

**ABSTRACTS/SYNOPSIS OF THE ESSENTIAL ELEMENTS OF THE OFFICIAL ACTIONS OF THE
COMMON COUNCIL OF THE CITY OF WHITEWATER, WALWORTH AND JEFFERSON
COUNTIES, WISCONSIN**

AN ORDINANCE AMENDING CHAPTER 11.16.150, STREET INDEX OF PARKING LIMITATIONS.

The Common Council of the City of Whitewater, Walworth and Jefferson Counties, Wisconsin, do hereby ordain as follows:

SECTION 1. Whitewater Municipal Code Section 11.16.150 entitled “Street Index of Parking Limitations,” is hereby amended as follows:

The following shall be *deleted* from the Street Index of Parking Limitations:

Conger Street	South side; from Summit to S. Whiton	11.16.080	No Parking
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The following shall be *added* to the Street Index of Parking Limitations:

Conger Street	South side; from the east curblineline of Whiton, East, for a distance of 160 feet	11.16.080	No Parking
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Conger Street	South side; from west curblineline of Summit St. West for a distance of 256 feet	11.16.090	No Parking
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2:00 a.m. – 5:00
a.m.

SECTION 2: This ordinance shall take effect upon passage and publication as provided by law.

Ordinance introduced by Councilmember Taylor who moved its adoption. Seconded by Councilmember Allen. AYES: Allen, Taylor, Nosek, Binnie, Singer, Kienbaum, Stewart. NOES: None. ADOPTED March 17, 2009.

Kevin M. Brunner, City Manager

Michele R. Smith, City Clerk

FIRST READING OF ORDINANCE ADOPTING REGULATIONS CONCERNING NEIGHBORHOOD PRESERVATION – CHRONIC NUISANCE ORDINANCE. This item was removed from the Council Agenda by Councilmember Allen, to be discussed at a future date.

FIRST READING OF ADOPTION OF FLOOD PLAIN ORDINANCE. Brunner indicated that this ordinance was unanimously accepted and approved by the Plan Commission’s Public Hearing. Passage of this ordinance is required by FEMA in order for the City to participate in the National Flood Insurance Program. The ordinance sets forth the area to be regulated in the floodplain and permitted uses, prohibited uses, development regulations and conditional uses. The map related only to the Jefferson County portion of the City.

**AN ORDINANCE REPEALING CHAPTER 19.46
FLOOD PLAIN REGULATIONS AND**

RE-ENACTING A NEW FLOODPLAIN ORDINANCE

The Common Council of the City of Whitewater, Walworth and Jefferson Counties, Wisconsin, do hereby ordain as follows:

SECTION 1: Whitewater Municipal Code Chapter 19.46 Flood Plain Regulations is hereby repealed and re-enacted as follows:

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

1.1 STATUTORY AUTHORIZATION

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

1.2 FINDING OF FACT

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

1.3 STATEMENT OF PURPOSE

This ordinance is intended to regulate floodplain development to:

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

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

1.4 TITLE

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

1.5 GENERAL PROVISIONS

(1) AREAS TO BE REGULATED

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

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

(2) OFFICIAL MAPS & REVISIONS

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

OFFICIAL MAPS: Based on the FIS

(a) For Jefferson County Flood Insurance Rate Maps (FIRM), panel numbers 55055C0432E, 55055C0451E and 55055C0455E, dated June 2, 2009, with corresponding profiles based on the Flood Insurance Study (FIS) dated June 2, 2009 volume number 55055CV000A;

(b) For Walworth County Flood Insurance Rate Maps (FIRM), panel numbers 5502000002B and 5502000004B, dated June 1, 1982, with corresponding profiles based on the Flood Insurance Study (FIS) dated December 1, 1981 volume number 550200V000;

(3) ESTABLISHMENT OF DISTRICTS

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

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

(4) LOCATING FLOODPLAIN BOUNDARIES

Discrepancies between boundaries on the official floodplain zoning map and actual field conditions shall be resolved using the criteria in paragraphs (a) or (b) below. If a significant difference exists, the map shall be amended according to s. 8.0. The zoning administrator can rely on a boundary derived from a profile elevation to grant or deny a land use permit, whether or not a map amendment is required. The zoning administrator shall be responsible for documenting actual pre-development field

conditions and the basis upon which the district boundary was determined and for initiating any map amendments required under this section. Disputes between the zoning administrator and an applicant over the district boundary line shall be settled according to s. 7.3(3) and the criteria in (a) and (b) below.

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

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

(5) REMOVAL OF LANDS FROM FLOODPLAIN

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

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

(6) COMPLIANCE

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

(7) MUNICIPALITIES AND STATE AGENCIES REGULATED

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

highways and bridges by the Wisconsin Department of Transportation is exempt when s. 30.2022, Stats., applies.

(8) ABROGATION AND GREATER RESTRICTIONS

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

(9) INTERPRETATION

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

(10) WARNING AND DISCLAIMER OF LIABILITY

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

(11) SEVERABILITY

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

(12) ANNEXED AREAS FOR CITIES AND VILLAGES

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

(13) GENERAL DEVELOPMENT STANDARDS

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

2.0 GENERAL STANDARDS APPLICABLE TO ALL FLOODPLAIN DISTRICTS

2.1 HYDRAULIC AND HYDROLOGIC ANALYSES

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

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

(b) Increase regional flood height due to floodplain storage area lost, which equals or exceeds 0.01 foot.

(2) The zoning administrator shall deny permits if it is determined the proposed development will obstruct flow or increase regional flood heights 0.01 foot or more, based on the officially adopted FIRM or other adopted map, unless the provisions of sub. (3) are met.

(3) Obstructions or increases equal to or greater than 0.01 foot may only be permitted if amendments are made to this ordinance, the official floodplain zoning maps, floodway lines and water surface profiles, in accordance with s. 8.0.

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

2.2 WATERCOURSE ALTERATIONS

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

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

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

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

2.4 PUBLIC OR PRIVATE CAMPGROUNDS

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

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

3.0 FLOODWAY DISTRICT (FW)

3.1 APPLICABILITY

This section applies to all floodway areas on the floodplain zoning maps and those identified pursuant to s. 5.1(4).

3.2 PERMITTED USES

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

- they are not prohibited by any other ordinance;
 - they meet the standards in s. 3.3 and 3.4; and
 - all permits or certificates have been issued according to s. 7.1:
- (1) Agricultural uses, such as: farming, outdoor plant nurseries, horticulture, viticulture and wild crop harvesting.
 - (2) Nonstructural industrial and commercial uses, such as loading areas, parking areas and airport landing strips.
 - (3) Nonstructural recreational uses, such as golf courses, tennis courts, archery ranges, picnic grounds, boat ramps, swimming areas, parks, wildlife and nature preserves, game farms, fish hatcheries, shooting, trap and skeet activities, hunting and fishing areas and hiking and horseback riding trails, subject to the fill limitations of s. 3.3(4).
 - (4) Uses or structures accessory to open space uses, or classified as historic structures that comply with ss. 3.3 and 3.4.
 - (5) Extraction of sand, gravel or other materials that comply with s. 3.3(4).
 - (6) Functionally water-dependent uses, such as docks, piers or wharves, dams, flowage areas, culverts, navigational aids and river crossings of transmission lines, and pipelines that comply with chs. 30, 31, Stats.
 - (7) Public utilities, streets and bridges that comply with s. 3.3(3).

3.3 STANDARDS FOR DEVELOPMENTS IN FLOODWAY AREAS

(1) GENERAL

(a) Any development in floodway areas shall comply with s. 2.0 and have a low flood damage potential.

(b) Applicants shall provide the following data to determine the effects of the proposal according to s. 2.1:

1. A cross-section elevation view of the proposal, perpendicular to the watercourse, showing if the proposed development will obstruct flow; or

2. An analysis calculating the effects of this proposal on regional flood height.

(c) The zoning administrator shall deny the permit application if the project will increase flood elevations upstream or downstream 0.01 foot or more, based on the data submitted for par. (b) above.

(2) STRUCTURES

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

(a) The structure is not designed for human habitation and does not have a high flood damage potential;

(b) it must be anchored to resist flotation, collapse and lateral movement;

(c) mechanical and utility equipment must be elevated or floodproofed to or above the flood protection elevation; and

(d) it must not obstruct the flow of flood waters or cause any increase in flood levels during the occurrence of the regional flood.

(3) PUBLIC UTILITIES, STREETS AND BRIDGES

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

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

(4) FILLS OR DEPOSITION OF MATERIALS

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

- (a) The requirements of s. 2.1 are met;
- (b) No material is deposited in the navigable channel unless a permit is issued by the Department pursuant to ch. 30, Stats., and a permit pursuant to s. 404 of the Federal Water Pollution Control Act, Amendments of 1972, 33 U.S.C. 1344 has been issued, if applicable, and the other requirements of this section are met;
- (c) The fill or other materials will be protected against erosion by riprap, vegetative cover, sheet piling or bulkheading; and
- (d) The fill is not classified as a solid or hazardous material.

3.4 PROHIBITED USES

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

- (1) Habitable structures, structures with high flood damage potential, or those not associated with permanent open-space uses;
- (2) Storing materials that are buoyant, flammable, explosive, injurious to property, water quality, or human, animal, plant, fish or other aquatic life;

- (3) Uses not in harmony with or detrimental to uses permitted in the adjoining districts;

- (4) Any private or public sewage systems, except portable latrines that are removed prior to flooding and systems associated with recreational areas and Department-approved campgrounds that meet the applicable provisions of local ordinances and ch. COMM 83, Wis. Adm. Code.

- (5) Any public or private wells which are used to obtain potable water, except those for recreational areas that meet the requirements of local ordinances and chs. NR 811 and NR 812, Wis. Adm. Code;

- (6) Any solid or hazardous waste disposal sites;

- (7) Any wastewater treatment ponds or facilities, except those permitted under s. NR 110.15(3)(b), Wis. Adm. Code;

- (8) Any sanitary sewer or water supply lines, except those to service existing or proposed development located outside the floodway which complies with the regulations for the floodplain area occupied.

4.0 FLOODFRINGE DISTRICT (FF)

4.1 APPLICABILITY

This section applies to all floodfringe areas shown on the floodplain zoning maps and those identified pursuant to s. 5.1(4).

4.2 PERMITTED USES

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

4.3 STANDARDS FOR DEVELOPMENT IN FLOODFRINGE AREAS

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

(1) RESIDENTIAL USES

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

(a) The elevation of the lowest floor, excluding the basement or crawlway, shall be at or above the flood protection elevation on fill. The fill shall be one foot or more above the regional flood elevation extending at least 15 feet beyond the limits of the structure. The Department may authorize other floodproofing measures if the elevations of existing streets or sewer lines makes compliance impractical;

(b) The basement or crawlway floor may be placed at the regional flood elevation if it is floodproofed to the flood protection elevation. No basement or crawlway floor is allowed below the regional flood elevation;

(c) Contiguous dryland access shall be provided from a structure to land outside of the floodplain, except as provided in par. (d).

