

TITLE XV: LAND USAGE

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§ 150.01 BUILDING INSPECTOR.

(A) Appointment. The Building Inspector shall be appointed by the Mayor, subject to confirmation by the Common Council, for a term to be determined by contract.

(B) Compensation. The Building Inspector shall receive compensation as shall be negotiated by contract.

(C) Powers and duties.

(1) Powers.

(a) The Building Inspector shall enforce the state codes adopted under § 150.02 and all of the provisions of this chapter and all other ordinances, the administration of which shall be delegated to him or her by the Common Council.

(b) In carrying out his or her powers and duties, the Building Inspector may, at all reasonable times, enter upon public or private premises and make inspections thereof, and he or she may require the production of any building permit required under this chapter or Ch. 154. The Building Inspector is authorized to obtain special inspections warrants as needed to perform his or her duties as provided under Wis. Stat. § 66.0119.

(2) Duties.

(a) The Building Inspector shall keep a record of all applications for building permits and mobile home and mobile home park permits.

(b) He or she shall make an annual written report to the Common Council on or before April 1 as requested, giving a general summary of the work of his or her office during the preceding year.

(1989 e, § 14.01)

(D) Qualifications. The Building Inspector shall be certified by the Division of Safety and Buildings, as specified by Wis. Stats. § 101.66(2), in the category of Uniform Dwelling Code Construction Inspector. Additionally, this or other assistant inspectors shall possess the certification categories of UDC HVAC, UDC Electrical, and UDC Plumbing. (Note: Contact the Division of Safety and Buildings at (608) 261-8500 for certification information.)

§ 150.02 STATE CODES ADOPTED.

The following provisions of the Wisconsin Administrative Code, and all amendments thereto, are adopted and incorporated by reference and made a part of this chapter:

- (A)* Uniform Dwelling Code - Wis. Adm. Code, Chs. SPS 320-325.
- (B)* Electrical Code - Wis. Adm. Code, Ch. SPS 316.
- (C)* Commercial Code-Wis. Adm. Code, Chs. SPS 360-366
- (D)* Plumbing Code-Wis. Admin. Code, Chs. 381-382
- (E)* Flammable Liquids Code - Wis. Adm. Code, Ch. ATCP 93 (1989 Code, § 14.02)

§ 150.03 UNIFORM DWELLING CODE.

(A) Authority. These regulations are adopted under the authority granted by Wis. Stats. § 101.65.

(B) Purpose. The purpose of this section is to promote the general health, safety and welfare and to supplement the administrative and technical requirements of the Wisconsin Uniform Dwelling Code.

(C) Scope. The scope of this section includes the construction and inspection of all 1- and 2-family dwellings irrespective of date of construction as well as the construction and inspection of garages and other residential outbuildings and alterations and additions to dwellings.

(D) Building permit required. No person shall alter, in excess of \$5,000 value within any 12-month period, build, add on to or alter any building within the scope of this section or § 150.02(A) without first obtaining a building permit for the work from the Building Inspector. Any structural changes or major changes to mechanical systems that involve extensions shall require permits. Restoration or repair of an installation to its previous code-compliant condition, as determined by the Building Inspector, is exempt from permit requirements. Residing, reroofing, replacement of windows and doors which does not require modification of existing openings, finishing of interior surfaces and installations of cabinetry shall be exempt from permit requirements. Any addition or alteration, regardless of cost, made to a building shall be made in conformance with the applicable sections and provisions of this section.

§ 150.04 STATE UNIFORM COMMERCIAL BUILDING CODE ADOPTED.

(A) State Code adopted. The Administrative Code provisions, promulgated by the SPS, describing and defining regulations with respect to commercial buildings in the Wisconsin Administrative

Code are hereby adopted and by reference made a part of this chapter as if fully set forth herein. In addition to any other applicable Administrative Code provisions, Chapters SPS 361-366, Wisconsin Commercial Building Code are specifically incorporated herein. The State Plumbing Code, Chapters SPS 381 and 382, are also made a part of this chapter as if fully set forth herein. The State Electrical Code, Chapter SPS 316, is also made a part of this chapter as if fully set forth herein. Any act required to be performed or prohibited by an Administrative Code provision incorporated herein by reference is required or prohibited by this chapter. Any future amendments, revisions or modifications of the Administrative Code provisions incorporated herein are intended to be made part of this chapter to secure uniform statewide regulation of commercial buildings in the City of Mineral Point. A copy of these Administrative Code provisions and any future amendments, revisions or modifications shall be kept on file in the office of the Building Inspector for the City of Mineral Point.

(B) *Scope.* The scope of this section includes the construction and inspection of all commercial buildings irrespective of date of construction as well as the construction and inspection of garages and other residential outbuildings and alterations and additions to dwellings.

(C) *Existing buildings.* The Wisconsin Uniform Commercial Building Code shall also apply to the following buildings and conditions:

(1) An existing building to be occupied as a commercial building, which building was not previously so occupied.

(2) No person shall alter, in excess of \$5,000 value within any 12-month period, build, add on to or alter any building within the scope of this section or § 150.02(C) without first obtaining a building permit for the work from the Building Inspector. Any structural changes or major changes to mechanical systems that involve extensions shall require permits. Restoration or repair of an installation to its previous code-compliant condition, as determined by the Building Inspector, is exempt from permit requirements. Residing, reroofing, replacement of windows and doors which does not require modification of existing openings, finishing of interior surfaces and installations of cabinetry shall be exempt from permit requirements.

(3) Any addition or alteration, regardless of cost, made to a building shall be made in conformance with the applicable sections and provisions of this section.

§ 150.05 PERMIT REQUIRED; FEES.

(A) No building subject to inspection pursuant to this Chapter shall be constructed, enlarged, repaired, or altered without a permit therefore from the Building Inspector.

(1989 Code, § 14.04)(Am. Ord. 735, passed 10-7-2008) Penalty, see § 150.99

(B) *Building permit fees.* The building permit fee shall be determined by resolution of the Common Council.

(Ord. 617, passed 5-1-2000) Penalty, see § 150.99

§ 150.06 UNSAFE BUILDINGS.

(A) Whenever the Common Council or officer designated by the Council within the city shall determine that in its judgment any building located within the city is so old, dilapidated or has become so out of repair as to be dangerous, unsafe, insanitary or otherwise unfit for human habitation, occupancy or use so that it would be unreasonable to repair the same, it may order the owner of the premises to raze and remove the building or part thereof or, if it can be made safe and sanitary by repairs, to repair and make safe and sanitary the building or to raze and remove the same at the owner's option.

(B) Such findings that a building is unfit for human habitation, occupancy or use shall be made in writing in the form of an order and filed with the City Clerk-Treasurer and, where such determination is made by the Common Council, made a part of the minutes of the meeting at which the finding was made, and the order shall state whether or not the building can be repaired.

(C) (1) Such findings and order shall be communicated to the owner. The order shall specify the time in which the order shall be complied with and, if repairs are ordered to be made, the repairs shall be specified.

(2) The order requiring razing of the building or repair thereof or correction of an unsafe or insanitary condition shall be served upon the owner of record or his or her agent, where an agent is in charge of the building, in the manner provided for service of summons in a circuit court. An order under par. (1) shall be served on the holder of an encumbrance of record by 1st class mail at the holder's last-known address and by publication as a class 1 notice under Ch. 985, Wis. Stats.

(3) If the owner of a building or any encumbrance of record cannot be found, the order may be served by posting on the main entrance of the building and by publishing in the official newspaper of the city 2 consecutive publications at least 10 days before the time limited in the order commences to run. If the owner and the owner's agent cannot be found or if the owner is deceased and an estate has not been opened, the order may be served by posting it on the main entrance of the building and by publishing it as a class 1 notice under Ch. 985, Wis. Stats., before the time limited in the order begins to run. The time limited in the order begins to run from the date of service on the owner or owner's agent or, if the owner and agent cannot be found, from the date that the order was posted on the building.

(D) If a building subject to an order under par. (B) contains personal property or fixtures which will unreasonably interfere with the razing or repair of the building or if the razing makes necessary the removal, sale or destruction of the personal property or fixtures, the building inspector or other designated officer may order in writing the removal of the personal property or fixtures by a date certain. The order shall be served as provided in par. (C). If the personal property or fixtures are not removed by the time specified the inspector may store, sell or, if it has no appreciable value, destroy the personal property or fixture. If the property is stored the amount paid for storage is a lien against the property and against the real estate and, to the extent that the amount is not reimbursed under Wis. Stat. § 632.103 (2) from funds withheld from an insurance settlement, shall be assessed and collected as a special tax against the real estate if the real estate is owned by the owner of the personal property and fixtures. If the property is stored the owner of the property, if known, shall be notified of the place of storage and if the property is not claimed by the owner it may be sold at the expiration of 6 months after it has been stored. The handling of the sale and the distribution of the net proceeds after deducting the cost of storage and any other costs shall be as specified in par. (F) and, when required, a report made to the circuit court as specified in par. (F).

(E) If the owner shall fail or refuse to comply within the time prescribed in the order, the Common

Council, or other designated officer, shall cause the building or part thereof to be razed and removed in the manner specified in Wis. Stat. § 66.0413.

(F) If an order to raze a building has been issued, the governing body or other designated officer under the contract or arrangement to raze the building may sell the salvage and valuable materials at the highest price obtainable. The net proceeds of the sale, after deducting the expenses of razing the building, shall be promptly remitted to the circuit court with a report of the sale or transaction, including the items of expense and the amounts deducted, for the use of any person entitled to the net proceeds, subject to the order of the court. If there remains no surplus to be turned over to the court, the report shall so state.

(G) If the building or part thereof is insanitary and unfit for human habitation, occupancy and use and is not in danger of structural collapse, the Building Inspector or other officer designated by the Common Council shall post a placard on the premises containing the following words: "This building cannot be used for human habitation, occupancy or use." The Building Inspector or other designated officer shall prohibit the use of the building for human habitation, occupancy or use until the necessary repairs have been made. Any person who shall rent, lease or occupy a building which has been condemned for human habitation, occupancy or use shall be subject to a forfeiture of not less than \$5 nor more than \$50 for each week of the violation or part thereof.

(H) A person affected by any order made under this paragraph may appeal as provided in Wis. Stat. § 66.0413((1)(h)).

(I) Wis. Stat. § 66.0413, so far as it is applicable, is hereby made a part of this section. Nothing in this section shall preclude the City from taking action against unsafe buildings under any other applicable statute or ordinance.
(1989 Code, § 14.05)

§ 150.07 FIRE LIMITS.

(A) Fire limits described. All that part of the City of Mineral Point which is embraced within the following limits shall be known as the fire limits, to-wit: The B-C Central Business District under the Zoning Code.

(B) Definitions. The terms fire-resistive construction, mill construction, ordinary construction, frame construction and fire-retardant roof covering shall have the meaning as defined in Wis. Adm. Code, SPS §§ 375.02, 375.03, 375.04, 375.05 and 375.07.

(C) Regulations within fire districts.

(1) *Requirements.* Every building hereafter erected, remodeled, altered, enlarged or moved within or into the fire district shall be of fire-resistive, mill or ordinary construction, except as otherwise provided by this chapter. Enclosing walls, division walls and party walls shall be of 1-hour fire-resistive walls in an existing building enlarged, altered or remodeled after the effective date of this code and of 4-hour fire-resistive walls in buildings erected or moved in the fire district after the effective date of this code, as provided in Wis. Adm. Code SPS § 375.08, which is hereby made a part of this chapter with respect to all buildings and structures within the fire district. No building of frame construction shall hereafter be built within or

moved into the fire district.

(2) *Exceptions.* No building of frame construction shall be constructed within the fire district except the following, and no such building or structure shall be located within 5 feet of any lot line or structure:

(a) Temporary 1-story frame buildings for use of builders;

(b) One-story sheds not over 15 feet high, open on the long side and with an area not exceeding 500 square feet. A wooden fence shall not form the back or side of such sheds;

(c) Greenhouses not more than 15 feet in height; and

(d) Private garages for not more than 2 noncommercial automobiles, if not over 15 feet high and not more than 250 square feet in area, having exterior walls of metal, concrete or masonry, located on the same lot with a dwelling.

(D) Fire retardant roofing.

(1) Every roof hereafter constructed within the fire district, including buildings listed in division (C) above, shall be covered with a roofing having a fire-resistive rating equivalent to Class B or better of the Underwriters Laboratories, Inc., classification.

(2) No roofing on an existing roof shall be renewed or repaired to a greater extent than 1/10 of the roof surface, except in conformity with the requirements of division (D)(1) of this section.

(1989 Code, § 14.06)

§ 150.08 UNIFORM FIRE CODE.

(A) Wisconsin Statute section 101.14, Wisconsin Administrative Code Chapters SPS 314 and 330 and NFPA 1 Uniform Fire Code and documents adopted by Chapter 2 thereof, copies of which are on file and are open to inspection by the public in the office of the City Clerk/Treasurer, are hereby and incorporated into this ordinance as fully as if set out at length herein, and from the date on which this ordinance takes effect, the provisions thereof shall be controlling within the limits of the City of Mineral Point. The same are hereby adopted as the Fire Code of the City of Mineral Point, for the purpose of prescribing regulations governing conditions hazardous to life or property from fire or explosion and for providing for issuance of permits, collection of fees, and issuance of citations.

(B) The Fire Chief shall hold the office of Fire Inspector, pursuant to § 101.14, Wis. Stats., and shall also fill the duties of such position as prescribed in that statute and this Fire Code. The Fire Chief shall have the authority to appoint one or more deputies, who shall have the same powers and fulfill the duties of Fire Inspector as prescribed in this Fire Code.

(Ord. 729, passed 5-6-2008)(Am. Ord. 744, passed 12-7-2010)

§ 150.09 VIOLATIONS.

(A) Any person who shall violate any provision of this chapter or standard hereby adopted or fail to comply therewith; or who shall violate or fail to comply with any order made thereunder; or who shall

build in violation of any detailed statement of specifications or plans submitted and approved thereunder; or fail to operate in accordance with any certificate or permission issued hereunder; and from which no appeal has been taken; or who shall fail to comply with such an order as affirmed or modified by a court of competent jurisdiction, within the time fixed herein, shall severally for each and every such violation and non-compliance, respectively, shall be subject to a forfeiture as provided under § 150.99.. The imposition of a forfeiture for any one violation shall not excuse the violation or permit it to continue; and all such persons shall be required to correct or remedy such violations or defects within a reasonable time; and when not otherwise specified the application of the above penalty shall not be held to prevent the enforced removal of prohibited conditions; each day that the prohibited condition is maintained shall constitute a separate offense.

(B) Nothing in this ordinance shall be construed to limit the authority of the Building Inspector, Fire Chief, Police Chief or their deputies or designees to enforce this chapter by means of seeking injunctive relief, enforcing laws or ordinances prohibiting public nuisances or withholding building permits or withdrawing building permits by means of a stop work order.

(C) Each day of noncompliance with any of the provisions of this chapter constitutes a separate violation.

§ 150.99 PENALTY.

The forfeiture for violations of this chapter shall be not less than \$25 nor more than \$100 for each day of noncompliance.”

CHAPTER 151: HISTORIC PRESERVATION

Section

151.01 Purpose and intent

151.02 Definitions

151.03 Historic Preservation Commission

151.04 Procedures

151.05 Conformance with regulations

151.06 Maintenance of landmarks, landmark sites and historic districts

151.07 Conditions dangerous to life, health or property

151.99 Penalty

§ 151.01 PURPOSE AND INTENT.

(A) It is hereby declared a matter of public policy that the protection, enhancement, perpetuation and use of improvements of special character or special historical interest or value is a public necessity and is required in the interest of health, prosperity, safety and welfare of the people.

(B) The purpose of this chapter is to:

(1) Effect and accomplish the protection, enhancement and perpetuation of such improvements and of districts which represent or reflect elements of the city's cultural, social, economic, political and architectural history;

(2) Safeguard the city's historic and cultural heritage as embodied and reflected in such landmarks and historic districts;

(3) Stabilize and improve property values;

(4) Foster civic pride in the beauty and noble accomplishments of the past;

(5) Protect and enhance the city's attractions to residents, tourists and visitors and serve as a support and stimulus to business and industry;

(6) Strengthen the economy of the city; and

(7) Promote the use of historic districts and landmarks for the education, pleasure and welfare of the people of the city.

(1989 Code, § 28.01)

§ 151.02 DEFINITIONS.

For the purpose of this chapter, the following definitions shall apply unless the context clearly indicates or requires a different meaning.

CERTIFICATE OF APPROPRIATENESS. A certificate issued by the Historic Preservation Commission indicating that new construction, alterations or demolition to any landmark, landmark site or structure located within the Historic District is in accordance with the standards and requirements of § 151.03(C)(2). Such a certificate must first be obtained prior to the issuance of a building permit for the above stated purposes.

