

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

April 8, 2009

This regular meeting of the Common Council was called to order at 6:30 p.m. by Council President Singer. MEMBERS PRESENT: Taylor, Nosek, Binnie, Singer, Kienbaum, Stewart, Allen. MEMBERS ABSENT: None. LEGAL COUNSEL PRESENT: Wallace McDonell.

PLEDGE OF ALLEGIANCE. Fifth grade students of Lincoln Elementary sang the Star Spangled Banner.

APPROVAL OF PAYMENT OF INVOICES PROCESSED THROUGH APRIL 2, 2009. It was moved by Allen and seconded by Binnie to approve payment of invoices processed through April 2, 2009 in the amount of \$192,705.42. AYES: Taylor, Allen, Nosek, Binnie, Singer, Kienbaum, Stewart. NOES: None.

ACKNOWLEDGMENT OF RECEIPT AND FILING OF POLICE DEPARTMENT CONSOLIDATED MONTHLY REPORT FOR FEBRUARY, CDA MINUTES OF FEBRUARY 23, PARK & RECREATION MINUTES OF FEBRUARY 2 AND PLAN COMMISSION/CITY COUNCIL MINUTES OF MARCH 16, 2009. It was moved by Allen and seconded by Binnie to acknowledge receipt and filing of the Police Department monthly report for February, CDA minutes of February 23, Park & Recreation minutes of February 2 and Plan Commission/City Council minutes of March 16. AYES: Allen, Taylor, Nosek, Binnie, Singer, Kienbaum, Stewart. NOES: None.

STAFF REPORTS. Brunner presented a proclamation for Abraham Lincoln Day to the fifth graders at Lincoln elementary school. He also presented a proclamation announcing the 2009 Crop Walk to Mariann Scott. Ms. Scott accepted the proclamation stating that over the past 20 years the walk has generated \$120,000 for charity services including Whitewater's food pantry.

Brunner gave Council President Singer a "To Kill a Mockingbird" t-shirt advertising this year's Big Read selection and related activities. He encouraged everyone in Whitewater to participate.

Brunner listed grant opportunities that members of City staff are pursuing:

- * National economic development grant for the Technical Park Innovation Center
- * Wisconsin Department of Transportation grant for reconstruction of Milwaukee Street
- * Wisconsin Department of Transportation grant for Main/Whiton signal with 80 percent paid by the State and 20% paid by the City
- * Broadband communications initiative for the University, School District, and City which is being pursued with help from State Representative Hixson
- * Burn grant for public security
- * Homeland security grant that would include funds for fire apparatus, equipment and possibly fire station construction
- * Clean water grant to the wastewater department

Brunner announced strategic planning events for the City to occur in May and June, including a brief community survey with council input concerning growth and development issues and satisfaction level of the community regarding performance of City government.

Matt Amundson (Park & Recreation Director) and Mary Nimm (CDA Coordinator) both attended the ICMA young professional leader's clinic. Mary described the points she found most educational.

Finance Director Doug Saubert attended the WGFO on March 26 and 27. Main topics of the meeting were trends in finance concerning bonds, financial planning in tough economic times, sustaining economic development and a legislative update with Ed Huck concerning the proposal to raise the revenue cap to 4%.

HEARING OF CITIZEN COMMENTS. Representative Kim Hixson (327 S Woodland) encouraged people to come to the State Budget Listening Session at the City Municipal Building Community Room in Whitewater, 312 W Whitewater Street, at 1:00 pm – 3:00 pm, April 17.

Eric Lang (Me & My Pets, 147 Whitewater Street) is dissatisfied that the city is closing Whitewater Street for the fourth time in the last year. The street has been closed three times in the last eight months for community events and now it will be closed for nineteen days for construction. He stated that it is very difficult to keep his business in Whitewater profitable under these conditions. Judy Ossers (437 Assembly) spoke in support of Mr. Lang.

COMMON COUNCIL ANNOUNCEMENTS. Nosek asked that he not receive a plaque for his service to the city. He thanked Chris Welch (Daily Jefferson County Union) for his very able reporting. Kienbaum thanked the community for their support in the election and stated that she will try to fulfill expectations.

FIRST READING OF CHRONIC NUISANCE ORDINANCE. Officer Aaron Ellis of the Janesville Police Department gave a presentation concerning the nuisance ordinance passed by Janesville in 2006 and answered questions. One of the points made was that code enforcement issues including re-inspections and associated costs are considered separate from police issues in Janesville although some cities combine the two.

In answer to a question by Binnie, Chief Coan stated that he already sends out letters to landlords when there has been underage drinking or on various property issues. Allen added that the Police Department currently has tracking information in a computer database but Neighborhood Services does not.

Taylor objected to the combining of many levels in the severity of issues in the 28 points. In answer to a question by Singer, Officer Ellis indicated that the different activities are not weighted as to severity. Stewart agreed that lumping police items with property ordinance violations in the list of nuisances is not a good idea. He would be in favor of separating items between police and code enforcement issues.

Kienbaum disparaged the ordinance, stating that all the offenses listed as nuisances are already in State and City code and are addressed sufficiently there.

Nosek insisted that Whitewater needs the ordinance to effectively enforce ordinances we already have in special instances. This type of ordinance has been successfully used in other communities. He added that Janesville has solved almost all nuisance problems without fines.

There were a number of citizen comments concerning the ordinance.

Jim Winship, 184 N Franklin Street, spoke in favor of the ordinance. He hopes that once it is passed it will be a deterrent and not have to be used. Others in favor of the ordinance noted that communication by email and the City website would be valuable to property owners. Landlords want to know about and discuss these problems. They felt the ordinance would be a tool to help landlords convince renters to be more responsible. Some were in favor of any code that would alter the loud and unreasonable behaviors of some of their neighbors.

Matt Keogh (Landlord) stated that communication is always good but enforcement of the ordinance could possibly be abusive. As these laws already exist another ordinance should not be necessary. Donna Henry, 347 S Janesville, landlord and president of the Whitewater Rental Association asserted that landlords cannot always control the behavior of their tenants. In response to Singer's question she stated that a nuisance ordinance would be viewed favorably by the rental association if it has equitable enforcement. Concern was also expressed over the chronic nuisance issues reflecting back onto the landlord.

Stewart introduced an amendment to the ordinance that would delete item 7.40.020 (C) concerning aggregate consideration of Police Nuisance Activities and Code Nuisance Activities. The request for the change was seconded by Singer. AYES: Taylor, Singer, Stewart. NOES: Allen, Nosek, Binnie, Kienbaum. AMENDMENT FAILS.

Nosek introduced an amendment to the ordinance that would change item 7.40.020 (C) such that the citation limit would be four offenses instead of six offences in a twelve month period. There was no second.

Stewart motioned to amend the appeal section 7.40.050 to provide that if a party that was given notice of a citation under 7.40.020 files an appeal of the action that there would be a stay of any enforcement and also the requirement of a meeting until the appeal process was completed. The motion was seconded by Allen. AYES: Allen, Taylor, Nosek, Binnie, Singer, Kienbaum, Stewart. NOES: None.

Stewart was concerned that "the Common Council may refuse to issue or not renew any license or permit to the owner" (7.40.060(e)). McDonnell stated that an example might be a junk vehicle license. If a person has numerous violations of the code the remedy may be to not allow them to have the license. Stewart asked if seven grass cutting violations could cause the loss of a liquor license. McDonnell stated that this could not happen unless there were cumulative citations and Council approved the action.

Binnie supported the Ordinance as a whole. He motioned that the ordinance be amended such that 740.010(E) be amended to state "unless the owner or resident of the property is the victim of

the crime or act". The motion was seconded by Taylor. AYES: Allen, Taylor, Nosek, Binnie, Singer, Kienbaum, Stewart. NOES: None.

Binnie motioned to delete item 7.40.010(E)(1)(k) relating to trespassing. The motion was seconded by Taylor. AYES: Allen, Taylor, Binnie, Singer, Kienbaum, Stewart. NOES: None. ABSTAIN: Nosek.

Binnie motioned to change 740.030 to read "Any owner receiving such notice or his/her personal representative shall personally meet with the City Official" ... The motion was seconded by Allen. AYES: Allen, Taylor, Binnie, Singer, Kienbaum, Stewart. NOES: None. ABSTAIN: Nosek.

