

CHAPTER 17

ZONING CODE

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17.01 INTRODUCTION. (1) **AUTHORITY.** These regulations are adopted under the authority granted by §62.23(7), Wis. Stats.

(2) **SHORT TITLE.** This chapter shall be known as, referred to or cited as the “Zoning Code, City of St. Croix Falls, Wisconsin.

(3) **PURPOSE.** The purpose of this chapter is to promote the health, safety, morals, prosperity, aesthetics and general welfare of the City.

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

(5) **ABROGATION AND GREATER RESTRICTIONS.** It is not intended by this chapter to repeal, abrogate, annul, impair or interfere with any existing easements, covenants, deed restrictions, agreements, ordinances, rules, regulations or permits previously adopted or issued pursuant to law. However, wherever this chapter imposes greater restrictions, the provisions of this chapter shall govern.

(6) **INTERPRETATION.** In their interpretation be minimum requirements and shall be liberally construed in favor of the City and shall not be deemed a limitation or repeal of any other power granted by the Wisconsin Statutes nor does the Code dismiss the obligations of developers of land to obtain other regulatory approval that may exist such as from the County, the Department of National Resources, the State Department of Transportation or other regulatory agencies..

17.02 DEFINITIONS. For the purpose of this chapter, the following definitions shall be used:

(1) **ACCESSORY BUILDING.** A building or portion of a building subordinate to the main building and used for a purpose customarily incidental to the permitted use of the main building or the use of the premises. When an accessory building is a part of the main building or is substantially attached thereto, the side yard and rear yard requirements of the main building shall be applied to the accessory building.

(2) **AGRICULTURAL USE.** Agricultural uses include farming, dairying, pasturage, agriculture, horticulture, floriculture, viticulture, and animal and poultry husbandry, and the necessary accessory uses for packing, treating or storing the produce; provided, however, that the operation of any such accessory uses shall be secondary to that of the normal agricultural activities.

(3) **ALLEY.** A street or thoroughfare, less than 21 feet wide and affording only secondary access to abutting property.

(4) **BASEMENT.** A story, as defined in sub. (36) below, partly underground which, if occupied for living purposes, shall be counted as a story for purposes of height measurement.

(5) **BUILDING,** Any structure used, designed or intended for the protection, shelter, enclosure or support of persons, animals or property. When a building is divided into separate parts by un-pierced walls extending from the ground up, each part shall be deemed a separate building.

(6) **BUILDING, HEIGHT OF.** The vertical distance from the average curb level in front of the lot or the finished grade at the building line, whichever is higher, to the highest point of the coping of a flat roof, to the deck line of a mansard roof, or to the average height of the highest gable of a gambrel, hip or pitch roof.

(7) **CERTIFICATE OF OCCUPANCY.** A written statement issued by the Building Inspector which permits the use of a building or lot or a portion of a building or lot and which certifies compliance with the provisions of this chapter for the specified use and occupancy.

(8) **CONDITIONAL USE.** A use of a special nature so as to make impractical its predetermination as a principal use within a district.

(9) **DWELLING.** (a) Single-Family. A detached building designed for or occupied exclusively by one family which includes such structures constructed on site and manufactured homes, but does not include mobile homes as herein defined.

(b) Two-Family. A detached or semi-detached building designed for and occupied exclusively by 2 families.

(c) Split Two-Family. A dwelling unit type consisting of single-family residence which is in complete compliance with Ch. 14 and sec. 17.09(3)(b1) of this chapter which is attached on one side to another single-family residence. The split two-family dwelling is distinguished from the typical 2-unit dwelling by having each unit located on an individual lot.

(d) Multi-Family. A building or portion thereof designed for and occupied by more than 2 families, including tenement houses, row houses, apartment houses and apartment hotels.

(10) **DWELLING UNIT.** A separate housekeeping unit, designed and used for occupancy by a single family.

(11) **FAMILY.** Any number of persons related by blood, adoption or marriage, or not to exceed 4 persons not so related, living together in one dwelling as a single housekeeping entity.

(12) **FLOOR AREA.** (a) For residential uses, the gross horizontal area of the floor of a dwelling unit, exclusive of porches, balconies, garages and basements, measured from the exterior faces of the exterior walls or from the center lines of walls or partitions separating dwelling units.

(b) For uses other than residential, the area measured from the exterior faces of the exterior walls, or from the center line of walls or partitions separating such uses, including all floors, lofts, balconies, mezzanines, cellars, basements and similar areas devoted to such uses.

(13) **FRONTAGE.** The smallest dimension of a lot abutting a public street measured along the street line.

(14) **GARAGE.** (a) Private. An accessory building or space for the storage only of not more than 3 motor-driven vehicles per dwelling.

(b) Public. Any building or premises, other than a private or a storage garage, where motor-driven vehicles are equipped, repaired, serviced, hired, sold or stored.

(c) Storage. Any building or premises used for the storage only of motor-driven vehicles, pursuant to previous arrangements and not to transients, and where no equipment, parts, fuel, grease or oil is sold.

(15) **HOME OCCUPATION.** A gainful occupation conducted by members of the family only within their place of residence; provided that no article is sold or offered for sale on the premises except such as is produced by such occupations, that no stock in trade requiring outdoor storage is kept or sold, that no mechanical equipment is used other than such as is permissible for purely domestic purposes, that no sign other than one unlighted name plate not more than one foot square is installed and that no more than one person other than a member of the immediate family living on the premises is employed. Outdoor storage of raw materials or finished products is not allowed.

(16) **HOTEL, MOTEL.** A building in which lodging, with or without meals, is offered to transient guests for compensation and in which there are more than 5 sleeping rooms with no cooking facilities in any individual room or apartment.

(17) **LOADING AREA.** A completely off-street space or berth on the same lot for the loading or unloading of freight carriers, having adequate ingress and egress to a public street or alley.

(18) **LOT.** A parcel of land having a width and depth sufficient to provide the space necessary for one main building and its accessory building, together with the open spaces required by this chapter and abutting on a public street or officially approved place.

(19) **LOT, CORNER.** A lot abutting on 2 or more dedicated and accepted streets at their intersections, provided that the interior angle of such intersection is less than 1350.

(20) **LOT DEPTH.** The mean horizontal distance between the front and rear lot lines.

(21) **LOT, INTERIOR.** A lot other than a corner lot.

(22) **LOT LINES.** The lines bounding a lot as defined herein.

(23) **LOT, THROUGH.** An interior lot having frontage on 2 nonintersecting streets.

(23a) **MANUFACTURED HOME.** A structure or structures certified and labeled as a manufactured home under 42 U.S.C. Secs. 5401 to 5406, built since June 15, 1976, that bears a seal indicating it has met the mobile home construction and safety standards of the United States Department of Housing and Urban Development (HUD) standards, is used as a permanent, single-family residential dwelling, is installed in accordance with the manufacturer's instructions, is properly connected to all applicable utilities, and is set on an enclosed foundation in accordance

with §70.043(1), Wis. Stats., and Wis. Adm. Code COM 21, subchs. III, IV and V1 as certified by the Building Inspector prior to occupancy.

(23b) **MEDICAL OFFICE.** Any building or portion of a building used, or intended to be used, as an office for the practice of any type of medicine, including chiropractics or dentistry; it shall not include clinics of a medical or dental nature for group medical services.

(24) **MOBILE HOME.** A single-family dwelling built on or before June 15, 1976, designed to be towed or transported and used as a residential dwelling, but does not include a manufactured home. Mobile home also means any coach, cabin, trailer, travel trailer, motor home, house car or other structure which is, or was originally constructed or designed to be transported by any motor vehicle upon a public highway and designed, equipped or used for sleeping, eating or living quarters or as a place of business, or is intended to be so used, whether mounted upon wheels or supports or capable of being moved by its own power or transported by another vehicle, and includes any additions, attachments, foundations annexed or appurtenances thereto.

(25) **MOBILE HOME PARK.** Any lot on which 2 or more mobile homes are parked for the purpose of temporary or permanent habitation.

(26) **MOTEL.** See HOTEL.

(27) **NONCONFORMING USE.** A building or premises lawfully used or occupied at the time of the passage of this chapter or amendments thereto which use or occupancy does not conform to the regulations of this chapter or any amendments thereto.

(28) **OPEN SPACE RATIO.** The square footage of site “open space” provided for each foot of building floor area.

(29) **PARKING STALL.** An off-street space, available for the parking of a motor vehicle and which, in this chapter, is held to be an area 10 feet wide and 20 feet long, exclusive of passageways and driveways appurtenant thereto and giving access thereto.

(30) **PLANNED UNIT DEVELOPMENT.** A process which allows for or encourages mixed uses such as 2 or more principal structures or uses on a single parcel of land, and allowing for substantial deviations from other zoning classifications such as lot size.

(31) **PRINCIPAL BUILDING.** The building on a lot in which is conducted the principal use as permitted on such lot by the regulations of the district in which it is located.

(32) **PROFESSIONAL HOME OFFICE.** The office of a doctor, practitioner, dentist, minister, architect, landscape architect, professional engineer, lawyer, author, musician, artist, craftspeople or other recognized profession. When established in an R-1 District, a professional office shall be incidental to the residential occupation and not more than 25% of the floor area of only one story of a dwelling unit shall be occupied by such office. Only one person may be employed who is not a resident of the home.

(33) **PROFESSIONAL OFFICE.** Any building or portion of a building used, or intended to be used, as an office for a lawyer, architect, engineer, land surveyor, optometrist, accountant or other similar profession; it shall not include group professional services.

(34) **SETBACK.** The minimum horizontal distance between the street line and the nearest point of a building or any projection thereof, excluding uncovered steps.

(35) **SHOPPING CENTER.** A group of stores, planned and designed for the site on which it is built, functioning as a unit with off-street parking provided on the property as an integral part of the unit.

(36) **SIGN** (see also sec. 17.22 of this Code). Any words, letters, figures, numerals, phrases, sentences, emblems, devices or designs visible from a public street or highway which convey information regarding the use or ownership of the establishment on the same property upon which it is located, as distinguished from a billboard.

(37) **STREET.** All property dedicated for public street purposes.

(38) **STORY.** That portion of a building included between the surface of a floor and the surface of the floor next above it or, if there be no floor above it, then the space between the floor and the ceiling next above it. A basement or cellar having 1/2 or more of its height above grade shall be deemed a story for purposes of height regulation.

(39) **STREET LINE.** A dividing line between a lot, tract or parcel of land and an abutting street.

(40) **STRUCTURE.** Anything constructed or erected, the use of which requires a permanent location on the ground or attached to something having a permanent location on the ground.

(41) **STRUCTURAL ALTERATIONS.** Any change in the supporting members of a building or any change in the roof structure or in the exterior walls.

(42) **USE.** The use of a property is the purpose or activity for which the land or building thereon is designed, arranged or intended, or for which it is **or is to be** occupied or maintained.

(43) **USE, ACCESSORY.** A use subordinate in nature, extent or purpose to the principal use of a building or lot and which is also an approved use if so stated in this chapter.

(44) **USE, CONDITIONAL.** See **CONDITIONAL USE.**

(45) **USE, PERMITTED.** A use which may be lawfully established in a particular district or districts, provided it conforms with all requirements, regulations and performance standards, if any, of such districts.

(46) **USE, PRINCIPAL.** The main use of land or building as distinguished from a subordinate or accessory use. A principal use may be permitted or conditional.

(47) **UTILITIES.** Public and private facilities such as water wells, water and sewer pumping stations, water storage tanks, electric transmission towers, electric lines, electric transmission substations, gas transmission regulation stations, telephone and telegraph exchanges, microwave relay structures, but not including sewage disposal plants, municipal incinerators, warehouses, shops and storage yards.

(48) **VISION CLEARANCE.** An unoccupied triangular space at the street corner of a corner lot which is bounded by the street lines and a setback line connecting points specified by measurement from the corner on each street line.

(49) **YARD.** An open space on the same lot with a building, unoccupied and unobstructed from the ground upward, except as otherwise provided herein.

(a) **Front Yard or Setback.** A yard extending the full width of the lot between the front lot line and the nearest part of the main building, excluding uncovered steps.

(b) **Rear Yard.** A yard extending the full width of the lot, being the minimum horizontal distance between the rear lot line and the nearest part of the building excluding uncovered steps.

(c) **Side Yard.** A yard extending from the front yard to the rear yard, being the minimum horizontal distance between a building and the side lot line.

(50) **ZONING DISTRICT.** An area or areas within the corporate limits for which the regulations and requirements governing use, lot and bulk of building and premises are uniform.

(51) **ZONING PERMIT.** A permit stating that the placement of and the purpose for which a building or land is to be used is in conformity with the uses permitted and all other requirements under this chapter for the zone in which it is to be located.

17.03 GENERAL PROVISIONS. (1) **COMPLIANCE.** No structure, land or water shall hereafter be used and no structure or part thereof shall hereafter be located, erected, moved, or have more than 50% of the total value of the property reconstructed, extended, enlarged, converted or structurally altered without full compliance with the provisions of this chapter and all other applicable City, County and State regulations.

(2) **USE RESTRICTIONS.** The following use restrictions and regulations shall apply:

(a) **Principal Uses.** Only those principal uses specified for a district, their essential services and the following shall be permitted in that district.

1. **Accessory Uses.** Accessory uses and structures are permitted in any district, but not until their principal structure is present or under construction. Residential accessory uses shall not involve the conduct of any business, trade or industry. Accessory uses include incidental repairs; storage; parking facilities; gardening; servant's and watchman's quarters not for rent; private swimming pools; and private emergency shelters. Accessory buildings shall not occupy more than 30% of the required area for the rear yard.

2. **Unclassified or Unspecified Uses.** Unclassified or unspecified uses may be permitted by the Council after the Plan Commission has made a review and recommendation, provided that such uses are similar in character to the principal uses permitted in the district.

3. **Temporary Uses.** Temporary uses such as real estate sales field offices or shelters for materials and equipment being used in the construction of a permanent structure may be permitted by the Council.

(b) **Performance Standards.** Performance standards listed in sec. 17.21 of this chapter shall be complied with by all uses in all districts.

(3) **YARD REDUCTION OR JOINT USE.** (a) No lot area shall be so reduced that the yards and open spaces shall be smaller than is required by this chapter, nor shall the density of population be increased in any manner except in conformity with the area regulations hereby established for the district in which a building or premises is located.

(b) No part of a yard or other open space provided about any building for the purpose of complying with the provisions of this chapter shall be included as a part of a yard or other open space required for another building.

(c) No lot in the City which contains a building shall hereafter be reduced by any type of conveyance to an area less than would be required for the construction of such building on such lot.

(4) **LOT OCCUPANCY.** Every building hereafter erected, converted, enlarged or structurally altered shall be located on a platted lot and in no case shall there be more than one principal building on one platted lot unless approved by the Council.

(5) **YARDS ABUTTING DISTRICT BOUNDARIES.** Any side yard, rear yard or court abutting a district boundary line shall have a minimum width and depth in the less restricted district equal to the average of the required minimum widths and depths for such yards and courts in the 2 districts which abut the district boundary line.

(6) **STORAGE LIMITATION.** No required side yard or front yard in the commercial or industrial districts shall be used for storage or the conduct of business.

(7) **VISION CLEARANCE.** No obstructions such as structures, parking or vegetation shall be permitted in any district other than the B-1 District between the height of 2-1/2 and 10 feet above a plane through the mean curb grades within the triangular space formed by any 2 existing or proposed intersecting street or alley right of way lines and a line joining points on such lines, located a minimum of 35 feet from their intersection. Official signs, utility poles, tree trunks and wire fences may be permitted within each segment of an intersection traffic visibility area.

(8) **TRAVEL TRAILER PARKS AND CAMPGROUNDS.** Travel trailer parks and campgrounds may be permitted in the RD District provided:

- (a) The minimum size of a travel trailer park or campground shall be 5 acres.
- (b) The maximum number of travel trailers or campsites shall be 15 per acre.
- (c) Minimum dimensions of a travel trailer site or campsite shall be 25 feet wide by 40 feet long.
- (d) No travel trailer site or campsite shall be occupied for a period of more than 30 consecutive days.
- (e) Each travel trailer site or campsite shall be separated from other travel trailer spaces or campsites by a yard not less than 15 feet wide.
- (f) Parking shall be provided in accordance with sec. 17.20 of this chapter.

- (g) There shall be a minimum yard setback of 40 feet at all lot lines of a travel trailer park or campground.
 - (h) It shall conform to the requirements of Wis. Adm. Code H 77.
 - (i) The screening provisions for mobile home parks are met.
- (9) PERFORMANCE STANDARDS. See sec. 17.21 of this chapter.
- (10) PARKING AND LOADING RESTRICTIONS. See sec. 17.20 of this chapter.
- (11) SINGLE-FAMILY CONSTRUCTION STANDARDS. Residential dwellings constructed on site or manufactured homes attached to a foundation shall meet the following minimum construction standards in addition to complying with all other applicable codes.
- (a) Have a standing seam or ribbed pre-finished metal, wood-shake, asphalt or fiberglass shingle roof with a minimum slope of 4:12.
 - (b) Have a minimum of one foot to a maximum of 2 foot eave attached to the entire perimeter of the roof.
 - (c) Have exterior wall coverings consisting of any of the following materials or combinations thereof:
 - 1. Aluminum, steel or vinyl siding.
 - 2. Wood or simulated wood.
 - 3. Brick, stone or stucco.
 - (d) Have a permanent foundation meeting the requirements of the State Uniform Dwelling Code and approved by the Building Inspector which surrounds the entire perimeter of the structure and completely encloses the space between siding and the finished grade.
 - (e) Are permanently affixed to the foundation. Manufactured homes shall have the running gear and towing hitch removed and shall have an anchoring system that is totally concealed under the structure.
 - (f) Are constructed and installed pursuant to a building permit and subject to all required inspections to insure that the foundation and all on-site work is constructed to minimum standards and that a manufactured home is assembled or placed on-site to assure that it is in compliance with standards regulating the anchoring of the structure to its foundation and other building requirements.
 - (g) Have a core living area not less than 20 feet by 20 feet.

17.04 HEIGHT AND AREA EXCEPTIONS. The regulations contained herein relating to the height of buildings and the size of yards and other open spaces shall be subject to the following exceptions:

(1) **CHIMNEYS, TOWERS, LOFTS, ETC.** Chimneys, cooling towers, elevator bulkheads, fire towers, monuments, windmills, stacks, scenery lofts, tanks, water towers, ornamental towers, spires, wireless or broadcasting towers, masts or aerials and necessary mechanical appurtenances exceeding the height regulations of this chapter may be permitted as conditional uses by the Plan Commission.

(2) **STREET YARD MODIFICATIONS.** The yard requirements stipulated elsewhere in this chapter may be modified as follows:

(a) **Uncovered Stair Restrictions.** Uncovered stairs, landings and fire escapes may project into any yard, but not to exceed 5 feet and be not closer than 3-1/2 feet to any lot line, and must be 8 feet or more above ground.

(b) **Architectural Projection Restrictions.** Architectural projections such as chimneys, flues, sills, eaves, belt courses and ornaments may project into any required yard, but such projection shall not exceed 2 feet.

(c) **Residential Fence Restrictions.** Residential fences are permitted on the rear and side yards, and front yards subject to sec. 17.03(7) of this chapter, in the residential districts. On the side yards the fence shall not project into the principal building required setback distance and shall be in compliance with required vision clearance. A building permit is required; see ch. 14 of this Code.

(d) **Security Fence Restrictions.** Security fences are permitted on the property lines in all districts, subject to sec. 17.03(7) of this chapter, but shall not exceed 10 feet in height and shall be an open type similar to woven wire or wrought iron fencing. A building permit is required. See ch. 14 of this Code.

(e) **Essential Services Exemptions.** Essential services, utilities, electric power and communication transmission lines are exempt from the yard and distance requirements of this chapter.

(f) **Street Yard Restrictions.** With the approval of the Building Inspector, the required street yards may be decreased in any residential or business district to the average of the existing street yards of the abutting structures on each side, but in no case less than 15 feet in the residential districts and 5 feet in any business district.

(3) **CORNER LOTS.** On corner lots the side yard facing the street shall not be less than 30 feet.

(4) **LOTS ABUTTING DIFFERENT GRADES.** Where a lot abuts on 2 or more streets or alleys having different average established grades, the higher of such grades shall control only for a depth of 120 feet from the line of the higher average established grade. Water runoff from higher lots shall not adversely affect lower lots.

(5) **BUILDINGS ON THROUGH LOTS.** The requirements for a rear yard for buildings on through lots and extending from street to street may be waived by furnishing an equivalent open space on the same lot in lieu of the required rear yard provided that the setback requirements on both streets be complied with.

(6) **ACCESSORY BUILDINGS.** Accessory buildings which are not a part of the main building shall not occupy more than 30% of the area of the required rear yard, shall not be

more than 20 feet high and shall not be nearer than 5 feet to any lot line nor 5 feet to any alley line, and shall not extend into a front yard beyond the required setback.

(7) **UNOBSTRUCTED YARDS.** Every part of a required yard shall be open to the sky unobstructed except for accessory buildings in a rear yard, and the ordinary projections of sills, belt courses, cornices and ornamental features projecting not more than 2 feet.

(8) **SUBSTANDARD LOTS.** In any residential district, a one-family detached dwelling and its accessory structures may be erected on any legal lot or parcel or record in the County Register of Deeds office before the effective date or amendment of this chapter. Such lot or parcel shall be in separate ownership from abutting lands. If abutting lands and the substandard lot are owned by the same owner, the substandard lot shall not be sold or used without full compliance with the provisions of this chapter. If in separate ownership, all the district requirements shall be complied with insofar as practical.

17.05 NONCONFORMING USES, STRUCTURES AND LOTS. (1) **EXISTING NONCONFORMING USES.** (a) Continuation. The lawful nonconforming use of a structure, land or water existing at the time of the adoption or amendment of this chapter may be continued although the use does not conform with the provisions of this chapter, provided, however,

1. Only that portion of the land or water in actual use may be so continued and the structure may not be extended, enlarged, reconstructed, substituted, moved or structurally altered, except when required to do so by law or order or so as to comply with the provisions of this chapter.

2. The total lifetime structural repairs or alterations shall not exceed 50% of the assessed value of the structure at the time of its becoming a nonconforming use unless it is permanently changed to conform to the use provisions of this chapter.

3. Substitution of new equipment may be permitted by the Council if such equipment will reduce the incompatibility of the nonconforming use with the neighboring uses.

(b) Abolishment or Replacement of Existing Nonconforming Use. If such nonconforming use is discontinued or terminated for a period of 12 months, any future use of the structure, land or water shall conform to the provisions of this chapter. When a nonconforming use or structure is damaged by fire, explosion, flood, the public enemy or other calamity to the extent of more than 50% of its current equalized assessed value, it shall not be restored except so as to comply with the use provisions of this chapter. (Exception: State Statute 62.23(7)(hc).) From the date of adoption of this chapter, a current file of all nonconforming uses shall be maintained, listing the following:

1. Owner's name and address.
2. Use of the structure, land or water.
3. Assessed value at the time of its becoming a nonconforming use.

(2) **EXISTING NONCONFORMING STRUCTURES.** Any lawful nonconforming structures existing at the time of the adoption or amendment of this chapter may be continued, although its size or location does not conform with the lot width, lot area, yard, height, parking and loading, and access provisions of this chapter. However, it shall not be extended, enlarged,

reconstructed, moved or structurally altered except when required to do so by law or order or so as to comply with the provisions of this chapter.

(3) **CHANGES AND SUBSTITUTIONS.** Once a nonconforming use or structure has been changed to conform, it shall not revert back to a nonconforming use or structure. Once the Council has permitted the substitution of a more restrictive nonconforming use for an existing nonconforming use, the substituted use shall lose its status as a legal nonconforming use and become subject to all the conditions required by the Council.

(4) **EXISTING VACANT SUBSTANDARD LOTS.** An existing lot which does not contain sufficient area to conform to the dimensional requirements of this chapter, but which is at least 66 feet wide and 8,712 square feet in area, may be used as a single-family building site provided that the use is permitted in the zoning district and the lot is of record in the County Register of Deed’s office prior to the effective date of this chapter; and, further provided, that the lot is in separate ownership from abutting lands. If 2 or more substandard lots with continuous frontage have the same ownership as of the effective date of this chapter, the lots involved shall be considered to be an individual parcel for the purpose of this chapter. Substandard lots shall be required to meet the setbacks and other yard requirements of this chapter. A building permit for the improvement of a lot with lesser dimensions and requisites than those stated above shall be issued only after approval of a variance by the Board of Zoning Appeals.