COMMISSION. The Historic Preservation Commission created under this chapter.

HISTORIC DISTRICT. An area designated by the Commission which contains one or more landmarks or landmark sites, as well as those abutting improvement parcels which the Commission determines should fall under the provisions of this chapter to assure that their appearance and development is harmonious with such landmarks or landmark sites. District boundaries are shown on the city official zoning map.

IMPROVEMENT. Any building, structure, place, work of art or other object constituting a physical betterment of real property or any part of such betterment.

IMPROVEMENT PARCEL. The unit of property which includes a physical betterment constituting an improvement and the land embracing the site thereof and is treated as a single entity for the purpose of levying real estate taxes; provided, however, that the term ***IMPROVEMENT PARCEL*** shall also include any unimproved area of land which is treated as a single entity for such tax purposes.

LANDMARK. Any improvement which has a special character or special historic interest or value as part of the development, heritage or cultural characteristics of the city, state or nation and which has been designated as a ***LANDMARK*** pursuant to the provisions of this chapter.

LANDMARK SITE. Any parcel of land of historic significance due to a substantial value in tracing the history of aboriginal man or upon which an historic event has occurred and which has been designated as a ***LANDMARK SITE*** under this chapter, or an improvement parcel or part thereof on which is situated a landmark and any abutting improvement parcel or part thereof used as and constituting part of the premises on which the landmark is situated.

(1989 Code, § 28.02)

§ 151.03 HISTORIC PRESERVATION COMMISSION

(A) *Composition and terms.* An Historic Preservation Commission is hereby created, consisting of 7 members. Of the membership, 1 shall be a registered architect, 1 shall be an historian qualified in the field of historic preservation, 1 shall be a licensed real estate broker, 1 shall be an Alderperson, and 3 shall be citizen members. Each member shall have to the highest extent practicable a known interest in historic preservation. The Mayor shall appoint the members subject to confirmation by the Common Council. Of

the initial members so appointed, two shall serve a term of 1 year, two shall serve a term of 2 years and three shall serve a term of 3 years. Thereafter, the term for each member shall be 3 years. The Mayor shall make every effort to fill the above technical positions with qualified persons to the greatest extent possible. Should no one in the community possess the required qualifications, arrangements will be made to secure such expertise on an as-needed basis, with such resources identified ahead of time.

(B) Designation criteria for landmarks and landmark sites.

(1) For the purposes of this chapter, a landmark or landmark site designation may be placed on any site, natural or improved, including any building, improvement or structure located thereon, or any area of particular historic, architectural or cultural significance to the city, such as historic structures or sites which:

(a) Exemplify or reflect the broad cultural, political, economic or social history of the nation, state or community;

(b) Are identified with historic personages or with important events in national, state or local history;

(c) Embody the distinguishing characteristics of an architectural type specimen inherently valuable for a study of a period, style, method of construction or of indigenous materials or craftsmanship; or

(d) Are representative of the notable work of a master builder, designer or architect whose individual genius influenced his or her age.

(2) The Commission may adopt specific operating guidelines for landmark and landmark site designation, provided such are in conformance with the provisions of this section.

(C) Powers and duties.

(1) *Designation.* The Commission shall have the power, subject to § 151.04, to designate landmarks, landmark sites and historic districts within the city limits. These designations shall be made based upon division (B) above. Once designated by the Commission, the landmarks, landmark sites and historic districts shall be subject to all the provisions of this section. The Common Council has final authority over all actions of the Commission, especially those being disputed or of a controversial nature.

(2) Regulation of construction and alteration.

(a) Any alteration or modification to designated landmarks, landmark sites or structures within the historic district of the city which seeks to remove architectural features, change window sashes, modify sidings or roofs or involves other changes, including the placement of signs, regardless of cost, shall first require a certificate of appropriateness from the Commission.

(b) In addition to division (C)(2)(a) above, no owner or person in charge of a landmark,

landmark site or improvement in an historic district shall alter or reconstruct all or any part of the exterior of such property, construct any improvement upon any such designated property or cause or permit any such work to be performed upon the property, unless a certificate of appropriateness has been granted by the Commission. These exterior improvements pertain not only to the building structure, but to improvements to the property, and include but are not limited to the construction, alteration or modification of fences, walls and other such visible incidentals. Without such a certificate, a zoning permit shall not be issued and the proposed alteration or modification shall not be permitted.

(c) In reviewing applications for alterations or modifications, the Commission shall require complete and clear drawings and specifications of the work to be accomplished to be furnished by the applicant and use the following criteria upon which to base its decision of granting a certificate of appropriateness:

1. General review criteria.

a. Every reasonable effort shall be made to provide a compatible use for a property which requires alteration of the building, structure or site and its environment or to use a property for its originally intended purpose.

b. The distinguishing original qualities or character of a building, structure or site and its environment shall not be destroyed. The removal or alteration of any historic material or distinctive architectural features should be avoided when possible.

c. All buildings, structures and sites shall be recognized as products of their own time. Alterations that have no historical basis and that seek to create an earlier appearance shall be discouraged.

d. Changes that may have taken place in the course of time are evidence of the history and development of a building, structure or site and its environment. These changes may have acquired significance in their own right and this significance shall be recognized and respected.

e. Distinctive stylistic features or examples of skilled craftsmanship which characterizes a building, structure or site shall be treated with sensitivity.

f. Deteriorated architectural features shall be repaired rather than replaced, wherever possible. In the event replacement is necessary, the new material should match the material being replaced in composition, design, color, texture and other visual qualities. Repair or replacement of missing architectural features should be based on accurate duplication of features, substantiated by historic, physical or pictorial evidence, rather than as conjectural designs or availability of different architectural elements from other buildings or structures.

g. The surface cleaning of structures shall be undertaken with the gentlest means possible. Sandblasting and other cleaning methods that will damage the historic building materials shall not be undertaken.

h. Every reasonable effort shall be made to protect and preserve archaeological resources affected by or adjacent to any project.

i. Contemporary design for alterations and additions to existing properties shall not be discouraged when the alterations and additions do not destroy significant historical, architectural or cultural material and the design is compatible with the size, scale, color, material and character of the property, neighborhood or environment.

j. Whenever possible, new additions or alterations to structures shall be done in such a manner that if the additions or alterations were to be removed in the future, the essential form and integrity of the structure would be unimpaired.

2. Specific review criteria.

a. Height. The height of any proposed alteration or construction should be compatible with the style and character of the landmark and with surrounding structures in the historic district.

b. Proportions of windows and doors. The proportions and relationships between doors and windows should be compatible with the architectural style and character of the landmark and with surrounding structures within the historic district.

c. Relationship of building masses and spaces. The relationship of a structure within the historic district to the open space between it and adjoining structures should be compatible.

d. Roof shape. The design of the roof should be compatible with the architectural style and character of the landmarks and surrounding structures in the historic district.

e. Landscaping. Landscaping should be compatible with the architectural character and appearance of the landmarks and of surrounding structures and landscapes in the historic district.

f. Scale. The scale of the structure after alteration, construction or partial demolition should be compatible with its architectural style and character and with surrounding structures in the historic district.

g. Directional expression. Facades in historic districts should blend with other structures with regard to directional expression. Structures in the historic district should be compatible with dominant horizontal or vertical expression of surrounding structures. The directional expressions of a landmark after alteration, construction or partial demolition should be compatible with the original architectural style or character of a landmark in the historic district.

h. Architectural details. Architectural details, including materials, colors and textures, should be treated so as to make a landmark compatible with the original

architectural style or character of a landmark in the historic district.

(d) Upon the filing of an application with the Commission and payment of a fee of \$25, the Commission shall determine:

1. Whether in the case of a landmark the proposed work would change, destroy or affect any exterior architectural feature of the improvement upon which the work is to be done; and
2. Whether in the case of construction of a new improvement the exterior of the improvement would affect or not harmonize with the external appearance of other neighboring improvements on the site or in the district.

(Am. Ord. 670, passed 1-4-2005)

(e) If the Commission determines division (d) above in the negative, it shall approve the certificate, otherwise it shall deny the request for approval. The Commission shall make this decision within 30 days after the filing of the application. Nothing contained herein shall be deemed to prevent the appeal of such denial to the Circuit Court. The Certificate of Appropriateness shall expire within six (6) months of the date of issuance unless substantial work has commenced.

(Am. Ord. 738, passed 6-2-2009)

(f) If the Commission denies the request for a certificate of appropriateness, the Commission and the applicant shall cooperate and work together for a period of up to 6 months following the date of the initial application to find a mutually agreeable method of completing the proposed work. At any time during the 6-month period, if no such mutually agreeable method is determined and both parties appear to be deadlocked on the issue, the applicant may appeal the decision of the Commission to the Common Council, which may grant a certificate of appropriateness by a 3/4 majority vote of all members in favor. At the time the Common Council hears the appeal, both the applicant and representatives from the Historic Preservation Commission shall be present to state their case and justify their actions.

(g) The Commission shall from time to time appoint from its members a committee of 2 who shall be notified by the City Clerk-Treasurer of all requests for application for certificates of appropriateness. That committee shall determine whether or not the request is of sufficient significance to be decided by the full Commission. If the committee determines that it is not of such significance, it will decide the matter and, if approved, will direct that a certificate of appropriateness be issued without further action. If such committee determines that a matter is of sufficient significance to be heard by the full Commission, it will notify both the applicant and the City Clerk-Treasurer of the decision. Thereupon, all of the provisions of this chapter relative to applications for certificates of appropriateness shall apply. If a request is decided by the committee against the applicant, the applicant can request a hearing by the full Commission within 30 days from the date of the committee's decision. The committee shall make a full report of its actions at each meeting of the Commission.

(Ord. 445, passed - -)

(3) *Regulation of demolition.* No permit to demolish all or part of a landmark or improvement in an historic district shall be granted by the Building Inspector, except as follows:

(a) No person in charge of a landmark or improvement in an historic district shall be granted a permit to demolish the property without written approval of the Commission.

(b) At the time as such person applies for a permit to demolish the property, the application shall be filed with the Commission. Upon such application, the Commission may refuse to grant written approval for a period of up to 6 months from the time of the application, during which time the Commission and applicant shall undertake serious and continuing discussions for the purpose of finding a method to save the property. During this period, the applicant and the Commission shall cooperate in attempting to avoid demolition of the property. At any time during this 6-month period, if no mutually agreeable method of saving the subject property bearing a reasonable prospect of eventual success is underway, if both parties appear to be deadlocked on the issue, or if no formal application for funds from any governmental unit or nonprofit organization to preserve the subject property is pending, the applicant may appeal the decision of the Commission to the Common Council, which may grant a permit to demolish the subject property by a 3/4-majority vote of all members in favor. At the time the Common Council hears the appeal, both the applicant and representatives from the Historic Preservation Commission shall be present to state their case and justify their actions.

(4) *Recognition of landmarks and landmark sites.* At such time as a landmark or landmark site has been properly designated in accordance with division (B) of this section and § 151.04, the Commission may, in consultation with the owner and, if he or she is agreeable, cause to be prepared and erected on the property at city expense a suitable plaque declaring that the property is a landmark or landmark site. The plaque shall be so placed as to be easily visible to passing pedestrians. In the case of a landmark, the plaque shall state the accepted name of the landmark, the date of its construction and other information deemed proper by the Commission. In the case of a landmark site which is not the site of a landmark building, such plaque shall state the common name of the site and such other information deemed appropriate by the Commission.

(5) *Sale of landmarks and landmark sites.* Any party who is listed as the owner of record of a landmark site at the time of its designation, who can demonstrate to the Commission that by virtue of that designation he or she is unable to find a buyer willing to preserve the landmark or landmark site even though he or she has made reasonable attempts in good faith to find and attract such a buyer, may petition the Commission for rescission of its designation. Following the filing of the petition with the secretary of the Commission:

(a) The owner and the Commission shall work together in good faith to locate a buyer for the subject property who is willing to abide by its designation.

(b) If at the end of a period not exceeding 6 months from the date of the petition no such buyer can be found and if the owner still desires to obtain the rescission, the Commission shall rescind its designation of the subject property.

(c) In the event of such rescission, the Commission shall notify the City Clerk-Treasurer, Building Inspector and the City Assessor of same and shall cause the same to be recorded at its own expense in the office of the Iowa County Register of Deeds.

(d) Following any such rescission, the Commission may redesignate the subject property a landmark or landmark site at any time thereafter it is petitioned to do so by the property owner.

(6) *Regulation of signs.* The Commission shall be responsible for the regulation of signs within the historic district. Prior to construction and/or placement, all signs proposed for the historic district shall first be granted a certificate of appropriateness to be issued by the Commission. Signs occurring in the historic district shall be subject to the provisions of Ch. 154 of this municipal code and shall conform to the specific regulations of the zoning district upon which the historic district overlays. The application fee for the certificate of appropriateness shall be \$25.

(Am. Ord. 670, passed 1-4-2005)

(7) *Other duties.* In addition to those duties already specified in this section, the Commission shall:

(a) Encourage property owners to make use of available tax credits to sites it has designated under the provisions of this section in order to encourage landmark owners to assist in carrying out the intent of this chapter.

(b) Work closely with the State Historic Preservation Officer (SHPO) in order to include those eligible properties outside the existing National Register Historic District to be included on the National Register of Historic Places.

(c) Continue to fulfill the requirements necessary to maintain the city's eligibility as a certified local government as long as the designation continues in effect.

(d) Conduct an intensive architectural survey of all property in the city to be carried out by a qualified architectural historian. Such a survey shall identify all significant historical properties in the city and shall serve as a basis for creating a plan whose primary intent is to manage the city's historic resources. The development of such a plan shall also be the responsibility of the Commission or the qualified person or firm it designates. Implementation of the plan, together with periodic updates, shall be the responsibility of the Commission.

(e) Work for the continuing education of the citizens of the city about the historic heritage of this city and the landmarks and landmark sites designated under the provisions of this section. Emphasis should also be placed on the economic benefits of historic preservation to the community.

(f) As it deems it advisable, receive and solicit funds for the purpose of landmarks preservation in the city. These funds shall be placed in a special city account for that purpose.

(g) The Historic Preservation Commission shall review this chapter no less often than every 5 years. Any revisions or additions deemed logical or necessary shall be submitted to the Common Council with a recommendation for formal adoption into this chapter. In

addition, the Commission shall periodically report its activities to the Common Council at a regularly scheduled Council meeting.

(h) Appropriate preservation booklets and articles prepared by the Commission shall be made available for public distribution. Such material shall contain the city ordinances and codes applicable to preservation, instructions on how to work with these codes and ordinances, a list of city officials and members of the Historic Preservation Commission and other pertinent data, forms and instructions.

(i) The mayor may appoint, with the approval of the city council, a Commissioner of the Historic District who shall be notified by the City Clerk-Treasurer of all requests for certificates of appropriateness. The Commissioner shall determine whether or not an application for a certificate of appropriateness is of sufficient importance to be decided by the full Historic Preservation Commission or a two-person committee of the Historic Preservation Commission. If the application does not rise to the level of significance to be decided by the full Historic Preservation Commission or a two-person committee of the Historic Preservation Commission, the Commissioner may decide the matter, and if approved, will direct that a certificate of appropriateness be issued without further action.
(1989 Code, § 28.03)(Am. Ord. 776, passed 3-14-2016)

§ 151.04 PROCEDURES.

(A)Designation of landmarks, landmark sites and historic districts. The Commission may, after notice and public hearing, establish landmarks, landmark sites and historic districts or rescind such designation after application of the criteria in § 151.03(B). At least 10 days prior to the hearing, the Commission shall notify the owners of record as listed in the office of the City Assessor, who are owners of

property situated, in whole or in part, within 200 feet of the boundaries of the property affected. Notice of the hearing shall also be published as a Class 1 notice under the Wisconsin Statutes. The Commission shall then conduct the public hearing and, in addition to the notified persons, may hear expert witnesses and shall have the power to subpoena any witnesses and records as it deems necessary. The Commission may conduct an independent investigation into the proposed designation or rescission. Within 10 days after the close of the public hearing, the Commission may designate the property as either a landmark, a landmark site or include it in an historic district or rescind the designation. After the designation or rescission has been made, notification shall be sent to the property owner or owners and to such other persons as appeared at the public hearing. Notification shall also be given to the City Clerk-Treasurer, Building Inspector and the City Assessor. The Commission shall cause such designation or rescission to be recorded at city expense in the office of the Iowa County Register of Deeds.

(B)Petition for a historic zone. Following the designation of each historic landmark or landmark site, the Commission shall petition the Common Council for a rezoning of each such property from its original zoning classification to Special District H as permitted in Ch. 154 of this municipal code.