Binnie motioned that there be a two year limit on costs for "additional nuisance activity" (7.40.040). Allen seconded. AYES: Allen, Taylor, Binnie, Singer, Stewart. NOES: Kienbaum. ABSTAIN: Nosek.

Kienbaum motioned that consideration of the Chronic Nuisance Ordinance be delayed until the next council meeting, when Bruce Parker would be available. Taylor seconded the motion. AYES: Taylor, Singer, Singer, Stewart. NOES: Allen, Nosek, Binnie.

RECESS. Singer announced a ten minute recess starting at 9:25 pm. Nosek left the meeting at 9:30 pm.

RESOLUTION SUPPORTING 2010 CENSUS PARTNERSHIP. Brunner informed Council that the purpose of this resolution is to create a census count committee. He recommended Karie Nygren (Human Resources) as chair of the committee to promote and encourage citizen participation in the census count as these numbers are used by the federal government.

RESOLUTION IN SUPPORT OF 2010 UNITED STATES CENSUS AND FORMATION OF
WHITEWATER 2010 COMPLETE COUNT COMMITTEE

Whereas, the City of Whitewater, Wisconsin recognizes the importance and impact of the 2010 U.S. Census on the overall well-being and quality of life for all residents in its community; and

Whereas, each and every resident in Whitewater counts and deserves to be counted in the 2010 U. S. Census; and

Whereas, the City of Whitewater agrees to be one of 39,000 local governments in partnership with the United States Census Bureau by forming a 2010 Complete Count Committee; and

Whereas, the City of Whitewater agrees to appoint a Complete Count Committee Chairperson as well as citizens who are willing to serve to promote awareness of the 2010 U.S. Census in Whitewater as well as develop appropriate subcommittees such as education, community-based organization, recruiting and special housing to assist with these census awareness efforts; and

Now Therefore Be It Resolved, by the Common Council of the City of Whitewater, Walworth and Jefferson Counties, Wisconsin that the City of Whitewater fully supports 2010 U.S. Census and the formation of a Whitewater Complete Count Committee.

Be It Further Resolved, that City Manager Kevin Brunner be directed to appoint a chair of the Whitewater Complete Count Committee as well as to engage others from Whitewater as may be appropriate on this important committee.

Resolution introduced by Councilmember Taylor who moved its adoption. Seconded by Councilmember Allen. AYES: Allen, Taylor, Binnie, Singer, Kienbaum, Stewart. NOES: None. ABSENT: Nosek ADOPTED April 8, 2009.

Kevin M. Brunner, City Manager

Michele R. Smith, City Clerk

ADOPTION OF 2009 BUDGET TRANSFER RESOLUTION #1.

2009

BUDGET TRANSFER RESOLUTION I

WHEREAS, the Common Council of the City of Whitewater adopted the Budget Resolution for 2009 on November 18, 2008, setting forth the detailed estimates of revenues and expenditures required for the various purposes performed by the City,

AND WHEREAS, certain accounts have demonstrated a need for additional funds to adequately perform the service,

NOW, THEREFORE, BE IT RESOLVED by the Common Council of the City of Whitewater that the following budget changes are authorized:

1) EXPENDITURES:

Increase

General Fund #100

Recreation Programs

Program Supplies 100.55300.341 \$ 1,500.00

REVENUES:

Miscellaneous Revenues

Donations-Rec-Sports Related 100.48515.55 \$ 1,500.00

Recognition of a \$1,500 donation from the National Recreation & Parks Association. Donation received on 1/30/2009.

2) EXPENDITURES:

Increase

General Fund #100

Planning

Other Professional Services 100.56300.219 \$ 5,000.00

Decrease

General fund #100

Contingencies	100.51100.910	\$ 5,000.00
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Estimated local share of the 2009 Supplemental Transportation Rural Assistance Program Grant (STRAP) which is a feasibility study for commuter bus service between Janesville, Milton & Whitewater. Grant is administered by the City of Janesville.

3) EXPENDITURES:

Increase

General Fund #100

Police Patrol

Uniform Allowances	100.52100.118	\$ 1,587.00
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REVENUES:

Intergovernmental

Fed/State Grants	100.43510.	\$ 1,587.00
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Recognition of \$1,587 grant from the Bullet Proof Vest Partnership (BVP) from the Federal Department of Justice. Proceeds will partially offset the cost of 4 vests for patrol officers.

4) EXPENDITURES:

Increase

Parkland Development Fund #245

Capital Outlays/Improvements	245.56120.822	\$ 11,675.00
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REVENUES:

Other Financing Sources

Transfer In	245.49290.56	\$ 8,000.00
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Fund Balance Applied	245.49300.56	\$ 3,675.00
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EXPENDITURES:

Increase

Solid Waste/Recycling Fund #230

Transfer Out	230.53600.911	\$ 8,000.00
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REVENUES:

Other Financing Sources

Fund Balance Applied	230.49300.53	\$ 8,000.00
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To recognize the purchase of 50 trash/recycling receptacles (25 of each) to be placed throughout the park system replacing the existing containers. \$8,000 of the purchases will be financed through the Solid Waste/Recycling Fund #230. Purchase was approved by the Parks & Recreation Board. The City Manager also approved the purchase.

5) EXPENDITURES:

Increase

Center Street Reconstruction

Design/Engineering	456.57500.821	\$ 41,000.00
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REVENUES:

Other Financing Sources		
Transfer In-Other Funds	456.49290.57	\$ 41,000.00

EXPENDITURES:

Capital Projects-LSP-Fund #450		
Capital Project Expenses		
Transfer Out	450.57500.650	\$ 41,000.00

REVENUES:

Other Financing Sources		
Fund Balance Applied	450.49300.57	\$ 41,000.00

To recognize the approval of the contract with Strand Engineering for the Center Street Reconstruction Contract approved at the 1/20/09 Council Meeting.

6) EXPENDITURES:

Increase

General Fund #100

Capital Equipment	100.52200.810	\$ 46,073.00
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REVENUES:

Intergovernmental Revenues

Federal/State/County Grants	100.43510.00	\$ 46,073.00
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To recognize the grant awarded to the Fire Department for replacement turnout gear, boots, helmets, new thermal imaging camera and 4 gas monitors. The grant is through the 2008 Federal Fire Act.

7) EXPENDITURES:

Increase

Depot Restoration Project Fund #459

Design/Engineering	459.57500.821	\$ 36,828.00
Construction	459.57500.820	\$ 362,935.00
		\$399,763.00

REVENUES:

Intergovernmental

Transfer In-Other Funds	459.43355.57	\$ 39,953.00
Federal/State Grant	459.43510.57	\$ 319,810.00
Miscellaneous Revenue		
Donations	459.54500.57	\$ 40,000.00
		\$399,763.00

To recognize the Federal Grant awarded for the restoration of the Depot. The Federal Grant is for 80% of the Design/Engineering/Construction. 10%, or \$40,000, will be through a donation from the Historical Society. Balance will come from the City, the exact source has not been determined. Construction to take place in 2009 or 2010.

8) EXPENDITURES:

Increase

Whiton/Main Street Traffic Signal Fund #458

Design/Engineering	458.57500.821	\$ 20,800.00
Construction	458.57500.820	<u>\$ 104,200.00</u>
		\$125,000.00

REVENUES:

Other Financing Sources		
Transfer In	458.49290.57	\$ 125,000.00

EXPENDITURES:

Capital Projects-LSP-Fund #450

Capital Project Expenses		
Transfer Out	450.57500.650	\$ 125,000.00

REVENUES:

Other Financing Sources		
Fund Balance Applied	450.49300.57	\$ 125,000.00

Estimated cost of the Purchase/Installation/Engineering of the Whiton/Main St. Traffic Signal. Design/Engineering contract with Strand Engineering was approved at the March 3, 2009 Council Meeting for \$20,800. The balance (\$104,200) is the estimated cost of the purchase/installation of the traffic signals.

IT IS FURTHER RESOLVED that no changes are made to the tax levy as originally made, and these changes represent shifts in income or expenditures actually experienced or anticipated.

Resolution introduced by Councilmember Binnie who moved its adoption. Seconded by Councilmember Allen. AYES: Allen, Taylor, Binnie, Singer, Kienbaum, Stewart. NOES: None. ABSENT: Nosek ADOPTED April 8, 2009.