17.06 COMMUNITY LIVING ARRANGEMENTS; FAMILY DAY CARE HOMES. (1) **STATE LAWS ADOPTED.** The provisions of §§62.23(7)(i) and 66.1017, Wis. Stats., are hereby adopted by reference and shall supersede all permitted and conditional uses as stated in this chapter.

(2) **PERMITTED USES; RESTRICTIONS.**

COMMUNITY LIVING ARRANGEMENT (CLA); FAMILY DAY CARE HOMES	DISTRICTS PERMITTED	STATUTORY RESTRICTIONS
(a) Foster family home (domicile licensed under §48.62, Wis. Stats., up to 4 children	All residential districts	None
(b) Other foster homes	All residential districts	§62.23(7)(i). and 2., Wis. Stats.
(c) Adult family home domicile, as districts defined in §50.01(1), Wis. Stats., up to 4 adults, or more if all adults are siblings	All residential	None
(d) Other adult family homes	All residential districts	§62.23(7)(i)1. and 2., Wis. Stats.
(e) CLA, up to 8 persons	All residential districts	§62.23(7)(i)1., 2. and 9., Wis. Stats.
(f) CLA, 9 to 15 persons	Multi-Family districts	§62.23(7)(i)1., 2. and 9., Wis. Stats.

- (g) Family day care home licensed under §48.65 Wis. Stats., up to 8 children All 1- and 2-family districts §66.1017, Wis. Stats.

(3) **CONDITIONAL USES.** All community living arrangements and family day care homes not permitted in sub. (2) above. See sec. 17.18 of this chapter.

17.07 ZONING DISTRICTS. (1) **ESTABLISHED.** For the purposes of this chapter, the City is hereby divided into the following zoning districts:

- (a) R-1 Single-Family Residential District
- (b) R-2 Single-Family Residential District
- (c) R-3 Multiple Dwelling Residential District
- (d) RD Rural Development District
- (e) MH Mobile Home Park and Mobile Home Subdivision District
- (f) PUD Planned Unit Development District
- (g) B-1 General Commercial District
- (h) B-2 Highway Commercial District
- (i) M-1 Industrial District
- (j) M-2 Light Industrial District
- (k) CON Conservancy District
- (l) Historic Preservation Overlay District
- (m) Floodplain Districts (See ch. 18 of this Code)
- (n) City of St. Croix Falls St. Croix National Scenic Riverway District

(2) **INCORPORATION OF ZONING MAP.** The locations and boundaries of the districts are shown on the City Zoning Map, dated July 1, 1988, and referred to by reference as the Official Zoning Map, City of St. Croix Falls, Wisconsin. Such Map, together with all explanatory matter and regulations thereon, is an integral part of this chapter and all amendments thereto. The Zoning Map shall be kept by the City Clerk and shall be available for public inspection during office hours. Any changes or amendments affecting district boundaries shall not be effective until recorded and the certified change is filed with the Map.

(3) **DISTRICT BOUNDARY AND MAP AMENDMENTS.** Ordinances dated 12-26-89, 9-9-91 and 2-14-94, and #92-A, 93F, 93G, 95-01, 95-02, 95-05, 11-98, 8-99, 2-00, 4-00, 17-00, 18-00, 2-01, 2-02, 9-02, 2-03, 3-03, 5-03, 11-03, 5-04, 8-043-05, 7-05, 8-05.

(4) **BOUNDARIES OF DISTRICTS.** When uncertainty exists with respect to the boundaries of the various districts as shown on the Map, the following rules shall apply:

- (a) When width or length of boundaries are not clear, the scale of the Map shall determine the approximate dimensions.
- (b) When the regulations of the Floodplain Zoning Code and this chapter conflict with one another, the most restrictive combination of such regulations shall control.
- (c) District boundaries are normally lot lines and center lines of streets, highways, railroads or alleys.

17.08 R-1 SINGLE-FAMILY RESIDENTIAL DISTRICT. The R-1 District is intended to provide a quiet, pleasant and relatively spacious living area for single-family dwellings, protected from traffic hazards and intrusion of incompatible land uses.

- (1) PERMITTED USES. (a) Single-family dwellings
 - (b) Attached and/or detached garage
 - (c) Garden and yard equipment shed, 120 square feet maximum.
 - (d) Municipal owned facilities, including wastewater treatment plants..
 - (e) Public parks, recreation areas, play grounds and community centers.
 - (f) Home occupations, as defined in sec. 17.02(15) of this chapter, and professional home offices, as defined in sec. 17.02(31) of this chapter
- (2) CONDITIONAL USES. See also sec. 17.18 of this chapter.
 - (a) Churches, synagogues and similar places of worship and instruction, including parsonages.
 - (b) public warehouses, public garages, public shops and storage yards,
 - (c) Utility offices, provided there is no service garage or storage yard.
 - (d) Public, parochial and private elementary and secondary schools.
 - (e) Private parks, recreation areas, playgrounds and community centers.
 - (f) Barber and beauty shops, and home occupations involving on-premises sales.
 - (g) Two-family dwellings.
 - (h) Bed and breakfast establishments.
- (3) LOT, YARD AND BUILDING REQUIREMENTS. See also sec. 17.03 of this chapter.

(a) Single-Family Dwellings / Two-Family Dwellings.

Lot frontage	Minimum 100 ft.
Lot area	Minimum 15,000 sq. ft.
Principal building:	
Front yard.....	Minimum 30 ft.
Side yard	Minimum 10 ft.
Rear yard.....	Minimum 30 ft.
Building height.....	Maximum 30 ft.
Floor area	Minimum 1,040 sq. ft.

Accessory buildings:	
Front yard.....	Minimum 30 ft.*

Side yards.....	Minimum 5 ft.
Rear yard.....	Minimum 5 ft.
Building height.....	Maximum 15 ft.
Garage.....	Maximum 900 sq. ft.
Height.....	Maximum 20 ft.**
Garden shed	Maximum 120 sq. ft.
Off-street parking.....	Minimum 2 spaces (See also sec. 17.20 of this chapter)

*The front yard setback of any accessory building shall be no less than the actual setback of the principal building.

**To permit garage roof to match pitch of house roof; however garage height shall not exceed elevation (sea level) of house.

17.09 R-2 SINGLE-FAMILY RESIDENTIAL DISTRICT. The R-2 District is intended to provide a quiet, pleasant and relatively spacious living area for single-family, 2-family and multi-family dwellings protected from traffic hazards and intrusion. Further, it is intended that 2-family and multi-family dwellings be dispersed throughout the District on a conditional use basis.

- (1) PERMITTED USES. Uses permitted in the R-1 District.
- (2) CONDITIONAL USES. (a) Uses permitted in the R-1 District.
 - (b) Two-family dwellings.
 - (c) Multi-family dwellings.
 - (d) Funeral homes.
 - (e) Public hospitals and rest homes.
 - (f) Private clubs, fraternities and lodges, except those whose chief activity is customarily carried on as a business.
 - (g) Professional offices (see definitions).
 - (h) Medical offices (see definitions).
 - (i) Boarding houses, up to 4 paying guests or boarders, including bed and breakfast establishments.
- (3) LOT, YARD AND BUILDING REQUIREMENTS. See also sec. 17.03 of this chapter.
 - (a) Single-Family Dwellings.
 - Lot frontage Minimum 100 ft.
 - Lot area..... Minimum 15,000 sq. ft.
 - Principal building:

Front yard.....	Minimum 30 ft.
Side yards.....	Minimum 10 ft.
Rear yard.....	Minimum 30 ft.
Building height.....	Maximum 30 ft.
Floor area	1,040 sq. ft.
Accessory buildings.....	Same as R-1 District*
Off-street parking.....	Minimum 2 spaces

*The front yard setback of any accessory building shall be no less than the actual setback of the principal building.

(b) Two-Family Dwellings.

Lot frontage	Minimum 100 ft.
Lot area.....	Minimum 15,000 sq. ft.
Principal building:	
Front yard.....	Minimum 30 ft.
Side yards.....	Minimum 10 ft.
Rear yard.....	Minimum 30 ft.
Building height.....	Maximum 35 ft.
Floor area per dwelling unit.....	Minimum 960 sq. ft.
Accessory buildings:	
Front yard.....	Minimum 30 ft.*
Side yards.....	Minimum 5 ft.
Rear yard.....	Minimum 5 ft.
Building height.....	Maximum 15 ft.
Off-street parking.....	Minimum 2 spaces per unit (see also sec. 17.20 of this chapter)

*The front yard setback of any accessory building shall be no less than the actual setback of the principal building.

(b1) Split Two-Family Dwelling Requirements. Split 2-family dwellings shall have the same requirements as par. (b) above for each of the 2 dwellings units, except that the attached side yard setback, including the common wall between the 2 dwellings, shall be zero feet. Split 2-family dwellings shall have the following additional requirements:

1. A minimum fire separation, complying with Wis. Adm. Code COMM 21.08, providing a vertical separation of all areas from the lowest level to flush against the underside of the roof, is required between each dwelling unit.
2. The 2 residences shall be located on individual lots.
3. An executed homeowners' agreement providing for the procedure for the owners of the 2-units to reach agreements on the improvements and maintenance of the 2-family dwelling.

(c) Multi-Family Dwellings.

Lot frontage	Minimum 100 ft.
Lot area.....	Minimum 15,000 sq. ft.

Principal building:	
Front yard.....	Minimum 30 ft.
Side yards.....	Minimum 15 ft.
Rear yard.....	Minimum 30 ft.
Building height.....	Maximum 40 ft.
Floor area per dwelling unit:	
1 bedroom unit.....	Minimum 600 sq. ft.
2 bedroom unit.....	Minimum 800 sq. ft.
3 bedroom unit.....	Minimum 1,000 sq. ft.
Number of stories.....	Maximum 3
Lot area per dwelling unit.....	Minimum 2,500 sq. ft.
Accessory buildings:	
Front yard.....	Minimum 30 ft.
Side yards.....	Minimum 5 ft.
Rear yard.....	Minimum 5 ft.
Building height.....	Maximum 15 ft.
Off-street parking.....	1-1/2 spaces per unit (see also sec. 17.20 of this chapter)

17.095 R-3 MULTIPLE DWELLING RESIDENTIAL DISTRICT. The R-3 District is intended to provide an area where higher density residential development is permitted by the construction or alteration of buildings for multiple dwelling purposes. Such a multiple dwelling development shall be well buffered and provide a pleasant living environment protected from traffic, noise and incompatible land uses. This district is to be located in areas presently served or readily serviceable by municipal water and sewer facilities.

- (1) **PERMITTED USES.** (a) Multiple dwelling units not to exceed 8 units within the same structure.
 - (b) Neighborhood parks or playgrounds.
 - (c) Uses customarily incident to any of the above uses provided that such use does not generate unusual amounts of traffic or noise that would create a public or private nuisance.

(2) **CONDITIONAL USES.** Multiple dwelling units over 8 units within the same structure.

(3) **LOT, YARD AND BUILDING REQUIREMENTS.**

Lot frontage	Minimum 100 ft.
Lot area.....	Minimum 15,000 sq. ft.;
	2,500 sq. ft. per dwelling structure
Front yard setback.....	Minimum 30 ft.
Side yards:	
Principal building.....	Minimum 15 ft.
Accessory building.....	Minimum 10 ft. on each side
Rear yard setback:	
Principal building.....	Minimum 30 ft.
Accessory building.....	Minimum 10 ft.
Building height.....	Maximum 35 ft.

Floor area per dwelling unit:	
1 bedroom unit	Minimum 600 sq. ft.
2 bedroom unit	Minimum 800 sq. ft.
3+ bedroom units	Minimum 1,000 sq. ft.
Off-street parking.....	See sec. 17.20 of this chapter
Usable green space requirement	Minimum 30% of lot area

Two principal buildings are permitted on one lot without a conditional use permit provided the combined number of units does not exceed 8.

17.10 RD RURAL DEVELOPMENT DISTRICT. (1) PERMITTED USES. (a) Single-family residences.

(b) Parks and open spaces, agricultural and general farming, except farms feeding offal or garbage.

(2) **CONDITIONAL USES.**

- (a) Cemeteries and mausoleums.
- (b) Municipal service functions and structures, and pumping stations.
- (c) Churches.
- (d) Hospitals.
- (e) Taverns.
- (f) Fairgrounds, carnivals and circuses.
- (g) Travel trailer parks and campgrounds.
- (h) Swimming pools.
- (i) Golf courses, driving ranges and amusement parks.
- (j) Airports and heliports.
- (k) Social halls.
- (l) Stables.
- (m) Nursing homes.

(3) **LOT, YARD AND BUILDING REQUIREMENTS.** See also sec. 17.03 of this chapter.

Lot frontage	Minimum 270 ft.
Lot area	Minimum 2 acres
Principal buildings:	
Front yard.....	Minimum 30 ft.

Side yards.....	Minimum 10 ft.
Rear yard.....	Minimum 30 ft.
Accessory buildings:	
Front yard.....	Minimum 30 ft.
Side yards.....	Minimum 5 ft.
Rear yard.....	Minimum 5 ft.
Garage.....	Maximum 720 sq. ft.
Garden shed	Maximum 120 sq. ft.
Building height.....	Maximum 35 ft., except for barns, silos and other buildings and others which are customarily higher and accessory uses to farming
Parking	No street parking permitted

17.11 MH MOBILE HOME PARK AND MOBILE HOME SUBDIVISION DISTRICT. (1) PERMITTED USES. (a) Mobile home parks.

(b) Mobile home subdivisions.

(2) CONDITIONAL USES. None.

(3) MOBILE HOME PARK REQUIREMENTS. See also sec. 12.08 of this Code.

(a) Park Requirements. 1. A minimum of 5 acres.

2. 40 foot minimum setbacks on all sides.
3. A hard surface road no less than 24 feet wide serving all mobile home spaces.
4. Electricity, cable television and public sewer and water servicing all mobile home spaces.
5. A central hard surface parking lot with one parking space for each 3 mobile home spaces.
6. A separate building providing laundry facilities.
7. An on-site manager's office which may consist of one single- or 2-family dwelling.
8. Park owner responsible for maintaining all park roads and payment of all utilities, including water and sewer.

(b) Space Requirements.

Space frontage	Minimum 40 ft.
Space area	Minimum 4,000 sq. ft.
Front yard	Minimum 25 ft
Side yards	Minimum 10 ft.
Rear yard	Minimum 25 ft.

Off-street parking 2 spaces per mobile home

(4) MOBILE HOME SUBDIVISION LOT, YARD AND BUILDING REQUIREMENTS.

Lot frontage	Minimum 50 ft.
Lot area	Minimum 6,000 sq. ft.
Principal building:	
Front yard.....	Minimum 25 ft.
Side yards.....	Minimum 10 ft.
Rear yard.....	Minimum 25 ft.
Building height.....	Maximum 15 ft.
Percent of lot coverage.....	Maximum 25%
Floor area	Minimum 840 sq. ft.
Off-street parking.....	Minimum 2 spaces

17.111 PUD PLANNED UNIT DEVELOPMENT DISTRICT. (1) **INTENT.** Planned Unit Development District (PUD) regulations are intended to permit greater flexibility and, consequently, more creative and imaginative design for residential and business development of a site than is possible under conventional zoning regulations. It is further intended to promote more economical and efficient use of the land while providing a harmonious variety of housing choices, a higher level of amenities, and preservation of the natural qualities of open spaces. The planned development procedure requires a high degree of cooperation between the developer and the City.

(2) **GENERAL PROVISIONS.** The Plan Commission may recommend and the Council may, upon the request of the owners, establish planned development overlay districts which will, over a period of time, tend to promote the maximum benefit from coordinated area site planning by permitting the diversified location of structures and mixed dwelling and business types and compatible uses.

(a) Mixed Uses. A mix of different residential and business uses within a Planned Unit Development District may be permitted if the Plan Commission and the Council determine that the mix of uses is compatible and necessary to achieve the objectives of the PUD.

(b) Number of Buildings on a Lot. The Planned Unit Development may allow more than one residential or business building on a lot.

(c) Density. The Planned Unit Development District may permit the transfer of density from one portion of the subject site to another and will permit the clustering of buildings in one or more locations within the total site. However, the density of use shall not exceed the density permitted in the underlying existing zoning district or districts. In the event a portion of the development is zoned floodplain, up to 10% of total area for determining density may be flood fringe. No wetland areas may be used for density purposes.

(d) Minimum Area for a Planned Unit Development District. Planned Unit Development Districts are intended to provide flexibility to encourage more creative design for all sizes of site that would be allowed under conventional zoning. To achieve this goal, the minimum site size shall be determined by the Plan Commission on a case-by-case basis.

(e) Setbacks. Front, side, and rear setbacks abutting the perimeter of the PUD shall comply with the underlying zoning, except when the Plan Commission determines that the

PUD, in approving the overall site plan, will best serve the objectives of the City in permitting varying setbacks.

(f) Building Requirements. The building regulations of the underlying zoning shall be applicable for all developments.

(g) Temporary Uses. Real estate field offices or shelters for materials and equipment being used in the construction of a permanent structure.

(3) APPLICATION PROCEDURE AND REQUIREMENT INFORMATION.

(a) Preliminary Consultation. An applicant may meet with the Plan Commission and appropriate City staff members for a preliminary consultation prior to formally submitting a rezoning petition for planned development zoning. The purpose of this preliminary consultation is to discuss the proposed request and review the local regulations and policies applicable to the project and discuss the land use implications of the proposal.

(b) Rezoning Petition and General Development Plan. The applicant shall submit a rezoning petition in accordance with the application procedure described in sec. 17.26 of this chapter. In addition to the required information noted in sec. 17.26, a general development plan shall be submitted to the Plan Commission and the Council for review 30 business days prior to any rezoning hearing. The general development plan shall show the locations of buildings, common open space, parking and drive areas, recreation facilities, principal landscaping features and other major components of the proposed project.

(c) Other Information. In addition, other documents or related information or plans showing the architectural designs of buildings may be required by the Plan Commission and the Council. Fifteen copies of this information shall also be submitted to the Commission and the Council for review at least 30 business days prior to any rezoning hearing. Other related information may include, but is not limited to, maintenance standards, plans of operation and economic impact and market feasibility.

(d) Public Inspection. Fifteen copies of the general development plan and related information shall be submitted to the Plan Commission 30 business days prior to any rezoning hearing and shall be available for public inspection prior to any rezoning hearing on the proposed project.

(4) CONDITIONS AND RESTRICTIONS. (a) The Plan Commission may recommend and the Council may adopt, by resolution, conditions and restrictions for planned developments that specify permitted uses, set regulations and density standards for lot coverage and dwelling unit **and height** size and distribution and yard setbacks.

(b) Conditions and restrictions adopted to govern any planned development may include nonstandard or non-uniform requirements, regulations and provisions recommended by Plan Commission and approved by the Council. Such nonstandard requirements, regulations and provisions shall be designed to insure proper development and appropriate operation and maintenance of specific developments on specific sites.

(c) Developers shall agree, by a developer's agreement, with the City to comply with all applicable laws and regulations, including any conditions and restrictions adopted to regulate a specific planned development.

(5) **DETAILED PLANS AND INFORMATION.** After Planned Unit Development District zoning has been granted and the general development plan, together with conditions imposed, has been approved, 15 copies of detailed site plans and information covering that portion of the total project which is intended for construction shall be submitted to the Plan Commission for approval prior to the issuance of building permits. The detailed plans and information shall conform substantially to the general development plan and to the resolution of conditions and restrictions which were approved at the time of rezoning.

(6) **ARCHITECTURAL CONTROL.** Building plans may also be subject to architectural review by a certified architect for their review and approval prior to the issuance of a building permit or Plan Commission approval.

(7) **COMMENCEMENT OF PROJECT.** (a) After the Council has approved the detailed site plans, construction of private and public construction may commence in accordance with sec. 20.10 of this Code.

(b) No building permit for residences shall be issued until all applicable fees and assessments required in sub. (11) below and sec. 20.11 of this Code have been paid and either all public and private construction has been completed and approved for a developer's agreement, including a letter of credit, has been approved by the Council. For staged development, such developers' agreements shall provide for the construction of improvements and the use of common areas outside of the subject stage.

(c) After the Council has approved the plans, the project shall be commenced within one year unless the time is extended in writing by the Council. In the event the project is not so timely commenced, the approval of the Council shall be deemed to be automatically revoked.

(8) **MAINTENANCE OF PROJECT.** (a) Should the owner of a planned development, or the condominium owners' association in the event a condominium is created, fail to properly operate or maintain the premises as provided in the plan or to the extent that a nuisance is caused to occupants or neighbors, the Council may refuse to approve subsequent stages of development until such time as they determine that the situation and/or the method of operation has been corrected.

(b) Should the owner of a planned development or condominium owners' or homeowners' or business association fail to adequately perform maintenance functions such as snow and ice removal, weed cutting or trash disposal, the City shall have the right to perform such functions or to contract for their accomplishment at the property owner's expense.

(9) **CHANGES OR REVISIONS.** (a) All proposed changes, revisions and additions to any aspect of an approved planned development project shall be submitted to the Plan Commission for its review. The Commission shall determine if the change, revision or addition is minor or if it materially affects the intended design of the project and the impact of the project on neighboring uses.

(b) If the change is determined to be minor, the Plan Commission shall review the request and pass its findings to the Council, which may approve the change without a public hearing. The Commission's decision on minor changes shall be rendered at a meeting subsequent to the meeting at which the requested change was initially presented to the Plan Commission.

(c) If the requested change is determined by the Plan Commission to be subsequent because of its effect on the intended design of the project or on neighboring uses, a public

hearing shall be held by the Commission to review and pass its findings to the Council for final approval.

(10) **APPLICATION OF THE SUBDIVISION AND PLATTING CODE.** To the extent applicable, any planned development shall be subject to the procedures and regulations of ch. 20 of this Code governing the division and platting of land. However, the design standards and required improvements established in ch. 20 may be modified or waived upon recommendation by the Plan Commission and approved by the Council where strict compliance would result in not achieving the design flexibility necessary to achieve the objectives of the planned development.

(11) **FEES.** The developer shall pay to the City all fees and all professional expenditures incurred by the City at the time specified.

(a) General PUD Plan Review Fee. The developer shall pay a fee of \$100 plus \$2 for each residential or business unit over 25 at the time the application is filed.

(b) Detailed PUD Plan Review Fee. The developer shall pay a fee of \$100 plus \$2 for each residential or business unit over 25 at the time the application is filed.

(c) Professional Fees. The developer shall reimburse the City for all engineering, architectural review, planning, administrative review and legal fees incurred by the City. A \$2,500 retainer for such costs is due at the time the application is filed.

17.12 B-1 GENERAL COMMERCIAL DISTRICT. The B-1 District is intended to provide an area for the business and commercial needs of the City.

(1) **PERMITTED USES.** (a) Post offices.

(b) General business and Commercial uses which do not generate noise, smoke or odors that would create a public or private nuisance. These uses generally include the following:

1. Banks, commercial or professional offices and telephone offices.
2. Hotels and motels.
3. Movie theaters.
4. Personal service, automobile service, and equipment service establishments.
5. Bus depots.
6. Restaurants and cocktail lounges.
7. Artist studios
8. Dwelling units above ground floor commercial
9. Uses customarily incident to any of the above uses.

- (c) Funeral parlors and crematoriums.
- (d) Retail shops and businesses.
- (e) Rooming houses.
- (f) Libraries.
- (g) Parks.
- (h) Any other uses similar in character with the permitted uses and the manufacture or treatment of products clearly incidental to the conduct of a retail business on the premises.

(2) **CONDITIONAL USES.** (a) Wastewater utility plants and City utilities.

(b) Apartments. See sub. (3) below.

(3) **ADDITIONAL RESTRICTIONS.** Uses permitted in the B-1 District are subject to the following conditions:

(a) Dwelling units are not permitted below the second floor and business uses are not permitted on any floor above the ground floor, except in those buildings or structures where dwelling units are not established.

(b) All business establishments shall be retail or service establishments dealing directly with consumers. All goods produced on the premises shall be sold at retail on the premises where produced.

(c) All business, servicing or processing, except for off-street parking or loading, shall be conducted within completely enclosed buildings.

(4) **DEVELOPMENT STANDARDS.** Within the B-1 District, there shall be no minimum required standards or setbacks in order to provide flexibility in the redevelopment of the downtown area. However, new buildings shall be subject to the off-street parking and loading requirements of sec. 17.20 of this chapter, where applicable. The maximum height shall comply with River Town provisions of NR118, that being 45' as measured from average ground elevation. All areas within the NR118 scenic riverway boundary shall be setback at least 100' from the ordinary highwater mark of the Saint Croix River.