(d) In developments where existing street or sewer line elevations make compliance with par. (c) impractical, the municipality may permit new development and substantial improvements where access roads are at or below the regional flood elevation, if:

1. The municipality has written assurance from police, fire and emergency services that rescue and relief will be provided to the structure(s) by wheeled vehicles during a regional flood event; or

2. The municipality has a natural disaster plan approved by Wisconsin Emergency Management and the Department.

(2) ACCESSORY STRUCTURES OR USES

(a) Except as provided in par. (b), an accessory structure which is not connected to a principal structure may be constructed with its lowest floor at or above the regional flood elevation.

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

(3) COMMERCIAL USES

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

(4) MANUFACTURING AND INDUSTRIAL USES

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

(5) STORAGE OF MATERIALS

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

(6) PUBLIC UTILITIES, STREETS AND BRIDGES

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

(a) When failure of public utilities, streets and bridges would endanger public health or safety, or where such facilities are deemed essential, construction of and substantial improvements to such facilities may only be permitted if they are floodproofed in compliance with s. 7.5 to the flood protection elevation;

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

(7) SEWAGE SYSTEMS

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

(8) WELLS

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

(9) SOLID WASTE DISPOSAL SITES

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

(10) DEPOSITION OF MATERIALS

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

(11) MANUFACTURED HOMES

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

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

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

(c) Outside of existing manufactured home parks, including new manufactured home parks and all single units outside of existing parks, all new, replacement and substantially improved manufactured homes shall meet the residential development standards for the floodfringe in s. 4.3(1).

(12) MOBILE RECREATIONAL VEHICLES

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

5.0 OTHER FLOODPLAIN DISTRICTS

Other floodplain districts may be established under the ordinance and reflected on the floodplain zoning map. These districts may include general floodplain districts and flood storage districts.

5.1 GENERAL FLOODPLAIN DISTRICT (GFP)

(1) APPLICABILITY

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

(2) PERMITTED USES

Pursuant to s. 5.1(4), it shall be determined whether the proposed use is located within a floodway or floodfringe area. Those uses permitted in floodway (s. 3.2) and floodfringe areas (s. 4.2) are allowed within the general floodplain district, according to the standards of s. 5.3, provided that all permits or certificates required under s. 7.1 have been issued.

(3) STANDARDS FOR DEVELOPMENT IN THE GENERAL FLOODPLAIN DISTRICT

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

(4) DETERMINING FLOODWAY AND FLOODFRINGE LIMITS

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

(a) 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;

(b) 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:

1. A typical valley cross-section showing the stream channel, the floodplain adjoining each side of the channel, the cross-sectional area to be occupied by the proposed development, and all historic high water information;

2. 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;

3. Profile showing the slope of the bottom of the channel or flow line of the stream;

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

(e) Transmit one copy of the information described in pars. (1) and (2) to the Department Regional office along with a written request for technical assistance to establish regional flood elevations and, where applicable, floodway data. Where the provisions of s. 7.1(2)(c) apply, the applicant shall provide all

required information and computations to delineate floodway boundaries and the effects of the project on flood elevations.

5.2 FLOOD STORAGE DISTRICT

The flood storage district delineates that portion of the floodplain where storage of floodwaters has been taken into account and is relied upon to reduce the regional flood discharge. The district protects the flood storage areas and assures that any development in the storage areas will not decrease the effective flood storage capacity which would cause higher flood elevations.

(1) APPLICABILITY

The provisions of this section apply to all areas within the Flood Storage District (FSD), as shown on the official floodplain zoning maps.

(2) PERMITTED USES

Any use or development which occurs in a flood storage district must meet the applicable requirements in s. 4.3.

(3) STANDARDS FOR DEVELOPMENT IN FLOOD STORAGE DISTRICTS

- (a) Development in a flood storage district shall not cause an increase equal or greater than 0.01 of a foot in the height of the regional flood.
- (b) No development shall be allowed which removes flood storage volume unless an equal volume of storage as defined by the pre-development ground surface and the regional flood elevation shall be provided in the immediate area of the proposed development to compensate for the volume of storage which is lost, (compensatory storage). Excavation below the groundwater table is not considered to provide an equal volume of storage.
- (c) If compensatory storage cannot be provided, the area may not be developed unless the entire area zoned as flood storage district – on this waterway – is rezoned to the floodfringe district. This must include a revision to the floodplain study and map done for the waterway to revert to the higher regional flood discharge calculated without flood plain storage, as per s. 8.1 of this ordinance.
- (d) No area may be removed from the flood storage district unless it can be shown that the area has been filled to the flood protection elevation and is contiguous to other lands lying outside of the floodplain.

6.0 NONCONFORMING USES

6.1 GENERAL

(1) APPLICABILITY

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

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

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

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

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

(c) The municipality shall keep a record which lists all nonconforming uses and nonconforming structures, their present equalized assessed value, the cost of all modifications or additions which have been permitted, and the percentage of the structure's total current value those modifications represent;

(d) No modification or addition to any nonconforming structure or any structure with a nonconforming use, which over the life of the structure would equal or exceed 50% of its present equalized assessed value, shall be allowed unless the entire structure is permanently changed to a conforming structure with a conforming use in compliance with the applicable requirements of this

ordinance. Contiguous dry land access must be provided for residential and commercial uses in compliance with s. 4.3(1). The costs of elevating a nonconforming building or a building with a nonconforming use to the flood protection elevation are excluded from the 50% provisions of this paragraph;

- (e) 1. Except as provided in subd. 2., if any nonconforming structure or any structure with a nonconforming use is destroyed or is substantially damaged, it cannot be replaced, reconstructed or rebuilt unless the use and the structure meet the current ordinance requirements. A structure is considered substantially damaged if the total cost to restore the structure to its pre-damaged condition equals or exceeds 50% of the structure's present equalized assessed value.

2. For nonconforming buildings that are damaged or destroyed by a nonflood disaster, the repair or reconstruction of any such nonconforming building may be permitted in order to restore it after the nonflood disaster, provided that the nonconforming building will meet all of the minimum requirements under applicable FEMA regulations (44 CFR Part 60), or the regulations promulgated thereunder.

(f) A nonconforming historic structure may be altered if the alteration will not preclude the structures continued designation as a historic structure, the alteration will comply with s. 3.3 (1), flood resistant materials are used, and construction practices and floodproofing methods that comply with s. 7.5 are used.

6.2 FLOODWAY AREAS

(1) No modification or addition shall be allowed to any nonconforming structure or any structure with a nonconforming use in a floodway area, unless such modification or addition:

(a) Has been granted a permit or variance which meets all ordinance requirements;

(b) Meets the requirements of s. 6.1;

(c) Will not increase the obstruction to flood flows or regional flood height;

(d) Any addition to the existing structure shall be floodproofed, pursuant to s. 7.5, by

means other than the use of fill, to the flood protection elevation;

(e) If any part of the foundation below the flood protection elevation is enclosed, the following standards shall apply:

1. The enclosed area shall be designed by a registered architect or engineer to allow for the efficient entry and exit of flood waters without human intervention. A minimum of two openings must be provided with a minimum net area of at least one square inch for every one square foot of the enclosed area. The lowest part of the opening can be no more than 12 inches above the adjacent grade;
2. The parts of the foundation located below the flood protection elevation must be constructed of flood-resistant materials;
3. Mechanical and utility equipment must be elevated or floodproofed to or above the flood protection elevation; and
4. The use must be limited to parking or limited storage.

(2) No new on-site sewage disposal system, or addition to an existing on-site sewage disposal system, except where an addition has been ordered by a government agency to correct a hazard to public health, shall be allowed in a floodway area. Any replacement, repair or maintenance of an existing on-site sewage disposal system in a floodway area shall meet the applicable requirements of all municipal ordinances and ch. COMM 83, Wis. Adm. Code.

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

6.3 FLOODFRINGE AREAS

(1) No modification or addition shall be allowed to any nonconforming structure or any structure with a nonconforming use unless such modification or addition has been granted a permit or variance by the municipality, and the modification or addition shall be placed on fill or floodproofed to the flood protection elevation in compliance with the standards for that particular use in ss. 4.3 and 7.5, except where s. 6.3(2) is applicable.

(2) Where compliance with the provisions of par. (1) would result in unnecessary hardship and only where the structure will not be used for human habitation or be associated with a high flood damage potential, the Board of Adjustment/Appeals, using the procedures established in s. 7.3, may grant a variance from those provisions of par. (1) for modifications or additions, using the criteria listed below. Modifications or additions which are protected to elevations lower than the flood protection elevation may be permitted if:

(a) No floor is allowed below the regional flood elevation for residential or commercial structures;

(b) Human lives are not endangered;

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

(d) Flood depths will not exceed two feet;

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

(f) The structure will not be used for storage of materials as described in s. 4.3(6).

(3) If neither the provisions of par. (1) or (2) above can be met, one addition to an existing room in a nonconforming building or a building with a nonconforming use may be allowed in the floodfringe, if the addition:

(a) Meets all other regulations and will be granted by permit or variance;

(b) Does not exceed 60 square feet in area; and

(c) In combination with other previous modifications or additions to the building, does not equal or exceed 50% of the present equalized assessed value of the building.

(4) All new private sewage disposal systems, or addition to, replacement, repair or maintenance of a private sewage disposal system shall meet all the applicable provisions of all local ordinances and ch. COMM 83, Wis. Adm. Code.

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

6.4 FLOOD STORAGE AREAS

No modifications or additions shall be allowed to any nonconforming structure in a flood storage area unless the standards outlined in 5.2(3) are met.

7.0 ADMINISTRATION

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

7.1 ZONING ADMINISTRATOR

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

(a) Advise applicants of the ordinance provisions, assist in preparing permit applications and appeals, and assure that the regional flood elevation for the proposed development is shown on all permit applications.

(b) Issue permits and inspect properties for compliance with provisions of this ordinance, and issue certificates of compliance where appropriate.

(bm) Inspect all damaged floodplain structures and perform a substantial damage assessment to determine if substantial damage to the structures has occurred.

(c) Keep records of all official actions such as:

1. All permits issued, inspections made, and work approved;
2. Documentation of certified lowest floor and regional flood elevations for floodplain development;
3. Records of water surface profiles, floodplain zoning maps and ordinances, nonconforming uses and structures including changes, appeals, variances and amendments.
4. All substantial damage assessment reports for floodplain structures.

(d) Submit copies of the following items to the Department Regional office:

1. Within 10 days of the decision, a copy of any decisions on variances, appeals for map or text interpretations, and map or text amendments;
2. Copies of any case-by-case analyses, and any other information required by the Department including an annual summary of the number and types of floodplain zoning actions taken.
3. Copies of substantial damage assessments performed and all related correspondence concerning the assessments.

(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 text and map amendments and biennial reports to the FEMA Regional office.

(2) LAND USE PERMIT

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

(a) GENERAL INFORMATION

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

(b) SITE DEVELOPMENT PLAN

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

1. Location, dimensions, area and elevation of the lot;
2. Location of the ordinary highwater mark of any abutting navigable waterways;
3. Location of any structures with distances measured from the lot lines and street 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 vertical datum from the adopted study - either National Geodetic Vertical Datum (NGVD) or North American Vertical Datum (NAVD);

8. Data sufficient to determine the regional flood elevation in NGVD or NAVD at the location of the development and to determine whether or not the requirements of s. 3.0 or 4.0 are met; and

9. Data to determine if the proposed development will cause an obstruction to flow or an increase in regional flood height or discharge according to s. 2.1. This may include any of the information noted in s. 3.3(1).