Kevin M Brunner, City Manager

Michele R Smith, City Clerk

ADOPTION OF 2008 BUDGET TRANSFER RESOLUTION #7.

2008
BUDGET TRANSFER RESOLUTION VII

WHEREAS, the Common Council of the City of Whitewater adopted the Budget Resolution for 2008 on November 20, 2007, setting forth the detailed estimates of revenues and expenditures required for the various purposes performed by the City,

AND WHEREAS, certain accounts have demonstrated a need for additional funds to adequately perform the service,

NOW, THEREFORE, BE IT RESOLVED by the Common Council of the City of Whitewater that the following budget changes are authorized:

EXPENDITURES:

Increase
General Fund #100

Parks Maintenance		
Operating Supplies	100.53270.340	\$ 4,360.00
Other Repair/Maintenance/Supp	100.53290.359	\$ 13,201.00

REVENUES:

Intergovernmental Revenue		
Federal/State Grants	100.43510.00	\$ 17,561.00

To recognize the DNR-Urban Forestry Grant and the related expenditures associated with the grant.

IT IS FURTHER RESOLVED that no changes are made to the tax levy as originally made, and these changes represent shifts in income or expenditures actually experienced or anticipated.

Resolution introduced by Councilmember Binnie who moved its adoption. Seconded by Councilmember Allen. AYES: Allen, Taylor, Binnie, Singer, Kienbaum, Stewart. NOES: None. ABSENT: Nosek ADOPTED April 8, 2009.

Kevin M. Brunner, City Manager

Michele R Smith, City Clerk

ADOPTION OF 2008 BUDGET TRANSFER RESOLUTION #8.

2008

BUDGET TRANSFER RESOLUTION VIII

WHEREAS, the Common Council of the City of Whitewater adopted the Budget Resolution for 2008 on November 20, 2007, setting forth the detailed estimates of revenues and expenditures required for the various purposes performed by the City,

AND WHEREAS, certain accounts have demonstrated a need for additional funds to adequately perform the service,

NOW, THEREFORE, BE IT RESOLVED by the Common Council of the City of Whitewater that the following budget changes are authorized:

1) EXPENDITURES:

Increase <Decrease>

General Fund #100

Legal Services	100.51300.212	\$ 20,000.00
Rescue Service/Ambulance	100.52300.113	\$ 51,000.00
Snow & Ice	100.53320.295	\$ 6,000.00
Parks Administration	100.55200.292	\$ <8,000.00>
Recreation Programs	100.55300.113	\$ <8,000.00>
Planning	100.56300.219	\$ 30,599.00
Transfers	100.59220.919	\$ <5,884.00>
Transfers	100.59220.994	\$ <10,335.00>
Transfers	100.59260.934	\$ <75,380.00>

TOTAL \$ -0-

To adjust the General Fund Expenditures per the 2008 Financial Statements.

IT IS FURTHER RESOLVED that no changes are made to the tax levy as originally made, and these changes represent shifts in income or expenditures actually experienced or anticipated.

Resolution introduced by Councilmember Binnie who moved its adoption. Seconded by Councilmember Allen. AYES: Allen, Taylor, Binnie, Singer, Kienbaum, Stewart. NOES: None. ABSENT: Nosek ADOPTED April 8, 2009.

Kevin M Brunner, City Manager

Michele R Smith, City Clerk

SALARY RESOLUTION 2009 AMENDMENT 1. Karie Nygren presented the wage increases for AFSME represented employees and salaried employees as 3% for 2009.

**CITY OF WHITEWATER
2009 SALARY RESOLUTION**

WHEREAS, the City of Whitewater, Walworth and Jefferson Counties, Wisconsin, sets forth the wage and salary schedule for employees for 2009, in which wages are established.

NOW THEREFORE, BE IT RESOLVED by the Common Council of the City of Whitewater, Walworth and Jefferson Counties, Wisconsin, that the following ranges and numbers of employees in the 2009 Wage and Salary Schedule are hereby adopted pursuant to Wisconsin Statutes; and

BE IT FURTHER RESOLVED that the contents of this resolution shall supersede such previously adopted schedules where the subject matter between the two shall be in conflict, and the changes contained herein shall be effective beginning April 8, 2009 with wage increases retroactive to January 1, 2009.

SCHEDULE I

ADMINISTRATIVE POSITIONS

Position	# of Positions	Effective	Salary
City Manager	1	01/01/2008	95,781.56
Chief of Police	1	01/01/2009	86,805.42
Municipal Judge	1	05/01/2009	19,099.28
City Attorney	1	01/01/2009	50,000.00

SCHEDULE II

PROFESSIONAL AND TECHNICAL EMPLOYEE PAY PLAN

P a y G r a d e	# of Positio ns	Classification Titles	Pay Grade	# of Posit ions	Classification Titles
A *	3/4	Senior Coordinator (Part-time)	F	1	Assistant Finance Director - City Treasurer
	2	Administrative Assistant II - Records Technician		1	City Clerk
	2	Administrative Assistant II - General Administrative Offices		1	Human Resources Coordinator
			G	1	City Planner
	1/2	Administrative Assistant II - Wastewater (Part-time)	H	1	Water Superintendent
B *	1	Accounting Technician II - Payroll & Accounts Payable	I	1	Information Technology Administrator
	1	Accounting Technician II - Utilities	J	1	Streets, Parks & Forestry Superintendent
	1	Administrative Assistant I - Neighborhood Services		1	Neighborhood Services Director
	1	Clerk of Courts		1	Parks & Recreation Director
C				1	Wastewater Treatment Plant Superintendent
D	1	Support Services Manager	K	1	Lieutenant - Administrative Services
E	1	Cable TV Coordinator		1	Lieutenant - Field Services
	1	CDA Coordinator	L	1	Finance Director
	1	Recreation & Community Events		1	Public Works Director

	Programmer			
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*Non-Exempt Positions

SCHEDULE II
PROFESSIONAL AND TECHNICAL EMPLOYEE PAY PLAN

Pay Grade		1	2	3	4	5
A*	Hourly Wage 2080 Hours	14.21 29,556.80	14.65 30,472.00	15.28 31,782.40	15.92 33,113.60	16.55 34,424.00
B*	Hourly Wage 2080 Hours	15.23 31,678.40	15.92 33,113.60	16.61 34,548.80	17.30 35,984.00	17.99 37,419.20
C	Salary	34,418.15	35,981.87	37,545.82	39,111.17	40,675.12
D	Salary	37,170.00	38,860.09	40,547.80	42,237.65	43,929.16
E	Salary	40,793.95	42,647.83	44,501.45	46,356.50	48,211.29
F	Salary	43,982.57	45,981.62	47,979.74	49,980.21	51,978.10
G	Salary	47,170.94	49,315.67	51,459.21	53,601.34	55,746.06
H	Salary	50,359.54	52,647.35	54,937.50	57,223.89	59,515.45

I	Salary	53,546.98	55,981.39	58,414.38	60,847.84	63,282.24
J	Salary	56,734.18	59,312.84	61,892.91	64,470.39	67,050.22
K	Salary	59,923.97	62,646.87	65,371.20	68,092.93	70,817.24
L	Salary	63,111.41	65,979.74	68,849.48	71,716.88	74,587.57

*Non-Exempt Positions

SCHEDULE III LIBRARY POSITIONS

Pay Grade	# of Positions	Classification Titles	Step				
			1	2	3	4	5
A1	3	Library Aide*	11.34	11.84	12.37	12.37	12.37
A2	5	Library Assistants*	12.32	12.88	13.45	14.00	14.56
A3	3	Library Technical Assistants*	14.00	14.65	15.28	15.92	16.55
	3	Library Associates*					
A4	1	Youth Service Librarian	34,418.15	35,982.10	37,545.82	39,111.17	40,675.12
A5	1	Assistant Library Director	43,982.5	45,981.	47,979.7	49,975.69	51,978.1

			7	62	4		0
A6	1	Library Director	56,734.18	59,312.84	61,892.91	64,470.39	67,050.22

