisions of this ordinance authorized by s. 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 s. 62.23(7)(h), Wis. Stats., which limits total lifetime structural repairs and alterations to 50% of current fair market value.

- 4.3 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 this ordinance.
- 4.4 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 ordinance adopted under sections 61.351 or 62.231, Wis. Stats., may be continued although such use does not conform with the provisions of the ordinance. However, such nonconforming use may not be extended.
- 4.5 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.
- 4.6 Uses which are nuisances under common law shall not be permitted to continue as nonconforming uses.

5.0 ADMINISTRATIVE PROVISIONS

5.1 ZONING ADMINISTRATOR

The City Clerk-Treasurer is appointed zoning administrator for the purpose of administering and enforcing this ordinance.

The zoning administrator shall have the following duties and powers:

- 5.11 Advise applicants as to the provisions of this ordinance and assist them in preparing permit applications and appeal forms.
- 5.12 Issue permits and certificates of compliance and inspect properties for compliance with this ordinance.
- 5.13 Keep records of all permits issued, inspections made, work approved and other official actions.
- 5.14 Have access to any structure or premises between the hours of 8 a.m. and 6 p.m. for the purpose of performing these duties.
- 5.15 Submit copies of decisions on variances, conditional use permits, appeals for a map or text interpretation, and map or text amendments within 10 days after they are granted or denied, to the appropriate district office of the Department.
- 5.16 Investigate and report violations of this ordinance to the appropriate municipal planning agency and the district attorney, corporation counsel or municipal attorney.

5.2 ZONING PERMITS

5.21 WHEN REQUIRED

Unless another section of this ordinance 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 8.2(6), of this ordinance, or any change in the use of an existing building or structure is initiated.

5.22 APPLICATION

An application for a zoning permit shall be made to the zoning administrator upon forms furnished by the municipality 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 supply or sewage system is to be installed.

(2) SITE DEVELOPMENT PLAN

The site development plan shall be submitted as a part of the permit application and shall contain the following information drawn to scale:

(a) Dimensions and area of the lot;

(b) Location of any structures with distances measured from the lot lines and center line 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.

5.23 EXPIRATION

All permits issued under the authority of this ordinance shall expire 6 months from the date of issuance.

5.3 CERTIFICATES OF COMPLIANCE

5.31 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:

<1> 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 ordinance.

(2) Application for such certificate shall be concurrent with the application for a zoning or conditional use permit.

(3) The certificate of compliance shall be issued within 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 ordinance.

5.32 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 municipal governing body.

5.33 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 ordinance.

5.4 CONDITIONAL USE PERMITS

5.41 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 5.82, 5.83 and 5.84 of this ordinance.

5.42 CONDITIONS

Upon consideration of the permit application and the standards applicable to the conditional uses designated in section 3.33 of this ordinance, 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 ordinance as listed in section 1.2. 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, docks, 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 purpose of this ordinance.

5.5 FEES

The municipal governing body may, by resolution, adopt fees for the following:

- (1) Zoning permits.
- (2) Certificates of compliance.
- (3) Public hearings.
- (4) Legal notice publications.
- (5) Conditional use permits.
- (6) Rezoning petitions.

5.6 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.

5.7 REVOCATION

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

5.8 BOARD OF APPEALS

The city mayor shall appoint a Board of Appeals under section 62.23(7)(e), Wis. Stats., subject to confirmation by the Common Council. The Board of Appeals shall adopt rules for the conduct of its business as required by section 63.23(7)(e)3., Wis. Stats.

5.81 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 ordinance.

(2) Shall hear and decide applications for conditional use permits.

(3) May authorize upon appeal a variance from the dimensional standards of this ordinance where an applicant convincingly demonstrates:

a) That literal enforcement of the terms of the ordinance 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 ordinance and;

d) That such variance will not grant or increase any use of property which is prohibited in the zoning district.

5.82 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 whose decision is in question, and with the Board of Appeals, a notice of appeal specifying the reasons for the appeal. The zoning administrator or other official whose decision is in question shall transmit to the Board all the papers constituting the record on the matter appealed.

5.83 PUBLIC HEARINGS

(1) Before making a decision on an appeal or application, 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, 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 present testimony in person, by agent or by attorney.

(2) A copy of such notice shall be mailed to the parties in interest and the appropriate district office of the Department at least 10 days prior to all public hearings on issues involving shoreland-wetland zoning.

5.84 DECISIONS

(1) The final disposition of an appeal or application for a conditional use permit before the Board of Appeals shall be in the form of a written decision, made within a reasonable time after the public hearing and signed by the Board chairperson. Such decision shall state the specific facts which are the basis of the Boards 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 conditional use.

(2) A copy of such decision shall be mailed to the parties in interest and the appropriate district office of the Department within 10 days after the decision is issued.