(c) DATA REQUIREMENTS TO ANALYZE DEVELOPMENTS

1. The applicant shall provide all survey data and computations required to show the effects of the project on flood heights, velocities and floodplain storage, for all subdivision proposals, as "subdivision" is defined in s. 236, Stats., and other proposed developments exceeding 5 acres in area or where the estimated cost exceeds \$125,000. The applicant shall provide:

- a. An analysis of the effect of the development on the regional flood profile, velocity of flow and floodplain storage capacity;
- b. A map showing location and details of vehicular access to lands outside the floodplain; and
- c. A surface drainage plan showing how flood damage will be minimized.

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

(d) EXPIRATION

All permits issued under the authority of this ordinance shall expire 365 days after issuance.

(3) CERTIFICATE OF COMPLIANCE

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

(a) The certificate of compliance shall show that the building or premises or part thereof, and the proposed use, conform to the provisions of this ordinance;

(b) Application for such certificate shall be concurrent with the application for a permit;

(c) If all ordinance provisions are met, the certificate of compliance shall be issued within 10 days after written notification that the permitted work is completed;

(d) The applicant shall submit a certification signed by a registered professional engineer or registered 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 registered architect that floodproofing measures meet the requirements of s. 7.5.

(4) OTHER PERMITS

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

7.2 ZONING AGENCY

(1) The City of Whitewater Plan and Architectural review 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) This zoning agency shall not

(a) grant variances to the terms of the ordinance in place of action by the Board of Adjustment/Appeals; or

(b) amend the text or zoning maps in place of official action by the Governing body.

7.3 BOARD OF ADJUSTMENT/APPEALS

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

(1) POWERS AND DUTIES

The Board of Adjustment/Appeals shall:

(a) Appeals - Hear and decide appeals where it is alleged there is an error in any order, requirement, decision or determination made by an administrative official in the enforcement or administration of this ordinance.

(b) Boundary Disputes - Hear and decide disputes concerning the district boundaries shown on the official floodplain zoning map.

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

(2) APPEALS TO THE BOARD

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

for the appeal. The official whose decision is in question shall transmit to the board all records regarding the matter appealed.

(b) NOTICE AND HEARING FOR APPEALS INCLUDING VARIANCES

1. Notice - The board shall:

a. Fix a reasonable time for the hearing;

b. Publish adequate notice pursuant to Wisconsin Statutes, specifying the date, time, place and subject of the hearing;

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

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

a. Resolve boundary disputes according to s. 7.3(3).

b. Decide variance applications according to s. 7.3(4).

c. Decide appeals of permit denials according to s. 7.4.

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

1. Be made within a reasonable time;

2. Be sent to the Department Regional office within 10 days of the decision;

3. Be a written determination signed by the chairman or secretary of the Board;

4. State the specific facts which are the basis for the Board's decision;

5. Either affirm, reverse, vary or modify the order, requirement, decision or determination appealed, in whole or in part, dismiss the appeal for lack of jurisdiction or grant or deny the variance application;

6. Include the reasons for granting an appeal, describing the hardship demonstrated by the applicant in the case of a variance, clearly stated in the recorded minutes of the Board proceedings.

(3) BOUNDARY DISPUTES

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

(a) If a floodplain district boundary is established by approximate or detailed floodplain studies, the flood elevations or profiles shall prevail in locating the boundary. If none exist, other evidence may be examined.

(b) In all cases, the person contesting the boundary location shall be given a reasonable opportunity to present arguments and technical evidence to the Board.

(c) If the boundary is incorrectly mapped, the Board should inform the zoning committee or the person contesting the boundary location to petition the governing body for a map amendment according to s. 8.0.

(4) VARIANCE

(a) The Board may, upon appeal, grant a variance from the standards of this ordinance if an applicant convincingly demonstrates that:

1. Literal enforcement of the ordinance provisions will cause unnecessary hardship;

2. The hardship is due to adoption of the floodplain ordinance and unique property conditions, not common to adjacent lots or premises. In such case the ordinance or map must be amended;

3. The variance is not contrary to the public interest; and

4. The variance is consistent with the purpose of this ordinance in s. 1.3.

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

1. The variance may not cause any increase in the regional flood elevation;

2. Variances can only be granted for lots that are less than one-half acre and are contiguous to existing structures constructed below the RFE;

3. Variances shall only be granted upon a showing of good and sufficient cause, shall be the minimum relief necessary, shall not cause increased risks to public safety or nuisances, shall not increase costs for rescue and relief efforts and shall not be contrary to the purpose of the ordinance.

(c) A variance shall not:

1. Grant, extend or increase any use prohibited in the zoning district.

2. Be granted for a hardship based solely on an economic gain or loss.

3. Be granted for a hardship which is self-created.

4. Damage the rights or property values of other persons in the area.

5. Allow actions without the amendments to this ordinance or map(s) required in s.

8.1.

5. Allow any alteration of an historic structure, including its use, which would preclude its continued

designation as an historic structure.

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

7.4 TO REVIEW APPEALS OF PERMIT DENIALS

(1) The Zoning Agency (s. 7.2) or Board shall review all data related to the appeal. This may include:

(a) Permit application data listed in s. 7.1(2).

(b) Floodway/floodfringe determination data in s. 5.1(4).

(c) Data listed in s. 3.3(1)(b) where the applicant has not submitted this information to the zoning administrator.

(d) Other data submitted with the application, or submitted to the Board with the appeal.

(2) For appeals of all denied permits the Board shall:

(a) Follow the procedures of s. 7.3;

(b) Consider zoning agency recommendations; and

(c) Either uphold the denial or grant the appeal.

(3) For appeals concerning increases in regional flood elevation the Board shall:

(a) Uphold the denial where the Board agrees with the data showing an increase in flood elevation. Increases equal to or greater than 0.01 foot may only be allowed after amending the flood profile and map and all appropriate legal arrangements are made with all adversely affected property owners.

(b) Grant the appeal where the Board agrees that the data properly demonstrates that the project does not cause an increase equal to or greater than 0.01 foot provided no other reasons for denial exist.

7.5 FLOODPROOFING

(1) No permit or variance shall be issued until the applicant submits a plan certified by a registered professional engineer or architect that the floodproofing measures will protect the structure or development to the flood protection elevation.

(2) Floodproofing measures shall be designed to:

(a) Withstand flood pressures, depths, velocities, uplift and impact forces and other regional flood factors;

(b) Protect structures to the flood protection elevation;

(c) Anchor structures to foundations to resist flotation and lateral movement; and

(d) Insure that structural walls and floors are watertight to the flood protection elevation, and the interior remains completely dry during flooding without human intervention.

(3) Floodproofing measures could include:

(a) Reinforcing walls and floors to resist rupture or collapse caused by water pressure or floating debris.

(b) Adding mass or weight to prevent flotation.

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

7.6 PUBLIC INFORMATION

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

8.0 AMENDMENTS

8.1 GENERAL

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

- (1) Any change to the official floodplain zoning map, including the floodway line or boundary of any floodplain area.
- (2) Correction of discrepancies between the water surface profiles and floodplain zoning maps.
- (3) Any fill in the floodplain which raises the elevation of the filled area to a height at or above the flood protection elevation and is contiguous to land lying outside the floodplain.

- (4) Any fill or floodplain encroachment that obstructs flow, increasing regional flood height 0.01 foot or more.
- (5) 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.
- (6) All channel relocations and changes to the maps to alter floodway lines or to remove an area from the floodway or the floodfringe that is based on a base flood elevation from a FIRM requires prior approval by FEMA.

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

8.2 PROCEDURES

Ordinance amendments may be made upon petition of any interested party according to the provisions of s. 62.23, Stats., for cities and villages, or 59.69, Stats., for counties. Such petitions shall include all necessary data required by ss. 5.1(4) and 7.1(2).

- (1) The proposed amendment shall be referred to the zoning agency for a public hearing and recommendation to the governing body. The amendment and notice of public hearing shall be submitted to the Department Regional office for review prior to the hearing. The amendment procedure shall comply with the provisions of s. 62.23, Stats., for cities and villages or s. 59.69, Stats., for counties.
- (2) No amendments shall become effective until reviewed and approved by the Department.
- (3) All persons petitioning for a map amendment that obstructs flow, increasing regional flood height 0.01 foot or more, shall obtain flooding easements or other appropriate legal arrangements from all adversely affected property owners and notify local units of government before the amendment can be approved by the governing body.
- (4) For amendments in areas with no water surface profiles, the zoning agency or board shall consider data submitted by the Department, the zoning administrator's visual on-site inspections and other available information. (See s. 1.5(4).)

9.0 ENFORCEMENT AND PENALTIES

Any violation of the provisions of this ordinance by any person shall be unlawful and shall be referred to the municipal attorney who shall expeditiously prosecute all such violators. A violator shall, upon conviction, forfeit to the municipality a penalty of not less than \$ 200 and not more than \$ 300, together with a taxable cost of such action. Each day of continued violation shall constitute a separate offense. Every violation of this ordinance is a public nuisance and the creation may be enjoined and the maintenance may be abated by action at suit of the municipality, the state, or any citizen thereof pursuant to s. 87.30, Stats.

10.0 DEFINITIONS

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

- 1) "A ZONES" - Those areas shown on the Official Floodplain Zoning Map which would be inundated by the regional flood. These areas may be numbered or unnumbered A Zones. The A Zones may or may not be reflective of flood profiles, depending on the availability of data for a given area.
- 2) "ACCESSORY STRUCTURE OR USE" - A facility, structure, building or use which is accessory or incidental to the principal use of a property, structure or building.
- 3) "BASE FLOOD" - Means the flood having a one percent chance of being equaled or exceeded in any given year, as published by FEMA as part of a FIS and depicted on a FIRM.
- 4) "BASEMENT" - Any enclosed area of a building having its floor sub-grade, i.e., below ground level, on all sides.
- 5) "BUILDING" - See STRUCTURE.
- 6) "BULKHEAD LINE" - A geographic line along a reach of navigable water that has been adopted by a municipal ordinance and approved by the Department pursuant to s. 30.11, Stats., and which allows limited filling between this bulkhead line and the original ordinary highwater mark, except where such filling is prohibited by the floodway provisions of this ordinance.
- 7) "CAMPGROUND" - Any parcel of land which is designed, maintained, intended or used for the purpose of providing sites for nonpermanent overnight use by 4 or more camping units, or which is advertised or represented as a camping area.
- 8) "CAMPING UNIT" - Any portable device, no more than 400 square feet in area, used as a temporary shelter, including but not limited to a camping trailer, motor home, bus, van, pick-up truck, tent or

other mobile recreational vehicle.