*Non-Exempt Positions

**SCHEDULE IV
WHITEWATER POLICE DISPATCH UNION**

Position	# of Positions	Effective Date	Step			
			1	2	3	4
Records Communications Coordinator	1	01/01/2008	17.15	18.05	18.99	19.20
<i>Per 2,080 Hours</i>			35,663.25	37,542.56	39,509.28	39,936.00
Dispatch / Records Communications Aide	6	01/01/2008	15.42	16.22	17.08	17.24
<i>5 @ Per 1947 Hours</i>			30,025.79	31,586.96	33,254.76	33,566.01
<i>1 @ Per 1,872 Hours</i>			28,869.18	30,370.21	31,973.76	32,273.02
Parking/Community Support	1	01/08/2008	13.99	14.74	15.51	15.67
<i>Per 1,872 Hours</i>			26,189.28	27,593.13	29,033.67	29,334.24

Wages in Schedule IV do not reflect overtime pay

SCHEDULE V
AFSCME UNION

Pay Grade	Classification Title	Step					
		1 0-11 mos.	2 12-23 mos.	3 24-35 mos.	4 36-47 mos.	5 48-59 mos.	6 60+ mos.
A	Chemist Assistant	11.97	12.56	13.15	13.15	13.15	13.15
B	Custodian/Groundskeeper	14.24	14.78	15.32	15.84	16.37	16.90
	<i>Per 2,080 Hours</i>	29,629.39	30,743.44	31,857.49	32,950.11	34,042.74	35,156.78
C	Laborer II	16.64	17.18	17.71	18.24	18.78	19.30
	<i>Per 2,080 Hours</i>	34,621.18	35,735.23	36,827.86	37,941.90	39,055.95	40,148.58
D	Building Maintenance	18.63	19.17	19.68	20.24	20.76	21.30
	<i>Per 2,080 Hours</i>	38,756.02	39,870.06	40,941.26	42,098.16	43,190.78	44,304.83
E	Engineering Technician	20.84	21.31	21.77	22.24	22.70	23.18
	Laborer I						
	Laborer I - Mechanic						

Code							
Enforcement/Building Maintenance							
Water Operator - no certification (1)							
Wastewater Operator - no certification (1)							
Wastewater Operator - Lab Technician							
no certification (1)							
	43,340.7	44,326.2	45,290.3	46,254.4	47,218.5	48,204.0	
<i>Per 2,080 Hours</i>	5	6	4	2	0	0	

(1) Additional twenty cents (\$.20) per hour upon completion and receipt of Grade I certification and one (1) subgrade

Grade

F:

Successful completion of Grade II and all Grade II subgrades required by Wisconsin Administrative Code for the City of Whitewater Wastewater Utility.

Wastewater Operator **\$23.91**

Grade

G:

Successful completion of Grade IV and all Grade IV subgrades required by Wisconsin Administrative Code for the City of Whitewater Wastewater Utility.

Wastewater Operator **\$24.16**

SCHEDULE VI

WHITEWATER PROFESSIONAL POLICE ASSOCIATION UNION

Position	# of Positions	Effective Date	Hourly Wage	<i>Per 2,080 Hours</i> <i>*Patrol (2,008 Hours)</i>
Sergeant*	4	01/01/2008	27.02	54,246.80

		07/01/2008	27.29	54,789.27
Detective Sergeant	1	01/01/2008	27.02	54,249.94
		07/01/2008	27.29	54,792.43
Detective	2	01/01/2008	25.81	53,689.90
		07/01/2008	26.07	54,226.80
Juvenile Officer	1	01/01/2008	25.81	53,689.90
		07/01/2008	26.07	54,226.80
Patrol Officer I*	13	01/01/2008	25.07	50,331.61
		07/01/2008	25.32	50,834.92
Patrol Officer II*		01/01/2008	22.73	45,633.69
		07/01/2008	22.95	46,090.03
Patrol Officer III*		01/01/2008	21.43	43,031.10
		07/01/2008	21.64	43,461.41

Wages in Schedule VI do not reflect overtime pay

SCHEDULE VII

FIRE-RESCUE

Position	# of Positions (Part-time)	Wage
Fire-Inspector	6	\$11.00 per hour
Volunteer Fire	48	\$8.00 per call
Rescue Squad Captain	1	\$10.00 per call
Rescue Squad Lieutenant	4	\$9.00 per call
Rescue Squad Maintenance	1	\$100.00 per month
EMT Driver		\$15.00 1st hour + \$4 each addl. 15 minutes
EMT Basic		\$17.50 1st hour + \$4 each addl. 15 minutes

EMT Intermediate		\$20.00 1st hour + \$4.25 each addl. 15 minutes
EMT On-Call Pay		\$2.00 per hour
Fire Chief	1	\$15.00 per call
1st Asst. Fire Chief	1	\$13.00 per call
2nd Asst. Fire Chief	1	\$11.00 per call
Fire Vehicle Maintenance	5	\$50.00 per month

SCHEDULE VIII

PART-TIME EMPLOYEES

Position	# of Positions	Effective Date	Hourly Wage
Community Service Officer	2	01/01/2009	\$10.54
Neighborhood Services Officer	2	01/01/2009	\$10.54

SCHEDULE IX

PART-TIME SEASONAL EMPLOYEES

Position	Step				
	1	2	3	4	5
Election Officials	8.00	8.00	8.00	8.00	8.00
Crossing Guards	10.96	10.96	10.96	10.96	10.96
Cable TV Camera Operator	7.25	7.50	8.00	8.75	9.75
Adult Sport Officials	10.00	11.00	12.00	13.00	15.00
Activity Leaders	9.25	9.50	10.00	10.50	11.50
Program Attendants	6.55	6.75	7.00	7.50	7.75
Certified Instructors	10.00	11.00	12.00	13.00	15.00

Activity Instructors	7.00	7.25	7.75	8.25	8.50
Youth Sport Officials	7.00	7.25	7.75	8.25	8.50
Seasonal Labor	7.25	7.50	8.00	8.75	9.75

Resolution introduced by Councilmember Allen who moved its adoption. Seconded by Councilmember Binnie. AYES: Allen, Taylor, Binnie, Singer, Kienbaum, Stewart. NOES: None. ABSENT: Nosek ADOPTED April 8, 2009.

Kevin M Brunner, City Manager

Michele R Smith, City Clerk

RESOLUTION OPPOSING PROPOSED CHANGES TO PREVAILING WAGE LAW CONTAINED IN GOVERNOR’S BUDGET. This resolution was requested by the Alliance of Cities.

Resolution Opposing Proposed Changes to Prevailing Wage Law

Whereas, Governor Doyle’s proposed biennial state budget, AB 75, makes the prevailing wage law applicable to any public works contract over \$2,000; and

Whereas, under current law the prevailing wage requirements only apply to multiple trade public works projects over \$234,000 and single trade public works projects over \$48,000; and

Whereas, reducing the threshold to \$2,000 will increase the cost of small public works projects previously exempted from the prevailing wage requirement; and

Whereas, the cost increase will be passed on to municipal property taxpayers or will force municipalities to reduce other services; and

Whereas, the Governor’s proposed state budget also for the first time makes the prevailing wage law applicable to private projects that receive public financing; and

Whereas, many of the tools communities use to encourage development within a tax incremental financing district would be considered under the Governor’s proposal to be public financing of a private project and would therefore make private construction projects within TIF districts subject to the prevailing wage law, thereby significantly increasing the developer’s project costs; and

Whereas; applying the prevailing wage law to private projects receiving public financing will be a major disincentive to economic development and job creation.

Now, Therefore, Be It Resolved, that the Common Council of the City of Whitewater opposes the changes to the prevailing wage law included in Governor Doyle's state budget proposal, AB 75, and hereby urges the Wisconsin State Legislature to remove these items from the budget bill.

Resolution introduced by Councilmember Allen who moved its adoption. Seconded by Councilmember Stewart. AYES: Allen, Binnie, Singer, Kienbaum, Stewart. NOES: None. ABSTAINED: Taylor ABSENT: Nosek ADOPTED April 8, 2009.

Kevin M. Brunner, City Manager

Michele R. Smith, City Clerk

RESOLUTION IN SUPPORT OF ADDRESSING LOCAL INFRASTRUCTURE NEEDS THROUGH THE AMERICAN RECOVERY AND REINVESTMENT ACT. This resolution was requested by the Alliance of Cities.