(C)Voluntary restrictive covenants. The owner of any landmark or landmark site may at any time following such designation of his or her property enter into a restrictive covenant on the subject property after negotiation with the Commission. The Commission may assist the owner in preparing the covenant in the interest of preserving the landmark or landmark site and the owner shall record the covenant in the office of the Iowa County Register of Deeds and shall notify the City Assessor of the covenant and the conditions thereof.
(1989 Code, § 28.04)

§ 151.05 CONFORMANCE WITH REGULATIONS.

Every person in charge of any landmark, landmark site or improvement in an historic district shall maintain same or cause or permit it to be maintained in a condition consistent with the provisions of this section.

(1989 Code, § 28.05)

§ 151.06 MAINTENANCE OF LANDMARKS, LANDMARK SITES AND HISTORIC DISTRICTS.

(A) Every person in charge of an improvement on a landmark site or in a historic district shall keep in good repair all of the exterior portions of the improvement and all interior portions thereof, which, if not so maintained, may cause or tend to cause the exterior portions of the improvement to fall into a state of disrepair, including but not limited to the following conditions:

- (1) The deterioration of exterior walls or other vertical supports;
- (2) The deterioration of roofs or other horizontal members;
- (3) The deterioration of external chimneys;
- (4) The deterioration or crumbling of exterior plasters or mortar;
- (5) The ineffective waterproofing of exterior walls, roofs and foundations, including broken windows and doors;
- (6) The boarding up of windows or doors;
- (7) The peeling of paint, rotting, holes and other forms of decay;
- (8) The deterioration of the surrounding environment, such as fences, gates, sidewalks, steps, signs, accessory structures and landscaping;
- (9) The deterioration of any features so as to create or permit the creation of any hazardous or unsafe condition or conditions; and
- (10) Any deterioration of interior portions of a structure which may cause the exterior to deteriorate or become damaged or otherwise to fall into a state of disrepair.

(B) Notices of violations shall be issued by the Commission Chairperson, after consultation with and approval by the Commission. If the Commission determines that it is necessary to physically enter a landmark structure, landmark site, or improvement to inspect the premises to determine whether a violation of division (A) of this section has occurred, such physical entry and inspection shall be done by the City Engineer. If an owner refuses permission for the City Engineer to enter for purposes of inspection, the City Engineer may obtain a Warrant of Entry, pursuant to Wis. Stats. § 66.0119. A notice of violation

issued by the Commission Chairperson shall specify that the violation shall be corrected within 30 days or that a plan of correction, acceptable to the Commission be submitted within the 30-day period. If the alleged violation is not corrected within 30 days or if an acceptable plan is not submitted within 30 days or if a submitted and approved plan of correction is not followed, the Chairperson of the Commission may issue a citation providing for forfeiture of \$100, plus costs. Each day the violation remains uncorrected shall be considered a separate violation.

(C) The penalties provided in division (B) above shall be in addition to and not in lieu of any other legal or equitable remedies available to the Commission, including obtaining an order of the court to enjoin the continuation of the violation.

(1989 Code, § 28.06) (Am. Ord. 697, passed 8-1-2006)

§ 151.07 CONDITIONS DANGEROUS TO LIFE, HEALTH OR PROPERTY.

Nothing contained in this chapter shall prohibit the making of necessary construction, reconstruction, alteration or demolition of any improvement on a landmark site or in an historic district pursuant to order of any governmental agency or pursuant to any court judgment for the purpose of remedying emergency conditions determined to be dangerous to life, health or property. In this case, no approval from the Commission shall be required.

(1989 Code, § 28.07)

§ 151.99 PENALTY.

Except as otherwise provided, any person who violates any provision of this chapter or any order, rule or regulation made hereunder shall be subject to a penalty as provided in § 10.99 of this municipal code.

(1989 Code, § 28.10)

CHAPTER 152: FLOODPLAIN ZONING

Section

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Editor's note:

This chapter was established by Ordinance No. 771, passed 12-17-2015.

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

§ 152.01 STATUTORY AUTHORIZATION.

This chapter is adopted pursuant to the authorization in Wis. Stats. §§ 61.35 and 62.23, for villages and cities: 59.59, 59.692, and 59.694 for counties; and the requirements in 87.30.

§ 152.02 FINDING OF FACT.

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

§ 152.03 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.

§ 152.04 TITLE.

This ordinance shall be known as the Floodplain Zoning Ordinance for The City of Mineral Point, Mineral Point, Wisconsin.

§ 152.05 GENERAL PROVISIONS.

(1) AREAS TO BE REGULATED

This ordinance regulates all areas that would be covered by the regional flood or base flood as shown on the Flood Insurance Rate Map (FIRM) or other maps approved by DNR. Base flood elevations are derived from the flood profiles in the Flood Insurance Study (FIS) and are shown as AE, A1-30, and AH Zones on the FIRM. Other regulatory zones are displayed as A and AO zones. Regional Flood Elevations (RFE) may be derived from other studies. If more than one map or revision is referenced, the most restrictive information shall apply.

(2) OFFICIAL MAPS & REVISIONS

The boundaries of all floodplain districts are designated as A, AE, AH, AO or A1- 30 on the maps based on the Flood Insurance Study (FIS) listed below. Any change to the base flood elevations (BFE) or any changes to the boundaries of the floodplain or floodway in the FIS or on the Flood Insurance Rate Map (FIRM) must be reviewed and approved by the DNR and FEMA through the Letter of Map Change process (see Article VIII *Amendments*) before it is effective. No changes to RFE's on non-FEMA maps shall be effective until approved by the DNR. These maps and revisions are on file in the office of the City Clerk, 137 High Street, Suite 1, Mineral Point WI. If more than one map or revision is referenced, the most restrictive information shall apply.

(a) OFFICIAL MAPS: Based on the FIS:

1. Flood Insurance Rate Map (FIRM), panel numbers 55049C0370D, 55049C0502D, **55049C0510D**, dated **12/16/2015** with corresponding profiles that are based on the Flood Insurance Study (FIS) dated **12/16/2015**, **Volume Number 55049CV000A**.

Approved by: The DNR and FEMA

(3) ESTABLISHMENT OF FLOODPLAIN ZONING DISTRICTS

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

- (a) The Floodway District (FW), is the channel of a river or stream and those portions of the floodplain adjoining the channel required to carry the regional floodwaters and are contained within AE Zones as shown on the FIRM.
- (b) The Floodfringe District (FF) is that portion between the regional flood limits and the floodway and displayed as AE Zones on the FIRM.
- (c) The General Floodplain District (GFP) is those areas that may be covered by floodwater during the regional flood and does not have a BFE or floodway boundary determined, including A, AH and AO zones on the FIRM.

(4) LOCATING FLOODPLAIN BOUNDARIES

Discrepancies between boundaries on the official floodplain zoning map and actual field conditions shall be resolved using the criteria in subd (a) or (b) below. If a significant difference exists, the map shall be amended according to s. 152.80. 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. 152.67(3) and the criteria in (a) and (b) below. Where the flood profiles are based on established base flood elevations from a FIRM, FEMA must approve any map amendment or revision pursuant to s. 152.80.

- (a) If flood profiles exist, the map scale and the profile elevations shall determine the district boundary. The regional or base flood elevations shall govern if there are any discrepancies.
- (b) Where flood profiles do not exist for projects, the location of the boundary shall be determined by the map scale.

(5) REMOVAL OF LANDS FROM FLOODPLAIN

Compliance with the provisions of this ordinance shall not be grounds for removing land from the floodplain unless it is filled at least two feet above the regional or base flood elevation, the fill is contiguous to land outside the floodplain, and the map is amended pursuant to s. 152.80.

(6) COMPLIANCE

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

(7) MUNICIPALITIES AND STATE AGENCIES REGULATED

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

(8) ABROGATION AND GREATER RESTRICTIONS

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

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

(9) INTERPRETATION

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

(10) WARNING AND DISCLAIMER OF LIABILITY

The flood protection standards in this ordinance are based on engineering experience and research. Larger floods may occur or the flood height may be increased by man-made or natural causes. This ordinance does not imply or guarantee that non-floodplain areas or permitted floodplain uses will be free from flooding and flood damages. This ordinance does not create liability on the part of, or a cause of action against, the municipality or any officer or employee thereof for any flood damage that may result from reliance on this ordinance.

(11) SEVERABILITY

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

(12) ANNEXED AREAS FOR CITIES AND VILLAGES

The Iowa County floodplain zoning provisions in effect on the date of annexation shall remain in effect and shall be enforced by the municipality for all annexed areas until the municipality adopts and enforces an ordinance which meets the requirements of ch. NR 116, Wis. Adm. Code and 44 CFR 59-72, *National Flood Insurance Program* (NFIP). These annexed lands are described on the municipality's official zoning map. County floodplain zoning provisions are incorporated by reference for the purpose of administering this section and are on file in the office of the municipal zoning administrator. All plats or maps of annexation shall show the regional flood elevation and the floodway location.

GENERAL STANDARDS APPLICABLE TO ALL FLOODPLAIN

§ 152.15 GENERAL STANDARDS APPLICABLE TO ALL FLOODPLAIN.

The community shall review all permit applications to determine whether proposed building sites will be reasonably safe from flooding. If a proposed building site is in a flood-prone area, all new construction and substantial improvements shall be designed and anchored to prevent flotation, collapse, or lateral movement of the structure resulting from hydrodynamic and hydrostatic loads; be constructed with flood-resistant materials; be constructed to minimize flood damages and to ensure that utility and mechanical equipment is designed and/or located so as to prevent water from entering or accumulating within the equipment during conditions of flooding.

Subdivisions shall be reviewed for compliance with the above standards. All subdivision proposals (including manufactured home parks) shall include regional flood elevation and floodway data for any development that meets the subdivision definition of this ordinance and all other requirements in s. 152.65(2). Adequate drainage shall be provided to reduce exposure to flood hazards and all public utilities and facilities, such as sewer, gas, electrical, and water systems are located and constructed to minimize or eliminate flood damages.

§ 152.16 HYRAULIC AND HYDROLOGIC ANALYSES.

(1) No floodplain development shall:

- (a) Obstruct flow, defined as development which blocks the conveyance of floodwaters by itself or with other development, causing any increase in the regional flood height; or
- (b) Cause any increase in the regional flood height due to floodplain storage area lost.

(2) The zoning administrator shall deny permits if it is determined the proposed development will obstruct flow or cause any increase in the regional flood height, based on the officially adopted FIRM or other adopted map, unless the provisions of s. 152.80 are met.

§ 152.17 WATERCOURSE ALTERATIONS.

No land use permit to alter or relocate a watercourse in a mapped floodplain shall be issued until the local official has notified in writing all adjacent municipalities, the Department and FEMA regional offices, and required the applicant to secure all necessary state and federal permits. The standards of s. 152.016 must be met and the flood carrying capacity of any altered or relocated watercourse shall be maintained.

As soon as is practicable, but not later than six months after the date of the watercourse alteration or relocation and pursuant to s. 152.80, the community shall apply for a Letter of Map Revision (LOMR) from FEMA. Any such alterations must be reviewed and approved by FEMA and the DNR through the LOMC process.

§ 152.18 CHAPTER 30, 31, WIS. STATS., DEVELOPMENT.

Development which requires a permit from the Department, under chs. 30 and 31, Stats., such as docks, piers, wharves, bridges, culverts, dams and navigational aids, may be allowed if the necessary permits are obtained and amendments to the floodplain zoning ordinance are made according to s. 152.80.

§ 152.019 PUBLIC OR PRIVATE CAMPGROUNDS.

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

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

- (11) The campground shall have signs clearly posted at all entrances warning of the flood hazard and the procedures for evacuation when a flood warning is issued; and
- (12) All service facilities, including but not limited to refuse collection, electrical service, gas lines, propane tanks, sewage systems and wells shall be properly anchored and placed at or floodproofed to the flood protection elevation.

FLOODWAY DISTRICT (FW)

§ 152.25 APPLICABILITY.

This section applies to all floodway areas on the floodplain zoning maps and those identified pursuant to s. 152.48.

§ 152.26 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. 152.27 and 152.28; and
 - all permits or certificates have been issued according to s. 152.65.
- (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. 152.27(4).
 - (4) Uses or structures accessory to open space uses, or classified as historic structures that comply with ss. 152.27 and 152.28.
 - (5) Extraction of sand, gravel or other materials that comply with s. 152.27(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. 152.27(3).

§ 152.27 STANDARDS FOR DEVELOPMENT.

(1) GENERAL

- (a) Any development in the floodway shall comply with s. 152.15 and have a low flood damage potential.
- (b) Applicants shall provide the following data to determine the effects of the proposal according to s. 152.16 and 152.65(2)(c):
 - 1. A cross-section elevation view of the proposal, perpendicular to the watercourse, showing if the proposed development will obstruct flow; or
 - 2. An analysis calculating the effects of this proposal on regional flood height.
- (c) The zoning administrator shall deny the permit application if the project will cause any increase in the flood elevations upstream or downstream, based on the data submitted for subd. (b) above.

(2) STRUCTURES

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

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

(3) PUBLIC UTILITIES, STREETS AND BRIDGES

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

- (a) Adequate floodproofing measures are provided to the flood protection elevation; and
- (b) Construction meets the development standards of s. 152.16.

(4) FILLS OR DEPOSITION OF MATERIALS

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

- (a) The requirements of s. 152.16 are met;
- (b) No material is deposited in navigable waters unless a permit is issued by the Department pursuant to ch. 30, Stats., and a permit pursuant to s. 404 of the Federal Water Pollution Control Act, Amendments of 1972, 33 U.S.C. 1344 has been issued, if applicable, and all other requirements have been met;
- (c) The fill or other materials will be protected against erosion by riprap, vegetative cover, sheet piling or bulkheading; and
- (d) The fill is not classified as a solid or hazardous material.

§ 152.28 PROHIBITED USES.

All uses not listed as permitted uses in s. 152.26 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. SPS 383, Wis. Adm. Code;
- (5) Any public or private wells which are used to obtain potable water, except those for recreational areas that meet the requirements of local ordinances and chs. NR 811 and NR 812, Wis. Adm. Code;
- (6) Any solid or hazardous waste disposal sites;
- (7) Any wastewater treatment ponds or facilities, except those permitted under s. NR 110.15(3)(b), Wis. Adm. Code; and
- (8) Any sanitary sewer or water supply lines, except those to service existing or proposed development located outside the floodway which complies with the regulations for the floodplain area occupied.

FLOODFRINGE DISTRICT (FF)

§ 152.35 APPLICABILITY.

This section applies to all floodfringe areas shown on the floodplain zoning maps and those identified pursuant to s. 152.48.

§ 152.36 PERMITTED USES.

Any structure, land use, or development is allowed in the Floodfringe District if the standards in s. 152.37 are met, the use is not prohibited by this or any other ordinance or regulation and all permits or certificates specified in s. 152.65 have been issued.

§ 152.37 STANDARDS FOR DEVELOPMENT.

S. 152.16 shall apply in addition to the following requirements according to the use requested. Any existing structure in the floodfringe must meet the requirements of Article VI *Nonconforming Uses*;

(1) RESIDENTIAL USES

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

- (a) The elevation of the lowest floor shall be at or above the flood protection elevation on fill unless the requirements of s. 152.37(1)(b) can be met. The fill shall be one foot or more above the regional flood elevation extending at least 15 feet beyond the limits of the structure.
- (b) The basement or crawlway floor may be placed at the regional flood elevation if it is dry floodproofed to the flood protection elevation. No basement or crawlway floor is allowed below the regional flood elevation;
- (c) Contiguous dryland access shall be provided from a structure to land outside of the floodplain, except as provided in subd. (d).
- (d) In developments where existing street or sewer line elevations make compliance with subd. (c) impractical, the municipality may permit new development and substantial improvements where roads are below the regional flood elevation, if:
 1. The municipality has written assurance from police, fire and emergency services that rescue and relief will be provided to the structure(s) by wheeled vehicles during a regional flood event; or
 2. The municipality has a DNR-approved emergency evacuation plan.

(2) ACCESSORY STRUCTURES OR USES

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

(3) COMMERCIAL USES

Any commercial structure which is erected, altered or moved into the floodfringe shall meet the

requirements of s. 152.37(1). Subject to the requirements of s. 152.37(5), storage yards, surface parking lots and other such uses may be placed at lower elevations if an adequate warning system exists to protect life and property.

(4) MANUFACTURING AND INDUSTRIAL USES

Any manufacturing or industrial structure which is erected, altered or moved into the floodfringe shall have the lowest floor elevated to or above the flood protection elevation or meet the floodproofing standards in s. 152.69. Subject to the requirements of s. 152.37(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. 152.69. Adequate measures shall be taken to ensure that such materials will not enter the water body during flooding.

(6) PUBLIC UTILITIES, STREETS AND BRIDGES

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

(a) When failure of public utilities, streets and bridges would endanger public health or safety, or where such facilities are deemed essential, construction or repair of such facilities shall only be permitted if they are designed to comply with s. 152.69.