- 9) "CERTIFICATE OF COMPLIANCE" - A certification that the construction and the use of land or a building, the elevation of fill or the lowest floor of a structure is in compliance with all of the provisions of this ordinance.
- 10) "CHANNEL" – A natural or artificial watercourse with definite bed and banks to confine and conduct normal flow of water.
- 11) "CRAWLWAYS" OR "CRAWL SPACE" - An enclosed area below the first usable floor of a building, generally less than five feet in height, used for access to plumbing and electrical utilities.
- 12) "DECK" – An unenclosed exterior structure that has no roof or sides, but has a permeable floor which allows the infiltration of precipitation.
- 13) "DEPARTMENT" - The Wisconsin Department of Natural Resources.
- 14) "DEVELOPMENT" - Any artificial change to improved or unimproved real estate, including, but not limited to, the construction of buildings, structures or accessory structures; the construction of additions or alterations to buildings, structures or accessory structures; the repair of any damaged structure or the improvement or renovation of any structure, regardless of percentage of damage or improvement; the placement of buildings or structures; subdivision layout and site preparation; mining, dredging, filling, grading, paving, excavation or drilling operations; the storage, deposition or extraction of materials or equipment; and the installation, repair or removal of public or private sewage disposal systems or water supply facilities.
- 15) "DRYLAND ACCESS" - A vehicular access route which is above the regional flood elevation and which connects land located in the floodplain to land outside the floodplain, such as a road with its surface above regional flood elevation and wide enough for wheeled rescue and relief vehicles.
- 16) "ENCROACHMENT" - Any fill, structure, equipment, building, use or development in the floodway.
- 17) "EXISTING MANUFACTURED HOME PARK OR SUBDIVISION" - A parcel of land, divided into two or more manufactured home lots for rent or sale, on which the construction of facilities for servicing the lots is completed before the effective date of this ordinance. At a minimum, this would include the installation of utilities, the construction of streets and either final site grading or the pouring of concrete pads

- 18) "EXPANSION TO EXISTING MOBILE/MANUFACTURED HOME PARK" - The preparation of additional sites by the construction of facilities for servicing the lots on which the manufactured homes are to be affixed. This includes installation of utilities, construction of streets and either final site grading, or the pouring of concrete pads.
- 19) "FEDERAL EMERGENCY MANAGEMENT AGENCY (FEMA)" - The federal agency that administers the National Flood Insurance Program.
- 20) "FLOOD INSURANCE RATE MAP" (FIRM) - A map of a community on which the Federal Insurance Administration has delineated both special flood hazard areas (the floodplain) and the risk premium zones applicable to the community. This map can only be amended by the Federal Emergency Management Agency.
- 21) "FLOOD" or "FLOODING" – A general and temporary condition of partial or complete inundation of normally dry land areas caused by one of the following conditions:
- ✓ The overflow or rise of inland waters,
 - ✓ The rapid accumulation or runoff of surface waters from any source,
 - ✓ The inundation caused by waves or currents of water exceeding anticipated cyclical levels along the shore of Lake Michigan or Lake Superior, or
 - ✓ The sudden increase caused by an unusually high water level in a natural body of water, accompanied by a severe storm, or by an unanticipated force of nature, such as a seiche, or by some similarly unusual event.
- 22) "FLOOD FREQUENCY" - The probability of a flood occurrence which is determined from statistical analyses. The frequency of a particular flood event is usually expressed as occurring, on the average, once in a specified number of years or as a percent (%) chance of occurring in any given year.
- 23) "FLOODFRINGE" - That portion of the floodplain outside of the floodway which is covered by flood waters during the regional flood and associated with standing water rather than flowing water.
- 24) "FLOOD HAZARD BOUNDARY MAP" - A map designating approximate flood hazard areas. Flood hazard areas are designated as unnumbered A-Zones and do not contain floodway lines or regional flood elevations. This map forms the basis for both the regulatory and insurance aspects of the National Flood Insurance Program (NFIP) until superseded by a Flood Insurance Study and a Flood Insurance Rate Map.
- 25) "FLOOD INSURANCE STUDY" - A technical engineering examination, evaluation, and determination of the local flood hazard areas. It provides maps designating those areas affected by the regional flood and provides both flood insurance rate zones and base flood elevations and may provide floodway lines. The flood hazard areas are designated as numbered and unnumbered A-Zones. Flood Insurance Rate Maps, that accompany the Flood Insurance Study, form the basis for both the regulatory and the insurance aspects of the National Flood Insurance Program.

- 26) "FLOODPLAIN" - Land which has been or may be covered by flood water during the regional flood. It includes the floodway and the floodfringe, and may include other designated floodplain areas for regulatory purposes.
- 27) "FLOODPLAIN ISLAND" - A natural geologic land formation within the floodplain that is surrounded, but not covered, by floodwater during the regional flood.
- 28) "FLOODPLAIN MANAGEMENT" - Policy and procedures to insure wise use of floodplains, including mapping and engineering, mitigation, education, and administration and enforcement of floodplain regulations.
- 29) "FLOOD PROFILE" - A graph or a longitudinal profile line showing the relationship of the water surface elevation of a flood event to locations of land surface elevations along a stream or river.
- 30) "FLOODPROOFING" - Any combination of structural provisions, changes or adjustments to properties and structures, water and sanitary facilities and contents of buildings subject to flooding, for the purpose of reducing or eliminating flood damage.
- 31) "FLOOD PROTECTION ELEVATION" - An elevation of two feet of freeboard above the water surface profile elevation designated for the regional flood. (Also see: FREEBOARD.)
- 32) "FLOOD STORAGE" - Those floodplain areas where storage of floodwaters has been taken into account during analysis in reducing the regional flood discharge.
- 33) "FLOODWAY" - The channel of a river or stream and those portions of the floodplain adjoining the channel required to carry the regional flood discharge.
- 34) "FREEBOARD" - A safety factor expressed in terms of a specified number of feet above a calculated flood level. Freeboard compensates for any factors that cause flood heights greater than those calculated, including ice jams, debris accumulation, wave action, obstruction of bridge openings and floodways, the effects of watershed urbanization, loss of flood storage areas due to development and aggregation of the river or stream bed.
- 35) "HABITABLE STRUCTURE" - Any structure or portion thereof used or designed for human habitation.
- 36) "HEARING NOTICE" - Publication or posting meeting the requirements of Ch. 985, Stats. For appeals, a Class 1 notice, published once at least one week (7 days) before the hearing, is required. For all zoning ordinances and amendments, a Class 2 notice, published twice, once each week consecutively, the last at least a week (7 days) before the hearing. Local ordinances or bylaws may require additional notice, exceeding these minimums.
- 37) "HIGH FLOOD DAMAGE POTENTIAL" - Damage that could result from flooding that includes any danger to life or health or any significant economic loss to a structure or building and its contents.

- 38) "HISTORIC STRUCTURE" - Any structure that is either:
- ✓ Listed individually in the National Register of Historic Places or preliminarily determined by the Secretary of the Interior as meeting the requirements for individual listing on the National Register,
 - ✓ Certified or preliminarily determined by the Secretary of the Interior as contributing to the historical significance of a registered historic district or a district preliminarily determined by the Secretary to qualify as a registered historic district,
 - ✓ Individually listed on a state inventory of historic places in states with historic preservation programs which have been approved by the Secretary of the Interior, or
 - ✓ Individually listed on a local inventory of historic places in communities with historic preservation programs that have been certified either by an approved state program, as determined by the Secretary of the Interior; or by the Secretary of the Interior in states without approved programs.
- 39) "INCREASE IN REGIONAL FLOOD HEIGHT" - A calculated upward rise in the regional flood elevation, equal to or greater than 0.01 foot, based on a comparison of existing conditions and proposed conditions which is directly attributable to development in the floodplain but not attributable to manipulation of mathematical variables such as roughness factors, expansion and contraction coefficients and discharge.
- 40) "LAND USE" - Any nonstructural use made of unimproved or improved real estate. (Also see DEVELOPMENT.)
- 41) "MANUFACTURED HOME" - A structure transportable in one or more sections, which is built on a permanent chassis and is designed to be used with or without a permanent foundation when connected to required utilities. The term "manufactured home" includes a mobile home but does not include a "mobile recreational vehicle."
- 42) "MOBILE RECREATIONAL VEHICLE" - A vehicle which is built on a single chassis, 400 square feet or less when measured at the largest horizontal projection, designed to be self-propelled, carried or permanently towable by a licensed, light-duty vehicle, is licensed for highway use if registration is required and is designed primarily not for use as a permanent dwelling, but as temporary living quarters for recreational, camping, travel or seasonal use. Manufactured homes that are towed or carried onto a parcel of land, but do not remain capable of being towed or carried, including park model homes, do not fall within the definition of "mobile recreational vehicles."
- 43) "MUNICIPALITY" or "MUNICIPAL" - The county, city or village governmental units enacting, administering and enforcing this zoning ordinance.
- 44) "NAVD" or "NORTH AMERICAN VERTICAL DATUM" - Elevations referenced to mean sea level datum, 1988 adjustment.
- 45) "NGVD" or "NATIONAL GEODETIC VERTICAL DATUM" - Elevations referenced to mean sea

level datum, 1929 adjustment.

- 46) "NEW CONSTRUCTION" - For floodplain management purposes, "new construction" means structures for which the start of construction commenced on or after the effective date of floodplain zoning regulations adopted by this community and includes any subsequent improvements to such structures. For the purpose of determining flood insurance rates, it includes any structures for which the "start of construction" commenced on or after the effective date of an initial FIRM or after December 31, 1974, whichever is later, and includes any subsequent improvements to such structures.
- 47) "NONCONFORMING STRUCTURE" - An existing lawful structure or building which is not in conformity with the dimensional or structural requirements of this ordinance for the area of the floodplain which it occupies. (For example, an existing residential structure in the floodfringe district is a conforming use. However, if the lowest floor is lower than the flood protection elevation, the structure is nonconforming.)
- 48) "NONCONFORMING USE" - An existing lawful use or accessory use of a structure or building which is not in conformity with the provisions of this ordinance for the area of the floodplain which it occupies. (Such as a residence in the floodway.)
- 49) "OBSTRUCTION TO FLOW" - Any development which blocks the conveyance of floodwaters such that this development alone or together with any future development will cause an increase in regional flood height.
- 50) "OFFICIAL FLOODPLAIN ZONING MAP" - That map, adopted and made part of this ordinance, as described in s. 1.5(2), which has been approved by the Department and FEMA.
- 51) "OPEN SPACE USE" - Those uses having a relatively low flood damage potential and not involving structures.
- 52) "ORDINARY HIGHWATER MARK" - The point on the bank or shore up to which the presence and action of surface water is so continuous as to leave a distinctive mark such as by erosion, destruction or prevention of terrestrial vegetation, predominance of aquatic vegetation, or other easily recognized characteristic.
- 53) "PERSON" - An individual, or group of individuals, corporation, partnership, association, municipality or state agency.
- 54) "PRIVATE SEWAGE SYSTEM" - A sewage treatment and disposal system serving one structure with a septic tank and soil absorption field located on the same parcel as the structure. It also means an alternative sewage system approved by the Department of Commerce, including a substitute for the septic tank or soil absorption field, a holding tank, a system serving more than one structure or a system located on a different parcel than the structure.
- 55) "PUBLIC UTILITIES" - Those utilities using underground or overhead transmission lines such as electric, telephone and telegraph, and distribution and collection systems such as water, sanitary sewer and storm sewer.