17.122 B-1 UPPER RIVERWAY OVERLAY DISTRICT. The B-1 Upper Riverway Overlay District is intended to provide for mixed use development allowing for connectivity of the Downtown Business District to the National Park Service Headquarters and taking into consideration its location near the River Town designated area of the Saint Croix Riverway and the hydro-electric dam. The Upper Riverway Overlay District is that area laying west of the centerline of North Washington Street, east of the Saint Croix River, north of the City Overlook Deck, and south of the centerline of Massachusetts Street.

(1) PERMITTED USES: (a) All uses permitted in the B1 General Commercial District.

(b) Mixed uses of commercial and residential where such uses have gone through the Planned Unit Development review and approval process as outlined in section 17.111

(2) GENERAL PROVISIONS: Areas encompassing the Upper Riverway Overlay District must have a setback from the ordinary high water mark of the Saint Croix River of 75 feet. Development of steep slopes shall be allowed upon obtaining a grading permit from the Department of Natural Resources.

(3) LOT, YARD AND BUILDING REQUIREMENTS.

Lot Frontage.....Minimum 50'

Principal Buildings: There shall be no side or front yard setbacks required, similar to the B1 District, so long as all State Building Codes are complied with. There shall be no rear yard setbacks so long as the 75' setback from the Ordinary High Water Mark of the Saint Croix Riverway is maintained.

Building Height.....Maximum 40' as measured from street grade recognizing that, given existing slopes and length of lot sizes, that building height when measured from the river face may exceed 40'.

17.13 B-2 HIGHWAY COMMERCIAL DISTRICT. The B-2 District is established to provide for the establishment of principally motor vehicle-oriented or dependent commercial activities in nonresidential settings. Lot dimensional requirements are established to provide for the orderly grouping of commercial uses and for adequate off-street parking.

(1) PERMITTED USES.

- (a) Automotive sales, servicing and repairs
- (b) Department stores and discount stores
- (c) Banks and drive-in banks
- (d) Drive-in establishments serving food or beverages
- (e) Restaurants, night clubs and taverns
- (f) Implement sales and service
- (g) Gasoline and service stations
- (h) Parks
- (i) Lumber and contractors' yards
- (j) Hotels and motels
- (k) Truck terminals and depots
- (l) Shopping centers
- (n) Supermarkets
- (o) Professional offices
- (p) Any other uses similar in character with the permitted uses and the manufacture or treatment of products clearly incidental to the conduct of a retail business on the premises.

(2) CONDITIONAL USES. (a) Drive-in theaters.

- (b) Animal hospitals.
- (c) Golf driving ranges and amusement parks.
- (d) Permitted uses in the M-2 Light Industrial District.

(e) Other uses similar in character to the permitted uses, giving due consideration to such items as noise, odor, pollution, traffic and parking, safety, hours and type of operation.

*(f) Department stores and discount stores in excess of 10,000 square feet.

*All new commercial development over 10,000 square feet shall be a conditional use requiring a public hearing allowing the Plan Commission and community an opportunity to consider the architecture and design of a building *its* arrangement on the lot, landscaping, parking, pedestrian amenities, signage, lighting, and other design elements. The intent of this provision is to encourage distinctive architectural features in harmony with their natural and historic setting and authenticity and integrity in the built environment. Approval of the commercial development shall be conditioned upon critical design elements that may include earth cone color schemes, decorative brick, use of native or historic materials, pedestrian corridors, landscaped parking areas, and sign-age sensitive to the environment and the region. All new commercial development shall incorporate outdoor lighting which does not glare upwards and is shielded to prevent shining outside the property boundary. Commercial developments over 10,000 square feet shall not have blank walls of more than 75 feet, and such shall be enhanced by display windows, murals, or similar features that add visual interest to the store. The City may require, as safety measures, sidewalks linking stores to street crossings, building entrances, and other pedestrian linkages. The City may appoint a citizen’s advisory committee to work with the developer on incorporation of these design standards. Those bluffs and slopes along the highway 8 commercial corridor shall be planted with vegetative screenings or shall preserve native growth where appropriate in order to protect and enhance scenic or significant views. The vegetation shall be managed to maintain the essential character, quality and density of existing growth, or native species on nearby adjacent lands. Compatible native species of vegetation shall be used for replacement or new plantings.

*All new commercial development of 10,000 square feet or more shall comply with the provisions outlined in the City’s Retail Commercial Design Guidelines.

(3) LOT, YARD AND BUILDING REQUIREMENTS.

Lot frontage	Minimum 80 ft.
Lot area	Minimum 1/2 acre
Front yard	Minimum 20 ft., 50 ft. if parking is permitted
Side yards.....	Minimum 20 ft.
Rear yard.....	Minimum 20 ft.
Building height.....	Maximum 35 ft.
Number of stories.....	Maximum 2-1/2

(4) SIGN SETBACK. Except as otherwise provided for in this Code, and subject to sec. 17.22 of this chapter pertaining to signs, signs shall be set back not less than 10 feet from the property line of the affected parcel nor more than the distance equal to the height of the sign, whichever is greater.

(5) OFF-STREET PARKING AND LOADING REQUIREMENTS. See sec. 17.20 of this chapter.

17.14 HIGHWAY 08/35 SCENIC RESOURCE OVERLAY. The Scenic Resource Overlay District is adopted to prevent scenic degradation, and to preserve and protect scenic views as seen from the Highway 08/35 corridor and especially to protect such ‘entrance views’ of the City and to minimize the adverse visual effects of development by preserving existing slopes and natural features.

(1) Description: The Scenic Resource Overlay District shall extend along US Hwy 8 from Glacier Drive to the east and to the Saint Croix River to the west, and extend along Hwy 35 from the US Hwy 8 overpass on the north to the southern city limits.

(2) Permitted Uses; All those uses permitted within the designated Zoning District.

(3) Restrictions/Regulations:

- (a) Existing slopes and bluffs greater than 12% shall not be altered or disturbed to become less than 12%.
- (b) Native vegetation shall be maintained to the greatest extent possible.
- (c) Trees greater than 1 foot in diameter shall not be removed without a permit and shall follow the provisions as outlined in Section 20.051 (5) of City Code of Ordinances.
- (d) Outdoor lighting is to be directed downward and shielded. High or low pressure sodium bulbs may be a maximum 75 watts. Mercury vapor lamps are prohibited. Mast-mounted lights must be kept to a minimum number and maximum height of 20 feet.
- (e) All exterior colors to be used on any new construction within this corridor shall be muted native earth tones which blend with the immediate environment. Materials shall be of wood, stone or other natural materials.
- (f) No reflective surfaces except glass.
- (g) Buildings shall be encouraged to be constructed in a low-profile design that blends with the terrain.
- (h) No interior lighted signs or billboards shall be allowed excepting those previously in existence allowing for their replacement or modification.
- (i) Landscaping and berming shall be required to blend construction with the natural environment.
- (j) Land disturbed by construction must be reclaimed, within three years after the building permit is issued, to no less than pre-construction condition to preserve the environmental integrity of the view corridor.
- (k) Sharing of driveways to the greatest extent possible shall be required in accord with the general policy and regulations of the Department of Transportation to consolidate or eliminate access points onto Highway 08 and Hwy 35 and to encourage alternate access to such Highway fronting businesses, especially in light of grading, location of access ramps, and other unique public safety issues within this corridor.
- (l) Setback: All buildings and structures shall meet set backs of the applicable Zoning District and be setback at least 40 feet from any existing bluffline, the bluffline setback shall be measured on a horizontal plane from the point of the structure that is nearest the bluffline, including roof overhangs and any cantilevered portions of the structure.

17.15 M-1 INDUSTRIAL DISTRICT. The M-1 District is intended to provide for manufacturing or industrial operation which, on the basis of actual physical and operational characteristics, would not be detrimental to the surrounding area or to the City as a whole by reason of noise, dirt, dust, smoke, odor, traffic, physical appearance or other similar factors, and subject to such regulatory controls as will reasonably insure compatibility in this respect. Outdoor storage of raw materials or finished products is not allowed.

(1) PERMITTED USES. (a) Automotive repair, service and storage of automobile accessories, except the wrecking of motor vehicles.

(b) Commercial bakeries.

(c) Commercial greenhouses.

(d) Feed mills and dairy plants.

(e) Machine shops.

(f) Painting and printing.

(g) Lumber Yards.

(h) Freight yards and terminals.

(i) Bottling.

(j) Manufacture, fabrication, packing and packaging and assembly of products from furs, glass, leather (but not tanning of hides or manufacture of leather), metals, paper (but not the manufacture of paper or pulp), plaster, plastic (but not the manufacture of plastic), textiles and wood (but not the manufacture of paper or pulp).

(k) Manufacture, fabrication, processing, packaging and packing of confections, cosmetics, electrical appliances, electronic devices, food (except meat and meat products, fish and fish products, cabbage products or the vining of peas).

(l) Manufacture of furniture, home supplies and appliances, instruments, jewelry, office supplies, pharmaceuticals, sporting goods, tobacco products and toiletries.

(m) Laboratories.

(n) Warehousing.

(o) Welding shops.

(p) Wholesaling.

(q) Mini-storage.

(r) High Technology businesses utilizing computers and their related processes.

(2) **CONDITIONAL USES.** (a) Storage and warehousing of fuel and materials, but not the storage of wrecked or dismantled vehicles and junk or the storage of explosives.

(b) Other uses similar in character to the permitted uses, giving due consideration to such items as noise, odor, pollution, traffic and parking, safety, hours and type of operation.

(c) Golf Courses.

(3) **LOT, YARD AND BUILDING REQUIREMENTS.**

Lot frontage	Minimum 80 ft.
Lot area	Minimum 10,000 sq. ft.
Front yard	Minimum 10 ft.
Side yards, principal building.....	Minimum 10 ft.
Rear yard	Minimum 30 ft.
Building height	Maximum 40 ft.

(4) **OFF-STREET PARKING AND LOADING REQUIREMENTS.** See sec. 17.20 of this chapter.

(5) **PERFORMANCE STANDARDS.** See sec. 17.21 of this chapter.

17.151 M-2 LIGHT INDUSTRIAL DISTRICT. The M-2 District is intended to provide for light manufacturing and light industrial uses of limited nature, scope and size. It is intended to exclude those uses that would be more appropriately located in the M-1 District and those light manufacturing and industrial uses that produce significant traffic, dirt, dust, noise, smoke, air or water pollution or odors, or that would otherwise create a public or private nuisance. The external appearance of lands and structures in the M-2 District shall resemble a business campus based upon such reasonable rules and regulations as may be necessary to insure compatibility with the intent of the District. Outdoor storage in the M-2 District is prohibited.

(1) **PERMITTED USES.** (a) Light manufacturing, assembly, fabrication, packing and packaging, and processing facilities for products from glass, wood, leather, metal, paper, plastic and textiles.

(b) Experimental research and testing laboratories which do not involve the keeping of animals outdoors or the use of animal products, by-products or offal or any significant degree of danger or undesirable operational characteristics.

(c) General warehousing not including outdoor storage.

(d) Printing and publishing.

(e) Tool making.

(f) Cabinetry.

(g) Public utility offices and installations, including substations subject to requirements that they be bermed, landscaped or screened in a manner to make them compatible with the surroundings and the environment.

- (h) Open spaces and storm water drainage facilities or installations.
- (i) Parks, recreational areas, walks and trails.

(2) ACCESSORY BUILDINGS. (a) Accessory buildings for office, storage, power supply and other similar compatible uses ancillary or auxiliary to the principal use are permitted as recommended by the Plan Commission and approved by the Council.

(b) Off-street parking shall be permitted along with loading and service facilities as may be provided elsewhere in this Code.

(3) CONDITIONAL USES. (a) Telecommunication offices and installations, including towers, where not otherwise prohibited in this Code, and further subject to camouflage or similar requirements sufficient to make them compatible with the surroundings and the environment.

(b) Light industrial uses similar or customarily incident to the permitted uses.

(c) Planned unit residential developments subject to such conditions as the Plan Commission and other applicable regulations, codes and statutes may require, and the Council may approve including, but not limited to, landscaping, berming, screening, planting and the imposition of restrictive covenants, all of which shall serve to protect residents, preserve the basic compatibility of the development with the immediately surrounding or abutting environmental character. A PUD in this district must have live-work units or general office space or similar employable provisions as a condition to approval.

(4) LOT, YARD AND BUILDING REQUIREMENTS.

Lot frontage	80 ft.
Lot area	25,000 sq. ft.
Principal building area.....	No minimum
Principal building height	35 ft.
Yard setbacks:	
Front yard.....	25 ft.
Side yards.....	15 ft.*
Rear yard.....	10 ft.*

*In the event any M-2 District parcel is developed adjacent to a conditionally permitted residential planned unit development or is abutting a residential district, the side or rear yard setback shall be 50 feet and shall include a planting screen or similar barrier not less than 15 feet wide and not less than 6 feet in height along such adjacent or abutting parcel. In addition, in such circumstances, any accessory loading or delivery facility incident to the principal structure shall be located opposite such residential district or development, and the traffic pattern associated with such loading or delivery facility shall be designed to minimize traffic congestion on any City street or alley serving the principal structure.

17.16 CON CONSERVANCY DISTRICT. The CON District is intended to preserve scenic and natural areas in the City and to prevent uncontrolled, uneconomical spread of residential development, and to help discourage intensive development of marginal lands so as to prevent potential hazards to public and private property. Where such Conservancy lands are owned by the city or other non-profit entities, such as the Ice-Age Trail Foundation, such lands

shall be open for the free and unrestricted use and enjoyment of the general public so long as such use is permitted and is in keeping with the conservation ethic of said lands.

- (1) PERMITTED USES.
 - (a) Public parks, playgrounds and hiking trails
 - (b) Management of forestry, wild life and fish.
 - (c) Harvesting of wild crops such as marsh hay, ferns, moss, berries, tree fruits and tree seeds.
 - (d) Camping and/or low impact structures as deer blinds, tree stands or structures such as hermitages, cabins or retreats, which are non-permanent in nature, have no foundation, and are constructed with limited use of conventional building materials.
 - (e) General farming, provided that no drainage ditches or buildings are constructed.
 - (f) Uses customarily incident to any of the above uses.
- (2) CONDITIONAL USES. See sec. 17.20 of this chapter.
 - (a) Golf driving ranges.
 - (b) Dams, power plants, flowages, ponds, relocation of watercourses.
 - (c) Removal of top soil or peat.
 - (d) Piers, docks, boathouses.
- (3) LOT, YARD AND BUILDING REQUIREMENTS. None.

17.161 HISTORIC PRESERVATION OVERLAY DISTRICT. (1) PURPOSE AND INTENT. It is hereby declared a matter of public policy that the protection, enhancement, perpetuation and use of improvements or sites of special character or special architectural, archaeological or historic interest or value is a public necessity and is required in the interest of the health, prosperity, safety and welfare of the citizens. The purpose of this section is to:

- (a) Effect and accomplish the protection, enhancement, and preservation of such improvements, sites and districts which represent or reflect elements of the City's cultural, social, economic, political and architectural history.
 - (b) Safeguard the City's historic, prehistoric and cultural heritage, as embodied and reflected in such historic structures, sites and districts.
 - (c) Stabilize and improve property values, and enhance the visual and aesthetic character of the City.
 - (d) Protect and enhance the City's attractions to residents, tourists and visitors, and serve as a support and stimulus to business and industry.
- (2) DEFINITIONS. The terms used here shall be defined as follows:

- (a) Certificate of Appropriateness. The certificate issued by the Commission approving alteration, rehabilitation, construction, reconstruction or demolition of an historic structure, historic site or any improvement in an historic district.
- (b) Commission. The Historic Preservation Commission created under this section.
- (c) Historic Preservation District. An area designated by the Council on recommendation of the Commission that contains 2 or more historic improvements or sites.
- (d) Historic Site. Any parcel of land of historic significance due to a substantial value in tracing the history or primordial history of man, or upon which an historic event has occurred, and which has been designated as an historic site under this section, or an improvement parcel, or part thereof, on which is situated an historic structure and any abutting improvement parcel, or part thereof, used as and constituting part of the premises on which the historic structure is situated.
- (e) Historic Structure. Any improvement which has a special character or special historic interest or value as part of the development, heritage or cultural characteristics of the City, State or nation and which has been designated as an historic structure pursuant to the provisions of this chapter.
- (f) Improvement. Any building, structure, place, work of art or other object constituting a physical betterment of real property, or any part of such betterment, including streets, alleys, sidewalks, curbs, lighting fixtures, signs and the like.

(3) **HISTORIC PRESERVATION COMMISSION COMPOSITION; TERMS OF OFFICE.** An Historic Preservation Commission is hereby created, consisting of 7 members. Of the membership, if available in the community, one shall be a registered architect; one shall be an historian; one shall be a licensed real estate broker; one shall be a Council member and 3 shall be citizen members. Each member shall have, to the highest extent practicable, a known interest in historic preservation. The Mayor shall appoint the commissioners, subject to confirmation by the Council, for staggered 3 year terms.

(4) **HISTORIC STRUCTURE, HISTORIC SITE AND HISTORIC DISTRICT DESIGNATION CRITERIA.** (a) For purposes of this section, an historic structure, historic site, or historic district designation may be placed on any site, natural or improved, including any building, improvement or structure located thereon, or any area of particular historic, architectural, archaeological, geological or cultural significance to the City such as historic structures, sites, or districts which:

- 1. Exemplify or reflect the broad cultural, political, economic or social history of the nation, State or community; or
- 2. Are identified with historic personages or with important events in national, state or local history; or

3. Embody the distinguishing characteristics of an architectural type or specimen inherently valuable for a study of a period, style, method of construction, or of indigenous materials or craftsmanship; or
4. Are representative of the notable work of a master builder, designer or architect who influenced his age; or
5. Have yielded, or may be likely to yield, information important to pre-history or history.

The foregoing notwithstanding, an historic structure designation shall not be placed on a privately owned building, improvement or structure without the consent of the owner.

(c) The Commission shall adopt specific operating guidelines for historic structure, historic site and historic district designation providing such are in conformance with the provisions of this section.

(5) POWERS AND DUTIES. (a) Designation. The Commission shall have the power, pursuant to sub. (6) below, to designate historic structures and historic sites and to recommend designation of historic districts within the City. Such designations shall be made pursuant to sub. (4) above. Historic districts shall be approved by the Council. Once designated, such historic structures, sites and districts shall be subject to all the provisions of this section.

(b) Regulation of Construction, Reconstruction, Alteration and Demolition.

1. No owner or person in charge of an historic structure, historic site or structure within an historic district shall reconstruct, alter or demolish all or any part of the exterior of such property or construct any improvement upon such designated property or properties or cause or permit any such work to be performed upon such property to demolish such property unless a Certificate of Appropriateness has been granted by the Historic Preservation Commission. Also, unless the Commission has granted such certificate, the Building Inspector shall not issue a permit for any such work.

2. Upon filing of any application for a Certificate of Appropriateness with the Commission, the Commission shall approve the application unless:

a. In the case of a designated historic structure or historic site, the proposed work would detrimentally change, destroy or adversely affect any exterior feature of the improvement or site upon which said work is to be done;

b. In the case of the construction of a new improvement upon an historic site, or within an historic district the exterior of such improvement would adversely affect or not harmonize with the external appearance other neighboring improvements on such site or within the district;

c. In the case of any property located in an historic district, the proposed construction, reconstruction exterior alteration or demolition does not conform to the purpose and intent of this section and to the objectives and design criteria of the historic preservation plan for said district;

d. The building or structure is of such architectural or historical significance that its demolition would be detrimental to the public interest and contrary to the general welfare of the citizens of the City and State;

e. In the case of a request for the demolition of a deteriorated building or structure, any economic hardship or difficulty claimed by the owner is self-created or is the result of any failure to maintain the property in good repair,

3. If the Commission determines that the application for a Certificate of Appropriateness and the proposed changes are consistent with the character and features of the property or district, it shall issue the Certificate of Appropriateness. The Commission shall make this decision within 45 days of the filing of the application.

4. The issuance of a Certificate of Appropriateness shall not relieve the applicant from obtaining other permits and approvals required by the City. A building permit or other municipal permit shall be invalid if it is obtained without the presentation of the Certificate of Appropriateness required for the proposed work.

5. Ordinary maintenance and repairs may be undertaken without a Certificate of Appropriateness provided that the work involves repairs to existing features of an historic structure or site or the replacement of elements of a structure with pieces identical in appearance and provided that the work does not change the exterior appearance of the structure or site and does not require the issuance of a building permit.

(c) Appeals. Should the Commission fail to issue a Certificate of Appropriateness due to the failure of the proposal to conform to the guidelines, the applicant may appeal such decision to the Council within 30 days. In addition, if the Commission fails to issue a Certificate of Appropriateness, the Commission shall, with the cooperation of the applicant, work with the applicant in an attempt to obtain a Certificate of Appropriateness within the guidelines of this section.

(d) Recognition of Historic Structures, Sites and Districts. At such time as an historic structure, site or district has been properly designated, the Commission, in cooperation with the property owner, may cause to be prepared and erected on such property at City expense, a suitable plaque declaring that such property is an historic structure, site or district.

(6) PROCEDURES. (a) Designation of Historic Structures and Historic Sites. 1. The Commission may, after notice and public hearing, designate historic structures and historic sites, or rescind such designation or recommendation, after application of the criteria in sub. (4) above. At least 10 days prior to such hearing, the Commission shall notify the owners of record, as listed in the office of the City assessor, who are owners of property in whole or in part situated within 200 feet of the boundaries of the property affected.

2. The Commission shall then conduct such public hearing and, in addition to the notified persons, may hear expert witnesses and shall have the power to subpoena such witnesses and records as it deems necessary. The Commission may conduct an independent investigation into the proposed designation or rescission. Within 10 days after the close of the public hearing, the Commission may designate the property as either an historic structure or an historic site, or rescind the designation. After the designation or rescission has been made, notification shall be sent to the property owner or owners. Notification shall also be given to the City Clerk, Building Inspector, Plan Commission, and the City Assessor. The Commission shall cause

the designation or rescission to be recorded, at City expense, in the County Register of Deeds office.

(b) Creation of Historic Districts. 1. For preservation purposes, the Historic Preservation Commission may select geographically defined areas within the City to be designated as Historic Preservation Overlay Districts and prepare an historic preservation plan for each. An Historic District may be designated for any geographic area of particular historic, architectural or cultural significance to the City after application of the criteria in sub. (4) above. Each historic preservation plan prepared for or by the Historic Preservation Commission shall include a cultural and architectural analysis supporting the historic significance of the area, the specific guidelines for development, and a statement of preservation objectives.

2. Review and Adoption Procedure. a. Historic Preservation Commission. The Historic Preservation Commission shall hold a public hearing when considering the plan for an Historic District. Notice of the time, place and purpose of the public hearing shall be sent by the City Clerk to the Council members and the owners of record, as listed in the office of the City Assessor, who are owners of the property within the proposed Historic District or are situated in whole or in part within 200 feet of the boundaries of the proposed Historic District. Said notice is to be sent at least 10 days prior to the date of the public hearing. Following the public hearing, the Historic Preservation Commission shall vote to recommend, reject or withhold action on the plan.

b. The City Council. The Council, upon receipt of the recommendations from the Historic Preservation Commission shall hold a public hearing, notice to be given as noted in subpar. a. above and shall, following the public hearing, either designate or reject the Historic District Designation. Designation of the Historic District shall constitute adoption of the plan prepared for that district and direct implementation of said plan.

(7) INTERIM CONTROL. No building permit shall be issued by the Building Inspector for alteration, construction, demolition or removal of a nominated historic structure, historic site or any property or structure within a nominated historic district from the date of the meeting of the Historic Preservation Commission at which a nomination form is first presented until the final disposition of nomination by the Historic Preservation Commission or the Council unless such alteration, removal or demolition is authorized by formal resolution of the Council as necessary for public health, welfare or safety. In no event shall delay be for more than 180 days.

(8) PENALTIES. Any person violating any provision of this section shall be subject to a forfeiture of \$50 for each separate violation. Each and every day during which a violation continues shall be deemed to be a separate offense. Notice of violations shall be issued by the Building Inspector.