6.0 AMENDING SHORELAND-WETLAND ZONING REGULATIONS

- 6.1 The common council may alter, supplement or change the district boundaries and the regulations contained in this ordinance in accordance with the requirements of section 62.23(7)(d)2., Wis. Stats., NR 117, Wis. Adm. Code, and the following:
- 6.11 A copy of each proposed text or map amendment shall be submitted to the appropriate district office of the Department within 5 days of the submission of the proposed amendment to the municipal planning agency;
- 6.12 All proposed text and map amendments to the shoreland-wetland zoning regulations shall be referred to the municipal planning agency, and a public hearing shall be held after class II notice 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 10 days prior to such hearing.
- 6.13 In order to insure that this ordinance will remain consistent with the shoreland protection objectives of section 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 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.

6.14 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 section 6.13, of this ordinance, the Department shall so notify the municipality of its determination either prior to or during the public hearing held on the proposed amendment.

6.15 The appropriate district office of the Department shall be provided with:

(1) A copy of the recommendation and report, if any, of the municipal planning agency on a proposed text or map amendment, within 10 days after the submission of those recommendations to the common council.

(2) Written notice of the action on the proposed text or map amendment within 10 days after the action is taken.

6.16 If the Department notifies the municipal planning agency in writing that a proposed amendment may have a significant adverse impact upon any of the criteria listed in section 6.13. of this ordinance, that proposed amendment, if approved *by* the common council shall not become effective until more than 30 days have elapsed since written notice of the municipal approval was mailed to the Department, as required *by* section 6.15(2) of this ordinance. If within the 30 day period, the Department notifies the municipality that the Department intends to adopt a superseding shoreland-wetland zoning ordinance for the municipality as provided *by* sections 62.231(6) and 61.351(6), Wis. Stats., the proposed amendment shall not become effective until the ordinance adoption procedure under section 62.231(6) or 61.351(6), Wis. Stats., is completed or otherwise terminated.

7.0 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 ordinance in violation of the provisions of this ordinance, 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 municipal planning agency and the district attorney or municipal 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 ordinance shall be subject to a forfeiture of not less than \$ 10 nor more than \$ 200 per offense, together with the taxable costs of such action. Each day of continued violation shall constitute a separate offense. Every violation of this ordinance is a public nuisance and the creation thereof may be enjoined and the maintenance thereof may be abated by action at suit of the municipality, the state, or any citizen thereof pursuant to section 87.30(2), Wis. Stats.

8.0 DEFINITIONS

8.1 For the purpose of administering and enforcing this ordinance, 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.

8.2 The following terms used in this ordinance mean:

(1) "Accessory structure or use" means a detached subordinate structure or a use which is clearly incidental to, and customarily found in connection with, the principle structure or use to which it is related and which is located on the same lot as that of the principle structure or use.

(2) "Boathouse" as defined in section 30.121<1>, Wis. Stats., means 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" means 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 consecutive weeks, the last at least seven days prior to the hearing.

(4) "Conditional use" means a use which is permitted by this ordinance 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 planning agency designated by the municipal governing body.

(5) "Department" means the Wisconsin Department of Natural Resources.

(6) "Development" means 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" means one 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" means 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., means 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" means 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 sections 61.351 or 62.221, 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;

 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.

"Wisconsin's 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" means the point on the bank or shore up to which the presence and action of surface water is so continuous as to leave a distinctive mark such as by erosion, destruction or prevention of terrestrial vegetation, predominance of aquatic vegetation, or other easily recognized characteristic.

(12) "Planning agency" means the municipal plan commission created under section 62.23(1), Wis. Stats., a board of public land commissioners or a committee of the municipality's governing body which acts on matters pertaining to planning and zoning.

(13) "Shorelands" means lands within the following distances from the ordinary high-water mark of navigable waters; 1,000 feet from a lake, pond or flowage; and 300 feet from a river or stream or to the landward side of the floodplain, whichever distance is greater.

(14) "Shoreland-wetland district" means 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 ordinance.

(15) "Unnecessary hardship" means that circumstance where special conditions, which were not self-created, affect a particular property and make strict conformity with restrictions governing area, setbacks, frontage height or density unnecessarily burdensome or unreasonable in light of the purposes of this ordinance.

(16) "Variance" means an authorization granted by the Board of Appeals to construct or alter a building or structure in a manner that deviates from the dimensional standards of this ordinance.

(17) "Wetlands" means 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.

(18) "Wetland alteration" means any filling, flooding, draining, dredging, ditching, tiling, excavating, temporary water level stabilization measures or dike and dam construction in a wetland area.

Dates of Class 2 notice publication 7-02-92 and 4-29-93
Date of Public Hearing: **-11-'93**