- 56) "REASONABLY SAFE FROM FLOODING" - Means base flood waters will not inundate the land or damage structures to be removed from the special flood hazard area and that any subsurface waters related to the base flood will not damage existing or proposed buildings.
- 57) "REGIONAL FLOOD" - A flood determined to be representative of large floods known to have occurred in Wisconsin. A regional flood is a flood with a one percent chance of being equaled or exceeded in any given year, and if depicted on the FIRM, the RFE is equivalent to the BFE.
- 58) "START OF CONSTRUCTION" - The date the building permit was issued, provided the actual start of construction, repair, reconstruction, rehabilitation, addition, placement, or other improvement was within 180 days of the permit date. The actual start means either the first placement of permanent construction on a site, such as the pouring of slab or footings, the installation of piles, the construction of columns, or any work beyond initial excavation, or the placement of a manufactured home on a foundation. Permanent construction does not include land preparation, such as clearing, grading and filling, nor does it include the installation of streets and/or walkways, nor does it include excavation for a basement, footings, piers or foundations or the erection of temporary forms, nor does it include the installation on the property of accessory buildings, such as garages or sheds not occupied as dwelling units or not part of the main structure. For an alteration, the actual start of construction means the first alteration of any wall, ceiling, floor or other structural part of a building, whether or not that alteration affects the external dimensions of the building.
- 59) "STRUCTURE" - Any manmade object with form, shape and utility, either permanently or temporarily attached to, placed upon or set into the ground, stream bed or lake bed, including, but not limited to, roofed and walled buildings, gas or liquid storage tanks, bridges, dams and culverts.
- 60) "SUBDIVISION" - Has the meaning given in s. 236.02(12), Wis. Stats.
- 61) "SUBSTANTIAL DAMAGE" - Damage of any origin sustained by a structure, whereby the cost of restoring the structure to its pre-damaged condition would equal or exceed 50 percent of the equalized assessed value of the structure before the damage occurred.
- 62) "UNNECESSARY HARDSHIP" - Where special conditions affecting a particular property, which were not self-created, have made strict conformity with restrictions governing areas, setbacks, frontage, height or density unnecessarily burdensome or unreasonable in light of the purposes of the ordinance.
- 63) "VARIANCE" - An authorization by the board of adjustment or appeals for the construction or maintenance of a building or structure in a manner which is inconsistent with dimensional standards (not uses) contained in the floodplain zoning ordinance.
- 64) "VIOLATION" - The failure of a structure or other development to be fully compliant with the floodplain zoning ordinance. A structure or other development without required permits, lowest floor elevation documentation, floodproofing certificates or required floodway encroachment calculations is presumed to be in violation until such time as that documentation is provided.

- 65) "WATERSHED" - The entire region contributing runoff or surface water to a watercourse or body of water.
- 66) "WATER SURFACE PROFILE" - A graphical representation showing the elevation of the water surface of a watercourse for each position along a reach of river or stream at a certain flood flow. A water surface profile of the regional flood is used in regulating floodplain areas.
- 67) "WELL" - means an excavation opening in the ground made by digging, boring, drilling, driving or other methods, to obtain groundwater regardless**

Ordinance introduced by Councilmember Allen who moved its adoption. Seconded by Councilmember Nosek. AYES: Allen, Taylor, Nosek, Binnie, Singer, Kienbaum, Stewart. NOES: None. FIRST READING APPROVED: March 17, 2009.

Kevin M. Brunner, City Manager

Michele R. Smith, City Clerk

FIRST READING OF ORDINANCE ASSIGNING RECOMMENDATION FOR BOARD AND COMMISSION MEMBERS TO CITY MANAGER AND COMMON COUNCIL PRESIDENT.

The current ordinance required the Nomination Committee to review applications from citizens interested in serving on Boards and Commissions, and that Committee subsequently makes recommendations to the Council. Councilmember Allen stated that having the City Manager and Council President make these recommendations would be more transparent. Taylor questioned whether there was enough time to initiate the new process by election time. Nosek felt that council should not have an undue influence on citizen appointments and approves of the change. Kienbaum stated that councilmembers are representatives of the city and their voice is necessary to recommend citizens to committees. She also feels that the City Manager is becoming overburdened with duties. Allen replied that the Council need not accept the appointments by the City Manager and Council President. Binnie questioned whether the Nominations Committee was less transparent than having the City Manager and Council President make recommendations to Council. It was moved by Stewart and seconded by Nosek to remove the words "Common Council President" from the ordinance. AYES: Nosek, Binnie, Stewart. NOES: Allen, Taylor, Singer, Kienbaum. AMENDMENT FAILED.

AN ORDINANCE AMENDING CHAPTER 2.12 OF THE CITY OF WHITEWATER MUNICIPAL CODE REGARDING APPOINTMENT OF BOARDS, COMMISSION AND COMMITTEE MEMBERS

The Common Council of the City of Whitewater, Walworth and Jefferson Counties, Wisconsin, do hereby ordain as follows:

Section 1: Chapter 2.12 Subsection 2.12.011 of the City of Whitewater Municipal Code is hereby amended to read as follows:

2.12.011 Appointment of Board, Commission and Committee Members.

(a) The City Manager and the Common Council President shall review all board, commission and committee applicants and recommend nominees to the Common Council.

(b) After considering the candidates nominated to the various boards, commissions, and committees, the Common Council shall appoint the members of said boards, commissions, or committees.

Ordinance introduced by Councilmember Binnie who moved its adoption. Seconded by Councilmember Taylor. AYES: Allen, Taylor, Nosek, Binnie, Singer. NOES: Kienbaum, Stewart. FIRST READING APPROVED: March 17, 2009.

Kevin M. Brunner, City Manager

Michele R. Smith, City Clerk

SECOND READING OF ADOPTION OF MUNICIPAL BOUNDARY ORDINANCE.

ORDINANCE NO. 1722

AN ORDINANCE AMENDING CHAPTER 1.24 ENTITLED "CITY LIMITS"

The Common Council of the City of Whitewater, Walworth and Jefferson Counties, Wisconsin, does hereby ordain as follows:

SECTION 1: Whitewater Municipal Code Section 1.24.010 is hereby amended to read as follows:

City Boundaries: All that territory and section of county described as follows shall constitute the extent and limits of the City of Whitewater:

All that territory and section of Walworth and Jefferson Counties, Wisconsin described as follows shall constitute the extent and limits of the City of Whitewater:

Beginning at the NE corner of Section 3, T4N, R15E, thence West along the North line of said Section 3, 65.5 feet more or less, to the SE corner of Section 34, T5N, R15E; thence North along the East line of said Section 34, to a point 2474.96 feet South of the East 1/4 corner of said Section 34; said point being the SE corner of Certified Survey Map 2436; thence westerly 333.90 feet along the South line of said Certified Survey Map; thence North 391.37 feet along the West line of said Certified Survey Map; thence East 333.90 feet along the North line of said Certified Survey Map to the East line of said Section; thence North along the East line of said Section 34 2083.59 feet to the East 1/4 corner of said Section 34; thence West along the South line of the Northeast 1/4 of said Section 34 to its intersection with the southerly extension of the West line of the Plat of Crestwood Heights as recorded in the Office of the Register of Deeds for Jefferson County, Wisconsin in Volume 8 of Plats on page 32; thence northerly along said extension and the West line of said Crestwood Heights to the Northwest corner of Crestwood Heights; thence southeasterly along the North line of Crestwood Heights 504.59 feet to an angle point in the northerly line of Lot 10 of Crestwood Heights; thence S 74°43' E along the North line of Crestwood Heights 216.18 feet to the Northeast corner of Lot 10 of Crestwood Heights; thence continuing S 74°43' E 1292.16 feet more or less to the East line of the Northeast 1/4 of said Section 34; thence North along the East line of the Northeast 1/4 of said Section 34 to a point lying 572.3 feet South of the Northeast corner of said Section 34; thence N 85°20' W 779.0 feet; thence N 0°31' E 510.7 feet to a point on the North line of said Section 34 which lies 771.1 feet West of the Northeast corner of said Section 34; thence West along the North line of the Northeast 1/4 of said Section 34 to the North 1/4 corner of said Section 34; thence westerly and southwesterly along the centerline of State Trunk Highway 59 to the point of intersection of said centerline and the westerly extension of the northerly-most line of Lot 1 of Certified Survey Map No. 3197 recorded in the Office of the Jefferson County Register of Deeds in Volume 13 of Certified Surveys at page 249; thence N 84°51'50" E, along said extension of the northerly-most line of said Lot 1, to the East

right of way line of STH 59; thence southerly along said right of way 1368.94 feet, as described on CSM #3197, to the NW corner of an existing parcel; thence S 84°19'20" E along the North line of said parcel 179.91 feet; thence N 1°20'45" W 2.0 feet; thence S 84°02'15" E 432.77 feet to the NE corner of said parcel; thence S 0°22'15" E 194.44 feet to the SE corner of said parcel; thence N 86°27'10" W 607.71 feet to the SW corner of said parcel, said corner described on the East right of way line of STH 59; thence S 11°30'15" E along said right of way line 152.76 feet; thence S 1°19'25" E along said right of way line 976.83 feet; thence southeasterly along a curve in said right of way line 665.86 feet; thence S 11°28'15" E along said right of way line 210.31 feet to the NW corner of an existing tract; thence N 78°31'45" E 535.85 feet to the NE corner of said tract; thence S 11°28'15" E 417.39 feet; thence S 3°09'45" W 599.15 feet to the SE corner of said tract; thence S 88°56'40" W 415.0 feet to the SW corner of said tract, described on the East right of way line of STH 59; thence southeasterly along a curve in said right of way line 66.0 feet to the South line of Section 34; thence S 88°56'40" W along said South line to the SW corner of said Section 34; thence westerly along the South line of Section 33, T5N, R15E, to the SW corner of Lot 1 of Certified Survey Map No. 1909 recorded in the Jefferson County Register of Deeds Office in Volume 6 of Certified Survey Maps at page 133; thence North along the West line of Lot 1 of said CSM 1909 to the Northwest corner of said Lot 1 of CSM 1909, said Northwest corner of Lot 1 of CSM 1909 also being the Southwest corner of Lot 1 of Certified Survey Map No. 2744 recorded in the Office of the Register of Deeds for Jefferson County, Wisconsin in Volume 10 of Certified Surveys at page 250; thence North along the West line of Lot 1 of said CSM 2744 to the Northwest corner of Lot 1 of said CSM 2744, said Northwest corner of said Lot 1 of CSM 2744 being a point on the West line of CSM 369 recorded in the Office of the Register of Deeds for Jefferson County, Wisconsin in Volume 2 of Certified Surveys at page 137; thence northerly along the West line of said CSM 369 to the Northwest corner of CSM 369; thence easterly, along the North line of said CSM 369, 558.78 feet more or less to a point on the West right of way line of STH 59; thence northerly along the West right of way line of STH 59 to the point of intersection of said westerly right of way line of STH 59 with the westerly right of way line of County Trunk Highway D; thence northerly along the westerly right of way line of County Trunk Highway D to the North line of Section 33; thence easterly 33 feet more or less along the North line of said Section 33 (said North line of Section 33 also being the South line of Section 28, T5N, R15E), 33 feet more or less to the Southeast corner of Section 28, T5N, R15E; thence North, along the East line of said Section 28, to the East 1/4 corner of said Section 28; thence West along the North line of the Southeast 1/4 of said Section 28 to the Northwest corner of the East 2/3 of the West 1/2 of the Southeast 1/4 of said Section 28; thence South along the West line of the East 2/3 of the West 1/2 of the Southeast 1/4 of said Section 28 to the South line of said Section 28, said South line of said Section 28 also being the North line of Section 33, T5N, R15E; thence westerly, along the North line of said Section 33, to a point 558.47 feet East of the NW corner of said Section 33; thence S 3 degrees 02' 00" W, 891.85 feet to the NE corner of CSM 1514; thence N 88°48'00" W, 517.03 feet along the North line of said CSM to the NW corner of said CSM, said corner being 891.49 feet South of the NW corner of said Section 33 on the West line of said Section 33, said corner also being on the centerline of Fremont Road; thence S 0°21'57" W, 341.12 feet along said centerline; thence S 4°29'00" E, 452.52 feet along said centerline; thence S 3°30'00" E, 203.74 feet along said centerline; thence S 0°19'00" E 226.56 feet along said centerline; thence S 5°07'00" W, 173.31 feet along said centerline to the SW corner of said CSM 1514; thence S 7°34'54" W along said centerline of Fremont Road 323.00 feet more or less to the intersection of said centerline and the West line of said Section 33; thence southerly, along the West line of said Section 33 55.80 feet more or less to the Southwest corner of the Northwest 1/4 of said Section 33; thence South 86°58'33" West, along the southerly line of the Northeast 1/4 of Section 32, T5N, R15E, 35.58 feet more or less to the West right of way of Fremont Road; thence North 4°47'33" East 315.37 feet more or less along the West right of way of Fremont Road to a point on the East line of the Northeast 1/4 of said Section 32; thence North 01°41'08" West, along the East line of said Northeast 1/4, 102.19 feet more or less to the centerline of the Whitewater River; thence along the centerline of the Whitewater River the following courses: North 42°09'05" West 222.55 feet to a point; thence North 75°19'03" West 56.53 feet to a point; thence North 16°12'25" West 129.26 feet to a point; thence North 08°35'23" East 148.32 feet to a point; thence North 17°45'44" East 85.33 feet to a point; thence North 11°17'11" West 77.56 feet to a point; thence North 54°08'47" West 95.70 feet to a point; thence North 23°33'33" West 58.56 feet to a point; thence North 0°00'00" East 72.60 feet to a point; thence North 26°46'44" East