(b) Minor roads or non-essential utilities may be constructed at lower elevations if they are designed to withstand flood forces to the regional flood elevation.

(7) SEWAGE SYSTEMS

All sewage disposal systems shall be designed to minimize or eliminate infiltration of flood water into the system, pursuant to s. 152.69(3), to the flood protection elevation and meet the provisions of all local ordinances and ch. SPS 383, Wis. Adm. Code.

(8) WELLS

All wells shall be designed to minimize or eliminate infiltration of flood waters into the system, pursuant to s. 152.69(3), to the flood protection elevation and shall meet the provisions of chs. NR 811 and NR 812, Wis. Adm. Code.

(9) SOLID WASTE DISPOSAL SITES

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

(10) DEPOSITION OF MATERIALS

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

(11) MANUFACTURED HOMES

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

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

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

(c) Outside of existing manufactured home parks, including new manufactured home parks and all single units outside of existing parks, all new, replacement and substantially improved manufactured homes shall meet the residential development standards for the floodfringe in s. 152.37(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. 152.37(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.

GENERAL FLOODPLAIN DISTRICT (GFP)

§ 152.45 APPLICABILITY.

The provisions for this district shall apply to all floodplains mapped as A, AO or AH zones.

§ 152.46 PERMITTED USES.

Pursuant to s. 152.48, it shall be determined whether the proposed use is located within the floodway or floodfringe.

Those uses permitted in the Floodway (s. 152.26) and Floodfringe (s. 152.36) Districts are allowed within the General Floodplain District, according to the standards of s. 152.47, provided that all permits or certificates required under s. 152.65 have been issued.

§ 152.47 STANDARDS FOR DEVELOPMENT.

Article III applies to floodway areas, Article IV applies to floodfringe areas. The rest of this ordinance applies to either district.

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

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

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

(c) the depth as shown on the FIRM

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

§ 152.48 DETERMINING FLOODWAY/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; and the flood zone as shown on the FIRM.

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

(a) A Hydrologic and Hydraulic Study as specified in s. 152.65(2)(c).

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

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

NONCONFORMING USES

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

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

- (b) If a nonconforming use or the use of a nonconforming structure is discontinued for 12 consecutive months, it is no longer permitted and any future use of the property, and any structure or building thereon, shall conform to the applicable requirements of this ordinance;
- (c) The municipality shall keep a record which lists all nonconforming uses and nonconforming structures, their present equalized assessed value, the cost of all modifications or additions which have been permitted, and the percentage of the structure's total current value those modifications represent;
- (d) No modification or addition to any nonconforming structure or any structure with a nonconforming use, which over the life of the structure would equal or exceed 50% of its present equalized assessed value, shall be allowed unless the entire structure is permanently changed to a conforming structure with a conforming use in compliance with the applicable requirements of this ordinance. Contiguous dry land access must be provided for residential and commercial uses in compliance with s. 152.37(1). The costs of elevating the lowest floor of a nonconforming building or a building with a nonconforming use to the flood protection elevation are excluded from the 50% provisions of this paragraph;
- (e) No maintenance to any nonconforming structure or any structure with a nonconforming use, the cost of which would equal or exceed 50% of its present equalized assessed value, shall be allowed unless the entire structure is permanently changed to a conforming structure with a conforming use in compliance with the applicable requirements of this ordinance. Contiguous dry land access must be provided for residential and commercial uses in compliance with s. 152.37(1).
- (f) If on a per event basis the total value of the work being done under (d) and (e) equals or exceeds 50% of the present equalized assessed value the work shall not be permitted unless the entire structure is permanently changed to a conforming structure with a conforming use in compliance with the applicable requirements of this ordinance. Contiguous dry land access must be provided

for residential and commercial uses in compliance with s. 152.37(1).

- (g) Except as provided in subd. (h), if any nonconforming structure or any structure with a nonconforming use is destroyed or is substantially damaged, it cannot be replaced, reconstructed or rebuilt unless the use and the structure meet the current ordinance requirements. A structure is considered substantially damaged if the total cost to restore the structure to its pre-damaged condition equals or exceeds 50% of the structure's present equalized assessed value.
- (h) For nonconforming buildings that are substantially damaged or destroyed by a nonflood disaster, the repair or reconstruction of any such nonconforming building shall be permitted in order to restore it to the size and use in effect prior to the damage event, provided that the minimum federal code requirements below are met and all required permits have been granted prior to the start of construction.

1. Residential Structures

- a. Shall have the lowest floor, including basement, elevated to or above the base flood elevation using fill, pilings, columns, posts or perimeter walls. Perimeter walls must meet the requirements of s. 152.69(2).
- b. Shall be anchored to prevent flotation, collapse, or lateral movement of the structure resulting from hydrodynamic and hydrostatic loads, including the effects of buoyancy and shall be constructed with methods and materials resistant to flood damage.
- c. Shall be constructed with electrical, heating, ventilation, plumbing and air conditioning equipment and other service facilities that are designed and/or elevated so as to prevent water from entering or accumulating within the components during conditions of flooding.
- d. In A Zones, obtain, review and utilize any flood data available from a federal, state or other source.
- e. In AO Zones with no elevations specified, shall have the lowest floor, including basement, meet the standards in s. 152.47(1).
- f. in AO Zones, shall have adequate drainage paths around structures on slopes to guide floodwaters around and away from the structure.

2. Nonresidential Structures

- a. Shall meet the requirements of s. 152.55(2)(h)1a-f.
- b. Shall either have the lowest floor, including basement, elevated to or above the regional flood elevation; or, together with attendant utility and sanitary facilities, shall meet the standards in s. 152.69(1) or (2).
- c. In AO Zones with no elevations specified, shall have the lowest floor, including basement, meet the standards in s. 152.47(1).

- (3) A nonconforming historic structure may be altered if the alteration will not preclude the structure's continued designation as a historic structure, the alteration will comply with s. 152.27(1), flood resistant materials are used, and construction practices and floodproofing methods that comply with s. 152.69 are used. Repair or rehabilitation of historic structures shall be exempt from the development standards of s. 152.55(2)(h)1 if it is determined that the proposed repair or rehabilitation will not preclude the structure's continued designation as a historic structure and is the minimum necessary to preserve the historic character and design of the structure.

§ 152.56 FLOODWAY DISTRICT.

- (1) No modification or addition shall be allowed to any nonconforming structure or any structure with a nonconforming use in the Floodway District, unless such modification or addition:
 - (a) Has been granted a permit or variance which meets all ordinance requirements;
 - (b) Meets the requirements of s. 152.55;
 - (c) Shall not increase the obstruction to flood flows or regional flood height;
 - (d) Any addition to the existing structure shall be floodproofed, pursuant to s. 152.69, by means other than the use of fill, to the flood protection elevation; and
 - (e) If any part of the foundation below the flood protection elevation is enclosed, the following standards shall apply:
 1. The enclosed area shall be designed by a registered architect or engineer to allow for the efficient entry and exit of flood waters without human intervention. A minimum of two openings must be provided with a minimum net area of at least one square inch for every one square foot of the enclosed area. The lowest part of the opening can be no more than 12 inches above the adjacent grade;
 2. The parts of the foundation located below the flood protection elevation must be constructed of flood-resistant materials;
 3. Mechanical and utility equipment must be elevated or floodproofed to or above the flood protection elevation; and
 4. The use must be limited to parking, building access or limited storage.
- (2) No new on-site sewage disposal system, or addition to an existing on-site sewage disposal system, except where an addition has been ordered by a government agency to correct a hazard to public health, shall be allowed in the Floodway District. Any replacement, repair or maintenance of an existing on-site sewage disposal system in a floodway area shall meet the applicable requirements of all municipal ordinances, s. 152.69(3) and ch. SPS 383, Wis. Adm. Code.

- (3) No new well or modification to an existing well used to obtain potable water shall be allowed in the Floodway District. Any replacement, repair or maintenance of an existing well in the Floodway District shall meet the applicable requirements of all municipal ordinances, s. 152.69(3) and chs. NR 811 and NR 812, Wis. Adm. Code.

§ 152.57 FLOOPFRINGE DISTRICT.

- (1) No modification or addition shall be allowed to any nonconforming structure or any structure with a nonconforming use unless such modification or addition has been granted a permit or variance by the municipality, and meets the requirements of s. 152.37 except where s. 152.57(2) is applicable.
- (2) Where compliance with the provisions of subd. (1) would result in unnecessary hardship and only where the structure will not be used for human habitation or be associated with a high flood damage potential, the Board of Adjustment/Appeals, using the procedures established in s. 152.67, may grant a variance from those provisions of subd. (1) for modifications or additions using the criteria listed below. Modifications or additions which are protected to elevations lower than the flood protection elevation may be permitted if:
 - (a) No floor is allowed below the regional flood elevation for residential or commercial structures;
 - (b) Human lives are not endangered;
 - (c) Public facilities, such as water or sewer, shall not be installed;
 - (d) Flood depths shall not exceed two feet;
 - (e) Flood velocities shall not exceed two feet per second; and
 - (f) The structure shall not be used for storage of materials as described in s. 152.37(5).
- (3) All new private sewage disposal systems, or addition to, replacement, repair or maintenance of a private sewage disposal system shall meet all the applicable provisions of all local ordinances, 152.69(3) and ch. SPS 383, Wis. Adm. Code.
- (4) All new wells, or addition to, replacement, repair or maintenance of a well shall meet the applicable provisions of this ordinance, s. 152.69(3) and ch. NR 811 and NR 812, Wis. Adm. Code.

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.

§ 152.65 ZONING ADMINISTRATOR.

(1) DUTIES AND POWERS

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

- (a) Advise applicants of the ordinance provisions, assist in preparing permit applications and appeals, and assure that the regional flood elevation for the proposed development is shown on all permit applications.
- (b) Issue permits and inspect properties for compliance with provisions of this ordinance and issue certificates of compliance where appropriate.
- (c) Inspect and assess all damaged floodplain structures to determine if substantial damage to the structures has occurred.
- (d) Keep records of all official actions such as:
 - 1. All permits issued, inspections made, and work approved;
 - 2. Documentation of certified lowest floor and regional flood elevations;
 - 3. Floodproofing certificates.
 - 4. Water surface profiles, floodplain zoning maps and ordinances, nonconforming uses and structures including changes, appeals, variances and amendments.
 - 5. All substantial damage assessment reports for floodplain structures.
 - 6. List of nonconforming structures and uses. .
- (e) Submit copies of the following items to the Department Regional office:
 - 1. Within 10 days of the decision, a copy of any decisions on variances, appeals for map or text interpretations, and map or text amendments;
 - 2. Copies of case-by-case analyses and other required information including an annual summary of floodplain zoning actions taken.
 - 3. Copies of substantial damage assessments performed and all related correspondence concerning the assessments.
- (f) Investigate, prepare reports, and report violations of this ordinance to the municipal zoning agency and attorney for prosecution. Copies of the reports shall also be sent to the Department Regional office.
- (g) Submit copies of amendments to the FEMA Regional office.

(2) LAND USE PERMIT

A land use permit shall be obtained before any new development; repair, modification or addition to

an existing structure; or change in the use of a building or structure, including sewer and water facilities, may be initiated. Application to the zoning administrator shall include:

(a) GENERAL INFORMATION

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

(b) SITE DEVELOPMENT PLAN

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

1. Location, dimensions, area and elevation of the lot;
2. Location of the ordinary highwater mark of any abutting navigable waterways;
3. Location of any structures with distances measured from the lot lines and street center lines;
4. Location of any existing or proposed on-site sewage systems or private water supply systems;
5. Location and elevation of existing or future access roads;
6. Location of floodplain and floodway limits as determined from the official floodplain zoning maps;
7. The elevation of the lowest floor of proposed buildings and any fill using the vertical datum from the adopted study – either National Geodetic Vertical Datum (NGVD) or North American Vertical Datum (NAVD);
8. Data sufficient to determine the regional flood elevation in NGVD or NAVD at the location of the development and to determine whether or not the requirements of s. 3.0 or 4.0 are met; and
9. Data to determine if the proposed development will cause an obstruction to flow or an increase in regional flood height or discharge according to s. 152.16. This may include any of the information noted in s. 152.27(1).

(c) HYDRAULIC AND HYDROLOGIC STUDIES TO ANALYZE DEVELOPMENT All hydraulic and hydrologic studies shall be completed under the direct supervision of a professional engineer registered in the State. The study contractor shall be responsible for the technical adequacy of the study. All studies shall be reviewed and approved by the Department.

1. Zone A floodplains:

a. Hydrology

- i. The appropriate method shall be based on the standards in ch. NR 116.07(3), Wis. Admin. Code, *Hydrologic Analysis: Determination of Regional Flood Discharge*.

b. Hydraulic modeling

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

following:

- i. determination of the required limits of the hydraulic model shall be based on detailed study information for downstream structures (dam, bridge, culvert) to determine adequate starting WSEL for the study.
- ii. channel sections must be surveyed.
- iii. minimum four foot contour data in the overbanks shall be used for the development of cross section overbank and floodplain mapping.
- iv. a maximum distance of 500 feet between cross sections is allowed in developed areas with additional intermediate cross sections required at transitions in channel bottom slope including a survey of the channel at each location.
- v. the most current version of HEC_RAS shall be used.
- vi. a survey of bridge and culvert openings and the top of road is required at each structure.
- vii. additional cross sections are required at the downstream and upstream limits of the proposed development and any necessary intermediate locations based on the length of the reach if greater than 500 feet.
- viii. standard accepted engineering practices shall be used when assigning parameters for the base model such as flow, Manning's N values, expansion and contraction coefficients or effective flow limits. The base model shall be calibrated to past flooding data such as high water marks to determine the reasonableness of the model results. If no historical data is available, adequate justification shall be provided for any parameters outside standard accepted engineering practices.
- ix. the model must extend past the upstream limit of the difference in the existing and proposed flood profiles in order to provide a tie-in to existing studies. The height difference between the proposed flood profile and the existing study profiles shall be no more than 0.00 feet.

c. Mapping

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

- i. If the proposed development is located outside of the floodway, then it is determined to have no impact on the regional flood elevation.
- ii. If any part of the proposed development is in the floodway, it must be added to the base

model to show the difference between existing and proposed conditions. The study must ensure that all coefficients remain the same as in the existing model, unless adequate justification based on standard accepted engineering practices is provided.

2. Zone AE Floodplains

a. Hydrology

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

b. Hydraulic model

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

i. Duplicate Effective Model.

The effective model shall be reproduced to ensure correct transference of the model data and to allow integration of the revised data to provide a continuous FIS model upstream and downstream of the revised reach. If data from the effective model is available, models shall be generated that duplicate the FIS profiles and the elevations shown in the Floodway Data Table in the FIS report to within 0.1 foot.

ii. Corrected Effective Model.

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

iii. Existing (Pre-Project Conditions) Model.

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

iv. Revised (Post-Project Conditions) Model.

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

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

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

c. Mapping

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

- i. Consistency between the revised hydraulic models, the revised floodplain and floodway delineations, the revised flood profiles, topographic work map, annotated FIRMs and/or Flood Boundary Floodway Maps (FBFMs), construction plans, bridge plans.
- ii. Certified topographic map of suitable scale, contour interval, and a planimetric map showing the applicable items. If a digital version of the map is available, it may be submitted in order that the FIRM may be more easily revised.
- iii. Annotated FIRM panel showing the revised 1% and 0.2% annual chance floodplains and floodway boundaries.
- iv. If an annotated FIRM and/or FBFM and digital mapping data (GIS or CADD) are used then all supporting documentation or metadata must be included with the data submission along with the Universal Transverse Mercator (UTM) projection and State Plane Coordinate System in accordance with FEMA mapping specifications.
- v. The revised floodplain boundaries shall tie into the effective floodplain boundaries.
- vi. All cross sections from the effective model shall be labeled in accordance with the effective map and a cross section lookup table shall be included to relate to the model input numbering scheme.
- vii. Both the current and proposed floodways shall be shown on the map.
- viii. The stream centerline, or profile baseline used to measure stream distances in the model shall be visible on the map.

(d) EXPIRATION

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

(3) CERTIFICATE OF COMPLIANCE

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

- (a) The certificate of compliance shall show that the building or premises or part thereof, and the proposed use, conform to the provisions of this ordinance;
- (b) Application for such certificate shall be concurrent with the application for a permit;
- (c) If all ordinance provisions are met, the certificate of compliance shall be issued within 10 days 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 the requirements of s. 152.69 are met.

(4) OTHER PERMITS

Prior to obtaining a floodplain development permit the applicant must secure all necessary permits from federal, state, and local agencies, including but not limited to those required by the U.S. Army Corps of Engineers under s. 404 of the Federal Water Pollution Control Act, Amendments of 1972, 33 U.S.C. 1344.