RESOLUTION IN SUPPORT OF ADDRESSING LOCAL INFRASTRUCTURE NEEDS THROUGH THE AMERICAN RECOVERY AND REINVESTMENT ACT

WHEREAS, the American Recovery and Reinvestment Act appropriated \$27.5 billion for highway construction and the State of Wisconsin received \$529.1 million; and

WHEREAS, the federal government required that 50% of the allocation be obligated within 75 days of passage; and

WHEREAS, many cities in the State of Wisconsin did not have qualified plans for the federal guidelines favoring arterial and collector routes so that the vast majority of initial stimulus spending went to Wisconsin Department of Transportation freeway and highway priority projects; and

WHEREAS, the local infrastructure and roads that serve the freeway and interstate system are critical to the State's overall transportation system for economic development; and

WHEREAS, local governments are struggling with the economic downturn, fore-closures, high unemployment and all the challenges to public systems and resources they entail, and

WHEREAS, the State DOT will advance many projects ahead of its planned schedule, freeing resources to be committed at a later date;

NOW THEREFORE BE IT RESOLVED, that the Whitewater Common Council urges the Governor, Wisconsin Office of Recovery and Reinvestment, Wisconsin Department of Transportation, the Wisconsin Legislature and U.S. Congress as follows:

- That DOT consider allowing ARRA funds for the local 20% match on 2009/2010 projects so that the local funding could be redirected and used for local paving and resurfacing needs. Local governments would pledge to apply these funds to the backlog in local projects that do not qualify for federal stimulus funds because they are not collectors or arterials;
- That DOT direct more GTA funding into local road improvement and paving projects with the resources now covered by federal stimulus funding by the advancement of state highway projects under ARRA.

- That all parties work together to seek any necessary waivers or changes in federal rules, regulations, or legislation that would direct more resources to local infrastructure maintenance.

FURTHER BE IT RESOLVED, that the Whitewater Common Council wants to continue more discussion and action on funding solutions for local infrastructure needs in light of 18 years of frozen shared revenue aids and state's own fiscal condition.

Resolution introduced by Councilmember Binnie who moved its adoption. Seconded by Councilmember Stewart. AYES: Allen, Taylor, Binnie, Singer, Kienbaum, Stewart. NOES: None. ABSENT: Nosek ADOPTED April 8, 2009.

Kevin M. Brunner, City Manager

Michele R. Smith, City Clerk

RESOLUTION RELATING TO HELPING CITIES IN STRESS. This resolution was requested by the Alliance of Cities.

RESOLUTION IN SUPPORT OF HELPING WISCONSIN CITIES IN STRESS

WHEREAS, The national economic downturn is placing extraordinary stress on Wisconsin cities; and

WHEREAS, Local governments need tools to deal with this stress and do not need state-imposed barriers that detract from their ability to continue to serve their citizens; and

WHEREAS, Provisions of Wisconsin's expenditure restraint program, proposed increases in contribution rates to the Wisconsin Retirement System (WRS), increased "tipping fees" (without a commensurate increase in recycling grants) and an inadequate ceiling on levy increases proposed in the state budget bill all conspire to increase the stress on local governments in Wisconsin,

NOW THEREFORE BE IT RESOLVED, that the Whitewater Common Council urges the governor and Legislature to either eliminate levy limits or:

- Set a more realistic limit of 4% or net new construction value, whichever is greater.
- Exempt any shared revenue cuts from a municipality's levy limits.
- Exempt emergency and state-mandated expenditures from levy limits. (e.g., tipping fees)
- Exempt from levy limits the cost of increases in the WRS contribution rate.
- Include new construction on tax exempt property as though it were subject to the levy.
- Include a carryover for unused levy capacity of any prior year.

BE IT RESOLVED FURTHER, that the Whitewater Common Council urges the governor and the legislature to exempt all grants from the limits of the Expenditure Restraint Program and to establish on a 3% floor on the inflation factor in the formula; and

BE IT RESOLVED FURTHER, that the Whitewater Common Council urges the governor and the Legislature to allow non-property tax sources of revenue for local governments in Wisconsin, including a

surcharge on telecommunications companies to help fund emergency responders and passing a regional economic development incentive, either with funding or a sunrise.

Resolution introduced by Councilmember Allen who moved its adoption. Seconded by Councilmember Binnie. AYES: Allen, Taylor, Binnie, Singer, Kienbaum, Stewart. NOES: None. ABSENT: Nosek ADOPTED April 8, 2009.

Kevin M. Brunner, City Manager

Michele R. Smith, City Clerk

RESOLUTION ESTABLISHING THE SENIORS IN THE PARK AS A SUBDIVISION OF THE CITY OF WHITEWATER DIVISION OF PARKS AND RECREATION.

Brunner stated that this is part of the official accreditation process for the Senior Center. The seniors have always been associated with Parks and Recreation.

RESOLUTION ESTABLISHING THE SENIORS IN THE PARK
AS A SUBDIVISION OF THE CITY OF WHITEWATER
DIVISION OF PARKS AND RECREATION

WHEREAS, an organization called the Seniors in the Park promotes and enhances a vital aging community in the City of Whitewater, and

WHEREAS, said organization provides community recreation and human service programs for older adults and offers a broad range of services and activities in a variety of settings which encompass various levels of abilities in the aging community, and

WHEREAS, said organization promotes continued personal growth, development, and leadership potential and improves the self-image of older adults by offering appropriate activities, programs and services, and

WHEREAS, said organization addresses social, intellectual, physical, spiritual, emotional, vocational, and cultural needs and interests of older adults in the community, and

WHEREAS, said organization provides information and referral services for a variety of social services to older adults in the community and responds to individual differences such as lifestyle, ethnicity, values, experiences, age and health status, and

WHEREAS, said organization provides information to the community to shed a positive light on aging and the aging process, and

WHEREAS, it will provide the Seniors in the Park organization certain opportunities and advantages if it is recognized as a subdivision of the Department of Parks and Recreation of the City of Whitewater.

Now, therefore, BE IT RESOLVED that the Seniors in the Park organization is hereby established as a subdivision of the City of Whitewater Department of Parks and Recreation.

Resolution introduced by Councilmember Stewart who moved its adoption. Seconded by Councilmember Binnie. AYES: Allen, Taylor, Binnie, Singer, Kienbaum, Stewart. NOES: None. ABSENT: Nosek ADOPTED April 8, 2009.

Kevin M. Brunner, City Manager

Michele R. Smith, City Clerk

FIRST READING OF ORDINANCE CREATING CHAPTER 5.20.27 TO SET STANDARDS FOR REVIEWING ALCOHOL LICENSE APPLICATIONS.

ORDINANCE NO. _____
AN ORDINANCE CREATING 5.20.027 OF CHAPTER 5.20
STANDARDS FOR REVIEWING ALCOHOL LICENSE APPLICATIONS

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

SECTION 1. Whitewater Municipal Code, Chapter 5.20, Section 5.20.027, is hereby created to read as follows:

5.20.027 Licensing Standards for Considering New Alcohol License Applications.

A. Alcohol License Review Committee review. All new applications for “Class A” sale of intoxicating liquor to consumers in original packages for off premises consumption licenses, and “Class B” sale of intoxicating liquor to consumers by the glass for on premises consumption licenses, shall be reviewed by the Alcohol License Review Committee (at times hereafter referred to as the ALRC) before the application is acted upon by the Common Council. The ALRC shall recommend that the Council grant, deny or grant with conditions each license. The Common Council shall consider the recommendation of the ALRC when considering license applications.

B. Staff Input. The ALRC and the Common Council shall consider the below listed factors in reviewing and judging the adequacy of applications. Appropriate city staff shall review the application in the context of these factors and report to the Committee. The city staff may include the city manager, the police department, the fire department, the Community Development Authority, the city clerk’s office, the city attorney’s office, the neighborhood services director’s office, the Department of Public Works office, and any other staff as deemed necessary or desirable. It shall not be required that all of the foregoing participate in any particular recommendation, rather it is the intent that the make-up of the staff involved be flexible to meet the needs of each particular situation.

C. Factors to be Considered. The ALRC in making its recommendation, and the Council in making its decision, shall consider the following factors:

1. Factors to be considered for reviewing new license applications:

a. Economic development considerations.

The Council finds that while all of the factors listed below are important considerations in licensing issuance decisions, economic development consideration should be a primary factor in the decision. In considering the economic development impact of an application, the ALRC and the Council will favor license applications that support important additional desirable development, such as businesses that provide high quality employment opportunities, businesses that provide attractive entertainment opportunities, or establishments that feature high quality restaurants.