17.17 FLOODPLAIN DISTRICTS. See ch. 18 of this Code.

17.171 CITY OF ST. CROIX FALLS ST. CROIX NATIONAL SCENIC RIVERWAY DISTRICT. (1) PURPOSE. The following rules are necessary to reduce the adverse effects of overcrowding and poorly planned shoreline and bluff area development, to prevent pollution and contamination of surface waters and ground waters and soil erosion, to provide sufficient space on lots for sanitary facilities, to minimize flood damage, to maintain property values, and to preserve and maintain the exceptional scenic, cultural and natural characteristics of the water and related land of the Lower St. Croix riverway in a manner consistent with the national wild and scenic rivers act (P.L. 90-542), the Federal Lower St. Croix River Act of 1972 (P.L. 92-560) and the Wisconsin Lower St. Croix River Act (§30.27, Wis. Stats.) (Wis. Adm. Code NR 118.01)

(2) **APPLICABILITY.** (a) Lower St. Croix Riverway Boundaries. These rules shall apply within the boundaries of the Lower St. Croix national scenic riverway as set forth in the master plan jointly prepared by the states of Minnesota and Wisconsin and the National Park Service pursuant to P.L. 92-560, to include the incorporated area of the City of St Croix Falls lying west of S.T.H. 35 and S.T.H. 87 in section 30, T34N, R18W (south of the Hydro-electric dam) shall be included.

(3) **DEFINITIONS.** For the purpose of this section, the terms used shall be defined as follows:

- (a) Accessory Structure A subordinate structure, the use of which is incidental to, and customarily found in connection with, the principal structure or use of the property. Accessory structures include, but are not limited to, detached garages, sheds, barns, gazebos, patios, decks (both detached and attached), swimming pools, hot tubs, fences, retaining walls, driveways, parking lots, sidewalks, detached stairways and lifts.
- (b) Accessory Use. A use subordinate to and serving the principal use on the same lot and customarily incidental thereto.
- (c) Agriculture. Beekeeping; livestock grazing; orchards; raising of grain, grass or seed crops; raising of fruits, nuts or berries; placing land in Federal programs in return for payments in kind; owning land, at least 35 acres of which is enrolled in the conservation reserve program under 16 USC 3831 to 3836; and vegetable raising.
- (d) Antenna. Any device or equipment used for the transmission or reception of electromagnetic waves, which may include an omni-directional antenna (rod), a directional antenna (panel) or a parabolic antenna (disc).
- (e) Bed and Breakfast Operation. A place of lodging for transient guests that is the owner's personal residence, that is occupied by the owner at the time of rental, and in which the only meal served to guests is breakfast.
- (f) Bluffline. A line along the top of the slope preservation zone.
- (g) Building Line. A line measured across the width of a lot at that point where the principal structure is placed in accordance with setback provisions.
- (h) Camouflage Design. A wireless communication service facility that is disguised, hidden or screened, but remains recognizable as a tower or antenna.
- (i) Compliant Building Location. An area on a lot where a building could be located in compliance with all applicable ordinance requirements.
- (j) Conditional Use. A use that is specifically listed in a local zoning ordinance as either a conditional use or special exception and that may only be permitted if the local zoning authority determines that the conditions specified in the ordinance for that use are satisfied.
- (k) Department. The Wisconsin Department of Natural Resources.

- (l) Disabled. Having a physical or mental impairment that substantially limits one or more major life activities.
- (m) Earthtone. Colors that harmonize with the natural surroundings on the site during leaf-on conditions.
- (n) Expansion. An addition to an existing structure regardless of whether the addition is vertical or horizontal or both.
- (o) Filtered View of the River. Denotes that one can see the river through the vegetation, while any structure remains visually inconspicuous.
- (p) Footprint. The land area covered by a structure at ground level, measured on a horizontal plane. The footprint of a residence includes attached garages and porches, but excludes decks, patios, carports and roof overhangs.
- (q) Foundation. The underlying base of a building or other structure, including, but not limited to, pillars, footings, and concrete and masonry walls.
- (r) Human Habitation. The use of a building or other structure for human occupancy, including, but not limited to, cooking, eating, bathing and sleeping.
- (s) Land Division. Any division of a parcel of land by the owner or the owners agent for the purpose of transfer of ownership or building development which creates one or more parcels or building sites of 20 acres or less.
- (t) Landscape Architect A person who has graduated with a major in landscape architecture from a college accredited by the American society of landscape architects.
- (u) Lift. A mechanical device, either temporary or permanent, containing a mobile open top car including hand or guard rails, a track upon which the open top car moves, and a mechanical device to provide power to the open top car.
- (v) Local Zoning Ordinance. Any county, town, city or village zoning ordinance, portion of an ordinance, or amendments thereto, adopted by a local unit of government, with authority from State enabling legislation, which regulates the use of land within the Lower St. Croix riverway.
- (w) Lot. A contiguous parcel of land with described boundaries.
- (x) Lower St. Croix Riverway or "Lower St. Croix National Scenic Riverway. The area described in Wis. Adm. Code NR 118.02(1).
- (y) Management Zones. The Lower St. Croix riverway management zones established in Wis. Adm. Code NR 118.04.

- (z) Mitigation. Action taken to minimize the adverse impacts of development. The term “mitigation” includes, but is not limited to, the installation of vegetative buffers, the removal of nonconforming structures from the shoreland setback area, and the implementation of best management practices for erosion control and storm water management.
- (aa) Net Project Area. Developable land area minus slope preservation zones, floodplains, road rights-of-way and wetlands.
- (bb) Nonconforming Structure. A building or other structure whose location, dimensions or other physical characteristics do not conform to the standards in the current local zoning ordinance, but which was legally constructed or placed in its current location prior to the adoption of the ordinance or ordinance amendment that made it nonconforming.
- (cc) Nonconforming Use. The use of land or a structure or other premises that does not conform to the land use restrictions in the current local zoning ordinance, but which was legally established prior to the adoption of the ordinance or ordinance amendment that made it nonconforming.
- (dd) Ordinary High Water Mark. Has been defined by the Wisconsin Supreme Court to mean 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. Where the bank or shore at any particular place is of such character that it is difficult or impossible to ascertain where the point of ordinary high water mark is, recourse may be had to the opposite bank of a stream or to other places on the shore of a lake or flowage to determine whether a given stage of water is above or below the ordinary high water mark.
- (ee) Ordinary Maintenance and Repair. Any work done on a nonconforming structure that does not constitute expansion, structural alteration or reconstruction and does not involve the replacement, alteration or improvement of any portion of the structure’s foundation.
- (ff) Planned Cluster Development. A pattern of development that places residences into compact groupings as a means of preserving open space.
- (gg) Porch. A building walkway with a roof over it, providing access to a building entrance.
- (hh) Principal Structure. The main building or other structure on a lot that is utilized for the property’s principal use. The term “principal structure” includes attached garages and porches.
- (ii) Reasonable Accommodation. Allowing a disabled person to deviate from the strict requirements of the County’s zoning ordinances if an accommodation is necessary and reasonable in order not to unlawfully discriminate against the disabled person and to allow them equal housing opportunity.

- (jj) Reconstruction. The replacement of all or substantially all of the components of a structure other than the foundation.
- (kk) Selection Cutting. The removal of selected trees throughout the range of merchantable sizes at regular intervals, either singly or in small groups, leaving a uniformly distributed stocking of desirable tree and shrub size classes.
- (ll) Setback. The minimum horizontal distance between a structure and either the ordinary high water mark or the bluffline.
- (mm) Shelterwood Cut. A partial removal of mature trees leaving trees of desirable species and form to provide shade, seed source and a desirable seed bed for natural regeneration with the final removal of the overstory after adequate regeneration is established.
- (nn) Single-family Residence. A detached structure used for human habitation for one family.
- (oo) Slope Preservation Zone. The area riverward from the bluffline where the slope towards the river is 12% or more, as measured horizontally for a distance of not more than 50 feet or less than 25 feet.
- (pp) Small Regeneration Cut. A harvest of not more than one-third of the contiguous forested ownership within a 10-year period with each opening not exceeding 6 acres in size and not closer than 75 feet at their closest points.
- (qq) Stealth Design. A wireless communication service facility that models or mimics in size or shape and color something in the surrounding landscape, such as silos in farm settings and trees in forested lands, and is unrecognizable year round as an antenna or antenna mount.
- (rr) Structural Alteration. The replacement or alteration of one or more of the structural components of any of a nonconforming structure's exterior walls.
- (ss) Structural Component. Any part of the framework of a building or other structure. The structural components of a building's exterior walls include the vertical studs, top and bottom plates, and window and door sills and headers. A structural component may be non-load-bearing, such as the framework of a wall at the gable end of a one-story house. Wall-coverings, such as siding on the exterior and dry wall on the interior, are not included in the definition of structural component.
- (tt) Structural Erosion Control Measures. A retaining wall or other man-made structure whose primary function is to control erosion.
- (uu) Structure. Any man-made object with form, shape and utility that is constructed or otherwise erected, attached to or permanently or temporarily placed, either upon the ground, a river bed, stream bed or lake bed or upon another structure. For the purposes of this chapter, the term "structure" includes swimming pools, hot tubs, patios, decks and retaining walls, but does not include landscaping or earthwork such as graded areas, filled

areas, ditches, berms or earthen-terraces. The term “structure” does not include small objects that are easily moved by hand, such as lawn chairs, portable grills, portable picnic tables, bird feeders, birdhouses and birdbaths.

- (vv) Substandard Lot. A lot with dimensions that do not conform to all of the requirements of the local zoning ordinance.
- (ww) Transmission Services. Includes electric power lines, telephone and telegraph lines, communication towers, cables, sewage lift stations, sewer and water pipes, and other pipes, conduits and accessory structures that are used to transport power, convey information or transport material between 2 points, other than wireless communication service facilities.
- (xx) Visually Inconspicuous. Difficult to see, or not readily noticeable, in summer months as viewed from, at or near the mid-line of the Lower St. Croix river.
- (yy) Wetland. The meaning found in §23.32(1), Wis. Stats.
- (zz) Wireless Communication Service Facilities. Hardware that provides wireless communication services, including antennas, towers, all associated equipment, and buildings and other structures.

(4) LOWER ST. CROIX RIVERWAY MANAGEMENT ZONES.

(a) River Town. 1. The river town management zone reflects the character of a small city and contains a mixture of commercial, park and residential developments that reflect the community’s historic character. Dense, intensive development may be present, including utilities, multi-story structures and nonresidential buildings.

2. The river town management zone is established in the area south of the intersection of River St and Washington St, (the Overlook Deck) and north of a line parallel to the north boundary of Interstate Park, bounded on the west by the centerline of River St, and on the east by the centerline of Washington St.

(b) Small Town Historic. 1. The small town historic management zone contains mostly single-family residences and is primarily historic in character. While some residences are newer and there are some commercial buildings that are historic in character, the predominant character of this district is of a late 19th or early 20th century residential area. A combination of man-made features, residential lawns and natural features will be found in this management zone.

2. The small town historic management zone is established in the area of St Croix Falls which is within the St Croix Falls River District, but not within the River Town Zone to include those lands within the incorporated City limits west of S.T.H. 35 and south of US Hwy 8 and south of the Hydro-electric Dam.

(5) LAND USES AND STRUCTURES IN THE ST. CROIX RIVER DISTRICT.

(a) Permitted Uses and Structures.

1. The following are Permitted Uses in both management zones if the standards in Wis. Adm. Code NR 118.06 are met:

- i. Single-family residential and accessory uses.
- ii. Conservancy.
- iii. Forestry.
- iv. Agriculture.
- v. Public parks, areas devoted to natural resource management and interpretation, waysides, rest areas, information areas and scenic overlooks.
- vi. Filling and grading outside of slope preservation zones.

b. Permitted Structures. The following structures are allowed in both management zones if the standards in Wis. Adm. Code NR 118.06 are met:

- i.. Single-family residences and accessory structures.
- ii. Piers or wharves that have required State and Federal permits or that meet statutory criteria or administrative rule standards and do not require a State or Federal permit.
- iii. Signs.
- iv. Structural erosion control measures constructed outside of slope preservation zones. Rock rip-rap may be allowed within a slope preservation zone and in the ordinary high water mark setback area if the local zoning authority determines that rip-rap is necessary to prevent erosion in flood-prone areas, and either a State permit is granted for the rip-rap or statutory criteria or administrative rule standards are met and a State permit is not required for the rip-rap.

2. River Town Management Zone. In the river town management zone, other uses and structures that are allowed by the local unit of government's underlying zoning ordinance may be allowed as permitted uses and structures provided that the permitted uses and structures are listed in the local zoning ordinance with standards for those uses and structures that satisfy all of the following criteria:

- a. Protect the natural and scenic qualities of the Lower St. Croix riverway.
- b. Protect public health and safety.
- c. Prevent erosion and water pollution.

(b) Conditional Uses.

1. The following uses and structures are conditionally permitted uses in both management zones. Conditional use permits for these uses and structures shall comply with the applicable requirements in Wis. Adm. Code NR 118.06 and 118.07.

- a. Land divisions.
- b. Planned cluster developments for single-family residences.
- c. Transmission services.
- d. Wireless communication service facilities.
- e. Filling and grading within slope preservation zones.
- f. Structural erosion control measures constructed in slope preservation zones.
- g. Stairways.
- h. Lifts.
- i. Public roads and private roads serving 2 or more properties or single-family residences.
- j. Bed and breakfast operations.
- k. Home occupations.
- l. Nature-oriented educational, nonprofit facilities.

2. In both zones, other uses and structures that are listed as conditional uses or special exceptions in the local unit of government's underlying zoning ordinance may be allowed as conditional uses provided that they are listed in the local unit of government's riverway ordinance with standards for those conditional uses that satisfy all of the following criteria:

- a. Protect the natural and scenic qualities of the Lower St. Croix riverway.
- b. Protect public health and safety.
- c. Prevent erosion and water pollution.

(c) Prohibited Uses. All uses and structures not listed as permitted or conditional shall be prohibited.

(6) GENERAL PROVISIONS

(a) Dimensional and Other Standards.

1. Minimum Lot Size. The minimum lot size for parcels that are allowed to be used as building sites in both zones are those established in the local ordinance.

2. Minimum Lot Width. The minimum lot width shall apply at the building line and at the side of the lot nearest the river. The minimum lot width for each management zone shall be as follows:

- a. In the river town and small town management zones, the minimum lot width shall be established by local ordinance.
- b. In the small town historic management zone, the minimum lot width shall be 100 feet.

3. Maximum Structure Height. The maximum structure height shall be measured between the average ground elevation and the uppermost point of the structure excluding chimneys. The maximum structure height for each management zone shall be as follows:

a. In the river town management zone, the maximum structure height shall be 45 feet except for wireless communication service facilities which meet the requirements of Wis. Adm. Code NR 118.07(4)(c) and (d).

b. In the small town historic management zones, the maximum structure height shall be 35 feet except for wireless communication service facilities in the rural residential management zone which meet the height requirements of Wis. Adm. Code NR 118.07(4)(c), (d) and (e).

4. Ordinary High Water Mark Setback. The ordinary high water mark setback shall be measured on a horizontal plane from the point of the structure that is nearest the ordinary high water mark, including roof overhangs and any cantilevered portions of the structure. The ordinary high water mark setback for both management zones for all structures except piers, wharves, structural erosion control measures, stairway and lifts, shall be set back at least 100 feet from the ordinary high water mark.

5. Bluffline Setback. The bluffline setback shall be measured on a horizontal plane from the point of the structure that is nearest the bluffline, including roof overhangs and any cantilevered portions of the structure. In both management zones, all structures except piers, wharves, structural erosion control measures, stairways and lifts, shall be set back at least 40 feet from the bluffline.

(b) Structure Color Standards. The following structure color standards shall apply:

1. In both management zones, structures designated as historic buildings or located in designated historic districts shall be either earth-tone colored or colored appropriate to the period in history for which they were designated.

2. Except as provided in subpar. 1. above, in the river town management zone, structure color requirements shall be determined by local zoning ordinance.

3. Except as provided in subpar. 1. above, in the small town, small town historic, rural residential and conservation management zones, all new, expanded or reconstructed structures shall be earth-tone colored.

(c) Sign Standards. Signs are allowed in both management zones if one or more of the following criteria are met:

1. The sign is approved by State or local government and is necessary for public health or safety.
2. The sign indicates areas that are available or not available for public use.
3. The sign is not visible from the river and is otherwise lawful.

(d) Structural Erosion Control Measures. Except for rock rip-rap that is allowed in compliance with the requirements in Wis. Adm. Code NR 118.05(1)(a)2.d., structural erosion control measures may only be placed above the ordinary high water mark and within the ordinary high water mark setback area and bluffline setback area if all of the following criteria are met:

1. The structural erosion control measure is constructed outside of slope preservation zones, or a conditional use permit has been issued in compliance with the requirements of Wis. Adm. Code NR 118.07(6).
2. The City determines that structural erosion control measures are necessary to address significant on-going erosion that nonstructural erosion control measures cannot control.
3. The structural erosion control measure is constructed of natural materials and is made as visually inconspicuous as possible.
4. The person seeking to construct the structural erosion control measure submits a detailed construction plan, an erosion control plan and a vegetative management plan, showing how the structural erosion control measure will be constructed, what land disturbing activities will take place, what, if any, vegetation will be removed, and how new, native vegetation will be re-established. Construction may not proceed until the City has approved the plans.

(e) Slope Preservation Zone Standards. No structures, except piers, wharves, structures erosion control measures, stairways and lifts, may be placed in slope preservation zones. Slopes greater than 12% may not be altered to become less than 12%. Where, in the City of St Croix Falls, when existing structures exist within the secondary slope (N. Washington Street) and where such structure predates enactment of the Wild & Scenic Rivers Act of 1972, and where such structures may need to be replaced or substantially altered due to fire, or redevelopment, such variance to the restrictions of this code shall be taken into consideration.

(f) Vegetation Management.

1. Goals.

- a. The primary goal of these vegetative management provisions is to screen structures to make them visually inconspicuous and to prevent disturbance of environmentally sensitive areas such as steep slopes, shorelines and blufftop areas.
- b. A secondary goal is to maintain and restore historically and ecologically significant plant communities and enhance diversity.
- c. Successional climax forest and pre-settlement disturbed oak savanna shall be the preferred forest ecotype examples of significant plant communities.
- d. Vegetative screening of structures will take priority over restoration and maintenance of significant plant communities.

2. Standards.

- a. Vegetation Management Standards. In both management zones, all of the following vegetation management standards shall apply:
 - i. Vegetation in ordinary high water mark setback areas, slope preservation zones and 40 feet landward of blufflines shall be left undisturbed, except as provided elsewhere in this section or in Wis. Adm. Code NR 118.07(3), (4) or (9).
 - ii. Vegetation may not be disturbed or removed if it would disrupt the visually inconspicuous character of structures, reduce the quality or diversity of the plant community, or increase the potential for erosion, except as provided elsewhere in this subsection or in Wis. Adm. Code NR 118.07(3), (4) or (9).
 - iii. Routine pruning of trees or shrubs to improve their health and vigor, pruning to provide a filtered view of the river, pruning to prevent property damage, or removing trees that pose an imminent safety hazard to persons or structures is allowed.
 - iv. Lawns within the ordinary high water mark setback areas, slope preservation zones, bluffline setback areas and within conservation management zones may not be expanded. However, mowing of existing lawns may be continued.
 - v. These standards do not prohibit the growth and harvest of non-wood-fiber crops, the removal of vegetation in order to allow permitted uses or structures or conditional uses, the removal of State-designated noxious weeds, and the pruning or removal of vegetation to prevent insect

infestation or disease that threaten large areas of vegetative cover.

- b. In addition to the vegetation management standards found in subpar. a. above., the following vegetation management standards also apply: If there are fewer than 25 trees over 5 inches in diameter (DBH) on the lot between the building line and the river, the existing number of trees over 5 inches in diameter shall be maintained, and any trees that are removed as allowed in subpar. a. above shall be replaced by trees that are at least one inch in circumference at the base.
- d. Penalties. In addition to any other penalties assessed by local authorities, the penalty for removing vegetation in violation of a local zoning ordinance implementing these rules shall include replacement of vegetation with native vegetation at the property owner's expense.

(g) Private On-site Wastewater Treatment Systems. Private on-site wastewater treatment systems shall be constructed in accordance with the requirements of Wis. Adm. Code Comm 83.

(h) Historic Preservation. In both management zones, the City shall adopt and enforce historic preservation ordinances and historic theme architectural standards for new or reconstructed development that will protect the historic character of the City. The City will establish a historic preservation commission or landmarks commission to review proposals affected by the ordinance. The ordinance shall define historic properties in the community and provide for review of proposals to alter, relocate, demolish or reconstruct historic properties as well as providing for review of any new development that may impact historic properties or impact the community's historic character.

(i) Filling and Grading. Filling and grading may be permitted outside slope preservation zones if all of the following requirements are met:

- 1. Filling and grading activities are set back at least 40 feet from slope preservation zones.
- 2. Filling and grading activities do not disturb more than 10,000 square feet of land.
- 3. No wetlands are filled or drained.
- 4. Any vegetation that is removed is replaced with native vegetation.
- 5. Filling and grading activities are designed and implemented in a manner to minimize erosion, sedimentation, and impairment of fish and wildlife habitat.
- 6. As part of an erosion control plan, Wisconsin construction site best management practices are implemented.

(7) **CONDITIONAL USE STANDARDS.** The conditional uses and structures listed in Wis. Adm. Code NR 118.05(2) may be permitted if the requirements in Wis. Adm. Code NR 118.06 and the following standards are met:

- (a) **Land Divisions.** A conditional use permit may be granted to divide property into lots if all of the following conditions are met:
 1. All lots proposed to be built on shall meet the minimum lot size requirements in Wis. Adm. Code NR 118.06(1)(a) and (c), and shall be suitable for residential development in their existing condition without the need for a variance.
 2. All lots are suitable for their proposed use and will not be subject to the potential for flooding, inadequate drainage, severe erosion, inadequate water supply or inadequate sewage disposal capabilities.
 3. Use of the lots will not be limited by unfavorable soil and rock formations, unfavorable topography, or any other feature which is likely to result in harm to the health, safety or welfare of future residents of the lots or of the local community.
 4. The City shall consult with the State Historical Society concerning potential impacts to archeological sites. If the property is found to contain an archeological site, the local unit of government and the applicant shall develop and implement a plan to avoid or mitigate impacts to the archeological site with the assistance from the State Historical Society.

- (b) **Planned Cluster Developments.** A conditional use permit may be issued for a planned cluster development for single-family residences if all of the following criteria are met:
 1. The proposed clustering provides a better means of preserving scenic views, open space and shoreline than a traditional single-family residential subdivision.
 2. The proposed structures comply with the minimum ordinary high water mark and bluffline setbacks and height standards in Wis. Adm. Code NR 118.06(1).
 3. Exceptions to the standards in Wis. Adm. Code NR 118.06(1)(a) and (c) may be allowed for planned cluster developments, provided that the total number of single-family residences may not exceed 50% more than the total number of single-family residences allowed if the development complied with all standards in Wis. Adm. Code NR 118.06(1)(a) and (c).
 4. On any lots that abut the river, all of the standards in Wis. Adm. Code NR 118.06 (1) shall be met.
 5. If lands are divided, the land division meets the requirements of par. (a) above.

(c) Transmission Services. A conditional use permit may be issued for the construction, updating, maintenance or reconstruction of transmission services if all of the following conditions are met:

1. All new, updated or reconstructed transmission services shall be placed underground, if underground placement is determined to be technically feasible by the local unit of government. If an applicant seeks to establish that underground placement is technically infeasible, the application shall explain what factors make it infeasible.
2. If underground placement is determined to be technically infeasible, overhead or above ground transmission services may be permitted, but shall be designed to minimize the adverse visual impact on the scenic character of the riverway.
3. New, updated or reconstructed transmission services shall be constructed and maintained using minimally invasive techniques for construction and maintenance, including erosion control. Existing transmission facilities shall be maintained using minimally invasive techniques for maintenance, including erosion control.
4. Cutting or clearing of vegetation for transmission service maintenance may be conducted; however, an under-story layer of vegetation shall be maintained to prevent erosion and allow succession. Vegetation management shall protect the quality and diversity of the plant community and prevent erosion. Herbicide use shall be limited to direct topical application to cut stems to prevent re-growth. The pruning of normal tree growth for safety reasons or to prevent interference with the transmission service and removal of noxious weeds is allowed.

(d) Wireless Communication Service Facilities. A conditional use permit may be issued for the installation, reconstruction, modification and replacement of wireless communication service facilities if all of the following criteria are met:

1. Construction and maintenance shall be conducted using techniques which minimize the cutting or pruning of vegetation in order to preserve mature vegetation and provide screening of the facilities. Erosion control measures shall be used.
2. Wireless communication service facilities shall use building materials, colors, textures, screening and landscaping that blend the facilities in with surrounding natural features or nearby structures and shall be visually inconspicuous.
3. Wireless communication service facilities shall be of camouflage or stealth design, unless placed on existing structures.