199.82 feet to a point; thence North 02°51'10" West 87.23 feet to a point; thence North 29°42'47" West 133.49 feet to a point; thence North 20°31'02" West 148.69 feet to a point; thence North 12°45'09" West 127.76 feet to a point; thence North 36°21'17" West 139.35 feet to a point; thence North 18°36'22" West 488.07 feet to a point; thence North 00°03'39" West 174.82 feet more or less to a point 50 feet southerly of the North line of the Northeast 1/4 of said Section 32; thence South 88°54'19" West 789 feet more or less to a point on the West line of the East 1/2 of the Northeast 1/4 of said Section 32, which point lies 50 feet southerly of the North line of the Northeast 1/4 of said Section 32; thence southerly along the West line of the East 1/2 of the Northeast 1/4 of said Section 32, 1280 feet more or less to the Northeast corner of the Southwest 1/4 of said Northeast 1/4 of said Section 32; thence N 89°30' W, 1327.66 feet along the North line of said SW 1/4 of said NE 1/4 of said Section 32, to the Northwest corner thereof; thence N 88°40' W, 2060.31 feet along the North line of the South 1/2 of the NW 1/4 of said Section 32 to the NE corner of Block 3 of Twin Oaks Subdivision; thence S 00°44' W along the East line of said Twin Oaks Subdivision, 731.00 feet to the NE corner of Lot 6 of Block 2 of said Twin Oaks Subdivision; thence N 88°40' W along the North line of said Lot 6 190.00 feet to the East line of County Trunk Highway "N" also being the West line of said Block 2; thence S 00°44' W along the West line of said Block 2, 285.00 feet to the SW corner of said Block 2; thence N 88°40' W, 33.00 feet to the centerline of said County Trunk Highway "N"; thence S 00°44' W along said centerline 320.61 feet to the North line of the NW 1/4 of the SW 1/4 of said Section 32; thence Westerly along said North line of said NW 1/4 of said SW 1/4 of said Section 32 to the West 1/4 corner of said Section 32; thence Westerly along the North line of the NE 1/4 of the SE 1/4 of Section 31, T5N, R15E to the NW corner of said NE 1/4 of said SE 1/4; thence Southerly along the West line of the East 1/2 of the Southeast 1/4 of said Section 31, said West line of the East 1/2 of said Southeast 1/4 of said Section 31 being the westerly-most boundary of the City of Whitewater in said Section 31, to the Southwest corner of the Northeast 1/4 of the Southeast 1/4 of said Section 31; thence leaving said westerly-most boundary of the City of Whitewater in Section 31 and running thence Easterly along the South line of Northeast 1/4 of the Southeast 1/4 of said Section 31 and the South line of the Northwest 1/4 of the Southwest 1/4 of Section 32, T5N, R15E, through lands located in the City of Whitewater, to the Southeast corner of Lot 29, Park Crest Subdivision, a subdivision located in the City of Whitewater, said Southeast corner of said Lot 29 being the point of beginning of the description of lands (hereinafter referred to as the "Excluded Lands") lying in part in the West 1/2 of the Southwest 1/4 of Section 32 and in part in the East 1/2 of the Southeast 1/4 of Section 31, T5N, R15E, Jefferson County, Wisconsin which remain a part of the Town of Cold Spring, Jefferson County, Wisconsin and lying in part in the Northeast 1/4 of the Northeast 1/4 of Section 6, T4N, R15E, Walworth County, Wisconsin which remain a part of the Town of Whitewater, Walworth County, Wisconsin; thence N 00°12'09" E along the East line of Lots 29 and 28 of Park Crest Subdivision 229.62 feet to the northerly-most Northwest corner of that portion of the Excluded Lands which remain a part of the Town of Cold Spring, Jefferson County, Wisconsin; thence S 89°36'33" E 486.59 feet to a point on the centerline of County Trunk Highway N as originally laid out as a 66-foot wide right of way, said point being the northerly-most Northeast corner of that portion of the Excluded Lands which remain a part of the Town of Cold Spring, Jefferson County, Wisconsin; thence S 26°36'48" E along said centerline 257.70 feet to the South line of the NW 1/4 of the SW 1/4 of said Section 32; thence continue S 26°36'48" E along said centerline of County Trunk Highway N 395 feet more or less to the point of intersection of said centerline and the westerly extension of the southerly line of Lot 11, South Blooming Field Acres Subdivision; thence N 89°35'24" E 244.12 feet to the Southeast corner of said Lot 11; thence S 00°23'18" E 89.84 feet; thence S 89°37'34" West 199.94 feet to said centerline of County Trunk Highway N; thence S 26°36'48" E along said centerline 73.54 feet; thence N 89°35'59" E 244.17 feet; thence S 00°20'03" E 89.69 feet; thence N 89°30'54" E along the southerly-most line of Lot 12, South Blooming Field Acres Subdivision to the East line of the SW 1/4 of the SW 1/4 of Section 32, T5N, R15E; thence South along said East line 180 feet; thence West to said centerline of County Trunk Highway N; thence southeasterly along said centerline to the Southeast corner of Certified Survey Map recorded in Volume 2 of Certified Surveys on Page 205; thence West along the South line of said Certified Survey Map to the West line of the SW 1/4 of the SW 1/4 of Section 32, T5N, R15E; thence South along said West line 250 feet; thence East 1205.52 feet more or less to said centerline of County Trunk Highway N; thence southeasterly along said centerline to a point on the South line of said Section 32, T5N, R15E, Jefferson County, Wisconsin, said point also being a point on the North line of

Section 5, T4N, R15E, Walworth County, Wisconsin, and said point being the southerly-most southeasterly corner of that portion of the Excluded Lands which remain a part of the Town of Cold Spring, Jefferson County, Wisconsin; thence westerly along the North line of Section 5, T4N, R15E, to the NW corner of said Section 5, said NW corner of said Section 5 also being the NE corner of Section 6, T4N, R15E, Walworth County, Wisconsin and said corner also being the NE corner of that portion of the Excluded Lands which remain a part of the Town of Whitewater, Walworth County, Wisconsin; thence southerly along the East line of said Section 6, 251.46 feet more or less to a point on the southerly-most line of the lands described in Deed recorded in Volume 619, page 773 (Jefferson County) and Volume 283, page 922 (Walworth County), said point on the southerly-most line of the lands described in said Deed being the southeasterly corner of that portion of the Excluded Lands remaining a part of the Town of Whitewater, Walworth County, Wisconsin; thence westerly, along the southerly-most line of the lands described in said Deed, 365 feet more or less to the southwesterly-most corner of the lands described in said Deed, said southwesterly-most corner of the lands described in said Deed being the Southwest corner of that portion of the Excluded Lands remaining a part of the Town of Whitewater, Walworth County, Wisconsin; thence northerly, along the westerly-most line of the lands described in said Deed, 251.46 feet more or less to the Southwest corner of Section 32, T5N, R15E, Jefferson County, Wisconsin, said Southwest corner of said Section 32 being the Northwest corner of that portion of the Excluded Lands remaining a part of the Town of Whitewater, Walworth County, Wisconsin and also being the southerly-most Southwest corner of that portion of the Excluded Lands remaining a part of the Town of Cold Spring, Jefferson County, Wisconsin; thence N 0°24' E, along the West line of the Southwest 1/4 of said Section 32, 292.85 feet; thence West 10.00 feet; thence N 0°24' E, parallel with said West line of said Southwest 1/4 of said Section 32, 260.00 feet to a point on the South line of Lot 1 of Certified Survey Map recorded in Volume 2 of Certified Survey Maps of Jefferson County at page 205; thence westerly, along the South line of said Lot 1, 149.80 feet more or less to the Southwest corner of said Lot 1; thence northerly, along the West line of said Lot 1, 183.24 feet more or less to the Northwest corner of Lot 1; thence easterly, along the northerly line of said Lot 1, 1136.4 feet more or less to a point 5 feet southwesterly of the centerline of C.T.H. "N" as originally laid out as a 6-foot wide right of way; thence northwesterly, along a line drawn parallel to and 5.00 feet southwesterly of said centerline of C.T.H. "N", 441 feet more or less to a point 177.96 feet southerly of the North line of the Southwest 1/4 of the Southwest 1/4 of Section 32, T5N, R15E; thence westerly parallel with said North line, 225.60 feet more or less to a point 331.20 feet West of said centerline of C.T.H. "N"; thence northerly 177.96 feet to a point on the North line of the Southwest 1/4 of the Southwest 1/4 of said Section 32 that lines 240 feet West of said centerline of C.T.H. "N"; thence westerly, along the North line of the Southwest 1/4 of the Southwest 1/4 of said Section 32 (also being the South line of the Northwest 1/4 of the Southwest 1/4 of said Section 32), to the Southeast corner of Lot 29, Park Crest Subdivision and the ending point of the description of the Excluded Lands; thence leaving the boundary of said Excluded Lands and running westerly, along the South line of the Northwest 1/4 of the Southwest 1/4 of said Section 32, and along the South line of the Southeast 1/4 of the Northeast 1/4 of Section 31, T5N, R15E, through lands located in the City of Whitewater to the Southwest corner of the Northeast 1/4 of the Southeast 1/4 of said Section 31, said Southeast corner being a point on the westerly-most boundary of the City of Whitewater in said Section 31; thence southerly, along the West line of the East 1/2 of the Southeast 1/4 of said Section 31, 1330.52 feet more or less to the Southwest corner of the Southeast 1/4 of the Southeast 1/4 of said Section 31 (said Southwest corner also being a point on the North line of Section 6, T4N, R15E, Walworth County, Wisconsin); thence westerly along the North line of Section 6, T4N, R15E, to the Northwest corner of said Section 6; thence southerly, along the West line of said Section 6, 123.49 feet; thence continuing southerly, along the West line of said Section 6, said West line also being the centerline of Warner Road, 866.51 feet more or less to the Northwest corner of the parcel described in Volume 669 of Deeds at page 374, Walworth County Register of Deeds; thence easterly, along the North line of said parcel described in Volume 669 of Deeds at page 374, 484 feet more or less to the northerly most Northwest corner of the parcel described in Volume 307 of Records at page 385, Walworth County Register of Deeds; thence easterly along the North line of said parcel described in Volume 307 of Records at page 385, 325.75 feet more or less to the Northwest corner of Lot 1 of Breidsan Hills Subdivision (subdivision plat recorded as Document No. 334782); thence easterly, along the north line of said Lot 1, 195 feet more or less to the Northwest corner of Lot 2 of Certified Survey Map No. 1871