The council also finds that establishments whose primary purpose is to serve alcohol, and that do not support other important additional developments should be given low priority in the application process because the city has an excess supply of similar establishments and those establishments do not foster economic development. Also, such businesses tend to cause more police enforcement related problems, and often detract from the immediate neighborhood and at times diminish the quality of life in the City of Whitewater.

The Council also finds that it is appropriate and in the public's best interest to at times hold in reserve one or more licenses that are limited by quota so that there will be a license or licenses available if a highly desirable development that needs a license seeks to locate in the City of Whitewater.

- b. Character of applicant, agent, managerial personnel, and owners.
- c. Experience of applicant and manager in operating a licensed establishment.
- d. History of applicant and manager in operation of licensed establishments.
- e. History of premises.
- f. Design, type, and size of the proposed establishment.
- g. Proximity to other licensed establishments.
- h. Proximity to residential buildings or areas.
- i. Ability of police department to ensure public safety at this location.
- j. Condition of building/premises.
- k. Compatibility of proposed use with the surrounding neighborhood.
- l. Zoning and land use considerations.
- m. Likely impact on property values.
- n. Any other relevant considerations.

D. Ranking Applications. When deciding between applications, those applications which best meet the listed factors shall be judged as superior to other applications. If there are multiple applications pending for licenses, whether the licenses are available or not, the timing of the filing of the application shall not create any preference. If more than one license application is pending for any particular license, the Alcohol Licensing Committee shall recommend which application, if any, in order of priority, should be granted.

Ordinance introduced by Councilmember Binnie who moved its adoption. Seconded by Councilmember Singer. AYES: Allen, Taylor, Binnie, Singer, Kienbaum, Stewart. NOES: None. ABSENT: Nosek. FIRST READING APPROVED: April 8, 2009.

Kevin M. Brunner, City Manager

Michele R. Smith, City Clerk

SECOND READING OF ORDINANCE AMENDING CHAPTER 11 RELATING TO PARKING LIMITATIONS ON CONGER STREET.

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

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

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

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

Conger Street South side; from Summit to S. Whiton 11.16.080 No Parking

The following shall be *added* to the Street Index of Parking Limitations:

Conger Street South side; from the east curblineline of Whiton,
East, for a distance of 160 feet 11.16.080 No Parking

Conger Street South side; from west curblineline of Summit St.
West for a distance of 256 feet 11.16.090 No Parking

2:00 a.m. – 5:00 a.m.

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

Ordinance introduced by Councilmember Allen who moved its adoption. Seconded by Councilmember Binnie. AYES: Allen, Nosek, Taylor, Binnie, Singer, Kienbaum, Stewart. NOES: None. ADOPTED April 8, 2009.

Kevin M Brunner, City Manager

Michele R Smith, City Clerk

SECOND READING OF ADOPTION OF ORDINANCE ASSIGNING RECOMMENDATION FOR BOARD AND COMMISSION MEMBERS TO CITY MANAGER AND COMMON COUNCIL PRESIDENT. (Instead of current Nominations Committee)

ORDINANCE NO. _____
AN ORDINANCE AMENDING CHAPTER 2.12 OF THE
CITY OF WHITEWATER MUNICIPAL CODE
REGARDING APPOINTMENT OF BOARDS,
COMMISSION AND COMMITTEE MEMBERS

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

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

2.12.011 Appointment of Board, Commission and Committee Members.

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

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

Ordinance introduced by Councilmember Binnie who moved its adoption. Seconded by Councilmember Singer. AYES: Allen, Taylor, Binnie, Singer, Kienbaum, Stewart. NOES: None. ABSENT: Nosek ADOPTED April 8, 2009.

Kevin M. Brunner, City Manager

Michele R. Smith, City Clerk

SECOND READING OF ADOPTION OF FLOOD PLAIN ORDINANCE.

**FLOOD PLAIN REGULATIONS AND
RE-ENACTING A NEW FLOODPLAIN ORDINANCE**

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

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

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

1.1 STATUTORY AUTHORIZATION

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

1.2 FINDING OF FACT

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

1.3 STATEMENT OF PURPOSE

This ordinance is intended to regulate floodplain development to:

- (1) Protect life, health and property;
- (2) Minimize expenditures of public funds for flood control projects;

- (3) Minimize rescue and relief efforts undertaken at the expense of the taxpayers;
- (4) Minimize business interruptions and other economic disruptions;
- (5) Minimize damage to public facilities in the floodplain;
- (6) Minimize the occurrence of future flood blight areas in the floodplain;
- (7) Discourage the victimization of unwary land and homebuyers;
- (8) Prevent increases in flood heights that could increase flood damage and result in conflicts between property owners; and
- (9) Discourage development in a floodplain if there is any practicable alternative to locate the activity, use or structure outside of the floodplain.

1.4 TITLE

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

1.5 GENERAL PROVISIONS

(1) AREAS TO BE REGULATED

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

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

(2) OFFICIAL MAPS & REVISIONS

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

OFFICIAL MAPS: Based on the FIS

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

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

(3) ESTABLISHMENT OF DISTRICTS

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

- (a) The Floodway District (FW) is the channel of a river or stream and those portions of the floodplain adjoining the channel required to carry the regional floodwaters.

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

(4) LOCATING FLOODPLAIN BOUNDARIES

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

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

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

(5) REMOVAL OF LANDS FROM FLOODPLAIN

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

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

(6) COMPLIANCE

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

(7) MUNICIPALITIES AND STATE AGENCIES REGULATED

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

(8) ABROGATION AND GREATER RESTRICTIONS

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

(9) INTERPRETATION

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

(10) WARNING AND DISCLAIMER OF LIABILITY

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

(11) SEVERABILITY

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

(12) ANNEXED AREAS FOR CITIES AND VILLAGES

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

(13) GENERAL DEVELOPMENT STANDARDS

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

(including manufactured home parks) shall include regional flood elevation and floodway data for any development that meets the subdivision definition of this ordinance.

2.0 GENERAL STANDARDS APPLICABLE TO ALL FLOODPLAIN DISTRICTS

2.1 HYDRAULIC AND HYDROLOGIC ANALYSES

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

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

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

(2) The zoning administrator shall deny permits if it is determined the proposed development will

obstruct flow or increase regional flood heights 0.01 foot or more, based on the officially adopted

FIRM or other adopted map, unless the provisions of sub. (3) are met.

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

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

2.2 WATERCOURSE ALTERATIONS

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

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

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

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

2.4 PUBLIC OR PRIVATE CAMPGROUNDS

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

(1) The campground is approved by the Department of Health and Family Services.

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

3.0 FLOODWAY DISTRICT (FW)

3.1 APPLICABILITY

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

3.2 PERMITTED USES

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

- they are not prohibited by any other ordinance;
 - they meet the standards in s. 3.3 and 3.4; and
 - all permits or certificates have been issued according to s. 7.1:
- (1) Agricultural uses, such as: farming, outdoor plant nurseries, horticulture, viticulture and wild crop harvesting.
 - (2) Nonstructural industrial and commercial uses, such as loading areas, parking areas and airport landing strips.

- (3) Nonstructural recreational uses, such as golf courses, tennis courts, archery ranges, picnic grounds, boat ramps, swimming areas, parks, wildlife and nature preserves, game farms, fish hatcheries, shooting, trap and skeet activities, hunting and fishing areas and hiking and horseback riding trails, subject to the fill limitations of s. 3.3(4).
- (4) Uses or structures accessory to open space uses, or classified as historic structures that comply with ss. 3.3 and 3.4.
- (5) Extraction of sand, gravel or other materials that comply with s. 3.3(4).
- (6) Functionally water-dependent uses, such as docks, piers or wharves, dams, flowage areas, culverts, navigational aids and river crossings of transmission lines, and pipelines that comply with chs. 30, 31, Stats.
- (7) Public utilities, streets and bridges that comply with s. 3.3(3).

3.3 STANDARDS FOR DEVELOPMENTS IN FLOODWAY AREAS

(1) GENERAL

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

(2) STRUCTURES

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

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

(3) PUBLIC UTILITIES, STREETS AND BRIDGES

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

- (a) Adequate floodproofing measures are provided to the flood protection elevation; and

(b) Construction meets the development standards of s. 2.1.