4. The facilities shall be of a height designed to blend in with the historic character of the community.
5. New or reconstructed wireless communication service facilities may not be placed in slope preservation zones, flood-plains or wetlands.

(e) Filling and Grading Activities.

1. A conditional use permit may be issued for filling and grading activities in the following areas if the conditions in subpar. 2. below are satisfied:
 - a. In slope preservation zones that do not directly face the river and do not drain directly to the river.
 - b. Outside of slope preservation zones when more than 10,000 square feet of land is proposed to be disturbed by filling or grading activity.
 - c. Within 40 feet of a slope preservation zone.
2. A conditional use permit may be issued for filling and grading in the areas described in subpar. 1. above if all of the following conditions are met:
 - a. Filling and grading activities do not disturb more than 10,000 square feet of land within a slope preservation zone.
 - b. No wetlands are tilled or graded.
 - c. Any vegetation that is removed is replaced with native vegetation.
 - d. Filling and grading activities are designed and implemented in a manner to minimize erosion, sedimentation, and impairment of fish and wildlife habitat.
 - e. As part of an erosion control plan, Wisconsin construction site best management practices are implemented.

(f) Structural Erosion Control Measures In Slope Preservation Zones. A conditional use permit may be issued for the construction, updating, maintenance or reconstruction of structural erosion control measures in slope preservation zones if all of the following conditions are met:

1. The City determines that structural erosion control measures are necessary to address significant on-going erosion that nonstructural erosion control measures cannot control.
2. The structural erosion control measure is constructed of natural materials and is made as visually inconspicuous as possible.
3. The person seeking to construct the structural erosion control measure submits a detailed construction plan, an erosion control plan and a

vegetative management plan, showing how the structural erosion control measure will be constructed, what land disturbing activities will take place, what, if any, vegetation will be removed, and how new native, vegetation will be re-established. Construction may not proceed until the local zoning authority has approved the plans.

(g) Stairways. A conditional use permit may be issued for a stairway if all of the following conditions are met:

1. The stairway is required to provide pedestrian access to the river because of steep, rocky, unstable or wet site conditions.
2. The tread width of the stairway may not exceed 48 inches.
3. Landings are located at a vertical interval of not less than 20 feet and may not exceed 40 square feet in area.
4. Hand rails may be permitted in conjunction with stairways.
5. Canopies and roofs are not allowed on stairways.
6. Stairways, handrails and landings shall be anchored and supported above grade with pilings or footings.
7. Stairways shall be constructed of unfinished wood or stone, or shall be painted or stained with earth-tone materials.
8. Stairways shall be visually inconspicuous and shall be located in the most visually inconspicuous portion of the lot.
9. Native vegetation plantings shall be used to form a vegetative canopy to screen the stairway from the river.
10. Existing vegetation may be removed within one foot of either side of the stairway route and up to 8 feet above the stairway floor.
11. Only one stairway may be permitted on a lot that abuts the Lower St. Croix river.

(h) Lift Standards. A conditional use permit may be issued for a lift if all of the following requirements are met:

1. The lift is required to provide pedestrian access to the river because of steep, rocky, unstable or wet site conditions.
2. The car of the lift may not exceed 4 feet by 6 feet.
3. Canopies and roofs are not allowed.
4. All visible parts of the lift shall be painted or finished in earth-tone, non-reflective materials and shall be visually inconspicuous.

5. Lifts and their transporting device or power source shall be visually inconspicuous and shall be located in the most visually inconspicuous portion of the lot.
 6. Native vegetation plantings shall be used to form a vegetative canopy to screen the lift from the river.
 7. Existing vegetation may be removed within one foot on either side of the lift route and up to 8 feet above the lift floor.
 8. Only one lift may be permitted on a lot that abuts the Lower St. Croix river.
- (i) Public Roads and Private Roads Serving 2 or More Properties or Single-Family Residences. A conditional use permit may be issued for the construction, reconstruction or right-of-way maintenance for public roads and private roads serving 2 or more properties or single-family residences if all of the following conditions are met:
1. No new road may be constructed in slope preservation zones, in an area 40 feet landward of blufflines within 200 feet of the river, within 100 feet of tributary watercourses or in wetlands.
 2. Route design and construction or reconstruction shall minimize visual impacts by using terrain features to blend the road into the landscape, avoiding cuts and fills as much as feasible.
 3. New roads shall be visually inconspicuous. Reconstruction of existing roads shall be performed in a manner that does not increase visibility of the road from the river.
 4. Cutting or clearing vegetation for road right-of-way maintenance shall be conducted in accordance with the following requirements:
 - a. Vegetation shall be managed to allow an under-story layer to remain in place to prevent erosion and allow succession. Vegetation may not be disturbed in such a way that there would be reduced quality or diversity of the plant community or increased potential for erosion.
 - b. Herbicide use shall be limited to direct topical application to cut stems to prevent re-growth. The pruning of normal tree growth for safety reasons or to prevent interference with infrastructure and the removal of noxious weeds is permitted.
 - c. Mowing of a safety zone from the edge of the pavement back 15 feet or to the ditch bottom, whichever is less, and clearing intersection vision triangles is allowed. Other parts of the right-of-way may be mowed to control noxious weeds and undesirable brush only after July 15 of each year to avoid impacts to ground-nesting birds.

- d. Cutting of trees more than 4 inches in diameter breast height is prohibited, except that trees that pose a hazard to public health or safety may be removed.
- (j) Bed and Breakfast Operations. A conditional use permit may be issued for a bed and breakfast operation if all of the following requirements are met:
 1. The bed and breakfast operation provides 4 or fewer rooms for rent to transient visitors.
 2. The bed and breakfast operation has sufficient parking spaces on their lot or on public roads for the guests.
- (k) Home Occupations. A conditional use permit may be issued for the use of a home occupation if all of the following requirements are met:
 1. The owner or person who rents the residence on a full-time basis conducts the home occupation.
 2. The home occupation is conducted inside of the residence and is subordinate to the use of the home as a principal residence.
 3. The home occupation will not cause environmental pollution.
 4. If the home occupation causes additional persons to visit the residence, sufficient parking is provided on the lot or on public streets.
- (l) Nature-Oriented Educational, Nonprofit Facilities. A conditional use permit may be issued for a nature-oriented educational, nonprofit facility if all of the following requirements are met:
 1. The facility will not cause environmental pollution or erosion.
 2. The facility has sufficient parking on its property or on public streets for patrons to park.

(Wis. Adm. Code 118.07)

(8) NONCONFORMING USES AND STRUCTURES AND SUBSTANDARD LOTS.

(a) Nonconforming Uses. A nonconforming use may not be expanded or enlarged. An increase in the volume, intensity or frequency of use is allowed if the area used for the nonconforming use is not enlarged. A change from one nonconforming use to another nonconforming use is not allowed. If a nonconforming use is discontinued for a period of 12 months, any future use of the building and premises shall conform to all of the requirements of the City.

(b) Nonconforming Principal Structures. In both management zones, ordinary maintenance and repair of nonconforming principal structures is allowed. However, structural alteration, reconstruction and expansion of nonconforming principal structures and replacement,

improvement or structural alteration of the foundation may only be allowed if all of the following requirements are met, where applicable:

1. Reconstruction of Nonconforming Principal Structures. Nonconforming principal structures located within the ordinary high water mark setback area, bluffline setback area or slope preservation zone may be structurally altered or reconstructed and foundations may be replaced, improved or structurally altered if all of the following requirements are met:

- a. The lot has an area of at least 7,000 square feet.
- b. The altered or reconstructed structure shall be visually inconspicuous or shall be rendered so through mitigation in accordance with par. (e) below.
- c. The structure is altered or reconstructed in the same footprint as the pre-existing structure.
- d. The height of the altered or reconstructed structure complies with Wis. Adm. Code NR 118.06(1)(d). The reconstructed structure may not be any taller than the pre-existing nonconforming structure, except that a flat roof may be replaced with a pitched roof.
- e. The color of the structure complies with Wis. Adm. Code NR 118.06(2).
- f. The property owner submits a mitigation plan that complies with the requirements of par. (e) below. If a permit is issued for the reconstruction, the mitigation plan shall be approved, or modified and approved, by the local zoning authority. The mitigation plan shall be incorporated into the permit and the property owner shall be required to implement the mitigation plan as a permit condition.
- g. Private on-site wastewater treatment systems are brought into compliance with the requirements of Wis. Adm. Code Comm 83.
- h. The foundation of the structure may not be replaced, improved or structurally altered. Notwithstanding the definition of “reconstruction” in Wis. Adm. Code NR 118.03(36) and the preceding sentence, the foundation of the structure may be replaced, improved or structurally altered in conjunction with the reconstruction of the structure if the entire structure is more than 50 feet from the ordinary high water mark and is not located in a slope preservation zone.
- i. An erosion control plan and revegetation plan shall be submitted to the local zoning authority for approval, or modification and approval, prior to the issuance of a permit for the structural alteration or reconstruction.

- j. There will be no filling and grading activities conducted during the alteration or reconstruction, except for the minimum necessary to accomplish the alteration or reconstruction in compliance with other provisions of this chapter, and as needed to upgrade a private on-site wastewater treatment system, to replace sewer or water laterals, or to install storm water or erosion control measures.
- k. If the nonconforming principal residence is located in a slope preservation zone, it may be reconstructed only if Wisconsin construction site best management practices applicable to steeper sloped areas are implemented to control erosion.

2. Expansion of Nonconforming Principal Structures. Nonconforming principal structures located in the ordinary high water mark setback area or bluffline setback area may be expanded and the pre-existing foundation may be replaced, repaired or structurally altered in conjunction with the expansion if all of the applicable following requirements are met:

- a. Structures located wholly or partially within 50 feet of the ordinary high water mark may not be expanded.
- b. Structures located wholly or partially within slope preservation zones may not be expanded.
- c. Structures entirely set back more than 50 feet from the ordinary high water mark but located wholly or partially less than 75 feet from the ordinary high water mark may be expanded only if there is no compliant building location available on the lot.
- d. Structures entirely set back more than 75 feet from the ordinary high water mark may be expanded regardless of whether a compliant building location exists elsewhere on the lot.
- e. The lot has an area of at least 7,000 square feet.
- f. The expanded structure shall be visually inconspicuous or shall be rendered so through mitigation.
- g. Any reconstructed portion of the nonconforming structure may only be reconstructed in the same footprint as the pre-existing structure. Notwithstanding the definition of “reconstruction” in Wis. Adm. Code NR 118.03(36), the pre-existing foundation of a structure that is more than 50 feet from the ordinary high water mark and is not within a slope preservation zone may be replaced, repaired or structurally altered in conjunction with the expansion of the structure.
- h. For structures located wholly or partially within the ordinary high water mark setback area, the total footprint of the structure may not exceed 1500 square feet.

- i. For structures located wholly or partially within the bluffline setback, but not within the ordinary high water mark setback area, the total footprint of the structure may not exceed 2,000 square feet and the structure shall comply with all of the requirements in Wis. Adm. Code NR 118.06(1)(f)4.
- j. Expansion is on the side of the structure farthest from the river or, if landward expansion is not possible, the expansion is parallel to the ordinary high water mark or bluffline.
- k. The height of the structure complies with Wis. Adm. Code NR 118.06(1)(d).
- l. The color of the structure complies with Wis. Adm. Code NR 118.06(2).
- m. The property owner submits a mitigation plan that complies with the requirements of par. (e) above. If a permit is issued after a mitigation plan is approved, or modified and approved, by the local zoning authority, the mitigation plan shall be incorporated into the permit and the property owner shall be required to implement the mitigation plan as a permit condition.
- n. Private on-site wastewater treatment systems are brought into compliance with the requirements of Wis. Adm. Code Comm 83.
- o. An erosion control plan and revegetation plan shall be submitted to the local zoning authority for approval, or modification and approval, prior to the issuance of a permit for the expansion.
- p. There shall be no filling or grading conducted as part of the reconstruction or expansion except as necessary to reconstruct or build the expansion in compliance with other provisions of this chapter, upgrade a private on-site wastewater treatment system, replace sewer or water laterals, or install storm water or erosion control measures.

(c) Nonconforming Accessory Structures. In both management zones, ordinary maintenance and repair of nonconforming accessory structures is allowed. Nonconforming accessory structures may not be structurally altered, reconstructed or expanded, except that garages and storage sheds may be structurally altered, reconstructed or expanded if all of the following requirements are met where applicable:

- 1. The entire garage or storage shed is not located in a slope preservation zone.
- 2. The entire garage or storage shed is set back more than 75 feet from the ordinary high water mark.
- 3. The garage or storage shed is not used for human habitation.

4. The total footprint of all nonconforming accessory structures, other than existing driveways, within 75 feet of the ordinary high water mark, within a slope preservation zone or within the bluffline setback area may not exceed 500 square feet.
5. The garage or storage shed is built with earth-tone building materials that are non-reflective, except that windows may be made of ordinary window glass or non-reflective glass, but may not be made of glass designed to reflect more light than ordinary window glass.
6. Mitigation measures are implemented and maintained that comply with the requirements of par. (e) below.
7. The structure is visually inconspicuous or will be rendered so through a mitigation plan that complies with par. (e) below.

(d) Substandard Lots. Lots of record in the register of deeds office on January 1, 1976, or on the date of the adoption of an amendment to a riverway ordinance that makes a lot substandard, which do not meet the requirements of this chapter, may be allowed as building sites provided that the following criteria are met:

1. a. The lot is in separate ownership from abutting lands, or
 - b. The lot by itself or in combination with an adjacent lot or lots under common ownership in an existing subdivision has at least one acre of net project area. Adjacent substandard lots in common ownership may only be sold or developed as separate lots if each of the lots has at least one acre of net project area.
2. All structures that are proposed to be constructed or placed on the lot and the proposed use of the lot comply with the requirements of the City's St Croix River District ordinance and any underlying zoning or sanitary code requirements.

(e) Mitigation Requirements. Expansion or reconstruction of nonconforming principal structures, and the expansion, reconstruction or structural alteration of nonconforming accessory structures shall trigger mitigation requirements to offset the impacts of the proposed project. Mitigation measures shall be roughly proportional to the magnitude of the impacts of the proposed project on scenic resources, water quality, erosion potential and the protection of the shoreland area. Mitigation shall include, but may not be limited to, the following:

1. Planting trees capable of screening the entire structure, if existing vegetation is not sufficient to render the structure visually inconspicuous. The trees shall be native to the area, at least 2 inches diameter breast height and planted no more than 12 feet apart.
2. The vegetation in the area within 50 feet of the ordinary high water mark shall be preserved or restored through planting of native vegetation. Vegetation shall be established or maintained at densities that are adequate to protect water quality, habitat and natural scenic beauty of the shoreland area. If a nonconforming structure is located in this area, the vegetation shall be planted surrounding the structure, although the owner may create a screened view of the river from the structure and may leave a 15 foot wide mowed area around the structure to protect it from wildfire.

3. Best management practices shall be followed to encourage storm water infiltration and to limit erosion and runoff.

4. An affidavit describing the approved mitigation plan shall be executed and recorded with the county register of deeds by the property owner within 14 days after approval of the mitigation plan. The affidavit shall alert subsequent purchasers of the land of the requirements of the mitigation plan.

(9) ADMINISTRATIVE PROVISIONS.

(a) Adoption and Review of Ordinances. 1. Upon adoption of this ordinance, or ordinance amendment containing these provisions the City shall submit 2 copies of the ordinance or amendment to the Department. The Department shall review the ordinance or amendment and determine whether it satisfies the requirements of this chapter. The Department shall notify the local unit of government of its determination.

(b) Conditional Use, Variance Procedures, and Zoning Map and Text Amendments

1. Public Hearing Required. A public hearing shall be held before any conditional use permit, any variance, or any zoning map or text amendment is approved or denied by the City. In addition to any other notice requirements, notice of all public hearings and a copy of all application materials submitted under subpar. 2. below shall be provided to the Department and the City, at least 30 days before the public hearing.

2. Conditional Use and Variance Application Requirements.

a. Conditional use and variance applications shall supply pertinent information adequate for the appropriate local zoning authority to make a decision based on the type of project to be undertaken. The applicant shall submit to the appropriate local zoning authority sufficient copies of the following information for all applications:

- i. A scale drawing or survey showing the property location, boundaries, dimensions, elevations, blufflines, slope preservation zones, utility and roadway corridors, ordinary high water mark, ordinary high water mark setback, floodway and flood fringe boundaries, and adjoining land and water-oriented uses.
- ii. A recent aerial photo with property lines drawn in, showing the location of existing and proposed structures, including height and setback dimensions.
- iii. The location of existing and proposed alterations of vegetation and topography, including any vegetation removal and replacement that is proposed.
- iv. A mitigation plan, if required.
- v. Photos of the site taken from the river slightly upstream and down stream of the property, and directly offshore.

- vi. An erosion control plan.
 - vii. A vegetative management plan, showing where vegetation is proposed to be removed and replaced.
 - viii. Other information that the City or the department requests. If the City or the department requests additional information, it shall be submitted by the applicant to City and the department prior to any hearing on the application.
- b. Applications for land divisions, planned cluster developments, bed and breakfast operations, home occupations, nature oriented educational, nonprofit facilities and variances shall also include:
- i. The location of any proposed private on-site wastewater treatment system.
 - ii. Water supply information, including the location of any proposed wells.
- c. Applications for filling and grading, structural erosion control structures, and road construction shall also include a plan showing the proposed construction, reconstruction, location and design of the filling grading, structural erosion control measure or road construction.
- d. Applications for transmission services and wireless communication service facilities shall also include:
- i. For transmission services, a plan showing the location of proposed facilities, and if not placed underground, a documentation of why this is technically infeasible, and a plan outlining design and construction methods to minimize adverse visual impacts to the riverway.
 - ii. For wireless communication service facilities, a plan showing the location of proposed facilities and an illustration of the methods to be used to meet design requirements for the appropriate, stealth, camouflage, and height requirements.
- e. Applications for stairways and lifts shall also include a plan showing the stairway or lift location, design, dimensions, color, construction materials, erosion control measures and vegetative removal and replacement. The plan shall contain a certification by a registered professional engineer or architect that the stairway or lift components are securely anchored to prevent them from shifting and from causing erosion. The plan shall be approved, or modified and approved by the local unit of government and incorporated into the conditional use permit.
3. Map and Text Amendment Procedures.

- a. A public hearing shall be held before any zoning map or text amendment is approved or denied by the City. In addition to any other notice requirements, notice of all public hearings and a copy of all application materials submitted shall be provided to the Department and the City at least 30 days prior to the public hearing. Applications for map and text amendments shall include:
 - i. A scale drawing or survey showing the property location, boundaries, dimensions, elevations, blufflines, slope preservation zones, utility and roadway corridors, ordinary high water mark, floodway, flood fringe, and adjoining land and water-oriented uses.
 - ii. Photos of the site taken from the river slightly upstream and down stream of the property, and directly offshore.
 - iii. Other information that the City or the Department requests. If the City or the department requests additional information, it shall be submitted by the applicant to the City and the Department prior to any hearing on the application.
- b. The procedures and application requirements in this paragraph do not apply to proposals to change the management zone boundaries established in Wis. Adm. Code NR 118.04. The management zone boundaries in Wis. Adm. Code NR 118.04 may only be changed by revision of Wis. Adm. Code NR 118.04.

4. Public Hearing and Decision Record. The public hearing record shall contain the comments of the Department, if any were submitted, and the comments of any other interested parties. The Council's record of decision shall address the following: preservation of the scenic and recreational resources of the riverway, especially in regard to the view from and use of the river; the maintenance of safe and healthful conditions; the prevention of and control of water pollution, including sedimentation; the location of the site with respect to floodways, floodplains, slope preservation zones and blufflines; the erosion potential of the site based on degree and direction of slope, soil type and vegetative cover; potential impact on terrestrial and aquatic habitat; location of the site with respect to existing or future access roads; adequacy of proposed wastewater treatment; and compatibility with adjacent land uses. Any plan submitted with an application shall be approved, or modified and approved, and included as part of the permit application. The City shall send a copy of each decision, including a summary of the hearing to the department, within 5 working days after the date of the hearing.

(c) Reasonable Accommodations For Disabled Persons. This ordinance shall contain a description of the procedure that is to be followed to process applications from persons who claim to be disabled and who are requesting that they be allowed to take action because of their disability that would otherwise be prohibited under the zoning ordinance. In order to allow a disabled person who is entitled to reasonable accommodations under the Americans with Disabilities Act, the Federal Fair Housing Act or the Wisconsin Open Housing Law to take action that would otherwise violate the requirements of a Lower St. Croix river district zoning ordinance, the local zoning authority shall issue an administrative permit to the disabled person.

The Council may not issue variances to disabled persons unless the statutory variance criteria in §62.23(7)(e)7., Wis. Stats., are satisfied.

(d) Permit Procedures.

1. Permit Procedures For All Permitted and Conditioned Uses.

In order to facilitate the orderly and efficient administration and enforcement of Lower St. Croix riverway ordinances, the City shall establish permit procedures for the processing of permit applications for all permitted uses that involve the construction, reconstruction, expansion or structural alteration of a building or other structure or other land development. The City shall list in their riverway ordinances specific conditional uses and the standards that are to be satisfied before a conditional use permit may be granted in accordance with Wis. Adm. Code NR 118.05(2)(b), and shall establish procedures in their riverway ordinances for the processing of applications for conditional use permits. In addition to the decisions required to be submitted to the Department under par. (b)4. above, the City shall submit to the Department copies of permits that have been issued under a Lower St. Croix riverway ordinance if requested to do so by the Department

2. Permit Procedures For Variances. The City may grant variances from

the requirements of their local zoning ordinance, pursuant to §62.23(7)(e)7., Wis. Stats., that will not be contrary to the public interest and where, due to special conditions, a literal enforcement of the provisions of the ordinance will result in unnecessary hardship, so that the spirit of the ordinance shall be observed and substantial justice done. Economic considerations alone may not constitute a hardship if a reasonable use for the property exists under the conditions allowed by the local zoning ordinance. Conditions may be imposed in the granting of variances so ensure compliance and to protect adjacent properties and the public interest, especially in regard to the view from the river.

(e) Review of Appeals. 1. All applications for conditional use permits, zoning

map or text amendments and variances shall be reviewed by the Department and the Department's comments shall be submitted to the City for inclusion in the hearing record.

2. Where additional information is introduced at the hearing by the

applicant or where the applicant may wish to review the Department's or town's opposition, the hearing record may be held open for review of the information. If, at the end of 30 days after the date of the hearing, the City has not scheduled a second hearing on the application at the request of the applicant, the Department or the town, the hearing record shall be closed. A conditional use permit may not be granted if the town board objects to the issuance.

3. The Department shall assist local zoning authorities in implementing

and enforcing ordinances adopted pursuant to this chapter.

(f) Penalties. In order to facilitate the orderly and efficient administration and

enforcement of Lower St. Croix riverway ordinances, the City shall establish penalties for violations of the requirements of the ordinance, including appropriate forfeitures. Each day that a violation continues is considered a separate offense. Compliance with the ordinance shall be enforceable by the use of injunctions to prevent or abate a violation.

17.18 CONDITIONAL USES. (1) PERMITS. The Council may authorize the Zoning Administrator to issue a conditional use permit for conditional uses after review and a public hearing, provided that such conditional uses and related structures are in accordance with the

purpose and intent of this chapter and are found to be not hazardous, harmful, offensive or otherwise adverse to the environment or the value of the neighborhood or the community.

(2) **APPLICATION.** Applications for conditional use permits shall be made in duplicate to the Zoning Administrator on forms furnished by the Administrator and shall include the following:

- (a) Names and addresses of the applicant, owner of the site, architect, professional engineer, contractor and all opposite and abutting property owners of record.
- (b) Description of the subject site by lot, block and recorded subdivision, or by metes and bounds; address of the subject site; type of structure; proposed operation or use of the structure or site; number of employees, if any; and the zoning district within which the subject site lies.
- (c) Site plan showing the location of any buildings and all proposed provisions for off-street parking and loading.
- (d) Additional information, as may be required by the Plan Commission, the Director of Public Works and the Zoning Administrator.
- (e) A fee of \$200 for all associated public notices shall accompany such application.

(3) **NOTICE.** Notice of such application and the subsequent hearing thereon before the Plan commission shall be published as a Class I notice.

(4) **APPEARANCES AT HEARINGS.** Either the applicant or his agent or attorney shall attend the public hearing of the Plan Commission at which such application is to be considered unless such attendance has been excused by the Plan Commission.