§ 152.66 ZONING AGENCY.

(1) The City of Mineral Point Planning Commission shall:

- (a) oversee the functions of the office of the zoning administrator; and
- (b) review and advise the governing body on all proposed amendments to this ordinance, maps and text.

(2) The City of Mineral Point Planning Commission 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.

§ 152.67 BOARD OF ADJUSTMENTS/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 shall not be the secretary of the Board.

(1) POWERS AND DUTIES

The Board of Adjustment/Appeals shall:

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

(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; and
- c. Assure that notice shall be mailed to the parties in interest and the Department Regional office at least 10 days in advance of the hearing.

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

- a. Resolve boundary disputes according to s. 152.67(3);
- b. Decide variance applications according to s. 152.67(4); and
- c. Decide appeals of permit denials according to s. 152.68.

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

1. Be made within a reasonable time;
2. Be sent to the Department Regional office within 10 days of the decision;
3. Be a written determination signed by the chairman or secretary of the Board;
4. State the specific facts which are the basis for the Board's decision;
5. Either affirm, reverse, vary or modify the order, requirement, decision or determination appealed, in whole or in part, dismiss the appeal for lack of jurisdiction or grant or deny the variance application; and
6. Include the reasons for granting an appeal, describing the hardship demonstrated by the applicant in the case of a variance, clearly stated in the recorded minutes of the Board proceedings.

(3) BOUNDARY DISPUTES

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

- (a) If a floodplain district boundary is established by approximate or detailed floodplain studies, the flood elevations or profiles shall prevail in locating the boundary. If none exist, other evidence may be examined;
- (b) The person contesting the boundary location shall be given a reasonable opportunity to present arguments and technical evidence to the Board; and

- (c) If the boundary is incorrectly mapped, the Board should inform the zoning committee or the person contesting the boundary location to petition the governing body for a map amendment according to s. 152.80.

(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 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. 152.03.

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

1. The variance shall not cause any increase in the regional flood elevation;
2. Variances can only be granted for lots that are less than one-half acre and are contiguous to existing structures constructed below the RFE; and
3. 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 Article VIII *Amendments*; and
6. Allow any alteration of an historic structure, including its use, which would preclude its continued designation as an historic structure.

- (d) When a floodplain variance is granted the Board shall notify the applicant in writing that it may increase risks to life and property and flood insurance premiums could increase up to \$25.00 per \$100.00 of coverage. A copy shall be maintained with the variance record.

§ 152.68 TO REVIEW APPEALS OF PERMIT DENIALS.

- (1) The Zoning Agency (s. 152.66) or Board shall review all data related to the appeal. This may include:
 - (a) Permit application data listed in s. 152.65(2);
 - (b) Floodway/floodfringe determination data in s. 152.48;
 - (c) Data listed in s. 152.27(1)(b) where the applicant has not submitted this information to the zoning administrator; and
 - (d) Other data submitted with the application, or submitted to the Board with the appeal.
- (2) For appeals of all denied permits the Board shall:
 - (a) Follow the procedures of s. 152.67;
 - (b) Consider zoning agency recommendations; and
 - (c) Either uphold the denial or grant the appeal.
- (3) For appeals concerning increases in regional flood elevation the Board shall:
 - (a) Uphold the denial where the Board agrees with the data showing an increase in flood elevation. Increases may only be allowed after amending the flood profile and map and all appropriate legal arrangements are made with all adversely affected property owners as per the requirements of s. 152.80; and
 - (b) Grant the appeal where the Board agrees that the data properly demonstrates that the project does not cause an increase provided no other reasons for denial exist.

§ 152.69 FLOODPROOFING.

- (1) No permit or variance shall be issued for a non-residential structure designed to be watertight below the regional flood elevation until the applicant submits a plan certified by a registered professional engineer or architect that the floodproofing measures will protect the structure or development to the flood protection elevation and submits a FEMA Floodproofing Certificate.
- (2) For a structure designed to allow the entry of floodwaters, no permit or variance shall be issued until the applicant submits a plan either:
 - (a) certified by a registered professional engineer or architect; or
 - (b) meets or exceeds the following standards:

1. a minimum of two openings having a total net area of not less than one square inch for every square foot of enclosed area subject to flooding;
2. the bottom of all openings shall be no higher than one foot above grade; and
3. openings may be equipped with screens, louvers, valves, or other coverings or devices provided that they permit the automatic entry and exit of floodwaters.

(3) Floodproofing measures shall be designed, as appropriate, to:

- (a) Withstand flood pressures, depths, velocities, uplift and impact forces and other regional flood factors;
- (b) Protect structures to the flood protection elevation;
- (c) Anchor structures to foundations to resist flotation and lateral movement;
- (d) Minimize or eliminate infiltration of flood waters; and
- (e) Minimize or eliminate discharges into flood waters.

§ 152.70 PUBLIC INFORMATION.

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

AMENDMENTS

§ 152.80 AMENDMENTS.

Obstructions or increases may only be permitted if amendments are made to this ordinance, the official floodplain zoning maps, floodway lines and water surface profiles, in accordance with s. 152.81.

- (1) In AE Zones with a mapped floodway, no obstructions or increases shall be permitted unless the applicant receives a Conditional Letter of Map Revision from FEMA and amendments are made to this ordinance, the official floodplain zoning maps, floodway lines and water surface profiles, in accordance with s. 152.81. Any such alterations must be reviewed and approved by FEMA and the DNR.
- (2) In A Zones increases equal to or greater than 1.0 foot may only be permitted if the applicant receives a Conditional Letter of Map Revision from FEMA and amendments are made to this ordinance, the official floodplain maps, floodway lines, and water surface profiles, in accordance with s. 152.81.

§ 152.81 GENERAL.

The governing body shall change or supplement the floodplain zoning district boundaries and this ordinance in the manner outlined in s. 152.82 below. Actions which require an amendment to the ordinance and/ or submittal of a Letter of Map Change (LOMC) include, but are not limited to, the following:

- (1) Any fill or floodway encroachment that obstructs flow causing any increase in the regional flood height;
- (2) Any change to the floodplain boundaries and/or watercourse alterations on the FIRM;
- (3) Any changes to any other officially adopted floodplain maps listed in s. 152.05(2)(b);
- (4) Any floodplain fill which raises the elevation of the filled area to a height at or above the flood protection elevation and is contiguous to land lying outside the floodplain;
- (5) Correction of discrepancies between the water surface profiles and floodplain maps;
- (6) Any upgrade to a floodplain zoning ordinance text required by s. NR 116.05, Wis. Adm. Code, or otherwise required by law, or for changes by the municipality; and
- (7) All channel relocations and changes to the maps to alter floodway lines or to remove an area from the floodway or the floodfringe that is based on a base flood elevation from a FIRM requires prior approval by FEMA.

§ 152.82 PROCEDURES.

Ordinance amendments may be made upon petition of any party according to the provisions of s. 62.23, Stats., for cities and villages, or 59.69, Stats., for counties. The petitions shall include all data required by ss. 152.48 and 152.65(2). The Land Use Permit shall not be issued until a Letter of Map Revision is issued by FEMA for the proposed changes.

- (1) The proposed amendment shall be referred to the zoning agency for a public hearing and recommendation to the governing body. The amendment and notice of public hearing shall be submitted to the Department Regional office for review prior to the hearing. The amendment procedure shall comply with the provisions of s. 62.23, Stats., for cities and villages or s. 59.69, Stats., for counties.
- (2) No amendments shall become effective until reviewed and approved by the Department.
- (3) All persons petitioning for a map amendment that obstructs flow causing any increase in the regional flood height, shall obtain flooding easements or other appropriate legal arrangements from all adversely affected property owners and notify local units of government before the amendment can be approved by the governing body.

ENFORCEMENT AND PENALTIES

§ 152.90 ENFORCEMENT AND PENALTIES.

Any violation of the provisions of this ordinance by any person shall be unlawful and shall be referred to the municipal attorney who shall expeditiously prosecute all such violators.

A violator shall, upon conviction, forfeit to the municipality a penalty of \$50.00 (fifty dollars), 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.

DEFINITIONS

§ 152.95 DEFINITIONS.

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

1. A ZONES – Those areas shown on the Official Floodplain Zoning Map which would be inundated by the regional flood. These areas may be numbered or unnumbered A Zones. The A Zones may or may not be reflective of flood profiles, depending on the availability of data for a given area.
2. AH ZONE – See “AREA OF SHALLOW FLOODING”.
3. AO ZONE – See “AREA OF SHALLOW FLOODING”.
4. ACCESSORY STRUCTURE OR USE – A facility, structure, building or use which is accessory or incidental to the principal use of a property, structure or building.
5. ALTERATION – An enhancement, upgrading or substantial change or modifications other than an addition or repair to a dwelling or to electrical, plumbing, heating, ventilating, air conditioning and other systems within a structure.
6. AREA OF SHALLOW FLOODING – A designated AO, AH, AR/AO, AR/AH, or VO zone on a community’s Flood Insurance Rate Map (FIRM) with a 1 percent or greater annual chance of flooding to an average depth of 1 to 3 feet where a clearly defined channel does not exist, where the path of flooding is unpredictable, and where velocity flood may be evident. Such flooding is characterized by ponding or sheet flow.
7. BASE FLOOD – Means the flood having a one percent chance of being equaled or exceeded in any given year, as published by FEMA as part of a FIS and depicted on a FIRM.
8. BASEMENT – Any enclosed area of a building having its floor sub-grade, i.e., below ground level, on all sides.

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

administers the National Flood Insurance Program.

22. **FLOOD INSURANCE RATE MAP (FIRM)** – A map of a community on which the Federal Insurance Administration has delineated both the floodplain and the risk premium zones applicable to the community. This map can only be amended by the Federal Emergency Management Agency.
23. **FLOOD or FLOODING** – A general and temporary condition of partial or complete inundation of normally dry land areas caused by one of the following conditions:
 - The overflow or rise of inland waters;
 - The rapid accumulation or runoff of surface waters from any source;
 - The inundation caused by waves or currents of water exceeding anticipated cyclical levels along the shore of Lake Michigan or Lake Superior; or
 - The sudden increase caused by an unusually high water level in a natural body of water, accompanied by a severe storm, or by an unanticipated force of nature, such as a seiche, or by some similarly unusual event.
24. **FLOOD FREQUENCY** – The probability of a flood occurrence which is determined from statistical analyses. The frequency of a particular flood event is usually expressed as occurring, on the average once in a specified number of years or as a percent (%) chance of occurring in any given year.
25. **FLOODFRINGE** – That portion of the floodplain outside of the floodway which is covered by flood waters during the regional flood and associated with standing water rather than flowing water.
26. **FLOOD HAZARD BOUNDARY MAP** – A map designating approximate flood hazard areas. Flood hazard areas are designated as unnumbered A-Zones and do not contain floodway lines or regional flood elevations. This map forms the basis for both the regulatory and insurance aspects of the National Flood Insurance Program (NFIP) until superseded by a Flood Insurance Study and a Flood Insurance Rate Map.
27. **FLOOD INSURANCE STUDY** – A technical engineering examination, evaluation, and determination of the local flood hazard areas. It provides maps designating those areas affected by the regional flood and provides both flood insurance rate zones and base flood 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.
28. **FLOODPLAIN** – Land which has been or may be covered by flood water during the regional flood. It includes the floodway and the floodfringe, and may include other designated floodplain areas for regulatory purposes.
29. **FLOODPLAIN ISLAND** – A natural geologic land formation within the floodplain that is surrounded, but not covered, by floodwater during the regional flood.
30. **FLOODPLAIN MANAGEMENT** – Policy and procedures to insure wise use of floodplains, including mapping and engineering, mitigation, education, and administration and enforcement of floodplain regulations.
31. **FLOOD PROFILE** – A graph or a longitudinal profile line showing the relationship of the water surface elevation of a flood event to locations of land surface elevations along a stream or river.
32. **FLOODPROOFING** – Any combination of structural provisions, changes or adjustments to properties

and structures, water and sanitary facilities and contents of buildings subject to flooding, for the purpose of reducing or eliminating flood damage.

33. FLOOD PROTECTION ELEVATION – An elevation of two feet of freeboard above the water surface profile elevation designated for the regional flood. (Also see: FREEBOARD.)
34. FLOOD STORAGE – Those floodplain areas where storage of floodwaters has been taken into account during analysis in reducing the regional flood discharge.
35. FLOODWAY – The channel of a river or stream and those portions of the floodplain adjoining the channel required to carry the regional flood discharge.
36. FREEBOARD – A safety factor expressed in terms of a specified number of 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.
37. HABITABLE STRUCTURE – Any structure or portion thereof used or designed for human habitation.
38. HEARING NOTICE – Publication or posting meeting the requirements of Ch. 985, Stats. For appeals, a Class 1 notice, published once at least one week (7 days) before the hearing, is required. For all zoning ordinances and amendments, a Class 2 notice, published twice, once each week consecutively, the last at least a week (7 days) before the hearing. Local ordinances or bylaws may require additional notice, exceeding these minimums.
39. HIGH FLOOD DAMAGE POTENTIAL – Damage that could result from flooding that includes any danger to life or health or any significant economic loss to a structure or building and its contents.
40. HIGHEST ADJACENT GRADE – The highest natural elevation of the ground surface prior to construction next to the proposed walls of a structure.
41. HISTORIC STRUCTURE – Any structure that is either:
 - Listed individually in the National Register of Historic Places or preliminarily determined by the Secretary of the Interior as meeting the requirements for individual listing on the National Register;
 - Certified or preliminarily 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.
42. INCREASE IN REGIONAL FLOOD HEIGHT – A calculated upward rise in the regional flood elevation

greater than 0.00 foot, based on a comparison of existing conditions and proposed conditions which is directly attributable to development in the floodplain but not attributable to manipulation of mathematical variables such as roughness factors, expansion and contraction coefficients and discharge.

43. **LAND USE** – Any nonstructural use made of unimproved or improved real estate. (Also see DEVELOPMENT.)
44. **LOWEST ADJACENT GRADE** – Elevation of the lowest ground surface that touches any of the exterior walls of a building.
45. **LOWEST FLOOR** – The lowest floor of the lowest enclosed area (including basement). An unfinished or flood resistant enclosure, usable solely for parking of vehicles, building access or storage in an area other than a basement area is not considered a building's lowest floor; provided that such enclosure is not built so as to render the structure in violation of the applicable non-elevation design requirements of 44 CFR 60.3.
46. **MAINTENANCE** – The act or process of restoring to original soundness, including redecorating, refinishing, non structural repairs, or the replacement of existing fixtures, systems or equipment with equivalent fixtures, systems or structures.
47. **MANUFACTURED HOME** – A structure transportable in one or more sections, which is built on a permanent chassis and is designed to be used with or without a permanent foundation when connected to required utilities. The term "manufactured home" includes a mobile home but does not include a "mobile recreational vehicle."
48. **MOBILE/MANUFACTURED HOME PARK OR SUBDIVISION** – A parcel (or contiguous parcels) of land, divided into two or more manufactured home lots for rent or sale.
49. **MOBILE/MANUFACTURED HOME PARK OR SUBDIVISION, EXISTING** – A parcel of land, divided into two or more manufactured home lots for rent or sale, on which the construction of facilities for servicing the lots is completed before the effective date of this ordinance. At a minimum, this would include the installation of utilities, the construction of streets and either final site grading or the pouring of concrete pads.
50. **MOBILE/MANUFACTURED HOME PARK, EXPANSION TO EXISTING** – The preparation of additional sites by the construction of facilities for servicing the lots on which the manufactured homes are to be affixed. This includes installation of utilities, construction of streets and either final site grading, or the pouring of concrete pads.
51. **MOBILE RECREATIONAL VEHICLE** – A vehicle which is built on a single chassis, 400 square feet or less when measured at the largest horizontal projection, designed to be self-propelled, carried or permanently towable by a 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."
52. **MODEL, CORRECTED EFFECTIVE** – A hydraulic engineering model that corrects any errors that occur in the Duplicate Effective Model, adds any additional cross sections to the Duplicate Effective

Model, or incorporates more detailed topographic information than that used in the current effective model.