(3) **FILLS OR DEPOSITION OF MATERIALS**

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

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

3.4 PROHIBITED USES

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

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

4.0 FLOODFRINGE DISTRICT (FF)

4.1 APPLICABILITY

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

4.2 PERMITTED USES

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

4.3 STANDARDS FOR DEVELOPMENT IN FLOODFRINGE AREAS

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

(1) **RESIDENTIAL USES**

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

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

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

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

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

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

(2) **ACCESSORY STRUCTURES OR USES**

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

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

(3) **COMMERCIAL USES**

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

(4) **MANUFACTURING AND INDUSTRIAL USES**

Any manufacturing or industrial structure which is erected, altered or moved into the floodfringe area shall be protected to the flood protection elevation using fill, levees, floodwalls, or other flood proofing measures in s. 7.5. Subject to the requirements of s. 4.3(5), storage yards, surface parking lots and

other such uses may be placed at lower elevations if an adequate warning system exists to protect life and property.

(5) STORAGE OF MATERIALS

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

(6) PUBLIC UTILITIES, STREETS AND BRIDGES

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

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

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

(7) SEWAGE SYSTEMS

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

(8) WELLS

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

(9) SOLID WASTE DISPOSAL SITES

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

(10) DEPOSITION OF MATERIALS

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

11) MANUFACTURED HOMES

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

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

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

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

(12) MOBILE RECREATIONAL VEHICLES

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

5.0 OTHER FLOODPLAIN DISTRICTS

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

5.1 GENERAL FLOODPLAIN DISTRICT (GFP)

(1) APPLICABILITY

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

(2) PERMITTED USES

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

(4) STANDARDS FOR DEVELOPMENT IN THE GENERAL FLOODPLAIN DISTRICT

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

(4) DETERMINING FLOODWAY AND FLOODFRINGE LIMITS

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

- (a) Require the applicant to submit two copies of an aerial photograph or a plan which shows the proposed development with respect to the general floodplain district limits, stream channel, and existing floodplain developments, along with a legal description of the property, fill limits and elevations, building floor elevations and flood proofing measures;
- (b) Require the applicant to furnish any of the following information deemed necessary by the Department to evaluate the effects of the proposal upon flood height and flood flows, regional flood elevation and to determine floodway boundaries:
 1. A typical valley cross-section showing the stream channel, the floodplain adjoining each side of the channel, the cross-sectional area to be occupied by the proposed development, and all historic high water information;
 2. Plan (surface view) showing elevations or contours of the ground; pertinent structure, fill or storage elevations; size, location and layout of all proposed and existing structures on the site; location and elevations of streets, water supply, and sanitary facilities; soil types and other pertinent information;

3. Profile showing the slope of the bottom of the channel or flow line of the stream;
 4. Specifications for building construction and materials, floodproofing, filling, dredging, channel improvement, storage, water supply and sanitary facilities.
- (e) Transmit one copy of the information described in pars. (1) and (2) to the Department Regional office along with a written request for technical assistance to establish regional flood elevations and, where applicable, floodway data. Where the provisions of s. 7.1(2)(c) apply, the applicant shall provide all required information and computations to delineate floodway boundaries and the effects of the project on flood elevations.

5.2 FLOOD STORAGE DISTRICT

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

(1) APPLICABILITY

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

(2) PERMITTED USES

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

(3) STANDARDS FOR DEVELOPMENT IN FLOOD STORAGE DISTRICTS

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

6.0 NONCONFORMING USES

6.1 GENERAL

(1) APPLICABILITY

If these standards conform with s. 59.69(10), Stats., for counties or s. 62.23(7)(h), Stats., for cities and villages, they shall apply to all modifications or additions to any nonconforming use or structure and to

the use of any structure or premises which was lawful before the passage of this ordinance or any amendment thereto.

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

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

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

- (b) If a nonconforming use or the use of a nonconforming structure is discontinued for 12 consecutive months, it is no longer permitted and any future use of the property, and any structure or building thereon, shall conform to the applicable requirements of this ordinance;
- (c) The municipality shall keep a record which lists all nonconforming uses and nonconforming structures, their present equalized assessed value, the cost of all modifications or additions which have been permitted, and the percentage of the structure's total current value those modifications represent;
- (d) No modification or addition to any nonconforming structure or any structure with a nonconforming use, which over the life of the structure would equal or exceed 50% of its present equalized assessed value, shall be allowed unless the entire structure is permanently changed to a conforming structure with a conforming use in compliance with the applicable requirements of this ordinance. Contiguous dry land access must be provided for residential and commercial uses in compliance with s. 4.3(1). The costs of elevating a nonconforming building or a building with a nonconforming use to the flood protection elevation are excluded from the 50% provisions of this paragraph;
- (e) 1. Except as provided in subd. 2., if any nonconforming structure or any structure with a nonconforming use is destroyed or is substantially damaged, it cannot be replaced, reconstructed or rebuilt unless the use and the structure meet the current ordinance requirements. A structure is considered substantially damaged if the total cost to restore the structure to its pre-damaged condition equals or exceeds 50% of the structure's present equalized assessed value.
2. For nonconforming buildings that are damaged or destroyed by a nonflood disaster, the repair or reconstruction of any such nonconforming building may be permitted in order to restore it after the nonflood disaster, provided that the nonconforming building will meet all of the minimum requirements under applicable FEMA regulations (44 CFR Part 60), or the regulations promulgated thereunder.
- (f) A nonconforming historic structure may be altered if the alteration will not preclude the structures continued designation as a historic structure, the alteration will comply with s. 3.3 (1), flood resistant materials are used, and construction practices and floodproofing methods that comply with s. 7.5 are used.

6.2 FLOODWAY AREAS

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

6.3 FLOODFRINGE AREAS

- (1) No modification or addition shall be allowed to any nonconforming structure or any structure with a nonconforming use unless such modification or addition has been granted a permit or variance by the municipality, and the modification or addition shall be placed on fill or floodproofed to the flood protection elevation in compliance with the standards for that particular use in ss. 4.3 and 7.5, except where s. 6.3(2) is applicable.
- (2) Where compliance with the provisions of par. (1) would result in unnecessary hardship and only where the structure will not be used for human habitation or be associated with a high flood damage potential, the Board of Adjustment/Appeals, using the procedures established in s. 7.3, may grant a variance from those provisions of par. (1) for modifications or additions, using the criteria listed below. Modifications or additions which are protected to elevations lower than the flood protection elevation may be permitted if:
 - (a) No floor is allowed below the regional flood elevation for residential or commercial structures;
 - (b) Human lives are not endangered;

- (c) Public facilities, such as water or sewer, will not be installed;
 - (d) Flood depths will not exceed two feet;
 - (e) Flood velocities will not exceed two feet per second; and
 - (f) The structure will not be used for storage of materials as described in s. 4.3(6).
- (3) If neither the provisions of par. (1) or (2) above can be met, one addition to an existing room in a nonconforming building or a building with a nonconforming use may be allowed in the floodfringe, if the addition:
- (a) Meets all other regulations and will be granted by permit or variance;
 - (b) Does not exceed 60 square feet in area; and
 - (c) In combination with other previous modifications or additions to the building, does not equal or exceed 50% of the present equalized assessed value of the building.
- (4) All new private sewage disposal systems, or addition to, replacement, repair or maintenance of a private sewage disposal system shall meet all the applicable provisions of all local ordinances and ch. COMM 83, Wis. Adm. Code.
- (5) All new wells, or addition to, replacement, repair or maintenance of a well shall meet the applicable provisions of this ordinance and ch. NR 811 and NR 812, Wis. Adm. Code.

6.4 FLOOD STORAGE AREAS

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

7.0 ADMINISTRATION

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

7.1 ZONING ADMINISTRATOR

- (1) The zoning administrator is authorized to administer this ordinance and shall have the following duties and powers:
- (a) Advise applicants of the ordinance provisions, assist in preparing permit applications and appeals, and assure that the regional flood elevation for the proposed development is shown on all permit applications.
 - (b) Issue permits and inspect properties for compliance with provisions of this ordinance, and issue certificates of compliance where appropriate.
 - (bm) Inspect all damaged floodplain structures and perform a substantial damage assessment to determine if substantial damage to the structures has occurred.
 - (c) Keep records of all official actions such as:

1. All permits issued, inspections made, and work approved;

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

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

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

(e) Investigate, prepare reports, and report violations of this ordinance to the municipal zoning agency and attorney for prosecution. Copies of the reports shall also be sent to the Department Regional office.