(5) **REVIEW AND APPROVAL.** The Plan Commission shall review the site, existing and proposed structures, architectural plans, neighboring uses, parking areas, driveway locations, highway access, traffic generation and circulation, drainage, sewerage and water systems and the proposed operation. The Commission shall hold a hearing and thereafter shall recommend approval, denial or condition of approval to the Council. The Council shall accept, reject or modify the Commission's recommendations.

(6) **ISSUANCE OF PERMIT.** If such permit is issued, the Council may attach conditions thereto such as, but not limited to, landscaping, architectural design, type of construction, construction commencement and completion dates, hours of operation, traffic circulation or parking requirements, highway access restrictions, or increased yards.

(7) **USES ADJACENT TO CONTROLLED ACCESS HIGHWAYS.** Any development within 500 feet of the existing or proposed right of way of any freeway, expressway or other controlled access trafficway, and within 1,500 feet of their existing or proposed interchange or turning lane right of way, shall be deemed to be a conditional use which shall require the issuance of a permit.

17.181 ALTERNATIVE ENERGY SYSTEMS REGULATED. (1) **PURPOSE.** The purpose of this section is as follows:

- (a) To encourage wind energy systems and other alternative energy uses within the City in accordance with §66.0401, Wis. Stats.
- (b) To encourage wind energy systems and other alternative energy uses within the City within the pertinent regulatory provisions of the Federal National Wild And Scenic Rivers Act and the Federal Lower Saint Croix River Act, and regulations of the Federal Aviation Authority and in accordance with provisions of The Community Character Ordinance which incorporates Wis. Adm. Code NR 118 throughout affected areas of the City.
- (c) To encourage wind energy systems and other alternative energy uses within the City in a manner that preserves and protects the public health and safety.

(2) PERMIT. (a) Required. No Alternative Energy System shall be constructed, installed, reconstructed, substantially repaired, improved, extended, enlarged, relocated, or converted without a conditional use permit (or building permit) as required under this section. A “wind energy system” (WES) means equipment that converts and then stores or transfers energy from the wind into usable forms of energy. A “wind turbine” is that mechanical device that captures the kinetic energy of wind and converts it into energy.

(b) Application/Site Plan. An application for a conditional use permit under this section shall be made to the Zoning Administrator. The application shall consist of a letter addressed to the Administrator requesting a permit under this section, scaled drawings, and other descriptive information sufficient to enable the Administrator to determine whether or not provisions of this section will be satisfied. Additionally, the application shall include the name, address and telephone number of owners of property on which an impermissible interference is alleged to exist. The burden of establishing the existence of an impermissible interference is on the applicant. If the applicant feels that no impermissible interference shall take place The applicant shall sign a waiver of such. The waiver shall state that no impermissible interference is alleged. The signing of the waiver shall be absolute, meaning an applicant cannot later attempt to seek remedy for any impermissible interference which may occur. Waiver of the impermissible interference shall exempt the applicant from impermissible notices and remedies section(s) of this section. The application shall include a site plan to include, at minimum, the following:

1. Physical dimension of the property, existing structures and proposed structures.
2. Location of existing and proposed structures.
3. Location of electrical lines and facilities.
4. Existing topography.
5. Proposed elevation of structure and height elevation fully assembled and operating.
6. An energy evaluation review as described in par. (d) below.
7. Proposed setbacks and site lay-out.

8. Impermissible Interference. Evidence that the applicant has negotiated with adjacent property owners and has obtained written agreements with all landowners that could potentially interfere with the applicants access to the sun, wind, or other source of alternative energy, or a signed waiver of such;
9. Alternative Energy Specifications. Specific information on the type of collector to be used, position on the property, expected gain in energy production, impact on the environment and neighbors, for instance in the case of wind generators the type size, height, rotor material, rated power output, performance, safety, and noise characteristics of the proposed wind turbine, tower and foundation;
10. Minimal Visual Intrusion. Applicants who propose to place an alternative energy system on lands where it is determined that such systems will present a visual intrusion upon the National Scenic Saint Croix Riverway shall identify measures proposed to be undertaken in accord with sub. (11) below to minimize such visual intrusion and shall identify potential alternative locations on their property which may be less visually intrusive.
11. “Visual Intrusion” is defined as that structure or structures which exceed the height limitations of Wis. Adm. Code NR 118 and which, when fully assembled and in-place, shall be located at such a height as to be above the existing tree-line or vegetative cover and which, when fully assembled, shall be visible from the viewshed of the National Scenic Saint Croix Riverway and its slope protection zones. “Viewshed” is the total visibility zone which may be viewed from the Saint Croix Riverway within the incorporated areas of the City.

(c) “Impermissible interference” means the obstruction of access to alternative energy such as the sun or wind or geothermal for which a permit has been granted under this section if such blockage is by any structure or vegetation on property, an owner of which was duly notified under the provisions of this section. Such impermissible interference does not include:

1. Blockage by a narrow protrusion, including, but not limited to, a pole or wire, which does not substantially block wind from a WES.
2. Blockage by any structure constructed, under construction or for which a building permit has been applied for before the date the last notice is mailed under par. (e) below.
3. Blockage by any vegetation planted before the date the last notice is mailed or delivered under par. (e) below.

(d) Energy Evaluation Review. The applicant for an alternative energy permit shall submit an Energy Evaluation Review showing that the benefits to the applicant and the public will exceed any burdens, in accordance with §66.0403, Wis. Stats. The Energy Evaluation Review shall include a manufacturers statement or engineer’s study that evaluates the energy that is to be produced by the alternative energy system at the proposed location, the estimated cost of

the system, and the expected pay-back period on the investment. A “Power Production Report” shall be supplied that indicates the minimum amount of energy projected to be produced. This report would include the expected pay-back period of the system. For a WES the Energy Evaluation Review would take into account average wind speeds at the proposed location, in accord with the Wisconsin Department of Administration, Wisconsin Energy Division Standards, in determining the amount of energy that is to be produced. Data shall represent average annual wind speeds in miles per hour and calculating the amount of megawatt hours of electricity to be produced at this location annually.

(e) Notice to Adjacent Property Owners. The Zoning Administrator shall determine if an application is sufficient and shall notify the applicant of the determination. If an applicant receives notice that an application has been deemed sufficient, the applicant shall deliver, by certified mail or by hand, a notice to the owner of any property which the applicant proposes to be restricted by the permit. The applicant shall, within 15 days of delivery of the last notice, submit to the Administrator a copy of a signed receipt for every notice delivered under this paragraph. If the applicant feels that no adjacent owner of property will be restricted by the permit, the applicant shall submit a signed statement to that effect, waiving any future claims of such. The waiver shall exempt the applicant from following these provisions. The information on the notice form shall include, without limitation by enumeration:

1. The name and address of the applicant and the address of the land upon which the alternative energy system will be located.
2. That an application has been filed by the applicant.
3. That the conditional use permit, if granted, may affect the rights of the notified owner to develop his or her property and to plant vegetation.
4. The telephone number, address and office hours of the Zoning Administrator.

(f) Fee. An application for a conditional use permit under this section shall not be accepted unless accompanied by a non-refundable fee of \$350 to cover costs of processing the application, including hearing notices, mailings, or energy evaluation studies and verification.

(g) Hearing. Within 60 days after last notice under sub. (5) below is delivered, or 45 days after receipt of an application with a signed waiver alleging no impermissible interference, the Plan Commission shall conduct a hearing on the application. At least 30 days prior to the hearing date, the City shall notify the applicant and all owners noticed of an impermissible interference of the time and place of the hearing. The hearing shall comply with all notice provisions for conditional uses.

(3) **PERMIT GRANT.** (a) The Plan Commission shall recommend to the Council the granting of a conditional use permit if the Commission determines that:

1. The requirements of this section are met.
2. The granting of a conditional use permit shall not unreasonably interfere with the orderly land use and development plans of the City, specifically as such plans are described in the this Code, the City Comprehensive Plan, City Zoning and the City Community Character

Ordinance, and in accord with the standards and intent of Wis. Adm. Code NR 118 and the Wild and Scenic Rivers Act as applied and expanded by the City.

3. No person has demonstrated that she or he has present plans to build a structure that would create an impermissible interference by showing that she or he has applied for a building permit prior to receipt of a notice under sub. (2) (e) above, has expended at least \$500 on planning or design of such a structure or by submitting any other credible evidence that she or he has made substantial progress toward planning or constructing a structure that would create an impermissible interference.
4. The benefits to the applicant and the public will exceed any burdens. This determination shall be based on the Energy Evaluation Review and a determination as to the burdens to the City or general population the installation of such system may impose as contrasted with the benefits to the applicant and the public.
5. More appropriate alternative locations could not be found or determined where such alternative locations do not significantly increase the cost of the system or significantly decrease its efficiency.
6. An alternative system of comparable cost or efficiency which would best meet the City's land use and development plans could not be identified.
7. The proposed structure is not detrimental to the public health and safety of the community.
8. The proposed use complies with all aspects of this Code.

(b) The Council may grant a conditional use permit subject to any condition or exemption the Plan Commission deems necessary to minimize the possibility that the future development of nearby property will create an impermissible interference or to minimize any other burden on any person affected by granting the permit. Such conditions or exemptions may include, but are not limited to restrictions on location of alternative energy systems and requirements for the compensation of persons affected by the granting of the conditional use permit.

(c) A conditional use permit holder for alternative energy systems shall not exercise any of the privileges and rights granted under said permit until and unless the financial assurances (i.e., performance bond, completion bond or other absolute guaranty) described in sub. (16) below are in full force and effect and until and unless the Plan Commission recommendation has been approved and endorsed by the Council.

(d) The Council shall consider the Plan Commission recommendation at its next regularly scheduled meeting. The Council may grant the recommendation or refer the matter back to the Commission for clarification.

(4) **RECORDING OF PERMIT.** If the Plan Commission recommends approval of a conditional use permit and approval is granted by the Council:

(a) The Plan Commission, in its recommendation, shall specify the property restricted by the conditional use permit under the impermissible interference provisions and shall prepare notice of the granting of the permit. The notice shall include the identification required under §706.05(2), Wis. Stats., for the owner of the property upon which the alternative energy system is or will be located, and for any owner and property restricted by the conditional use permit, and shall indicate that the property may not be developed and vegetation may not be planted on the property so as to create an impermissible interference with the alternative energy system which is the subject of the permit unless the permit affecting the property is terminated or unless an agreement affecting the property is filed.

(b) The applicant shall record with the register of deeds of Polk County the notice under par. (a) above for each property specified under par. (a) above and for the property upon which the WES is or will be located.

(5) REMEDIES FOR IMPERMISSIBLE INTERFERENCE. (a) Any person who uses property which he or she owns or permits any other person to use the property in a way which creates an impermissible interference under a conditional access permit which has been granted or which is the subject of an application shall be liable to the permit holder or applicant for damages, except as provided under par. (b) below, for any loss due to the impermissible interference, court costs and reasonable attorney fees unless:

1. The building permit was applied for prior to receipt of a notice to restrict such interference or the Plan Commission determines not to grant a permit after a hearing under sub. (2) (e) above.
2. A permit affecting the property is terminated under sub. (6) below.
3. An agreement affecting the property has been filed.

(b) A permit holder is entitled to an injunction to require the trimming of any vegetation which creates or would create an impermissible interference. If the court finds on behalf of the permit holder, the permit holder shall be entitled to a permanent injunction, damages, court costs and reasonable attorney fees.

(c) The onus to proceed and the burden of proving the existence of an impermissible interference rests with the permit holder.

(6) TERMINATION OF UTILIZATION OF AN ALTERNATIVE ENERGY SYSTEM. (a) Any right protected by a permit under this section shall terminate if the Plan Commission and/or Council determines that the alternative energy system which is subject of the permit is:

1. Permanently removed or is not used for 2 consecutive years, excluding time spent on repairs or improvements.
2. Not installed and functioning within 2 years after the date of issuance of the permit.
3. Fails to produce annually the minimum amount of energy projected as part of the Energy Evaluation Review as submitted at the time the permit is granted.

(b) The Plan Commission shall give the permit holder written notice and an opportunity for a hearing on a proposed termination under par. (a) above.

(c) If the Plan Commission terminates a permit, the Commission may charge the permit holder for the cost of recording and record a notice of termination with the register of deeds of Polk County.

(7) WAIVER. A permit holder by written agreement may waive all or a part of any right protected by a permit. A copy of such agreement shall be recorded with the register of deeds of Polk County.

(8) PRESERVATION OF RIGHTS. The transfer of title to any property shall not change the rights and duties under this section.

(9) CONSTRUCTION. This section shall be construed to mean that the public safety is not preserved or protected unless an owner obtains a conditional use permit prior to installing, operating or maintaining an alternative energy system. The owner is also responsible for obtaining any county or other jurisdictional permits that may apply.

(10) ALTERNATIVE ENERGY SYSTEMS IN VIEWSHED. Alternative Energy Systems within The Viewshed of the Saint Croix National Scenic Riverway, where such proposed systems is determined, by a City authorized Viewshed analysis, to be visually intrusive and stand in contrast to the intent of the Wild and Scenic Riverway and Wis. Adm. Code NR 118 as applied by the City, and thus impede the established orderly land-use and development plan of the community, as especially identified in the City Comprehensive Plan and Community Character Ordinance, shall be restricted where one of the following criteria is established:

(a) The Plan Commission determines that an alternative location exists, either on or off the applicant's property, which is less visually intrusive and which, by locating the system at this alternative location, does not significantly increase the cost of the system or significantly decrease its efficiency; or

(b) An alternative energy system less visually intrusive can be placed at the same or alternate location provided such system, based in part on the Energy Evaluation Review, is of comparable cost and efficiency. This alternative energy system shall be one that does not adversely impact upon the view-shed of the Saint Croix National Scenic Riverway, or

(c) The City provides an alternative location for the placement of the alternative energy system in an area designated for such uses, provided the alternative location provides energy at sufficient cost and efficiency. Under this provision, the City shall work with the applicant and the local energy company to arrange for an energy exchange credit to the applicant. The intent of designated alternative energy system areas is to consolidate alternative energy systems within or away from the viewshed to minimize negative visual impacts. The City shall provide an easement to the applicant, provided the applicant pays costs associated with other provisions of this section to ensure the public health and safety. Certain provisions can be waived by the Plan Commission in order to consolidate such uses in a designated and controlled area.

(d) The City determines that placement of the structure impedes the orderly development plan of the City by violating provisions established to protect the intent of the Wild and Scenic Riverway as applied by the City and that violating such intent does place a burden upon the community and its orderly land-use and development plans in a manner that exceeds any benefit to the applicant that the granting of a permit would provide.

(11) **MINIMAL VISUAL INTRUSION.** Applicants within the viewshed of the Scenic Saint Croix Riverway, as applied by the City in accordance with Wis. Adm. Code NR 118, shall be required, as part of the permit, to submit a plan identifying any cooperative efforts to minimize the visual intrusion of the alternative energy system. The Plan Commission may allow for alternative energy systems within the viewshed of the National Scenic Saint Croix Riverway if the applicant works to undertake certain agreeable measures to ensure minimal visual intrusion. Such measures may include helical or other blade assembly's that minimize the blade intrusion of WES on the skyline, locating the system at a less intrusive location where appropriate, or a combination of like or similar measures. The Plan Commission may require, as part of the permit for those applicants within the viewshed of the Scenic Saint Croix Riverway, to adopt minimal visual intrusion measures, or to place such structures at available alternative and less visually intrusive locations, unless the applicant can demonstrate that such measures significantly increase the cost of the system or significantly decreases its efficiency. The intent of this section is to encourage cooperative efforts to minimize visual intrusion within the viewshed of the Saint Croix Riverway.

(12) **DESIGNATED ALTERNATIVE ENERGY SYSTEMS AREA ESTABLISHED.** In order to encourage forms of renewable energy, the City shall establish a designated alternative energy systems area, namely an approximate 1.5 acre parcel designated as Lot Ten in the City Industrial Park, located on Polk Parkway. Conflicting provisions of this section shall be waived to accommodate and encourage alternative energy uses at this location. The City shall also review other lots and city owned land to determine the appropriateness of WES systems. This site is available only to the extent that systems can be designed or constructed in a manner that has a minimal visual impact upon the viewshed of the Saint Croix Riverway. The intent of this provision is to allow for alternative energy systems for those homeowners unable to build such systems on their property due to an inability to meet set-back or other standards of this section.

(13) **REQUIREMENTS/REGULATION.** These requirements are in place to protect the public health and safety from alternative energy systems, assure protection against ice flown from WES blades during certain weather conditions, protection of adjacent property owners from noise or other reverberations that may be associated with the operation of the WES, protection against interference in the orderly land-use and development plans of the City, to ensure Federal regulatory standards associated with the Wild and Scenic Rivers Act are adhered to and incorporated, and to minimize the impact of impermissible restrictions, now or in the future, and to ensure the orderly development plans of the City are administered in accord with Zoning and Comprehensive land use plans and studies.

- (a) **Setbacks.** Wind Energy Systems shall meet the following spacing and other requirements:
1. Distance from existing on- or off-site residences, businesses and public buildings, i.e., the height of the tower plus the length of the blade, or 150 feet, whichever is greater.
 2. Distance from centerline of public roads, i.e., the height of the tower plus the length of the blade measured from the ground surface when in a full vertical position, or 150 feet, whichever is greater.
 3. Distance from any property lines, i.e., the height of the tower plus the length of the blade measured from the ground surface when in a fully vertical position, or 150 feet, whichever is greater.

- (b) Noise. All alternative energy systems shall comply with sec. 9.06 of this Code regulating loud and unnecessary noise.
- (c) Compliance With Federal Aviation Authority. It shall be the responsibility of the applicant to complete the proper FAA applications and obtain the proper permits for the WES project. It shall also be the responsibility of the applicant to obtain a determination of no significant impact to air navigation from the FAA. Such FAA determination must be submitted to the Zoning Administrator prior to issuance of a conditional use permit.
- (d) Color. Applicants who propose alternative energy systems in areas on the bluff slope of the Saint Croix Scenic Riverway, where alternative locations or systems cannot be established , and where it is determined by a City Viewshed Analysis that such a system would impact the view shed of the scenic river corridor, shall be required to take measures to paint the equipment a light blue, light gray or light green to minimize adverse visual impacts, unless the applicant can demonstrate that such a requirement would significantly increase the cost of the system or significantly decrease its efficiency.
- (e) Electrical Wires. All electrical transmission wires associated with WES shall adhere to sub. 20.051(9) of this Code.
- (f) Color and Finish. The exterior surface of alternative energy systems shall be uniform in color; the finish of the exterior surface shall be non-reflective and non-gloss.
- (g) Height. The minimum height of blade tips, measured from the ground surface when a blade is in fully vertical position, shall be 25 feet. The City Community Character Ordinance, other land-use zoning provisions and directives of Wis. Adm. Code NR 118 limit structure height to 40 feet. In accordance with §66.0401, Wis. Stats., the City shall allow for WES to violate this height restriction where such violation does not unreasonably interfere with the orderly development plans of the City as defined in the comprehensive plan, Community Character Ordinance or other established plans of the City.
- (h) Lighting. All exterior lighting, except where required for aircraft safety, and for security, shall be prohibited.
- (i) Buildings and Outdoor Storage. All service and maintenance buildings associated with an alternative energy system shall be located under or adjacent to the equipment being serviced. Likewise, all outdoor storage shall be so located.
- (j) Signs. No alternative energy system shall be used to advertise or promote the sale of any product. No words or graphic representations on any wind turbine shall be visible from any public road.

(14) ALTERNATIVE ENERGY LOCATIONS. In order to encourage alternative energy systems, the City shall enact the following provisions to allow for and encourage such

energy uses where the applicant cannot meet the health and safety, setback or other requirements of this section:

(a) The provisions of sub. (12) above establishing designated areas for alternative energy systems shall be made available to all city residents, provided sufficient land for such purposes is available and provided such can be designed in a manner that does not have an adverse visual impact on the view-shed of the Saint Croix Riverway, and on a first come basis.

(b) The City shall make available the roofs of all City owned buildings and other appropriate City structures for the placement of solar panels or other appropriate alternative energy uses, with the benefit of such going to the applicant, provided the applicant pays for a structural determination, an easement regulating its construction is secured, and an agreement on the use and maintenance of space can be negotiated. Any costs associated with the placement and maintenance of such structures shall be borne by the applicant.

(15) RESTORATION REQUIREMENTS. Any alternative energy system which does not produce energy for 2 years, excluding time spent on repairs or improvements, or fails to maintain minimum power output, shall be considered as having ceased operation. Within 6 months of the permit holder being notified that a system is considered to have ceased operation, system shall be removed from the property and the property cleaned up as herein required:

(a) All above ground improvements shall be removed from the property.

(b) All items in outdoor storage shall be removed from the property.

(c) All building foundations, tower pads, and buried electrical improvements shall be removed to a depth of 4 feet below the ground surface. All excavated areas shall be filled in and made level with the ground surface surrounding the excavated area with unconsolidated soil material, at least the top 4 inches of which shall be topsoil.

(d) Any hazardous material, either in containers or spilled upon or in the ground, shall be removed and disposed of in a manner prescribed by applicable State and Federal law.

(16) FINANCIAL ASSURANCE. As a condition precedent to granting of a conditional use permit and to ensure full performance of the requirements of this section, the applicant shall provide a performance bond, completion bond, or other absolute guaranty of performance. Any such bond shall carry a penalty of not less than \$3,000 per alternative energy system and shall be conditioned on the faithful performance of the requirements of the conditional use permit. Applicant shall submit to the Zoning Administrator evidence that such performance bond, completion bond, or other absolute guaranty is in full force and effect.

(17) PERFORMANCE REVIEW. The Plan Commission may require of alternative energy system within the viewshed of the Scenic Saint Croix Riverway to submit, within 30 days after each second anniversary of the granting of a conditional use permit, written certification of compliance with provisions of the permit to include a power production report in kilowatt hours and proof of continuance of the financial assurance provisions.

(18) ENFORCEMENT. It shall be unlawful to construct, install, reconstruct, substantially repair, improve, extend, enlarge, relocate, or convert any WES in violation of the provi-

sions of this section. It shall also be unlawful to fail to obtain wind access permits as required by this section or to fail to comply with any condition of the wind access permit as may be imposed by the Board of Zoning Appeals or the Council.

(19) PROSECUTION. The City may enforce this section by any lawful enforcement method it deems to be appropriate and necessary.

(20) PENALTIES. Any person, firm, association, corporation, or representative agent who fails to comply with the provisions of this section shall, upon conviction therefore, forfeit not less than \$500 nor more than \$10,000 for each day of continued violation. The City shall also be entitled to other relief including a temporary or permanent injunction, costs and reasonable attorney fees.

17.19 EROSION CONTROL. (1) AUTHORITY; PURPOSE. This section is adopted pursuant to §62.234, Wis. Stats., for the purpose of minimizing the amount of sediment and other pollutants carried by runoff from sites of construction or other land disturbing activities as enumerated in sub. (3) below.

(2) EROSION CONTROL PERMIT. (a) Required. No landowner, land user or contractor shall, within the City, commence any activity enumerated in sub. (3) below before obtaining an erosion control permit from the Building Inspector.

(b) Application; Fee. Application for a permit shall be made on an application form provided by the Building Inspector and shall be accompanied by an erosion control plan in accordance with sub. (4) below and a fee of \$25.

(c) Grant or Denial of Permit. Within 10 working days after receipt of the application, the Building Inspector shall grant or deny the permit. If the permit is denied, the Inspector shall enumerate the required additions or modifications to the erosion control plan. Upon satisfactory revision of the plan, the permit shall be issued.

(d) Exceptions. A permit shall not be required for the following:

1. Agriculture Land Use. The use of land for planting, growing, cultivating and harvesting of crops and the pasturing or yarding of livestock.
2. State Projects. Any State funded or conducted activity which requires an erosion control plan similar to the requirements of this section.

(3) SUBJECT LAND DISTURBING ACTIVITIES. The land disturbing activities requiring a permit under sub. (2) above are as follows:

- (a) Those involving grading, removal of protective ground cover or vegetation, excavation, land filling or other land disturbing activity affecting a surface area of 4,000 square feet or more.
- (b) Those involving excavation or filling, or a combination thereof, affecting 400 cubic yards or more of dirt, sand or other excavation or fill material.
- (c) Those involving street, highway, road or bridge construction or reconstruction.

- (d) Those involving the laying or repair of underground pipe for a distance of 300 feet or more.
- (e) Site dewatering which may create sediment control problems.