53. MODEL, DUPLICATE EFFECTIVE – A copy of the hydraulic analysis used in the effective FIS and referred to as the effective model.
54. MODEL, EFFECTIVE – The hydraulic engineering model that was used to produce the current effective Flood Insurance Study.
55. MODEL, EXISTING (PRE-PROJECT) – A modification of the Duplicate Effective Model or Corrected Effective Model to reflect any man made modifications that have occurred within the floodplain since the date of the effective model but prior to the construction of the project for which the revision is being requested. If no modification has occurred since the date of the effective model, then this model would be identical to the Corrected Effective Model or Duplicate Effective Model.
56. MODEL, REVISED (POST-PROJECT) – A modification of the Existing or Pre-Project Conditions Model, Duplicate Effective Model or Corrected Effective Model to reflect revised or post-project conditions.
57. MUNICIPALITY or MUNICIPAL – The county, city or village governmental units enacting, administering and enforcing this zoning ordinance.
58. NAVD or NORTH AMERICAN VERTICAL DATUM – Elevations referenced to mean sea level datum, 1988 adjustment.
59. NGVD or NATIONAL GEODETIC VERTICAL DATUM – Elevations referenced to mean sea level datum, 1929 adjustment.
60. NEW CONSTRUCTION – For 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.
61. NONCONFORMING STRUCTURE – An existing lawful structure or building which is not in conformity with the dimensional or structural requirements of this ordinance for the area of the floodplain which it occupies. (For example, an existing residential structure in the floodfringe district is a conforming use. However, if the lowest floor is lower than the flood protection elevation, the structure is nonconforming.)
62. NONCONFORMING USE – An existing lawful use or accessory use of a structure or building which is not in conformity with the provisions of this ordinance for the area of the floodplain which it occupies. (Such as a residence in the floodway.)
63. OBSTRUCTION TO FLOW – Any development which blocks the conveyance of floodwaters such that this development alone or together with any future development will cause an increase in regional flood height.

64. **OFFICIAL FLOODPLAIN ZONING MAP** – That map, adopted and made part of this ordinance, as described in s. 152.05(2), which has been approved by the Department and FEMA.
65. **OPEN SPACE USE** – Those uses having a relatively low flood damage potential and not involving structures.
66. **ORDINARY HIGHWATER MARK** – The point on the bank or shore up to which the presence and action of surface water is so continuous as to leave a distinctive mark such as by erosion, destruction or prevention of terrestrial vegetation, predominance of aquatic vegetation, or other easily recognized characteristic.
67. **PERSON** – An individual, or group of individuals, corporation, partnership, association, municipality or state agency.
68. **PRIVATE SEWAGE SYSTEM** – A sewage treatment and disposal system serving one structure with a septic tank and soil absorption field located on the same parcel as the structure. It also means an alternative sewage system approved by the Department of Safety and Professional Services, including a substitute for the septic tank or soil absorption field, a holding tank, a system serving more than one structure or a system located on a different parcel than the structure.
69. **PUBLIC UTILITIES** – Those utilities using underground or overhead transmission lines such as electric, telephone and telegraph, and distribution and collection systems such as water, sanitary sewer and storm sewer.
70. **REASONABLY SAFE FROM FLOODING** – Means base flood waters will not inundate the land or damage structures to be removed from the floodplain and that any subsurface waters related to the base flood will not damage existing or proposed buildings.
71. **REGIONAL FLOOD** – A flood determined to be representative of large floods known to have occurred in Wisconsin. A regional flood is a flood with a one percent chance of being equaled or exceeded in any given year, and if depicted on the FIRM, the RFE is equivalent to the BFE.
72. **START OF CONSTRUCTION** – The date the building permit was issued, provided the actual start of construction, repair, reconstruction, rehabilitation, addition, placement, or other improvement was within 180 days of the permit date. The actual start means either the first placement of permanent construction on a site, such as the pouring of slab or footings, the installation of piles, the construction of columns, or any work beyond initial excavation, or the placement of a manufactured home on a foundation. Permanent construction does not include land preparation, such as clearing, grading and filling, nor does it include the installation of streets and/or walkways, nor does it include excavation for a basement, footings, piers or foundations or the erection of temporary forms, nor does it include the installation on the property of accessory buildings, such as garages or sheds not occupied as dwelling units or not part of the main structure. For an alteration, the actual start of construction means the first alteration of any wall, ceiling, floor or other structural part of a building, whether or not that alteration affects the external dimensions of the building.
73. **STRUCTURE** – Any 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.

74. **SUBDIVISION** – Has the meaning given in s. 236.02(12), Wis. Stats.
75. **SUBSTANTIAL DAMAGE** – Damage of any origin sustained by a structure, whereby the cost of restoring the structure to its pre-damaged condition would equal or exceed 50 percent of the equalized assessed value of the structure before the damage occurred.
76. **SUBSTANTIAL IMPROVEMENT** – Any repair, reconstruction, rehabilitation, addition or improvement of a building or structure, the cost of which equals or exceeds 50 percent of the equalized assessed value of the structure before the improvement or repair is started. If the structure has sustained substantial damage, any repairs are considered substantial improvement regardless of the work performed. The term does not, however, include either any project for the improvement of a building required to correct existing health, sanitary or safety code violations identified by the building official and that are the minimum necessary to assure safe living conditions; or any alteration of a historic structure provided that the alteration will not preclude the structure's continued designation as a historic structure.
77. **UNNECESSARY HARDSHIP** – Where special conditions affecting a particular property, which were not self-created, have made strict conformity with restrictions governing areas, setbacks, frontage, height or density unnecessarily burdensome or unreasonable in light of the purposes of the ordinance.
78. **VARIANCE** – An authorization by the board of adjustment or appeals for the construction or maintenance of a building or structure in a manner which is inconsistent with dimensional standards (not uses) contained in the floodplain zoning ordinance.
79. **VIOLATION** – The failure of a structure or other development to be fully compliant with the floodplain zoning ordinance. A structure or other development without required permits, lowest floor elevation documentation, floodproofing certificates or required floodway encroachment calculations is presumed to be in violation until such time as that documentation is provided.
80. **WATERSHED** – The entire region contributing runoff or surface water to a watercourse or body of water.
81. **WATER SURFACE PROFILE** – A graphical representation showing the elevation of the water surface of a watercourse for each position along a reach of river or stream at a certain flood flow. A water surface profile of the regional flood is used in regulating floodplain areas.
82. **WELL** – means an excavation opening in the ground made by digging, boring, drilling, driving or other methods, to obtain groundwater regardless of its intended use.

CHAPTER 153: SUBDIVISIONS

Section

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§ 153.01 POLICY.

It is hereby declared to be the policy of the city to consider the subdivision of land and the subsequent development of the subdivided plat as subject to the control of the city pursuant to the official master plan for the orderly, planned, efficient and economical development of the city. Land to be subdivided shall be of such character that it can be used safely for building purposes without danger to health, or peril from fire, flood or other menace, and land shall not be subdivided until proper provision has been made for drainage, water, sewerage, utilities and capital improvements such as schools, parks, recreation facilities, transportation facilities and improvements.

(Ord. 540, passed 9-5-1995)

§ 153.02 PURPOSE.

The purpose of this chapter is to promote the public health, safety and general welfare of the city, and these regulations are designed to lessen congestion in the streets and highways; to further the orderly layout and use of land; to ensure proper legal description and proper monumenting of subdivided land; to secure safety from fire, panic and other dangers; to provide adequate light and air; to prevent the overcrowding of land and avoid undue concentration of population; to facilitate adequate provisions for transportation, water, sewage, utilities and other public requirements; to facilitate the further resubdivision of larger tracts into smaller parcels of land. These regulations are made with reasonable consideration, among other things, of character of the city with a view of conserving the value of buildings placed upon land, providing the best environment for human habitation and for encouraging the most appropriate use of land throughout the city.

(Ord. 540, passed 9-5-1995)

§ 153.03 JURISDICTION.

Except as otherwise specifically set forth in § 153.09 of this chapter, jurisdictional limits of these regulations shall be all lands within the corporate limits of the city and all unincorporated areas within 1-1/2 miles of its corporate limits, subject to the provisions of Wis. Stats. Ch. 66.

(Ord. 540, passed 9-5-1995)

§ 153.04 COMPLIANCE.

(A) No person may divide any land located within the jurisdictional limits of these regulations which results in a major subdivision, minor subdivision or replat, as defined herein, and no such major subdivision, minor subdivision or replat shall be entitled to be recorded without full compliance with all requirements of this chapter and Wis. Stats. Ch. 236.

(B) The provisions of this chapter shall not apply to:

(1) Transfer of interest in land by will or pursuant to court order;

(2) Leases for a term not to exceed 10 years, mortgages or easements; or

(3) Sale or exchange of parcels of land between owners of adjoining properties if additional lots are not thereby created and the lots resulting are not reduced below the minimum sizes required by these regulations, the city zoning ordinance or other applicable ordinances or laws.

(Ord. 540, passed 9-5-1995)

§ 153.05 DEFINITIONS.

For the purpose of this chapter, the following definitions shall apply unless the context clearly indicates or requires a different meaning.

ASSESSOR. An individual appointed by the Council for the purpose of establishing true values of property for taxation.

BUILDING LINE. A line parallel to and at a given distance from the street right-of-way. There shall be no building or structure erected in this area.

DIRECTOR. The State Director of Regional Planning and Community Assistance, Wisconsin Department of Local Affairs and Development or such other official as may be delegated by law to approve plats at the state level.

DRAINAGE. A natural or manmade ditch or watercourse in which surface water or high groundwater can be drained from an area.

EXTRATERRITORIAL PLAT APPROVAL JURISDICTION. The unincorporated area within 1-1/2 miles of the corporate limits of the city, as provided in Wis. Stats. § 236.02(2), subject to the provisions of Wis. Stats. §

GREENWAY. A parcel of land containing a natural waterway or drainageway intended to be used in whole or in part for open space, surface drainage, parks, recreation, utilities, streets or any other purpose deemed by the city to be for the public good or welfare.

MAP. The drawing required for a minor subdivision and the same as the certified survey map provided for in Wis. Stats. § 236.34.

OUTLOT. A parcel of land other than a lot or block so designated on a plat.

PLAT. The drawing required for a major subdivision.

REPLAT. The changing of the boundaries of a recorded subdivision or a part thereof.

ROADWAY. That portion of the street which is used for vehicular traffic.

STREET. A right-of-way for vehicular traffic, whether designated as a street, highway, thoroughfare, parkway, throughway, road, avenue, drive, lane, place or however otherwise designated and includes all of the area between the street or right-of-way lines. All lots shall abut upon a public street. **STREETS** are further designated as follows:

- (1) *Alley.* A street which is a secondary means of access for vehicular traffic.
- (2) *Boundary street.* A street in a subdivision in which part of the right-of-way is within the subdivision and the rest of the right-of-way is outside the subdivision.
- (3) *Collector street.* A street which carries traffic from local streets to the system of major arterials and includes the principal entrance streets to residential development.
- (4) *Cul-de-sac.* A local street with only 1 outlet which terminates in a turnaround for the reversal of traffic.
- (5) *Dead-end street.* A street that does not connect with a street system opened to traffic.
- (6) *Frontage street.* A local street which is parallel with and adjacent to a major arterial street and which provides access to abutting properties and protection from traffic.
- (7) *Local street.* A street which is used primarily for access to abutting properties.
- (8) *Partial street.* A street in a subdivision in which part of the right-of-way is within the subdivision, but the rest of the right-of-way is not owned by the city.
- (9) *Major arterial street.* A street which is used primarily for fast or high-volume through traffic.

SUBDIVIDER. Any person, firm, corporation or any agent thereof, dividing or proposing to divide land resulting in a subdivision.

SUBDIVISION. When used alone, **SUBDIVISION** shall include both major and minor subdivisions. A replat is also a **SUBDIVISION**.

(1) *Subdivision major plat.* A division of a lot, parcel or tract of land by the owner thereof or his or her agent for the purpose of sale or of building development where:

(a) The act of division creates 5 or more parcels or building sites 5 acres each or less in area; or 5 or more parcels or building sites of 5 acres each or less in area are created by successive divisions within a period of 5 years.

(Am. Ord. 559, passed 11-6-1996)

(b) The act of division or the creation of any parcels or building sites results in the creation or alteration of any street or alley.

(c) The definitions herein shall apply with equal effect to the division or creation of parcels or building sites whether or not the tracts shall at that time be part of a previously platted subdivision.

(2) *Subdivision minor plat (certified survey).* In those instances where lots are created but in insufficient numbers to require a plat under the requirements of this section, any proposed lot division shall comply with the recorded certified survey provisions of Wis. Stats. Ch. 236, and the standards of Wis. Adm. Code, Ch. Trans. 233 of the State Board of Health; and shall be approved by the Council in accordance with the procedure for submitting subdivisions, except that no state agency review is required.

SURVEYOR. A State of Wisconsin registered land surveyor. (Ord. 540, passed 9-5-1995)

§ 153.06 GENERAL PROVISIONS.

(A) *Subdivisions.*

(1) A major subdivision shall be accomplished by means of a plat in accordance with Wis. Stats. Ch. 236, and this chapter.

(2) A minor subdivision shall be accomplished by means of a certified survey map in accordance with Wis. Stats. Ch. 236, and this chapter.

(3) For both major and minor subdivisions, lot sizes shall conform to the area and width requirements of the zoning code within the corporate limits of the city or to any ordinance of the town or county in the extraterritorial plat approval jurisdiction.

(4) All subdivisions within the corporate limits or within the extraterritorial plat approval jurisdiction of the city, as defined herein, must be filed for approval of the Plan Commission in accordance with procedures established in this chapter.

(B) *Replat.* Where it is proposed to replat a recorded subdivision, or part thereof, so as to change the

boundaries, the subdivider shall vacate or alter the recorded plat as provided in Wis. Stats. Ch. 236. The subdivider shall then follow the same procedure for the replat as for an original plat as required by this chapter.

(C) *Land suitability.* Where a proposed subdivision contains land deemed by the Plan Commission to be unsuitable for development because of poor drainage, flood conditions, soil conditions, subsurface conditions, topography or any other feature, approval shall be withheld. Conditional approval of the preliminary plat shall be granted if the subdivider shall, at his or her own expense, prepare and submit to the Commission engineering plans designed to correct the adverse conditions and to carry out the plans or provide the performance bond to insure that the plans will be completed prior to approval of the final plat.

(D) *Requirements.* The proposed subdivision shall conform to:

(1) The provisions of Wis. Stats. Ch. 236;

(2) All applicable provisions of this code and town or county ordinances, if applicable;

(3) The city master plan and official map or any portion thereof;

(4) All subdivisions and the lots contained therein shall have a plan which shows service by a public sewer and water; and

(5) The rules of the Division of Highways, State Department of Transportation relating to safety of access and the preservation of the public interest and investment in the street if the subdivision or any lot contained therein abuts on a state trunk highway or connecting street.

(Ord. 540, passed 9-5-1995)

(E) *Fee for consideration of certified survey map.* Application for approval of a minor subdivision by means of a certified survey map must be accompanied by a fee receipt from the City Clerk-Treasurer in the amount of \$150.

(Ord. 670, passed 1-4-2005)

§ 153.07 PLAT APPROVAL PROCEDURE.

(A) *Preliminary meeting.* Before filing a preliminary plat the subdivider is encouraged to consult with the Plan Commission and the Council 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 also submit a location map showing the relationship of the proposed subdivision to traffic arteries and existing community facilities.

(B) *Preliminary plat.* The subdivider shall file 10 copies of the preliminary plat or map with the Clerk-Treasurer, which copies to be forwarded to appropriate city and state approving authorities. The preliminary plat shall show clearly the existing conditions of the adjoining sites including data on covenants, land characteristics, available community facilities and utilities, easements, street locations and lot widths and depths. The proposed layout shall be shown on a topographic map at a scale of 1 inch equals 100 feet having 2-foot contour intervals and shall identify the improvements, e.g., grading, tree planting, paving, installation of the facilities and dedications of land which the subdivider proposes to make and shall indicate when the improvements will be provided. Any proposed restrictive covenants for the land involved shall be stated. The Council Board shall reject, approve or approve conditionally the preliminary plat within 90 days as provided by

statute.

(C) *Final plat.* Four copies of the final plat shall be submitted to the Council within 6 months of preliminary plat acceptance unless this requirement is waived in writing by the Council. The final plat shall conform to the preliminary plat as approved and to the requirements of all applicable ordinances and state laws and shall be submitted for certification of those agencies having the authority to object to the plat as provided by Wis. Stats. § 236.12(2). The final plat shall be accompanied by detailed construction plans of all improvements. Final plats shall be presented to the Council at least 10 work days prior to the meeting at which they are to be considered and shall be accepted or rejected by the Council within 60 days of their submission if all the applicable provisions of this chapter and Wis. Stats. Ch. 236 have been complied with. Approved final plats shall be recorded in accordance with the statutory requirements prior to the time that lots are offered for sale, reference is made to the map for sale purposes, or use is made of lot and block numbers shown on the plat. (Ord. 540, passed 9-5-1995)

§ 153.08 DESIGN STANDARDS.

(A) *Streets.*

(1) The subdivider shall dedicate land for and improve streets as provided herein. Streets shall conform to any applicable official map ordinance in effect in the city. Streets shall be located with due regard for topographical conditions, natural features, existing and proposed streets, utilities, land uses and public convenience and safety.