recorded in Volume 9 of Certified Surveys at page 33; thence easterly, along the north line of said Lot 2 of CSM 1871, 90.57 feet more or less to the Southwest corner of parcel described in Volume 652 of Records, page 8209; thence northwesterly, along the southwesterly line of said parcel, 230.16 feet to the westerly-most corner of said parcel; thence northeasterly, along the northwesterly line of said parcel, 171.04 feet more or less to the southwest right-of-way line of former USH 12/STH 89; thence southeasterly, along said southwest right-of-way line, 477.75 feet more or less to the north line of Lot 2 of Certified Survey Map No. 1871; thence easterly, along said north line, 46.12 feet more or less to the centerline of former USH 12/STH 89; thence southeasterly, along the centerline of Business Highway 12 (formerly US Highway "12") 1410 feet more or less to the northerly-most corner of Certified Survey Map No. 3227 recorded in the Office of the Walworth County Register of Deeds in Volume 18 of Certified Surveys at page 44; thence westerly, along the North line of CSM 3227, 345.43 feet more or less to the Northwest corner of CSM 3227; thence continuing westerly, along the North line of the parcel described in Deed recorded in the Office of the Walworth County Register of Deeds as Document No. 529107, 2239.77 feet more or less to a point on the West line of said Section 6 which lies 999.8 feet North of the West 1/4 corner of said Section 6; thence South along said West line of said Section 6, the centerline of Warner Road, 999.8 feet to the West 1/4 corner of said Section 6; thence S 0°29'07" E, along the West line of the Southwest 1/4 of Section 6, T4N, R15E, 251.14 feet; thence N 89°30'53" E 141.38 feet; thence S 29°39'21" E, along the westerly line of the right of way of U.S. Highway 12, 1892.03 feet; thence S 08°14'40" E, along said westerly line of said U.S. Highway 12 right of way, 690.32 feet; thence S 5°57'24" E, 307.67 feet to a point on the southwesterly line of the right of way of US Highway 12; thence S 13°03'07" E, along said right of way line, 45.77 feet; thence continuing along said right of way line 500.93 feet along a curve to the left having a radius of 728.35 feet and a chord direction of S 34°46'21" E and a chord length of 491.12 feet; thence S 54°28'32" E, along said right of way line, 126.80 feet; thence N 89°24'04" E, along said right of way line, 66.78 feet; thence S 54°52'46" E, along said right of way line, 735.12 feet more or less to a point on a line drawn from the Southeast corner of Lot 1 of Certified Survey Map No. 1099 southerly to a point on the South line of Section 7, T4N, R15E lying 409.00 feet West of the South 1/4 corner of said Section 7; thence southerly, along said line drawn southerly from the Southeast corner of CSM 1099, and the southerly extension thereof, 4276.19 feet more or less to the northwesterly line of the former Chicago, Milwaukee & St. Paul Railroad right of way; thence continuing S 0°18'58" E along said line, 75.25 feet M/L, to the S'ly R/W line of said railroad; thence N 60°58'58" E, along said S'ly R/W line, 2029.25 feet M/L, to the beginning of a tangent curve, concave to the NW and having a radius of 5803.00 feet; thence continuing along said S'ly R/W line and NE'ly along said curve, through a central angle of 10°29'05", an arc distance of 1061.91 feet M/L, to a point of tangency; thence continuing along said S'ly R/W line, N 50°29'53" E, 1635.55 feet M/L, to the NW corner of that certain parcel described in a deed recorded in Vol. 650, Page 8477, records of Walworth Co., WI; thence S 29°45'34" E, along the W'ly line of said parcel, 690.02 feet M/L, to a point on the centerline of State Highway "59"; thence N 29°42'26" E, along said centerline, 510.27 feet M/L to the beginning of a tangent curve, concave to the SE and having a radius of 1206.23 feet; thence NE'ly along said curve and centerline, through a central angle of 14°33'19", an arc distance of 306.43 feet M/L, to a point of tangency; thence northeasterly, along said centerline, 416.29 feet M/L, to the SW corner of that certain parcel of land described in a deed recorded in Vol. 347, page 363, Records of Walworth County; thence S 79 degrees 21'54" E, along the S. line of said parcel, 511.79 feet, to an angle point therein; thence continuing along said S. line, S 59 degrees 08'33" E, 272.80 feet, to a point on the N-S 1/4 line said Sec. 8, said point being 380.19 feet S'ly of the center of said Sec. 8; thence continuing S 59 degrees 08'33" E, 920.81 feet more or less, to a point on the W. line of State Highway "89"; thence N 0 degrees 01'19" W, 357.09 feet more or less, to the NW corner of that certain parcel described in a deed recorded in Vol. 670, page 1339, Records of Walworth County, said corner being described as on the centerline of State Highway "89"; thence S 81 degrees 49'00" E, along the N. line of said parcel, 550.68 feet more or less, to the NW corner of Certified Survey Map No. 489, recorded in Vol. 2, page 311 of Certified Surveys of Walworth County; thence N 68 degrees 59'00" E, along the N'ly line of said CSM, 86.68 feet, to an angle point therein; thence continuing along said N'ly line, S 86 degrees 52'00" E, 355.06 feet, to the NE corner thereof; thence S 0 degrees 16'43" W, along the E. line of said CSM, 160.00 feet to the Northeast corner of Lot 3 of said CSM 489; thence N 87 degrees 10' W, along the N. line of said Lot 3 of said CSM 489, 153.87 feet to the NW corner of said Lot 3;

thence S, along the W. line of said Lot 3, 457.97 feet more or less to a point on the N'y right of way of Willis Ray Road; thence continue S 33.01 feet more or less to the centerline of Willis Ray Road, said centerline being the S'y boundary of said CSM 489; thence S 86 degrees 23' E, along said centerline of Willis Ray Road and said S'y line of said CSM 489, 153.99 feet to the SE corner of said CSM 489; thence N, along the E'y line of said CSM 489, 147.88 feet; thence S 86 degrees 06'06" E (recorded as parallel to the centerline of Willis Ray Road) 856.31 feet, to a point on the E. line of said Section 8, said point being 110.59 feet N'y of the SE corner of the NE 1/4, SE 1/4, said Section 8; thence N 0 degrees 56'05" E, along the E. line of said Section 8, 1208.78 feet, to the E 1/4 corner, Section 8; thence Easterly along the E-W 1/4 line of Sections 9 and 10 to the center of said Section 10, T4N, R15E; thence northerly, along the N-S 1/4 line of Section 10, T4N, R15E, 6 chains; thence East along a line drawn parallel to the South line of the Northeast 1/4 of said Section 10, to the Northwest corner of Lot 1 of Certified Survey Map No. 1643 recorded in the Walworth County Register of Deeds Office as Document No. 155915; thence easterly along the northerly-most line of said Lot 1 of said CSM 1643 to the northerly-most Northeast corner of said Lot 1, said northerly-most Northeast corner of said Lot 1 of CSM 1643 also being the Northwest corner of Certified Survey Map No. 1010 recorded in the Office of the Register of Deeds for Walworth County, Wisconsin in Volume 4 of Certified Surveys at page 285 as Document No. 56192; thence easterly along the North line of said CSM 1010 to a point on the centerline of Old Highway P; thence northwesterly along the centerline of Old Highway P to the Southeast corner of Certified Survey Map No. 2616 recorded in the Office of the Register of Deeds for Walworth County, Wisconsin in Volume 13 of Certified Surveys at page 139 as Document No. 310254; thence southwesterly along the southeasterly line of said CSM 2616 to the Southwest corner of said CSM 2616; thence northwesterly along the southwesterly line of said CSM 2616 to the Northwest corner of said CSM 2616; thence northwesterly along the northwesterly line of said CSM 2616, 389.86 feet more or less to a point on the southwesterly right of way line of Old Highway P; thence northwesterly along the southwesterly right of way line of Old Highway P to a point where the southwesterly right of way line of Old Highway P intersects with the southerly right of way line of State Trunk Highway 59 (formerly U.S. Highway 12); thence northwesterly along said southerly right of way line of Highway 59 to a point which lies N 73°41' E 1112.00 feet more or less from a point on the West line of Northeast 1/4 of Section 10, T4N, R15E located 1325.94 feet South of the North 1/4 corner of said Section 10; thence N 41°58' W along the southerly right of way line of said State Trunk Highway 59 (also referred to as Elkhorn Road and formerly known as U.S. Highway 12) 406 feet more or less to the southeasterly boundary of an existing parcel; thence S 48°02' W 323 feet; thence N 41°58' W 150 feet; thence N 48°02' E 356 feet to the centerline of State Trunk Highway 59 (formerly U.S. Highway 12); thence N 41°58' W along the centerline of said highway 787.40 feet to the North line of said Section 10; thence S 87°37' W 193.38 feet along the North line of said Section 10 to the North 1/4 corner of said Section 10; thence N 3°08'18" W, along the N-S 1/4 line of Section 3, T4N, R15E to the point of intersection of said N-S 1/4 line with the centerline of State Trunk Highway 59/Elkhorn Road (formerly United States Highway 12); thence southeasterly along said centerline to the point of intersection of said centerline and the southwesterly extension of the Northwest line of the public road Sunrise Lane; thence N 45°19'42" E along the Northwest line of Sunrise Lane, 126.59 feet to the Southwest corner of Lot 1 of CSM 1292; thence N 3°08'18" W, 237.00 feet to the Northwest corner of said Lot 1 of CSM 1292; thence N 85°39'12" E, 403.50 feet to the Northeast corner of said lot; thence S 3°08'18" E, 237.00 feet to the North line of Outlot 1, CSM 2620 thence N 85°39'12" E along said North line 209.86 feet to the Northeast corner of said Outlot 1; thence S 4°22'43" E, 66.00 feet to the Southeast corner of said Outlot 1, said corner being the Northeast corner of Lot 1, of said CSM 2620; thence continuing S 4°22'43" E along the East line of said CSM 2620, 236.09 feet to the Southeast corner of said Lot 1, said corner being on the South line of said Section 3, 720 feet more or less East of the South 1/4 corner of said Section 3; thence West along the South line of said Section 3 (the South line of said Section 3 also being the North line of Section 10, T4N, R15E) 479.58 feet more or less to the northerly right of way line of State Trunk Highway 59 (also sometimes referred to as Elkhorn Road and formerly designated as U.S. Highway 12); thence southeasterly along the northerly right of way line of said highway 536.38 feet more or less to a point on the North line of Certified Survey Map No. 503 recorded in the Office of the Register of Deeds for Walworth County, Wisconsin in Volume 2 of Certified Surveys on page 333 as Document No. 694000; thence East along the North line of said CSM 503 430.95 feet to the Northeast corner of said CSM 503; thence South along the