(4) **EROSION CONTROL PLAN.** (a) General. Erosion control plan criteria, standards and specifications have been established by the Building Inspector and are on file in his office. In drafting the plan, the applicant shall take into account and indicate on the plan all factors which may affect erosion control on and adjacent to the site and provide a site drawing drawn to scale, designating the location of the most suitable erosion control devices, so as to prevent sediment runoff to the greatest degree practicable. The plan shall also include a timetable of land disturbing activities, the area involved in each such activity, and the temporary and permanent procedures to be taken to minimize sediment runoff.

(b) Erosion Control Devices. Erosion control devices shall include sedimentation basins, filter fences, straw bales and mulch, tarps, temporary and permanent seeding, sodding and channeling surface water around disturbed areas.

(5) **OTHER REQUIREMENTS.** (a) Waste and Material Disposal. All waste and unused building materials, including garbage, debris, cleaning wastes, wastewater, toxic materials, or hazardous materials, shall be properly disposed of and not allowed to be carried by runoff into a receiving channel or storm sewer system.

(b) Tracking. Each site shall have graveled roads, access drives and parking areas of sufficient width and length to prevent sediment from being tracked onto public or private roadways. Any sediment reaching a public or private road shall be removed by street cleaning (not flushing) before the end of each work day.

(c) Drain Inlet Protection. All storm drain inlets shall be protected with a straw bale, filter fabric or equivalent barrier.

(6) **INSPECTION.** The Building Inspector shall inspect the site as often as he deems necessary for the enforcement of this section.

(7) **ENFORCEMENT.** (a) Stop-Work Order. The Building Inspector may post a stop-work order if:

1. Any land disturbing activity requiring a permit under this section is undertaken without a permit; or
2. The control plan, or any revised control plan, is not being implemented in a good faith manner; or
3. The conditions of the permit are not being met.

(b) Revision. If, because of excessive rainfall or other abnormal conditions, the erosion control plan in place is inadequate to prevent sediment runoff, the Building Inspector shall order the permittee to install additional erosion control devices and provide a time table for such installation.

(c) Permit Revocation. If, within 10 days of the issuance of a stop work order, any permittee does not cease the activity or comply with the control plan, the Building Inspector may revoke the permit.

(d) Cease and Desist Order. In the event any person without a permit fails to obey a stop work order or obtain a permit within 10 days, the Building Inspector may request the City Attorney to obtain a cease and desist order.

(e) Special Charge. Ten days after posting a stop work order, the Building Inspector may issue a notice of intent to the permittee or landowner or land user of his intent to perform work necessary to comply with this section. The Building Inspector may go on the land and commence the work after 14 days from issuing the notice of intent. The costs of the work performed by the Building Inspector shall be billed to the permittee or the landowner. In the event the permittee or landowner fails to pay the amount due, the City Clerk shall enter the amount due on the tax rolls and collect as a special charge against the property, pursuant to §66.0627, Wis. Stats.

(8) **APPEALS**. Any person aggrieved by the grant or denial of a permit or any order issued by the Building Inspector may appeal to the Board of Zoning Appeals, pursuant to sec. 17.25 of this chapter.

(9) **PENALTY**. Any person violating any provision of this section shall be subject to a forfeiture of not less than \$50 nor more than \$100 and the cost of prosecution for each violation. Each day a violation exists shall constitute a separate violation.

17.20 TRAFFIC, PARKING AND ACCESS. (1) **LOADING REQUIREMENTS**. In all business and industrial districts adequate loading areas shall be provided so that all vehicles loading, maneuvering or unloading are completely off the public ways and so that all vehicles need not back onto any public way.

(2) **PARKING REQUIREMENTS**. In all districts and in connection with every use, except in the B-1 General Commercial District, there shall be provided at the time any use or building is erected, enlarged, extended or increased off-street parking stalls for all vehicles in accordance with the following:

- (a) Access. Adequate access to a public street shall be provided for each parking space, and driveways shall be at least 10 feet wide for one- and 2-family dwellings and a minimum of 24 feet for all other uses. (See also sec. 8.11 of this Code)
- (b) Size. The size of each parking space shall be not less than 9 feet by 18 feet, exclusive of the space required for ingress and egress.
- (c) Location. The location is to be on the same lot as the principal use or not over 400 feet from the principal use. No parking stall or driveway, except in residential districts, shall be closer than 25 feet to a residential district lot line or a street line opposite a residential district.
- (d) Surfacing. All off-street parking areas shall be graded and surfaced with no less than class 5 gravel and shall be properly drained.

(e) Curbs or Barriers. Curbs or barriers shall be installed so as to prevent the parked vehicles from extending over any lot line.

(f) Number of Parking Stalls Required.

1. Single- and 2 family dwellings and mobile homes	2 stall/dwelling unit
2. Multi-family dwellings	1-1/2 stalls/dwelling unit
3. Hotels and motels	1 stall/guest room plus 1 stall/3 employes
4. Hospital, clubs, lodges, sororities, dormitories, lodging and boarding houses	1 stall/2 beds plus 1 stall/3 employes
5. Sanitarium, institutions, rest and nursing homes	1 stall/5 beds plus 1 stall/2 employes
6. Medical and dental clinics	3 stall/doctor
7. Churches, theaters, auditoriums, community centers, vocational and night schools and other places of public assembly	1 stall/5 seats
8. Colleges, secondary and elementary schools	1 stall/2 employes plus 1 stall/student autos permitted
9. Restaurants, bars, places of entertainment, repair shops, retail and service stores	1 stall/150 sq. ft. floor area
10. Manufacturing and processing plants, laboratories and warehouses	1 stall/3 employes per shift
11. Financial institutions and businesses, governmental and professional offices	1 stall/200 sq. ft. floor area plus 1 stall/2 employes
12. Funeral homes	1 stall/4 seats plus 1 stall/vehicle used in the business
13. Bowling alleys	5 stalls/alley
14. Riding stables	1 stall/employe plus additional spaces for public, as determined by Plan Commission
15. Developments over 10,000 sq. ft.	As determined by Plan Commission

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

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

Parking stalls are not required to be provided in the B-1 District, but when they are provided, they shall conform to requirements of size, access, surfacing and barriers, but not number of stalls or location as specified above.

(3) DRIVEWAYS. All driveways installed, altered, changed, replaced or extended after the effective date of this chapter shall meet the following requirements:

(a) Openings for vehicular ingress and egress shall not exceed 24 feet at the street line and 30 feet at the roadway. This requirement shall not apply in the following zoning districts:

1. B-1 General Commercial District.
2. B-2 Highway Commercial District.
3. B-3 Convenience Commercial District
4. M-1 Industrial District.

(b) Vehicular entrances and exits to drive-in banks and restaurants; motels; funeral homes; vehicular sales, service, washing and repair stations; garages; or public parking lots shall be not less than 100 feet from any pedestrian entrance or exit to a school, church, hospital, park, playground, library or public emergency shelter.

(4) HIGHWAY ACCESS. No direct private access shall be permitted to the existing or proposed rights of way of any controlled access arterial street without permission of the highway agency that has access control jurisdiction.

17.201 PLACEMENT, CONSTRUCTION AND MODIFICATION OF WIRELESS TELECOMMUNICATION FACILITIES. Wireless telecommunication towers and antennas may be installed, erected and maintained pursuant to the provisions of this section.

(1) PURPOSE AND INTENT. (a) To ensure the provisions of personal wireless service within the corporate boundaries of and for the benefit of the residents of the City.

- (b) To protect the public health, safety and general welfare of the community, public and private property, and community aesthetics.
- (c) To minimize the visual impact of towers, antennas and associated buildings through design and siting standards.
- (d) To maximize the use of alternative tower structures to accommodate antennas in order to reduce the number of towers needed to serve the community.
- (e) To avoid damage to adjacent properties from tower failure through structural standards and setback requirements.

(2) **DEFINITIONS.** For the purpose of this section and this chapter, the terms defined in this section shall have the following meanings:

(a) Accessory Equipment Structure. A building or cabinet-like structure located adjacent to or in immediate vicinity of a wireless telecommunications tower or antenna to house equipment customarily incidental to the receiving or transmitting of wireless broadcasts, cellular telephone calls, voice messaging and paging services.

(a) Alternative Tower Structures. Structures other than towers to which antennas may be attached such as building walls or roofs, grain silos, utility poles, clock towers, steeples, water tanks, light poles or artificial trees.

(b) Antenna. Equipment used for transmitting or receiving radio frequency signals which is attached to a tower, building or other structure, usually consisting of a series of directional panels, microwave or satellite dishes, or omni-directional “whip” antennae.

(c) Antenna Support Structure. Any building, pole, telescoping mast, tower, tripod or any other structure which supports an antenna.

(d) Base Transceiver Station. Equipment that provides the link between wireless communications and land-based public telephone switching networks, including radio frequency transceivers, backup power amplifiers and signal processing hardware, typically contained in a small building or cabinet.

(e) Co-Location. The location of wireless telecommunications equipment from more than one provider on a common tower, building or structure.

(f) Commercial Receiving and/or Transmitting Antennae. Any antennae erected to transfer information for commercial use.

(g) Mast. The portion of the outside antenna system to which the antenna is attached and the support or extension required to elevate the antenna to a height deemed necessary for adequate operation.

(h) Personal Wireless Services. Licensed commercial wireless communication services, including cellular, personal communication services (PCS), enhanced specialized mobilized radio (EMR), paging and similar services.

(i) Public Property. Land, buildings or other structures owned or operated by the City.

(j) Tower. Any pole, spire or structure, or combination thereof, to which antenna could be attached or which is designed for an antenna to be attached and all supporting lines, cables, wires and braces.

(k) Uniform Building Code (UBC). Published by the International Conference of Building Officials and referenced by the State to provide jurisdictions with building-related standards and regulations.

(3) **EXISTING TOWERS OR ANTENNAS.** Antennas, towers and accessory structures for which a building permit or special use permit has been properly issued prior to the

effective date of this section are, after the effective date hereof, declared to be nonconforming uses subject to the provisions of sec. 17.05 of this chapter.

(4) INTERPRETATION AND APPLICABILITY. (a) This section shall be interpreted consistent with the provisions of the Federal Communications Act of 1934 as amended by the Telecommunications Act of 1996.

- (b) This section shall apply to all persons and other entities seeking to locate, site, place, modify or construct wireless telecommunications facilities within the corporate boundaries of the City.
- (c) This section reserves to the City all authority contained in State law and existing City ordinances regarding land use, zoning and regulation which has not been preempted by the Federal government pursuant to Sec. 704 of the Telecommunications Act of 1996 as to the placement, construction and modification of personal wireless service facilities.
- (d) This section does not apply to the use or location of private, residential citizen band radio towers, amateur radio towers or television antennas, or public safety communication facilities owned or operated by the City.

(5) CONDITIONAL USE AND HEIGHT LIMITATIONS. (a) Wireless telecommunication antennas shall be allowed as a permitted use in all zoning districts if located or attached as follows:

1. Water Towers. Wireless telecommunication antennas shall be permitted upon City-owned water towers provided the applicant has incorporated applicable performance standards in sub. (7) below, a lease agreement with the City has been approved by the Council, a building permit has been obtained and all applicable fees have been paid.

2. Co-Location on Existing Towers. Wireless telecommunication antennas shall be permitted to be attached to existing conforming church steeples; bell towers; smoke stacks; municipal, utility, hospital and school buildings; and radio towers in accordance with applicable siting guidelines and performance standards in subs. (6) and (7) below after the applicant has provided to the City a written statement of approval from the tower or structure owner or lessor, has obtained a building permit from the City, and has paid all applicable fees. The antenna shall not serve to extend the height of the existing, conforming steeple, tower, smoke stack or radio tower by more than 15 feet.

3. Utility Poles. Wireless telecommunication antennae shall be permitted to be attached to utility poles after the applicant has provided a written statement of approval from the utility owner or lessor, has obtained a building permit from the City and has paid the necessary fees. The height of the antennae shall not extend more than 15 feet above the pole. Existing lattice utility pole structures may also be utilized provided the approval from the owner and a building permit is obtained.

(b) Wireless telecommunication towers and antennas shall be permitted as a conditional use under the permit procedure set forth in sec. 17.18 of this chapter in all zoning districts, and in accordance with the co—location requirements stated in sub. (6) below, performance standards in sub. (7) below and specific procedural requirements in sub. (9) below. Conditional use permits are not required for towers or antennas used, owned or operated by the City for public safety communications purposes.

(c) Height Limitations. The following height limitations sets forth the applicable limitations of this section by zoning district and shall include all parts of the wireless telecommunication tower and antenna structure measured from the base.

1. R-1 and R-2 Districts. Permitted only on water towers, as co-located under sub. (5)(a) above, or on utility facilities, not exceeding 15 feet above the height of the water tower, steeple, smoke stack or radio tower, and not exceeding 15 feet above a roof or utility pole.

2. B-1, B-2, B-3, RD and M-1 Districts. Permitted only upon the grant of a conditional use permit. Height shall not exceed 15 feet above the roof of an existing conforming building or structure or, for new construction, 90 feet. All heights for these districts are above ground level.

(6) CO-LOCATION REQUIREMENTS. No proposal for the construction of a new wireless telecommunication tower shall be approved unless the applicant documents to the satisfaction of the Council that the antenna planned for the proposed tower cannot reasonably be accommodated on a City-owned water tower on an existing conforming co-location tower or structure, or on a utility pole within the applicant's search ring, transcending the municipal borders, and for the purpose of providing service to the residents and businesses of the City due to one or more of the following:

- (a) The antenna would exceed the structural capacity of the existing or approved tower or building.
- (b) The antenna would cause interference with other existing or planned equipment at the tower or building.
- (c) Existing or approved towers and buildings cannot reasonably accommodate the antenna at a height necessary for the proposed antenna to provide services to the residents and businesses of the City.
- (d) Existing or approved towers and commercial buildings are outside of the documented search area.
- (e) The owners or lessors of the existing or approved towers and buildings are unwilling to permit co-location upon their facilities.

(7) PERFORMANCE STANDARDS. The requirements of this section apply to all wireless telecommunications towers and antennas erected, constructed, placed, modified or replaced in the City. All wireless telecommunication towers and antennas shall be designed and situated to be visually unobtrusive, to minimize the impact upon neighboring uses, and shall conform to the following design and siting criteria:

(a) Setbacks. The minimum setback from any property line, public right of way, building or structure, except for accessory buildings or equipment structures, for a wireless telecommunication tower shall be equal to 100% of the height of the tower. Setbacks for accessory building and equipment structures associated with wireless telecommunication towers and antennae shall comply with the zoning district in which the facility is located.

(b) Accessory Equipment Structures. All accessory equipment structures adjacent to an antenna system and/or tower shall be screened or architecturally designed to blend in with the surrounding environment and shall meet the minimum setback requirements of the applicable zoning district.

(c) Fencing. When deemed applicable by the City, appropriate safety fencing shall be incorporated within the site accommodating the tower and its accessory equipment structures.

(d) Landscaping and Screening. When deemed applicable by the City, proper landscaping and screening shall be incorporated into the site accommodating a tower and its accessory equipment structures.

(e) Color. All towers and their antennas and relative accessory structures shall utilize building materials, colors, textures, screening and landscaping that effectively blend the tower facilities within the surrounding natural setting and built environment to the greatest extent possible except as dictated by the Federal Aviation Administration (FAA).

(f) Construction Type and Materials. Towers with antennas shall be designed to withstand applicable wind load requirements as prescribed in the Uniform Building Code. Towers and/or antenna systems shall be constructed of, or treated with, corrosive resistant material. A regular maintenance schedule shall be followed.

(g) Roof-Mounted Wireless Communication Antennas. Roof-mounted wireless telecommunication antennas shall not be permitted on buildings with pitched roofs unless they are stealth antennae incorporated into upward thrusting architectural elements such as a church steeple, spire or bell tower, smoke stack or radio tower. On flat roofs, the height of the antenna and mounting hardware may not be more than 15 feet above the highest point of the roof to which the antenna is attached.

(h) Structurally-Mounted Wireless Communication Antennas. Telecommunication antennas mounted on the sides of buildings shall be attached flush with the side of the building and shall not protrude more than 3 feet from the side of the building. Structurally mounted antennas not affixed to towers shall be made to blend into the design and contours of the structure.

(i) Lights. No antenna or tower shall have affixed or attached to it in any way any lights, reflectors, flashers, day time strobes or steady nighttime light or other illuminating devices except as may be required by the FAA.

(j) Signs and Advertising. No signs and/or advertising message shall be affixed to the antenna or tower structure.

(k) Other Attachments. No antenna or tower shall have constructed thereon or attached thereto any platform, cat walk crow's nest or like structure for the purpose of human support, except during periods of construction and repair.

(8) **OBSOLETE OR UNUSED TOWERS**. All obsolete, damaged, unused or abandoned towers and accompanying accessory facilities shall be removed within 12 months of the cessation of operations unless a time extension is approved by the Council. If the tower is not removed, it may be deemed a nuisance pursuant to the Wisconsin Statutes. In the event a tower is determined to be a nuisance, the City may act to abate such nuisance and require the removal of

the tower at the property owner's expense. The owner shall provide the City with a copy of the notice of the Federal Communication Commission's intent to cease operations and shall be given 12 months from the date of ceasing operations to remove the obsolete tower and all accessory structures. In the case of multiple operators sharing the use of a single tower, this provision shall not become effective until all users cease operations for a period of 12 consecutive months. The equipment on the ground is not to be removed until the tower structure has first been dismantled. After the facilities are removed, the site shall be restored to its original or to an improved state.

(9) PROCEDURAL REQUIREMENTS. Applicants proposing to erect wireless telecommunication towers or antennas shall follow procedures as set forth in sec. 17.18 of this chapter. Additional application materials shall include the following:

(a) A document from the property owner or lessor that permits the applicant to apply for a conditional use permit and building permit to erect a wireless telecommunications tower and/or antenna.

(b) A "scaled" site plan which shows property lines, location of wireless telecommunication tower or antenna, setback distances, any accessory equipment structure, fencing and landscaping proposed.

(c) An artist's or architect's sketch concept or rendition of the site as built which demonstrates to the satisfaction of the Council that the proposed site will be as aesthetically in keeping with its surroundings as possible, including elevations, landscaping, screening, appropriate camouflage and fencing.

(d) Sufficient information to show that construction, installation and maintenance of the wireless telecommunication tower and/or antenna will not create a safety hazard or damage to the property of other persons.

(10) BUILDING PERMITS. No person shall place, construct or modify a wireless telecommunication tower or antenna without first having obtained a building permit. All towers and antennas are subject to plan review and inspection by the City to determine compliance with Uniform Building Code construction standards. No building permit shall be issued by the City without prior approval of a conditional use permit by the Council. The applicant shall provide to the City all information as required by this and other applicable ordinances of the City at the time of application for a building permit. In addition to any other requirements of this or any other section of this Code, the building permit application shall include the following:

(a) A report and plan from a qualified and registered engineer or firm that specifies the following:

1. The tower height and design, including cross-section and elevation.
2. The height above grade for all potential mounting positions for co-located antennae and the minimum separation distances between antennae.
3. Structural mounting designs and materials list.
4. The capacity of the tower, including the number and type of antennae that the tower can accommodate.

5. As applicable, an engineer's stamp and number.

- (b) Structural and electrical plans showing how the proposed tower will accommodate the co-location of the applicant's antenna and comparable antennas of additional users and the plans and specifications whereby the proposed tower is designed to allow for future rearrangement of antennas to accommodate additional users and the mounting of additional antennas at varying heights.
- (c) Plans and specifications showing how the proposed facility will be maintained in keeping with uniform building codes adopted by the City.

(11) **INSPECTION.** The City may, at any time, inspect any telecommunications tower, antenna or other facility to ensure their structural integrity. If, upon such inspection, the City's duly designated inspector determines that the facility fails to comply with such applicable codes and that such failure constitutes a danger to persons or property, then upon notice being provided to the owner of the facility, the owner shall have 30 days to bring the facility into compliance with the applicable codes and standards. Failure to bring the facility into compliance within the said 30 days shall constitute cause for the removal of the facility at the owner's expense.

(12) **NONINTERFERENCE.** All new or existing telecommunications services shall comply with all relevant Federal Communication Commission and Federal Aviation Administration standards and shall not interfere with public safety and other City and private telecommunications operations.

(13) **INSURANCE.** The applicant shall provide the City with proof of liability insurance which protects against losses due to personal injury or property damage resulting from the construction, operation or collapse of the tower, antennae or accessory equipment.

(14) **ENFORCEMENT.** The provisions of this section shall be enforced and penalties imposed for violations hereof as set forth herein and in secs. 17.27 and 17.28 of this chapter.

17.21 PERFORMANCE STANDARDS, COMPLIANCE. This chapter permits specific uses in specific districts and these performance standards are designed to limit, restrict and prohibit the effects of those uses outside their premises or district. No structure, land or water shall hereafter be used except in compliance with the district regulations and with the following performance standards.

(1) **AIR POLLUTION.** No activity shall emit any fly ash, dust, fumes, vapors, mists or gases in such quantities as to cause soiling or danger to the health of persons, animals, vegetation or property. No activity shall emit any liquid or solid particles in concentrations exceeding 0.3 grains per cubic foot of the conveying gas, nor any color visible smoke equal to or darker than No. 2 on the Ringlemann Chart described in the United States Bureau of Mine's Information Circular 7718 in the industrial districts.

(2) **FIRE AND EXPLOSIVE HAZARDS.** All activities involving the manufacturing, utilization, processing or storage of inflammable and explosive materials shall be provided with adequate safety devices against the hazard of fire and explosion, and with adequate firefighting and fire-suppression equipment and devices that are standard in the industry. All materials that range from active to intense burning shall be manufactured, utilized, processed and stored only in completely enclosed buildings which have incombustible exterior walls and an automatic fire extinguishing system.

(3) **GLARE AND HEAT.** No unsanctioned activity shall emit glare or heat that is visible or measurable outside its premises, except activities in the industrial districts which may emit direct or sky-reflected glare which shall not be visible outside its district. All operations producing intense glare or heat shall be conducted within a completely enclosed building. Exposed sources of light shall be shielded so as not to be visible outside its premises.

(4) **EXCESSIVE NOISE.** No sound which exceeds 70 decibels more than 200 feet from its source, regardless of source or means of sound creation or propagation, between the hours of 11:00 P.M. and 7:00 A.M. shall be permitted unless differently regulated elsewhere in this Code. Any such noise shall be a violation of this chapter and chs. 9 and 10 of this Code. Enforcement and penalty shall be as provided in this chapter, ch. 10 of this Code which prohibits public nuisances and ch. 9 of this Code. Sirens, whistles and bells which are maintained and utilized solely to serve a public purpose are exempt from the sound level standards of this section.

(5) **NOISE AND VIBRATION.** There shall be no noise or vibration over 70 decibels emanating from any unsanctioned activities beyond the boundaries of the immediate site determined to be a nuisance by the Building Inspector. Sirens, whistles and bells which are maintained and utilized solely to serve a public purpose are exempt from the sound level standards of this section.

(6) **ODORS.** No activity shall emit any odorous matter of such nature or quantity as to be offensive, obnoxious or unhealthful outside their premises.

(7) **RADIOACTIVITY AND ELECTRICAL DISTURBANCES.** No activity shall emit radioactivity or electrical disturbances outside its premises that are dangerous or adversely affect the use of neighboring premises.

(8) **STORM WATER RUNOFF** No activity shall discharge at any point onto any land or into any water or public sewer any storm water runoff.

17.22 SIGNS AND BILLBOARDS. (1) **STATEMENT OF PURPOSE.** (a) To preserve and promote the public health, safety and welfare of the citizens of Saint Croix Falls.

- (b) To afford the business community equal and fair opportunity to promote its products and services without discrimination;
- (c) To maintain and enhance the visual environment, and to preserve the right of the citizens to enjoy Saint Croix Falls scenic beauty;
- (d) To improve pedestrian and traffic safety;
- (e) To minimize the possible adverse effect of signs on nearby public and private property;
- (f) To enable fair and consistent enforcement of these sign restrictions.

(2) **DEFINITIONS.** (a) Abandoned Sign. A sign which no longer identifies a bona fide business, lessor, service, owner, product, or activity, time of event passed, and/or for which no legal owner can be found. The definition shall also include any sign structure which no longer supports the sign for which it was designated.