(2) All lots shall have access to a public street.

(3) Street locations shall be consistent with any applicable street plan officially adopted by the city. All street right-of-way widths, radii of curvature and grades shall conform to the following requirements:

<i>Type of Street</i>	<i>R.O.W. Width to be Dedicated</i>	<i>Pavement width (Face of Curb to Face of Curb)</i>
Arterial streets	60 feet	38 feet
Collector streets	60 feet	36 feet
Minor streets	58 feet	34 feet
Cul-de-sac and frontage streets	58 feet	34 feet
<i>Type of Street</i>	<i>R.O.W. Width to be Dedicated</i>	<i>Pavement width (Face of Curb to Face of Curb)</i>
Alleys	24 feet	20 feet
Pedestrian ways	10 feet	5 feet

(4) Collector streets shall be laid out to provide for possible continuation wherever topographic and other physical conditions permit.

(5) Minor streets shall be so laid out as to discourage their use by through traffic.

(6) Where a subdivision abuts or contains an existing or proposed arterial highway, the Council shall require a frontage road, non-access reservation along the rear of the property contiguous to such highway, or such other treatment as may be necessary to ensure safe, efficient traffic flow and adequate protection of residential properties.

(7) Reserve strips controlling access to streets shall not be provided except where control of the strip is placed with the appropriate public body.

(8) Streets shall afford maximum visibility and safety and shall intersect at right angles, where practicable.

(9) Dedication of half-width streets shall be prohibited, except where it is essential for the reasonable development of the subdivision in conformity with the other requirements of this chapter. Where a half-street has been dedicated adjacent to a subdivision, the remaining half of the street shall be dedicated by the subdivider of the adjoining land.

(10) Permanent dead-end streets or cul-de-sacs shall not be longer than 600 feet, shall have a minimum width of 58 feet and terminate with a turn-around having a right-of-way diameter of at least 120 feet, and a minimum surface radius of 40 feet.

(11) Where possible, lot lines shall be perpendicular to the street line and to the tangent at the lot corner on curved streets.

(12) No street names shall be used which will duplicate or may be confused with the names of existing streets. Street names shall be subject to the approval of the Council.

(B) Blocks and lots.

(1) A block is a parcel of land bounded on at least 1 side by a street and on the other sides by natural or manmade barriers or unplatted land. The lengths, widths and shapes of blocks shall be determined by the following:

- (a) Building site needs;
- (b) Zoning code lot size and dimensional requirements;
- (c) Needs for convenient access, circulation, control and safety of street traffic; and
- (d) Limitations and opportunities of topography.

(2) Block lengths shall normally not exceed 1,500 feet or be less than 400 feet in length.

(3) To provide adequate access and circulation to playgrounds, schools, shopping centers or other community facilities, the Council may require that walkways be provided, either along streets or through the center of blocks.

(4) Double frontage lots shall be avoided except where essential to provide separation of residential development from traffic arteries or to overcome particular topographic and side disadvantages.

(5) The Council may require that natural features including trees be preserved and that appropriate landscaping be provided.

(C) *Easements.* Easements shall be provided where required by the Plan Commission, Board of Public Works and utility companies for storm and sanitary sewers, gas, water, power, telephone, television cable and the like. They shall be at least 10 feet in width. Where a subdivision is traversed by a watercourse, channel or stream, an easement shall be provided for an adequate drainage conforming substantially with the lines and area of the watercourse, channel or stream. The location, width, alignment and any proposed improvement of such drainageway shall be subject to approval by the Plan Commission and the Board of Public Works. Wherever possible, stormwater drainage shall be maintained by landscaped, open channel of adequate width and grade hydraulically to achieve maximum potential volumes of flow. Sizes and design details shall be subject to review and approval by the Council.

(D) *Land suitability.* No land shall be subdivided which is held unsuitable for the proposed use by the Plan Commission for reason of flooding, inadequate drainage, soil and rock formations with severe limitations for development, severe erosion potential, unfavorable topography, inadequate water supply or sewage disposal capabilities or any other feature likely to be harmful to the health, safety or welfare of the future residents of the proposed subdivision or of the community. The Council, 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 the proposed use and afford the subdivider an opportunity to present evidence regarding such suitability at a public hearing.

(Ord. 540, passed 9-5-1995)

§ 153.09 REQUIRED IMPROVEMENTS.

(A) *General provisions.*

(1) *Installation of improvements.* Before final plat approval of any subdivision within the city is granted, the subdivider shall either install the improvements required under this section or shall furnish the Clerk-Treasurer with a satisfactory surety performance bond or other form of satisfactory surety to the city to cover the subdivider's cost of the required improvements as estimated by the City Engineer. The purpose of this surety is to secure the actual construction and installation of the improvements immediately after final plat approval or at a time in accordance with the requirements of the Council.

(2) *Surety bond.* If a surety performance bond is furnished as provided in division (A)(1) above, all required improvements must be completed within 1 year from approval of the final plat. If not so completed and unless good cause can be shown for granting an extension of time, the Council, at its option, may cause all the uncompleted work to be constructed and the parties executing the bond shall be firmly bound for the payment of all necessary costs thereof. The Clerk-Treasurer shall return the bond to the subdivider upon the completion and acceptance of the required improvements, at which time a 1-year maintenance guarantee bond must be filed guaranteeing the timely repair of any defects that may occur in the ensuing 1 year.

(3) *Plans and specifications.* At the option of the Council, the plans and specifications for any or all of the required improvements may be prepared by the City Engineer or consultants of the city. If the subdivider is required by the Council to furnish plans and specifications, they shall be prepared by a

registered engineer and approved by the City Engineer or consultants of the city and any state agency having jurisdiction over such plans. In either case, the subdivider shall be responsible for the cost of plan preparation and any surveys needed to prepare the plans.

(4) *Construction.* The Council may undertake construction of any improvement at the request of the subdivider. Construction must be approved by the Public Works Committee and the subdivider must deposit a check or cash with the Clerk-Treasurer in the amount of the estimated cost of the work prior to the start of construction. Payment in full shall be made to the city, or reimbursement to the subdivider, upon completion of the work and determination of the total cost of the project. The construction of any improvements not undertaken by the city shall be the responsibility of the subdivider.

(5) *Inspection.* All construction shall be subject to inspection, as designated by the Council. The cost of such inspection on construction undertaken by the city will be included in the cost of construction. The cost of inspection on construction undertaken by the subdivider shall be charged to the subdivider.

(6) *Dedication of facilities and improvements.* All facilities and improvements installed prior to the final approval of the plat shall be dedicated to the city along with streets and other public areas upon approval of the plat. Facilities and improvements completed under bond or other financial guarantee, after approval of the plat, shall be considered dedicated to the city upon their approval and acceptance and release of the bond or other guarantee. Prior to the release of the bond or other guarantee, the subdivider shall file a 1-year maintenance guarantee bond guaranteeing the timely repair of any defects that may occur in the ensuing year.

(7) *Survey monuments.* The subdivider shall install survey monuments placed in accordance with the requirements of Wis. Stats Ch. 236 and as may be required by the City Engineer.

(B) *Sanitary sewer and water.*

(1) A public sanitary sewer system and water system adequate to serve the subdivision and compatible with the city-wide sanitary sewer and water development plans shall be provided and include a lateral connection for each system to each lot and a satisfactory connection to the city sanitary sewer system and water system. Each lateral shall be marked in the field.

(2) If it is necessary to traverse on unimproved land with sanitary sewer to serve the subdivision, the city shall install the sanitary main and the subdivider shall pay the cost of the construction. The Council shall reimburse the subdivider to the extent that special assessments are levied for such construction. In the event such special assessments are deferred, the subdivider shall be reimbursed when the special assessments are paid or when installment payments commence.

(3) The Council may authorize the subdivider to construct any sanitary sewer facility as hereinbefore provided. However, in the event the construction benefits land outside the subdivision, authorization will be granted only if the subdivider waives in writing any and all rights to reimbursement from the city.

(C) *Streets.* After the installation of temporary block corner monuments and all underground facilities by the subdivider, and after the street grades have been established by the subdivider and submitted to the Board of Public Works for approval, streets shall be constructed by the subdivider in accordance with the following standards:

(1) *Grading and graveling.* The subdivider shall grade the full width of the right-of-way of all streets to be dedicated in accordance with plans and standard specifications approved by the Director of Public Works. The subdivider shall grade the pavement width to subgrade and surface with 6 inches of crushed stone.

(2) *Blacktopping.* The year after the installation of the crushed stone in the roadway, the subdivider, at his or her expense, shall apply a standard 6-inch curb and 18-inch gutter, and a full-width bituminous surface at a completed depth of at least 2-1/2 inches, all in accordance with plans and specifications as approved by the Director of Public Works. In the event the pavement width of any street exceeds 38 feet, except for cul-de-sac turnarounds, the expense of installing the crushed rock and blacktopping for the additional width shall be paid by the city.

(3) *Curb and gutter.* Prior to blacktopping, the subdivider shall install the standard 6-inch curb and 18-inch gutter in accordance with plans and specifications approved by the Director of Public Works. The subdivider shall pay 100% of the cost.

(D) *Storm sewer.* Storm sewer facilities shall be constructed within the subdivision boundaries in the locations and sizes needed to accommodate the design flow volumes. Such facilities shall include mains, channels, inlets, catch basins and laterals as required. If the city is required to construct storm sewer facilities outside of the boundaries of the subdivision to serve the subdivision facilities, the subdivider shall share in the cost of the facilities in the same ratio that the area of the subdivision bears to the total area served by the outside construction.

(E) *Utilities.* The subdivider shall cause gas, electrical power, CATV and telephone facilities to be installed in such a manner as to make service available to each lot. The subdivider shall have written statements from all the utilities stating that the easements as shown on the final plat are acceptable to them.

(Ord. 540, passed 9-5-1995)

§ 153.10 INTERPRETATION.

In the interpretation and application, the provisions of this chapter 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.

(Ord. 540, passed 9-5-1995)

§ 153.11 VARIANCES.

(A) *General.* Where the Council finds that extraordinary hardships or practical difficulties may result from strict compliance with these regulations and/or the purposes of these regulations may be served to a greater extent by an alternative proposal, it may approve variances to these subdivision regulations so that substantial justice may be done and the public interest secured, provided that such variance shall not have the effect of nullifying the intent and purpose of these regulations; and further provided that the Council shall not approve variances unless it shall make findings based

upon the evidence presented to it in each specific case as follows:

- (1) The granting of the variance will not be detrimental to the public safety, health or welfare, or injurious to other property as located.
- (2) The conditions upon which the request for a variance is based are unique to the property for which the variance is sought, and not applicable to other property.
- (3) Because of the particular physical surroundings, shape or topographical conditions of the specific property involved, a particular hardship to the owner would result, as distinguished from a mere inconvenience, if the strict letter of these regulations is carried out.
- (4) The variance will not in any manner vary the provisions of the zoning code, master plan or official map.

(B) *Conditions.* In approving variances, the Council may require such conditions as will, in its judgment, secure substantially the objectives of the standards or requirements of the regulations.

(C) *Procedures.* A petition for any such variance shall be submitted in writing by the subdivider at the time when the preliminary plat is filed for the consideration of the Plan Commission and the Council. The petition shall state fully the grounds for the application and all of the facts relied upon by the petitioner.

(Ord. 540, passed 9-5-1995)

§ 153.99 PENALTY.

(A) Any person convicted of failure to comply with the provisions of this chapter shall forfeit not less than \$25 nor more than \$200 and the costs of prosecution for each violation, and in default of payment of the forfeiture and costs, shall be imprisoned in the County Jail until payment is made, but such imprisonment shall not exceed 30 days. Each day a violation exists or continues shall constitute a separate offense.

(B) Also, failure to comply with the requirements of this chapter invalidates purported transfers of titles at the option of the purchaser, in accordance with the provisions of Wis. Stats. Ch. 236.

(C) In addition, the remedies provided by Wis. Stats. Ch. 236 shall be available to the city.
(Ord. 540, passed 9-5-1995)

CHAPTER 154: ZONING CODE

Section

- 154.01 Zoning code; adopted by reference
- 154.02 Extraterritorial zoning
- 154.03 Zoning map amendments
- 154.04 Annexations

§ 154.01 ZONING CODE; ADOPTED BY REFERENCE.

The zoning regulations for the City of Mineral Point, Wisconsin, as established by Ordinance 439 and published separately and amended, are hereby adopted by reference as if set out fully herein. Copies are available through city offices.

(1989 Code, Ch. 17) (Ord. 439, passed - -; Am. Ord. 503, passed 8-3-1993; Am. Ord. 565, passed 3-4-1997; Am. Ord. 608, passed 11-2-1999; Am. Ord. 609, passed 11-2-1999; Am. Ord. 670, passed 1-4-2005; Am. Ord. 706, passed 12-5-2006; Am. Ord. 746, passed 12-7-2010; Am. Ord. 761, passed 6-4-2013; Am. Ord. 772, passed 2-8-2016; Am. Ord. 789A, passed 10-8-2018; Am. Ord. 790, Passed 10-8-2018; Am. Ord. 794, passed 4-8-2019)

§ 154.02 EXTRATERRITORIAL ZONING.

The recommendations of the Joint ETZ Committee regarding ETZ District plans and regulations, including plans and regulations for Exclusive Agricultural Zoning, consisting of text and maps, a copy of which is attached to this Ordinance 686 and incorporated herein by reference, as amended, are hereby adopted as the extraterritorial zoning regulations.

(Ord. 686, passed 12-6-2005; Am. Ord. 705, passed 12-5-2006; Am. Ord. 715, passed 1-2-2008; Am. Ord. 716, passed 1-2-2008; Am. Ord. 740, passed 3-30-2010; Am. Ord. 781, passed 9-11-2017; Am. Ord. 782, passed 9-11-2017; Am. Ord. 783, passed 9-11-2017; Am. Ord. 784, passed 9-11-2017; Am. Ord. 785, passed 9-11-2017; Am. Ord. 786, passed 9-11-2017; Am. Ord. 789B, passed 6-11-2018)

§ 154.03 ZONING MAP AMENDMENTS.

The following zoning map amendments are hereby adopted by reference as if set out in full herein: Ordinance # 454, 465, 466, 521, 722, 733, 737, 752, 765, 767, 787, 788, 790.
(1989 Code, Ch. 17)

§ 154.04 ANNEXATIONS.

The following ordinances annexing territory into the City of Mineral Point are hereby adopted by reference as if set out in full herein: Ordinance #533, 585, 653,702, amendment to 702, 750, 787.

CHAPTER 155: WELLHEAD PROTECTION

Section

- 155.01 Purpose, authority and application
- 155.02 Definitions
- 155.03 Groundwater protection overlay district
- 155.04 Separation distances
- 155.05 Conditional Use Permits
- 155.06 Existing non-conforming uses
- 155.07 No acceptance of liability by city
- 155.08 Enforcement and penalties

Editor's note:

This chapter was established by Ordinance No. 778, passed 5-10-2016.

§ 155.01 PURPOSE, AUTHORITY AND APPLICATION.

(A) **PURPOSE.** The residents of the City of Mineral Point depend exclusively on groundwater for a safe drinking water supply. Certain land use practices and activities can seriously threaten or degrade groundwater quality. The purpose of this Ordinance is to establish a groundwater protection overlay district to institute land use regulations and restrictions within a defined area which contributes water directly to the municipal water supply providing protection for the aquifer and municipal water supply of the City of Mineral Point and promoting the public health, safety and general welfare of City residents.

(B) **AUTHORITY.** Statutory authority of the City to enact these regulations was established by the Wisconsin Legislature in 1983, Wisconsin Act 410 (effective May 11, 1984), which specifically added groundwater protection, in §62.23(7)(a) & (c), Wis. Stats., to the statutory authorization for municipal planning and zoning to protect the public health, safety and welfare.

(C) **APPLICATION.** The regulations specified in this Wellhead Protection Ordinance shall apply to the incorporated areas of the City of Mineral Point that lie within the recharge areas for municipal water supply wells and are in addition to the requirements in the underlying zoning district, if any. If there is a conflict between this chapter and the zoning ordinance, the more restrictive provision shall apply.

§ 155.02 DEFINITIONS.

(A) **Aquifer.** “Aquifer” means a saturated, permeable, geologic formation that contains, and will yield, significant quantities of water.

(B) **Existing facilities.** “Existing facilities” means current facilities, practices and activities which may cause or threatened to cause environmental pollution within that portion of the City’s wellhead protection area that lies within the corporate limits of the City. Existing facilities include but are not limited to the type listed in the Department of Natural Resources’ form 330-215, Public Water Supply Potential Containment Use Inventory

Form which is incorporated herein as if fully set forth.

(C) Groundwater Protection Overlay District. “Groundwater Protection Overlay District” means that area of land which contributes water to a municipal well based on accepted hydrogeological research, outlined and described as the “Wellhead Protection Area” by the City’s wellhead protection plan which is incorporated herein as if fully set forth.