East line of said CSM 503 235.98 feet to the Southeast corner of said CSM 503; thence West along the South line of said CSM 503 266.34 feet more or less to the centerline of State Trunk Highway 59 (formerly US Highway 12); thence southeasterly along the centerline of the road that existed and was known and designated as United States Highway 12 prior to construction of the US Highway 12 By-Pass of the City of Whitewater to the intersection of said former centerline and the East line of said Section 10, said point of intersection being approximately 145.5 feet more or less North of the East 1/4 corner of said Section 10; thence North along the East line of said Section 10 to the NE corner of said Section 10; thence continuing North along the East line of Section 3, T4N, R15E, 728.24 feet to the Northeast corner of Walton's Pine Bluff Subdivision; thence S 88°32'30" W along the North line of Walton's Pine Bluff Subdivision 147.41 feet to the Southeast corner of Lot 7, Pine Bluff Subdivision; thence N 00°00'00" E 333.29 feet to the Northeast corner of Lot 4 of Pine Bluff Subdivision; thence S 79°14'04" E 27.00 feet to the Southeast corner of Lot 3 of Pine Bluff Subdivision; thence N 00°00'02" E to the Northeast corner of Lot 1 of Pine Bluff Subdivision; thence continue N 00°00'02" E 35 feet more or less to the centerline of Bluff Road; thence easterly along the centerline of Bluff Road to the East line of Section 3, T4N, R15E; thence North along said East line of said Section 3, the centerline of Howard Rd., to the point of intersection of said centerline with the E-W 1/4 line of said Section 3; thence West along said E-W 1/4 line 466.51 feet; thence N 01°13' E, 374.66 feet; thence East, parallel with said E-W 1/4 line of said Section 3, 466.51 feet to the East line of said Section 3 and the centerline of Howard Road; thence South along the West line of Section 2, T4N, R15E (said West line of Section 2 also being the East line of Section 3, T4N, R15E) and the centerline of Howard Road 341.66 feet more or less to a point on the West line of said Section 2 lying 33 feet North of the West 1/4 corner of said Section 2; thence easterly, parallel with the East-West 1/4 line of said Section 2 33 feet; thence southerly parallel to the West line of said Section 2, 33 feet to the East-West 1/4 line of said Section 2; thence East, along the East-West 1/4 line of said Section 2, 549 feet more or less to a point on said East-West 1/4 Section line which lies 582 feet East of the West 1/4 corner of said Section 2; thence South, parallel with the West line of the Southwest 1/4 of said Section 2, said West line also being the centerline of Howard Road, 883.51 feet; thence West, parallel with the East-West 1/4 line of said Section 2, 356 feet; thence South, parallel with the West line of said Southwest 1/4 of Section 2 162 feet to the northerly line of the Wisconsin & Southern Railroad right of way; thence easterly along the northerly line of the said railroad right of way to the North-South 1/4 line of said Section 2; thence North along the said North-South 1/4 line of said Section 2 to the Northeast corner of the South 1/2 of the Northwest 1/4 of said Section 2; thence West along the North line of the South 1/2 of the Northwest 1/4 of said Section 2 to the Northeast corner of Certified Survey Map No. 1480 recorded in the Office of the Register of Deeds for Walworth County, Wisconsin in Volume 7 of Certified Surveys on Page 56; thence southerly along the East line of said CSM 1480 to the Southeast corner of said CSM 1480, said Southeast corner of CSM 1480 also being the Northeast corner of Lot 2 of Certified Survey Map No. 906 recorded in the Office of the Register of Deeds for Walworth County, Wisconsin in Volume 4 of Certified Surveys at Page 133; thence South along the East line of Lot 2 of said Certified Survey Map No. 906 222.87 feet more or less to the Southeast corner of Lot 2 of said Certified Survey Map No. 906; thence West along the South line of Lot 2 of said CSM 906 179.48 feet more or less to the easterly right of way line of Howard Road; thence continuing westerly 33 feet more or less to the centerline of Howard Road, said centerline also being the East line of Section 3, T4N, R15E; thence North along said East line of said Section 3 to a point 1670.46 feet north of the East 1/4 corner of said Section 3; thence S 89°45' W, 357.00 feet; thence North, parallel with said East line of said Section 3, 702.70 feet; thence N 89°45' E, 357.00 feet to the said East line of said Section 3; thence North along said East line to the NE corner of said Section 3.

SECTION 2: This ordinance shall take effect upon passage and publication as required by law.

It was moved by Allen and seconded by Taylor to adopt the Boundary Ordinance. AYES: Allen, Taylor, Nosek, Binnie, Singer, Kienbaum, Stewart. NOES: None.

Kevin M. Brunner, City Manager

Michele R. Smith, City Clerk

AWARD OF CONTRACT 1-2009 FOR WHITEWATER STREET RECONSTRUCTION.

City Manager Brunner indicated that this contract will reconstruct Whitewater Street between Second Street and Fremont Street. It will also extend Parking Lot A. The cost estimate from Raymond Cattell, Inc. of Madison is \$284,000, which includes engineering, construction and 10% contingencies. The bid is \$30,000 under budget. Kienbaum stated that the changes being made are a lot of expense for not much change and that making room for sidewalk dining in Wisconsin is not a wise choice. It was moved by Nosek and seconded by Binnie to award contract 1-2009 for Whitewater Street Reconstruction in the amount of \$233,845 with \$30,000 coming from TIF 4 to Cattell, Inc. of Madison, Wisconsin. AYES: Allen, Taylor, Nosek, Binnie, Singer, Stewart. NOES: Kienbaum.

ACKNOWLEDGMENT OF RECEIPT AND FILING OF STORMWATER ANNUAL REPORT FOR 2008.

It was moved by Allen and seconded by Taylor to acknowledge receipt and filing of the 2008 Stormwater Annual Report. AYES: Allen, Taylor, Nosek, Binnie, Singer, Kienbaum, Stewart. NOES: None.

DISCUSSION OF POSSIBLE FEDERAL STIMULUS PROJECTS.

Brunner reported on possibilities for funding of local projects. The Federal Clean Water Fund could be tapped for possible improvements at the wastewater treatment plant. There is a possibility of grants or low-interest loans to upgrade the plant which was built in 1982. New technologies are being evaluated as well as new requirements for waste treatment. Taylor suggested finding funds to make the Starin Park playground handicapped accessible. Brunner responded that there are no federal stimulus funds available for this type of project. There are other possible funding sources. Matt Amundson (Park and Rec director) is working with a private foundation to obtain funds for the Starin park playground. Councilmember Allen was concerned about delaying the Clay Street project. Brunner answered that the detour for Milwaukee Street would be Clay Street, so the projects could not be done simultaneously. Allen suggested that there may need to be some temporary repairs to Clay Street before it is used as a detour.

Brunner added that many of the grants available would be very competitive, with many cities looking for the same funds. He believes that Milwaukee Street is a good candidate as it is a simple project requiring no land acquisition.

Nosek inquired whether there had been any progress on the inter-city transportation proposal and improvements to the shared ride taxi service. Brunner answered that Janesville, Milton and Whitewater are currently hiring a consultant to look at the possibility of a commuter bus system between Janesville and Whitewater which would also serve students and faculty at UW Whitewater. Any stimulus money available would be through the Janesville Transit Authority. There is no stimulus money available which could be used to make the shared ride taxi service more efficient.

POSSIBLE RESCHEDULING OF FIRST MEETING IN APRIL TO WEDNESDAY, APRIL 8, 2009.

It was moved by Allen and seconded by Taylor to reschedule the first Council meeting in April to Wednesday, April 8, 2009. AYES: Allen, Taylor, Nosek, Binnie, Singer, Kienbaum, Stewart. NOES: None.

APPROVAL OF AMBULANCE REPLACEMENT BID TO MED TEC IN THE AMOUNT OF \$132,654.

Captain Terry Malone from the EMS was present. Purchase of the equipment was budgeted through the Capital Improvement Fund. The sale of the old ambulance will bring the cost of the new one below the budgeted amount. It was moved by Allen and seconded by Taylor to approve the bid from Med Tec in the amount of \$132,654. AYES: Allen, Taylor, Nosek, Binnie, Singer, Kienbaum, Stewart. NOES: None.

DISCUSSION IN LEVY LIMIT GRANT REFERENDUM.

Taylor expressed concern about the levy limits and the effect on the City. In particular, he is concerned about the hiring freeze for both full and part time city employees including a police department vacancy. He mentioned the possibility of a future referendum that would authorize exceeding of levy limits. Councilmember Singer stated that this would need to wait until the State budget is passed.

COUNCILMEMBER REQUESTS FOR FUTURE AGENDA ITEMS.

Taylor requested a discussion of an attendance policy for Boards and Commissions. Allen requested that a Janesville Police Officer come and make a presentation concerning the proposed chronic nuisance ordinance.

EXECUTIVE SESSION. It was moved by Singer and seconded by Allen to **EXECUTIVE SESSION, TO RECONVENE PER WISCONSIN STATUTES 19.85(1)(c) "CONSIDERING EMPLOYMENT,**

PROMOTION, COMPENSATION OR PERFORMANCE EVALUATION DATA OF ANY PUBLIC EMPLOYEE OVER WHICH THE GOVERNMENTAL BODY HAS JURISDICTION OR EXERCISES RESPONSIBILITY’ AND 19.85(1)(e) “DELIBERATING OR NEGOTIATING THE PURCHASE OF PUBLIC PROPERTIES, THE INVESTING OF PUBLIC FUNDS, OR CONDUCTING OTHER SPECIFIED PUBLIC BUSINESS, WHENEVER COMPETITIVE OR BARGAINING REASONS REQUIRE A CLOSED SESSION.” Item to be Discussed: AFSCME Union Negotiations and Possible Ratification of Contract. AYES: Allen, Taylor, Nosek, Binnie, Singer, Kienbaum, Stewart. NOES: None. The meeting adjourned t 7:35 p.m.

RE-ADJOURN TO OPEN SESSION. At 7:50 p.m., it was moved by Singer and seconded by Nosek to reconvene into open session. AYES: Allen, Taylor, Nosek, Binnie, Singer, Kienbaum, Stewart. NOES: None. The motion was supported unanimously.

RATIFICATION OF AFSCME UNION CONTRACTS. It was moved by Taylor and seconded by Stewart to approve the 2009 – 2011 AFSCME contract as presented to council. AYES: Allen, Taylor, Nosek, Binnie, Singer, Kienbaum, Stewart. NOES: None.

ADJOURN. It was moved by Binnie and seconded by Taylor to adjourn the meeting. AYES: Allen, Taylor, Nosek, Binnie, Singer, Kienbaum, Stewart. NOES: None. The meeting was adjourned at 8:00 p.m.

Respectfully submitted, Michele R. Smith, City Clerk