- (b) Awning. A non-illuminated sign painted on or attached to a fabric or vinyl cover on a rigid frame. Only business names and/or logos may be attached to, painted, stenciled, or otherwise placed on these devices.
- (c) Directional Sign. A sign erected and maintained by local officials within the public right-of-way, to indicate to the traveling public the route and distance to public accommodations, facilities, commercial services and points of scenic, historical, cultural, recreational, educational or religious interest. Such signs shall conform to all applicable State regulations regarding the placement of signs in public rights-of-way.
- (d) Flag. Any fabric, banner, or bunting containing distinctive colors, patterns, or symbols, used as a symbol of government, political subdivision, or other entity.
- (e) Free-Standing Sign. A sign self supported by a pole or post and not attached to any building, wall, or fence, but in a fixed location. Types of free-standing signs include post and arm, monument and pole signs.
- (f) Marquee. A sign painted on, attached to, or consisting of interchangeable letters on the face of a permanent overhanging shelter which projects from the face of a building. Letters or symbols shall not exceed 6 inches in height. A minimum clearance of 10 feet above the sidewalk level shall be required for pedestrians.
- (g) Monument Sign. An outside sign identifying a development, businesses, services, or homes (such as a shopping area or housing development) made of brick, masonry or stone, the bottom of which is attached directly and permanently to the ground and physically separated from any other structure.
- (h) Nonconforming Sign. A sign which lawfully occupied a building or land at the effective date of this section, May 24, 2004, or any amendment thereto, that does not conform to the regulations of the district in which it is located.
- (i) Off-Premises Sign or Billboard. A sign which identifies goods or services that are not sold on the same premises as said sign.
- (j) On-Premises Sign. A sign identifying or advertising a business, person, activity, or service located on the premises where the sign is located.
- (k) Pole Sign. A free-standing sign with the base of the actual sign area at least 5 feet above the ground supported by vertical pole.
- (l) Political Sign. Any sign that advertises a candidate or an issue which is to be voted on in a local, State or Federal election process.
- (m) Portable Sign. A sign not designed or intended to be permanently affixed into the ground or to a structure.
- (n) Post and Arm Sign. A free-standing sign comprised of a vertical post to which a perpendicular arm is attached and from which a sign hangs.

- (o) Premises. The contiguous land in the same ownership or control which is not divided by a street.
- (p) Projecting Sign. A sign attached to a building wall or structure that projects horizontally more than twelve (12) inches from the face of the wall.
- (q) Public Way. Any corridor designed for vehicular or pedestrian use that is maintained with public funds.
- (r) Real Estate Sign. A temporary sign advertising the real estate upon which the sign is located as being for rent, lease or sale.
- (s) Safety Control Sign. Warning, control, OSHA, or required public safety sign.
- (t) Sign. A sign is an object, device, display, or structure, or part thereof, displayed outdoors or visible from a public way, which is used to advertise, identify, display, direct or attract attention to an object, person, institution, organization, business, product, service, event, or location; or to express a point of view, by any means including words, letters, figures, design, symbols, advertising flags, fixtures, colors, illuminations or projected images. Each substantially different face of a sign shall constitute a separate sign.
- (u) Sign Area. The facing of a sign, including copy, insignia, background, structural supports, and border and trim. The measurement shall be determined by the smallest rectangle inclusive of all letters and images. The structural supports shall be excluded if they do not constitute a major part of the sign or if the structure is not used to identify or attract attention to the business or product.
- (v) Seasonal Sign. A sole sign for a business, such as a farm or produce stand sign, displayed at least 60 days but no more than 120 each year. Such a sign shall be governed by the same regulations as all other permitted, non-temporary signs.
- (w) Temporary Sign. A promotional sale sign, fund-raising sign, garage sale sign, political sign, or similar sign displayed no more than 14 days in any 6 month period.
- (x) Traffic Control Sign. A sign to regulate traffic that has been erected by municipal officers having jurisdiction over the public way.
- (y) Traffic Flow Informational Sign. A sign directing traffic to or from or within or providing information for a commercial, residential or industrial development.
- (z) Viewshed. An area visible from the road that provides vistas over water or across expanses of land, such as farmland, woodlands, coastal wetlands, mountain tops or ridge lines.
- (aa) Wall Sign. A sign mounted parallel to the exterior surface of a building.

- (bb) Window Sign. Any sign, picture, symbol, or combination thereof, designed to communicate information about an activity, business, commodity, event, sale, or service, that is permanently affixed inside a window or upon the window panes or glass and is visible from the exterior of the window.

(3) **SIGNS PERMITTED**. Upon the effective date of this section, it shall be unlawful and a violation of this section for any person to erect, construct, paint, alter, relocate, reconstruct, display, or maintain or cause to be erected, constructed, displayed or maintained within the City any sign, except as defined in sec. (5) below without first having obtained a permit from the City Administrator or Building Inspector. A table summarizing the sign specifications outlined here is attached as an appendix to this document.

(a) Residential Districts. 1. For home occupations: one non-illuminated wall sign not exceeding 3 square feet in size.

2. For single-family subdivisions and multi-family complexes, including mobile home parks, nursing homes and assisted living facilities, one monument sign per street frontage, not to exceed 20 square feet in sign area per sign or 6 feet in height.

3. For permitted nonresidential, non-commercial uses, including churches and synagogues, one free standing monument sign not to exceed 20 square feet in area or 5 feet in height and one wall sign, with or without border, not larger than square feet.

(b) Business Improvement District. Within this district the intent of the sign regulation is established in an effort to recognize unique architectural character or historic value and, therefore, place limitations on the placement of signs in such a manner which does not conflict with the architectural character or historic value.

1. Wall signs, with or without borders, as large as 2 square feet per linear foot of building frontage, or a maximum of 88 square feet, whichever is less, for each frontage of 44 feet or fewer.
2. Building frontages of more than 44 square feet, with or without border, as large as 2 square feet per linear foot of building frontage, or a maximum of 125 square feet, whichever is less.
3. Number. Buildings or portions thereof under separate management or control are permitted not more than 2 signs for each portion of building frontage located adjacent to a public right of way. In the event there are 2 or more tenants in a building, the building owner may provide a sign directory listing the building name and the names of the businesses within the building.
4. Projecting signs as large as 7.5 square feet in sign area; maximum projection of 3 feet from the building face; minimum clearance from the ground of 8 feet, and maximum clearance of 10 feet, one such sign per each building frontage located adjacent to a public right-of-way.
5. Window Signs. No sign, except the name, monogram, logo, address and telephone number of the person or firm occupying the premises

may be permanently affixed upon a window surface. The size, specifications, as stated in subpars 1. and 2. above shall apply. Any window display that is permanently affixed upon a window surface that indicates a product or service provided on the premises is exempt from the provisions of this section.

6. Awnings and Canopies shall be restricted to include the name of the store, the logo and the street number and shall be counted as the total area permitted that building for its exterior signage. Signs shall not exceed 35% of the building face. Awnings and canopies shall be at least 7 feet above grade. Internally lit awnings are prohibited. Lettering shall be on the valance only.
7. Temporary signs such as banners and A-frame sandwich board signs may be displayed. Signs and banners should not obstruct views or paths of vehicles or pedestrians.
8. Neon signs in store front windows are permitted. External neon signs are not permitted.
9. Flags. State and national flags are permitted, but shall remain entirely over the business owner's property. Other banners or pennants of a temporary nature shall be permitted but shall remain entirely over the business owner's property.
10. Location.
 - a. Signs shall be concentrated near the pedestrian level.
 - b. Signs posted on the upper facades of buildings shall not cover more than 20% of the total square footage of the upper facade facing the street.
 - c. Signs shall not obscure important architectural details or features such as windows, transoms, panels, sills, moldings, and cornices.
 - d. Signs on adjacent store fronts within the same building shall be coordinated in height and proportion, and should be encouraged to use the same signing format.
11. Signs Prohibited. All signs not identified above, including signs with moving parts, flashing lights, internally lit signs, billboards, poster boards or advertising signs, or signs painted directly on the building surface shall be prohibited.

(c) Highway Commercial District. Signage in this district, typically from auto-orientated commercial facilities, should be legible while avoiding sign clutter.

1. Types of Signs.
 - a. Wall signs, with or without border, shall be limited to 10% of the front face of the building facade or 200 square feet, whichever is less.

- b. Free-standing signs only for establishments which are setback from the property line by 25 feet or more.
 - i. Monument signs as large as 200 square feet of total surface area, (both sides including borders) , or 100 square feet for one-sided signs, with a maximum height of 10 feet from the ground, including the base, to the top of the sign. The sign shall be set back 10 feet or more from the property line.
 - ii. Post and arm/pole signs as large as 100 square feet of total surface area, (both sides including borders) , or 50 square feet for one-sided signs, with a height maximum of 20 feet from the ground to the top of the sign. The sign shall be set back 10 feet or more from the property line.
 - iii. Projecting signs as large as 20 square feet in sign area; maximum projection of 6 feet from the building face; minimum clearance from the ground of 8 feet and maximum clearance of 12 feet.
 - iv. Window signs no more than 20% of the total window area of the principal facade Lettering up to 12 inches high.
 - v. Awning signs projecting at least 5 feet into the sidewalk, but no more than 7 feet. Lettering up to 10 inches in height and on the valance only. The extent of the lettering may cover a maximum of 8 feet in width of 50% of the valance width, whichever is less. Awnings shall be restricted to include the name of the store, the logo and the street number.
- 2. Number. Each business may not display more than 3 signs. Each business site may display only one freestanding sign, which is included in the 3 permitted signs.
- 3. Location. Signs shall be located where they can be most easily read, thus reducing the size needed for legibility.
- (d) Illumination Requirements Applicable To All Districts.
 - 1. Only white light or neon may be used to illuminate a sign.
 - 2. The illumination from any sign may not cause any reflection or glare upon a public street, highway, sidewalk, or adjacent property.
 - 3. Exposed lighting sources such as bulbs, tubes and the like are prohibited. All external sources of illumination must be hidden from view by shrubbery or some other permitted material.
 - 4. With the exception of the Business Improvement District and Highway Commercial, no exterior signs on any building or premises shall be illuminated after 12:00 midnight, except on those places of

business which shall remain open after midnight, and they shall be extinguished at the time of closing such business.

(e) Annexed Lands: No land shall be annexed into the City unless, as a condition to such annexation, a Developer's Agreement is secured which, among other things, shall secure the annex petitioners agreement that any signs within the annexable lands shall become conforming, within one-year of the date of annexation, to the provisions of this chapter. No building permit shall be issued for annexed lands unless and until the sign provisions of this code are complied with and such language restrictions shall be incorporated into the Developer's Agreement made as a condition to annexation. Billboards existing on lands to be annexed shall have an agreement secured for their eventual removal with any costs associated with such to be borne by the petitioner, developer or non-municipal entity.

(4) SIGN CLASSIFICATIONS PROHIBITED. All signs not expressly permitted under this section or exempt from regulation hereunder in accordance with this section are prohibited in the City. Such signs include, but are not limited to:

- (a) Any sign attached to any tree, utility pole or painted upon or otherwise directly affixed to any rock, ledge or other natural feature.
- (b) Billboards and other signs, including directional signs, not within the property of the business being advertised. Billboards are expressly prohibited within the City limits.
- (c) No sign shall be erected:
 1. In the public right-of-way, except for those placed by an authorized governmental agency.
 2. At any location where, by reason of position, shape, wording or color, it interferes with or obstructs the view of pedestrian or vehicular traffic.
 3. Which may be confused with any authorized traffic sign, signal or device.
 4. Above the roof line.
 5. Any outdoor sign which advertises, identifies or pertains to any activity no longer in existence shall be removed by its owner or persons otherwise responsible within 30 days from the time the activity ceases. Political signs must be removed within 3 days after the election advertised. This provision does not pertain to seasonal activity during the periods in which such businesses are closed.
 6. Signs with movable parts, changing copy, banners, flags, ribbons, streamers, or signs that flash, shall be prohibited.
 7. Signs on a vehicle not regularly used in the conduct of the business advertised on the vehicle.
 8. Signs placed on bus shelters, bus benches, or waste receptacles.

9. Signs posted or painted on roofs, dormers, and balconies.
 10. Portable signs.
 11. Off-premises signs and billboards.
- (5) SIGN CLASSIFICATIONS EXEMPTED. The following signs do not require permits or fee payment, but shall meet the other requirements of the section:
- (a) Traffic control signs.
 - (b) Traffic flow informational signs.
 - (c) House addresses, family name signs, decorative flags, no trespassing and similar signs.
 - (d) Signs on vehicles regularly and customarily used to transport persons or property for the business.
 - (e) Directional signs, as authorized by the City.
 - (f) Political signs, 4 square feet or less.
 - (g) The flags of any nation, state, town, or service organization, 15 square feet or less.
 - (h) Temporary signs.
 - (i) Safety control signs.
- (6) GENERAL DESIGN AND CONSTRUCTION. All signs shall be designed, constructed and maintained in accordance with the following:
- (a) All signs shall comply with applicable provisions of the Uniform Building Code and the electrical code at all times.
 - (b) Except for banners, flags, temporary signs, and window signs conforming in all respects with the requirements of this section, all signs shall be constructed of permanent materials and shall be permanently attached to the ground, a building, or another structure by direct attachment to a rigid wall, frame or structure.
 - (c) All signs shall be maintained in good structural condition, in compliance with all building and electrical codes, and in conformance with this code, at all times.
- (7) NONCONFORMING SIGNS. (a) Each nonconforming sign shall be permitted to be displayed upon the effective date of this section.
- (b) Existing non-authorized portable signs not conforming to this section, such as directional signs placed in the road right-of-way, shall be permitted to be displayed for 6 months, 180 days, from the effective date of this section

and the City shall provide uniform signage, at the business owner's expense, to identify places of public interest such as library, churches, post office, and schools.

- (c) The City may prohibit any new signs on a zone lot while a nonconforming sign remains in use.
- (d) Routine maintenance and upkeep of nonconforming signs is permitted on signs existing upon the effective of this section.
- (e) If damage or physical deterioration greater than 50% of the current value is sustained, for signs within the Business Improvement District, the replaced or repaired sign shall come into compliance with this section.
- (f) Existing non-conforming signs may have changes made to them for purposes of changes in business logo, color scheme and/or name change. A nonconforming sign shall not be changed or altered in any manner that would increase the degree of its nonconformity, or be enlarged or expanded.

(8) ADMINISTRATION AND ENFORCEMENT. (a) Enforcement. The Building Inspector or other City representative shall be primarily responsible for enforcing this section.

- (b) Permit Procedure. All signs, except as otherwise provided in this section, shall require a sign permit prior to being constructed, reconstructed, moved, altered, placed, or repaired. Sign permits shall be issued by the Building Inspector or City Administrator. The City may require Plan Commission review of certain signage requests.
- (c) Permit Application. All applications shall be submitted to City Hall and shall accompany a photo or detail drawing of the proposed sign.
- (d) Permit fees. Each application shall be accompanied by the applicable fees, which shall be determined by the Council from time to time.
- (e) Permit Issuance/Denial Action. The Code Enforcement Officer, as soon as practical, shall review the application for completeness and shall:
 1. Issue the sign permit, if the sign that is the subject of the application conforms in every respect with the requirements of this section, or
 2. Deny the sign permit if the sign that is the subject of the application fails in any way to conform with the requirements of this section. In a case of rejection, the Code Enforcement Officer shall specify in the rejection sections of this section or applicable plan with which the sign is inconsistent.
- (f) Inspection Upon Completion. Any person installing, structurally altering, or relocating a sign for which a permit has been issued shall notify the Code Enforcement Officer upon completion of the work. If, upon inspection, the sign does not conform with this section, or is otherwise altered from that approved, the applicant shall have 30 days to so correct

such deficiencies. Failure to make such corrections shall result in a lapse of the sign permit.

- (g) Violations. The Code Enforcement Officer, upon finding that any provision of this section or any condition or a permit issued under this section is being violated, is authorized to issue legal proceedings to enjoin violations of this section.
- (h) Appeal Procedure. Any person applying for a sign permit who is denied a permit or disagrees with any ruling by the Code Enforcement Officer may appeal to the Council. The Council may review or overturn the ruling, but may not issue a sign permit. The findings of the Council are remitted back to the Code Enforcement Officer.
- (i) Annexed lands. All lands annexed into the City shall require conformance with this section.
- (j) Forfeitures. A person who violates the provisions of this section or the conditions of a permit shall be guilty of a civil violation. Each day of the violation constitutes a separate offense subject to a \$100 forfeiture.
- (k) Court Costs. Persons subject to forfeitures under this section shall also be liable for court costs and reasonable attorney fees incurred by the local jurisdiction.

(9) **AMENDMENTS/VARIANCES.** (a) All amendments or variances to this section shall be before Plan Commission and/or Council. No variances shall be allowed without a Class I public hearing, at the applicant's expense, and no such action shall be undertaken without first posting a public notice at least 10 days in advance of the meeting.

- (b) Adoption of Amendment. An amendment of this section may be adopted by a majority vote at any Council meeting.
- (c) Variances. The Plan Commission shall vote, by 2/3 majority, to recommend any variance to the Council, who shall uphold or reject such variance request by a simple majority.

17.23 ZONING PERMIT REQUIRED. No building or structure, or any part thereof, shall hereafter be built within the City unless a permit thereof or shall first be obtained by the owner or his agent from the Building Inspector. No construction shall be commenced prior to the issuance of such permit. Commencement of construction shall include such acts as beginning excavation or constructing forms for cement work. See ch. 14 of this Code.

17.24 CERTIFICATE OF OCCUPANCY. (1) **CERTIFICATE REQUIRED.** No vacant land shall be used or occupied for other than an approved use in the zoning district in which it is located and no building hereafter moved into or relocated within the City shall be so occupied or used until a certificate of occupancy shall have been issued by the Building Inspector. Such certificate shall show that the building or land or part thereof and the proposed use thereof are in conformity with the provisions of this chapter. Such certificate shall be issued only when the building or land and the proposed use thereof conform with all the requirements of this chapter. No such certificate shall be required for any property for which a valid zoning permit providing for such use or occupancy exists.

(2) **APPLICATION FOR CERTIFICATE.** Application for such certificate shall be made to the Building Inspector, in writing, on such form and containing such information as the applicant deems sufficient to advise the Inspector of his request. After reviewing such application, the Inspector may require such additional information as he deems necessary.

(3) **TEMPORARY CERTIFICATE.** The Board of Zoning Appeals is hereby authorized to hear and rule on appeals from the denial of such certificates by the Building Inspector and, upon such terms and with such conditions as it deems proper, may authorize the Building Inspector to issue a temporary certificate for a limited period of time.

(4) **FEES.** See sec. 14.07 of this Code.

17.25 BOARD OF ZONING APPEALS. (1) **MEMBERSHIP.** See sec. 1.17 of this Code.

(2) **APPEALS TO BOARD.** (a) Appeals to the Board of Zoning Appeals may be taken by any person aggrieved or by any officer, department, board or bureau of the City affected by any decision of the administrative officers. Such appeal shall be taken within 30 days from either the date of actual notice of said decision to the person aggrieved or from the date of the mailing of a copy of said decision to him, whichever is earlier, by filing with the officer from whom the appeal is taken and with the Board a notice of appeal specifying the grounds thereof. Filing with the Board shall be accomplished by filing with the City Clerk.

(b) The officer from whom the appeal is taken shall forthwith transmit to the Board all papers constituting the record upon which the action appealed from was taken.

(c) The Board shall fix a reasonable time for the hearing of the appeal and shall give public notice thereof by publication once in the City's official newspaper, said publication to be not less than 5 days before said hearing nor more than 15 days before said hearing and shall give notice to the parties in interest and shall decide the same within a reasonable time.

(d) A filing fee of \$200 shall accompany each appeal and no appeal shall be deemed properly filed unless the fee is paid.

(3) **POWERS OF BOARD.** The Board shall have the following powers:

(a) To hear and decide appeals where it is alleged there is error in any order, requirement, decision or determination made by the administrative official.

(b) To hear and decide special exceptions to the terms of this chapter upon which the Board is required to consider.

(c) To authorize, upon appeal in specific cases, such variance from the terms of this chapter as will not be contrary to the public interest where, owing to special conditions, a literal enforcement will result in practical difficulty or unnecessary hardship so that the spirit of this chapter shall be observed, public safety and welfare secured and substantial justice done.

- (d) Permit the erection and use of a building or premises in any location subject to appropriate conditions and safeguards in harmony with the general purposes of this chapter for such public utility purposes which are reasonably necessary for public convenience and welfare.
 - (e) The Board may reverse or affirm, wholly or in part, or may modify any order, requirement, decision or determination appealed from and shall make such order, requirement, decision or determination as, in its opinion, ought to be made in the premises and to that end shall have all the powers of the administrative official. The concurring vote of the majority of the members of the Board present shall be necessary to reverse any order, requirement or determination appealed from or to decide in favor of the applicant on any matter on which it is required to pass or to effect any variation in the requirements of this chapter.
- (4) **OTHER POWERS.** In addition to the foregoing, the Board shall have the following specific powers:
- (a) To grant a permit for a temporary building for commerce or industry in a residential district which is incidental to the residential development, such permit to be issued for a period of not more than 6 months.
 - (b) To grant a permit for the extension of a district boundary for a distance of not more than 25 feet where the boundary of a district divides a lot in single ownership at the time of the adoption of this chapter.
 - (c) To permit the temporary storage, as defined herein, of an item otherwise prohibited under sec. 17.03 of this chapter.
 - (d) To interpret the provisions of this chapter in such a way as to carry out the intent and purpose of the plan as shown on the Official Map accompanying and made a part of this chapter where the street layout actually on the ground varies from the street layout on the aforesaid map.
 - (e) The Board shall have the power to call on any other City department for assistance in the performance of its duties and it shall be the duty of such other department to render such assistance as may be reasonably required.
- (5) **POWERS LIMITED.** Except as specifically provided, no action of the Board shall have the effect of permitting in any district uses prohibited in such district; nor shall such Board be permitted to take any action which would, in effect, create a buildable lot smaller than the minimum lot size or area otherwise required by the City; nor may such Board rule on conditional uses or overrule Council action.

17.26 CHANGES AND AMENDMENTS. (1) **AUTHORITY.** Whenever the public necessity, convenience, general welfare or good zoning practice require, the City may, by ordinance, change the district boundaries or amend, change or supplement the regulations established by this chapter or amendments thereto. Such change or amendment shall be subject to the review and recommendation of the Plan Commission.

(2) **INITIATION.** A change or amendment may be initiated by the Council, the Plan Commission or by a petition of one or more of the owners or lessees of property within the area proposed to be changed.

(3) **PETITIONS.** Petitions for any change to the district boundaries or amendments to the regulations shall be filed with the City Clerk and shall describe the premises to be rezoned or the regulations to be amended, list the reasons justifying the petition, specify the proposed use and have attached the following:

- (a) A plot plan showing the area proposed to be rezoned, its location, its dimensions, the location and classification of adjacent zoning districts and the location and existing use of all properties within 200 feet of the area proposed to be rezoned.
- (b) The owners' names and addresses of all properties lying within 200 feet of the area proposed to be rezoned.
- (c) Additional information required by the Plan Commission.
- (d) A fee of \$200 for all associated public notices shall accompany such application.

(4) **RECOMMENDATIONS.** The Plan Commission shall hold a public hearing as provided for in §62.23(7) (d), Wis. Stats., and review all proposed changes and amendments within the corporate limits and shall recommend that the petition be granted as requested, modified or denied. The recommendation shall be made at a meeting subsequent to the meeting at which the petition is first submitted and shall be made in writing to the Council.

(5) **COUNCIL ACTION.** After careful consideration of the Plan Commission recommendations, the Council shall vote on the passage of the proposed change or amendment. If the Council denies the proposed change or amendment, a similar petition for such change or amendment may not be submitted for a period of one year.

(6) **PROTEST.** In the event of a protest against such district change or amendment to the regulations of this chapter, duly signed and acknowledged by the owners of 20% or more of the land included in such proposed change, or by the owners of 20% or more of the land immediately adjacent extending 100 feet therefrom, or by the owners of 20% of the land directly opposite thereto extending 100 feet from the street frontage of such opposite land, such changes or amendments shall not become effective except by the favorable vote of 3/4 of the members of the Council voting on the proposed change.

17.27 ENFORCEMENT. It shall be the duty of the Building Inspector, with the aid of the Police Department, to enforce the provisions of this chapter.

17.28 VIOLATIONS AND PENALTIES. Any person who violates, disobeys, neglects, omits or refuses to comply with, or who resists the enforcement of any of the provisions of this chapter, shall forfeit a sum of not less than \$10 nor more than \$200, together with the costs of prosecution and, in case of nonpayment of such forfeiture, shall be imprisoned in the County Jail for a term of not more than 30 days or until such judgment is paid, and each day of violation shall constitute a separate offense.