(D) Recharge Area. “Recharge area” means the land area which contributes water to a well by infiltration of water into the subsurface and movement with groundwater toward the well. This area may extend beyond the corporate limits of the City of Mineral Point.

(E) Hazardous Chemicals. “Hazardous Chemicals” means Chemicals and chemical mixtures that is required to have an MDS and meets the definition of hazardous chemical under the OSHA regulations found at 29 CFR 1910.1200(c). Substances packaged for consumption for humans or animals are not considered Hazardous Chemicals. Hazardous Chemicals include:

- (1) Chemicals for which there is scientific evidence that acute or chronic health effects may result from exposure, including carcinogens, toxic and highly toxic agents, irritants, corrosives, sensitizers, hepatotoxins, agents that act on the hematopoietic system, reproductive toxins, and agents which damage the lung, skin, eyes, or mucous membranes as defined in 29 CFR 1910.1200, Appendix A, “Health Hazard Definitions (Mandatory).”
- (2) Mixtures of chemicals which have been tested as a whole and have been determined to be a health hazard.
- (3) Mixtures of chemicals which have not been tested as a whole but which contain any chemical which has been determined to be a health hazard and comprises one (1.0) percent or greater of the composition on a weight-per-unit weight basis.
- (4) Mixtures of chemicals which include a carcinogen if the concentration of the carcinogen in the mixture is one-tenth of one (0.1) percent or greater composition on a weight-per-unit weight basis.
- (5) Ingredients of mixtures prepared within the Groundwater Protection Overlay District in cases where such ingredients are health hazards but comprise more than one-tenth of one (0.1) percent of the mixture on a weight-per-unit weight basis if carcinogenic, or more than one (1.0) percent of the mixture on a weight-per-unit weight bases if non-carcinogenic.
- (6) Petroleum and non-solid petroleum derivatives (except non-PCB dielectric fluids used in equipment or for transmission of electric power to homes and businesses).

(F) Well Field. “Well field” means a piece of land used primarily for the purpose of supplying a location for construction of wells to supply a municipal water system.

§ 155.03 GROUNDWATER PROTECTION OVERLAY DISTRICT.

The boundaries of the Groundwater Protection Overlay District shall be shown on the City of Mineral

Point zoning map. The locations and boundaries of the zoning districts established by this chapter are set forth in the “City of Mineral Point Wellhead Protection Plan Wells #3, & #4” dated July 2015 [on file in the office of the City Clerk] incorporated herein and hereby made a part of this ordinance. Said figures, together with everything shown thereon and all amendments thereto, shall be made as much a part of this chapter as though fully set forth and described herein. This ordinance and this promotes public health, safety, and welfare. The groundwater protection overlay district is intended to protect the groundwater recharge area for the water supply from contamination.

(A) GROUNDWATER PROTECTION OVERLAY DISTRICT. Zone 1 is the area of land which contributes water to the well in question, out to a 5-year time of travel to the well. Time of travel delineations are based on accepted hydrogeological research as outlined in the City of Mineral Point Wellhead Protection Plan, with zone boundaries normalized to the nearest public land survey system boundaries.

(1) Permitted Uses. The following uses are permitted in Zone 1 subject to the separations distance in Sec. 155.04:

- (a) Parks, provided there is no on-site waste disposal or fuel storage tank facilities associated with this use.
- (b) Playgrounds.
- (c) Wildlife areas.
- (d) Non-motorized trails, such as bike, skiing, nature and fitness trails.
- (e) Residential, commercial and industrial establishments that are municipally sewered and whose use, *Aggregate of Hazardous Chemicals* in use, storage handling and/or production may not exceed 20 gallons or 160 pounds at any time.
- (f) Routine tillage, planting, and field management operations in support of agricultural crop production, where nutrients from legume, manure, and commercial sources applied for and credited toward crop nutrient need. The combination of all nutrient sources applied or available on individual fields may not exceed University of Wisconsin soil test recommendations for that field.

(2) Conditional Uses. The following uses may be conditionally permitted in Zone 1 subject to the separations distances in Sec. 155.04:

- (a) Buried hydrocarbon, petroleum or hazardous chemical storage tanks. (Hazardous chemicals are identified by OSHA under 29 CFR 1910.1200(c) and by OSHA under 40 CFR Part 370).
- (b) Motor vehicle services, including filling and service stations, repair, renovation and body work.
- (c) Residential, commercial and industrial establishments that are municipally sewered and whose use, *Aggregate of Hazardous Chemicals* in use, storage, handling and/or production exceeds 20 gallons or 160 pounds at any time.
- (d) Geothermal wells, also known as ground source heat pump along with any associated piping

and/or ground loop component installations.

(3) Prohibited Uses

- (a) Cemeteries.
- (b) Chemical manufacturers (Standard Industrial Classification Major Group 28).
- (c) Coal storage.
- (d) Dry cleaners.
- (e) Industrial lagoons and pits.
- (f) Landfills and any other solid waste facility, except post-consumer recycling.
- (g) Manure and animal waste storage except animal waste storage facilities regulated by the County.
- (h) All mining including sand and gravel pits.
- (i) Pesticide and fertilizer dealer, transfer or storage facilities.
- (j) Railroad yards and maintenance stations.
- (k) Rendering plants and slaughterhouses.
- (l) Bulk storage of Salt or deicing material.
- (m) Salvage or junk yards.
- (n) Septage or sludge spreading, storage or treatment.
- (o) Septage, wastewater, or sewage lagoons.
- (p) Private on-site wastewater treatment systems or holding tanks receiving 12,000 gallons per day or more.
- (q) Stockyards and feedlots.
- (r) Stormwater infiltration basins without pre-treatment, including vegetative filtration and/or temporary detention.
- (s) Wood preserving operations.
- (t) Any other use determined by the city council to be similar in nature to the above listed uses.

§ 155.04 SEPARATION DISTANCES.

The following separation distances as specified in s. NR 811.12(5), Wis. Adm. Code, shall be maintained in all zones of the Groundwater Protection Overlay District.

(A) Ten feet between a well and an emergency or standby power system that is operated by the same facility which operates the well and that has a double wall above ground storage tank with continuous electronic interstitial leakage monitoring. These facilities shall meet the installation requirements of s. ATCP 93.260 and receive written approval from the department of safety and professional services or its designated Local Program Operator under s. ATCP 93.110.

(B) Fifty feet between a well and a storm sewer main or a sanitary sewer main where the sanitary sewer main is constructed of water main class materials and joints. Gravity sanitary sewers shall be successfully air pressure tested in place. The air pressure test shall meet or exceed the requirements of the 4 psi low pressure air test for plastic gravity sewer lines found in the latest edition of Standard Specifications for Sewer & Water Construction in Wisconsin. Force mains shall be successfully pressure tested with water to meet the AWWA C600 pressure and leakage testing requirements for one hour at 125% of the pump shut-off head.

(C) Two hundred feet between a well field and any sanitary sewer main not constructed of water main class materials, sanitary sewer manhole, lift station, one or two family residential heating fuel oil underground storage tank or above ground storage tank or private onsite wastewater treatment system (POWTS) treatment tank or holding tank component and associated piping.

(D) Three hundred feet between a well field and any farm underground storage tank system or other underground storage tank system with double wall and with electronic interstitial monitoring for the system, which means the tank and any piping connected to it. These installations shall meet the most restrictive installation requirements of s. ATCP 93.260 and receive written approval from the department of safety and professional services or its designated Local Program Operator under s. ATCP 93.110, Wis. Admin. Code. These requirements apply to tanks containing gasoline, diesel, bio-diesel, ethanol, other alternative fuel, fuel oil, petroleum product, motor fuel, burner fuel, lubricant, waste oil, or hazardous substances.

(E) Three hundred feet between a well field and any farm above ground tank with double wall, or single wall tank with other secondary containment and under a canopy; other above ground storage tank system with double wall, or single wall tank with secondary containment and under a canopy and with electronic interstitial monitoring for a double wall tank or electronic leakage monitoring for a single wall tank secondary containment structure. These installations shall meet the most restrictive installation requirements of s. ATCP 93.260, Wis. Admin. Code, and receive written approval from the department of safety and professional services or its designated Local Program Operator under s. ATCP 93.110, Wis. Admin. Code. These requirements apply to tanks containing gasoline, diesel, bio-diesel, ethanol, other alternative fuel, fuel oil, petroleum product, motor fuel, burner fuel, lubricant, waste oil, or hazardous substances.

(F) Four hundred feet between a well field and a POWTS dispersal component with a design capacity of less than 12,000 gallons per day, a cemetery or a storm water retention or detention pond.

(G) Six hundred feet between a well field and any farm underground storage tank system or other underground storage tank system with double wall and with electronic interstitial monitoring for the system, which means the tank and any piping connected to it; any farm above ground storage tank with double wall, or single wall tank with other secondary containment and under a canopy or other above ground storage tank system with double wall, or single wall tank with secondary containment and under a canopy; and with electronic interstitial monitoring for a double wall tank or electronic leakage monitoring for a single wall tank secondary containment structure. These installations shall meet the standard double wall tank or single wall tank secondary containment installation requirements of s. ATCP 93.260, Wis. Admin. Code, and receive written

approval from the department of safety and professional services or its designated Local Program Operator under s. ATCP 93.110. These requirements apply to tanks containing gasoline, diesel, bio-diesel, ethanol, other alternative fuel, fuel oil, petroleum product, motor fuel, burner fuel, lubricant, waste oil, or hazardous substances.

(H) One thousand feet between a well field and land application of municipal, commercial, or industrial waste; the boundaries of a land spreading facility for spreading of petroleum-contaminated soil regulated under state administrative regulations while that facility is in operation; agricultural, industrial, commercial or municipal waste water treatment plant treatment units, lagoons, or storage structures; manure stacks or storage structures; or POWTS dispersal component with a design capacity of 12,000 gallons per day or more.

(I) Twelve hundred feet between a well field and any solid waste storage, transportation, transfer, incineration, air curtain destructor, processing, wood burning, one time disposal or smaller demolition facility; sanitary landfill; any property with residual groundwater contamination that exceeds ch. NR 140 enforcement standards; coal storage area; salt or deicing material storage area; any single wall farm underground storage tank or above ground storage tank that has or has not received written approval from the department of safety and professional services or its designated Local Program Operator under s. ATCP 93.110, Wis. Admin. Code, for a single wall tank installation. These requirements apply to tanks containing gasoline, diesel, bio-diesel, ethanol, other alternative fuel, fuel oil, petroleum product, motor fuel, burner fuel, lubricant, waste oil, or hazardous substances; and bulk pesticide or fertilizer handling or storage facilities.

§ 155.05 CONDITIONAL USE PERMITS.

Individuals and/or facilities may request the City in writing, to permit additional land uses in the Groundwater Protection Overlay District.

(A) REQUIRED APPLICATION MATERIALS

(1) All requests shall be in writing, whether on or in substantial compliance with forms to be provided by the City and may require an environmental assessment report prepared by a licensed environmental engineer. Said report shall be forwarded to the City and/or designee(s) for recommendation and final decision by the City Council.

(2) All the individual/facility shall reimburse the City for consultant fees associated with this review at the invoiced amount plus administrative costs.

(3) Any exemptions granted shall be conditional and may include required environmental and safety monitoring consistent with local, state and federal requirements, and/or bonds and/or securities satisfactory to the City.

(B) REFERL TO PLAN COMMISSION. A properly filed application shall be referred to the Plan Commission for its review and recommendation. The Plan Commission shall review the application and make its recommendation if any. The Plan Commission shall forward the recommendations to the City Council. Upon receipt of the recommendations the City Council shall hold a public hearing.

(C) STANDARDS FOR CONDITIONAL USE. The City Council shall apply the following factors:

- (1) The City's responsibility, as a public water supplier, to protect and preserve the health, safety and welfare of its citizens.
- (2) The degree to which the proposed land use practice, activity or facility may threaten or degrade groundwater quality in the City or the City's recharge area.
- (3) The economic hardship which may be faced by the landowner if the application is denied.
- (4) The availability of alternative options to the applicant, and the cost, effect and extent of availability of such alternative options.
- (5) The proximity of applicant's property to other potential source of contamination.
- (6) The then existing condition of the City's groundwater public water well(s) and well fields, and the vulnerability to further contamination.
- (7) The direction of flow of groundwater and other factors in the area of the applicant's property which may affect the speed of the groundwater flow, including topography, depth of soil, extent of aquifer, depth to water table and location of private wells.
- (8) Any other hydrogeological data or information which is available from any public or private agency or organization.
- (9) The potential benefit, both economic and social, from the approval of the applicant's request for a permit.

(D) TYPES OF CONDITIONS WHICH THE CITY COUNCIL MAY REQUIRE. The City Council may stipulate conditions and restrictions including but not limited to the following:

- (1) A requirement for periodic environmental and safety sampling, testing, and reporting to established the continued protection of the public water supply. The City may require an application to install one or more groundwater monitoring well(s), at the expense of the applicant.
- (2) The establishment of safety structures to prevent groundwater contamination.
- (3) The establishment of an operational safety plan to define processes and procedures for material containment, operations monitoring, best management practices, and stormwater runoff management to prevent groundwater contamination.
- (4) Written policies and procedures for reporting and cleaning up any spill of hazardous material.
- (5) The provision of copies of all federal, state and local facility operation approval or certificates, and on-going environmental monitoring results to the City.
- (6) A written agreement pursuant to which the applicant agrees to be held financially responsible for all environmental cleanup costs in the event of groundwater contamination.
- (7) Bonds and/or securities satisfactory to the City for future monitoring and cleanup costs if groundwater contamination occurs in the future.

The foregoing conditions are listed for illustration purposes and are not exclusive.

(E) TRANSFERS OF INTEREST IN PROPERTY. Conditional uses permits issued under this section are non-transferable to successor owners of the property subject to the permit without the express written consent of the City Council. The City Council may set conditions and restrictions on the transfer including but not limited to a stipulation that the permit shall not be transferred unless the new owner expressly and in writing assumes the same terms, if any, for personal liability as were required of the former owner in the conditional use permit to be transferred. Written permission shall be obtained prior to the voluntary transfer of the subject property. When an involuntary transfer occurs, the new owner, a trustee, or other successor to an interest in the real property shall apply to the City within 60 days for permission to continue the use granted by the conditional use permit.

(F) PAYMENT OF COSTS. The applicant shall be solely and exclusively responsible for any and all costs associated with the application. The conditional use will become effective only after any costs incurred by the City during the conditional use application review process and billed to the applicant are paid by the applicant. Those costs may include:

- (1) The City's expenses, including consultant's and attorney's fees, if any, associated with the review at the invoiced amount plus administrative costs.
- (2) The cost of an environmental impact study if so required by the City or its designee.
- (3) The cost of groundwater monitoring or groundwater wells if required by the City or its designee.
- (4) The costs of an appraisal for the property or other property evaluation expense if required by the City or its designee.

§ 155.06 EXISTING NON-CONFORMING USES.

Non-conforming uses lawfully in existence within the Groundwater Protection Overlay District at the adoption of the ordinance creating this district may continue to exist in the form and scope in which they existed at that time subject to the following provisions.

(A) Existing facilities shall provide copies of all federal, state and local facility operation approvals or certificate and on-going environmental results to the City upon request.

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

(C) In the event a lawful non-conforming use poses a direct hazard to the City's public water supply, the City may take any action permitted by law to abate the hazard.

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

§ 155.07 NO ACCEPTANCE OF LIABILITY BY CITY.

Nothing in this section shall be construed to imply that the City has accepted any of an owner or operator's liability if a facility or use, whether permitted as of right or pursuant to a conditional use permit, contaminates groundwater in any aquifer.

§ 155.08 ENFORCEMENT AND PENALTIES.

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

(B) The individual/facility shall be responsible for all costs of clean-up and the City of Mineral Point consultant fees at the invoice amount plus administrative costs for oversight, review and documentation, which includes all of the cost of City employees' time associated in any way with the clean-up, the cost of City equipment employed and the cost of mileage reimbursed to the City employees attributed to the clean-up.

(C) Following any such discharge, the City may require additional test monitoring or other requirements as outlined in secs. 155.05 and 155.06 herein.

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

(E) Penalties: Any person, firm or corporation who fails to comply with the provisions of this ordinance shall, upon conviction thereof, forfeit not less than One Hundred Dollars (\$100.00) or more than Five Hundred Dollars (\$500.00) plus the costs of the prosecution for each violation, and in default of payment of such forfeiture and costs, shall be imprisoned in the county jail until payment thereof, but not exceeding thirty (30) days, or in the alternative, shall have such costs added to their real estate property tax bill as a lien against the property. Each day a violation exists or continues shall constitute a separate offense.