(f) Submit copies of text and map amendments and biennial reports to the FEMA Regional office.

(2) LAND USE PERMIT

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

(a) GENERAL INFORMATION

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

(b) SITE DEVELOPMENT PLAN

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

1. Location, dimensions, area and elevation of the lot;
2. Location of the ordinary highwater mark of any abutting navigable waterways;
3. Location of any structures with distances measured from the lot lines and street center lines;

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

(c) DATA REQUIREMENTS TO ANALYZE DEVELOPMENTS

1. The applicant shall provide all survey data and computations required to show the effects of the project on flood heights, velocities and floodplain storage, for all subdivision proposals, as "subdivision" is defined in s. 236, Stats., and other proposed developments exceeding 5 acres in area or where the estimated cost exceeds \$125,000. The applicant shall provide:
 - a. An analysis of the effect of the development on the regional flood profile, velocity of flow and floodplain storage capacity;
 - b. A map showing location and details of vehicular access to lands outside the floodplain; and
 - c. A surface drainage plan showing how flood damage will be minimized. The estimated cost of the proposal shall include all structural development, landscaping, access and road development, utilities, and other pertinent items, but need not include land costs.

(d) EXPIRATION

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

(3) CERTIFICATE OF COMPLIANCE

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

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

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

(4) **OTHER PERMITS**

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

7.2 ZONING AGENCY

- (1) The City of Whitewater Plan and Architectural review commission shall:
 - (a) oversee the functions of the office of the zoning administrator; and
 - (b) review and advise the Governing body on all proposed amendments to this ordinance, maps and text.
- (2) This zoning agency shall not
 - (a) grant variances to the terms of the ordinance in place of action by the Board of Adjustment/Appeals; or
 - (b) amend the text or zoning maps in place of official action by the Governing body.

7.3 BOARD OF ADJUSTMENT/APPEALS

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

(1) **POWERS AND DUTIES**

The Board of Adjustment/Appeals shall:

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

(2) **APPEALS TO THE BOARD**

- (a) Appeals to the board may be taken by any person aggrieved, or by any officer or department of the municipality affected by any decision of the zoning administrator or other administrative officer. Such appeal shall be taken within 30 days unless otherwise provided by the rules of the board, by

filing with the official whose decision is in question, and with the board, a notice of appeal specifying the reasons for the appeal. The official whose decision is in question shall transmit to the board all records regarding the matter appealed.

(b) NOTICE AND HEARING FOR APPEALS INCLUDING VARIANCES

1. Notice - The board shall:

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

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

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

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

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

(3) BOUNDARY DISPUTES

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

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

according to s. 8.0.

(4) VARIANCE

- (a) The Board may, upon appeal, grant a variance from the standards of this ordinance if an applicant convincingly demonstrates that:
 - 1. Literal enforcement of the ordinance provisions will cause unnecessary hardship;
 - 2. The hardship is due to adoption of the floodplain ordinance and unique property conditions, not common to adjacent lots or premises. In such case the ordinance or map must be amended;
 - 3. The variance is not contrary to the public interest; and
 - 4. The variance is consistent with the purpose of this ordinance in s. 1.3.
- (b) In addition to the criteria in par. (a), to qualify for a variance under FEMA regulations, the following criteria must be met:
 - 1. The variance may not cause any increase in the regional flood elevation;
 - 2. Variances can only be granted for lots that are less than one-half acre and are contiguous to existing structures constructed below the RFE;
 - 3. Variances shall only be granted upon a showing of good and sufficient cause, shall be the minimum relief necessary, shall not cause increased risks to public safety or nuisances, shall not increase costs for rescue and relief efforts and shall not be contrary to the purpose of the ordinance.
- (c) A variance shall not:
 - 1. Grant, extend or increase any use prohibited in the zoning district.
 - 2. Be granted for a hardship based solely on an economic gain or loss.
 - 3. Be granted for a hardship which is self-created.
 - 4. Damage the rights or property values of other persons in the area.
 - 5. Allow actions without the amendments to this ordinance or map(s) required in s. 8.1.
 - 6. Allow any alteration of an historic structure, including its use, which would preclude its continued designation as an historic structure.
- (d) When a floodplain variance is granted the Board shall notify the applicant in writing that it may increase flood insurance premiums and risks to life and property. A copy shall be maintained with the variance record.

7.4 TO REVIEW APPEALS OF PERMIT DENIALS

- (1) The Zoning Agency (s. 7.2) or Board shall review all data related to the appeal. This may include:
 - (a) Permit application data listed in s. 7.1(2).

- (b) Floodway/floodfringe determination data in s. 5.1(4).
 - (c) Data listed in s. 3.3(1)(b) where the applicant has not submitted this information to the zoning administrator.
 - (e) Other data submitted with the application, or submitted to the Board with the appeal.
- (2) For appeals of all denied permits the Board shall:
- (a) Follow the procedures of s. 7.3;
 - (b) Consider zoning agency recommendations; and
 - (c) Either uphold the denial or grant the appeal.
- (3) For appeals concerning increases in regional flood elevation the Board shall:
- (a) Uphold the denial where the Board agrees with the data showing an increase in flood elevation. Increases equal to or greater than 0.01 foot may only be allowed after amending the flood profile and map and all appropriate legal arrangements are made with all adversely affected property owners.
 - (b) Grant the appeal where the Board agrees that the data properly demonstrates that the project does not cause an increase equal to or greater than 0.01 foot provided no other reasons for denial exist.

7.5 FLOODPROOFING

- (1) No permit or variance shall be issued until the applicant submits a plan certified by a registered professional engineer or architect that the floodproofing measures will protect the structure or development to the flood protection elevation.
- (2) Floodproofing measures shall be designed to:
- (a) Withstand flood pressures, depths, velocities, uplift and impact forces and other regional flood factors;
 - (b) Protect structures to the flood protection elevation;
 - (c) Anchor structures to foundations to resist flotation and lateral movement; and
 - (d) Insure that structural walls and floors are watertight to the flood protection elevation, and the interior remains completely dry during flooding without human intervention.
- (3) Floodproofing measures could include:
- (a) Reinforcing walls and floors to resist rupture or collapse caused by water pressure or floating debris.
 - (b) Adding mass or weight to prevent flotation.
 - (c) Placing essential utilities above the flood protection elevation.
 - (d) Installing surface or subsurface drainage systems to relieve foundation wall and basement floor pressures.
 - (e) Constructing water supply wells and waste treatment systems to prevent the entry of flood waters.

- (f) Putting cutoff valves on sewer lines or eliminating gravity flow basement drains.

7.6 PUBLIC INFORMATION

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

8.0 AMENDMENTS

8.1 GENERAL

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

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

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

8.2 PROCEDURES

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

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

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

9.0 ENFORCEMENT AND PENALTIES

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

10.0 DEFINITIONS

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

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

- 12) "DECK" – An unenclosed exterior structure that has no roof or sides, but has a permeable floor which allows the infiltration of precipitation.
- 13) "DEPARTMENT" - The Wisconsin Department of Natural Resources.
- 14) "DEVELOPMENT" - Any artificial change to improved or unimproved real estate, including, but not limited to, the construction of buildings, structures or accessory structures; the construction of additions or alterations to buildings, structures or accessory structures; the repair of any damaged structure or the improvement or renovation of any structure, regardless of percentage of damage or improvement; the placement of buildings or structures; subdivision layout and site preparation; mining, dredging, filling, grading, paving, excavation or drilling operations; the storage, deposition or extraction of materials or equipment; and the installation, repair or removal of public or private sewage disposal systems or water supply facilities.
- 15) "DRYLAND ACCESS" - A vehicular access route which is above the regional flood elevation and which connects land located in the floodplain to land outside the floodplain, such as a road with its surface above regional flood elevation and wide enough for wheeled rescue and relief vehicles.
- 16) "ENCROACHMENT" - Any fill, structure, equipment, building, use or development in the floodway.
- 17) "EXISTING MANUFACTURED HOME PARK OR SUBDIVISION" - A parcel of land, divided into two or more manufactured home lots for rent or sale, on which the construction of facilities for servicing the lots is completed before the effective date of this ordinance. At a minimum, this would include the installation of utilities, the construction of streets and either final site grading or the pouring of concrete pads
- 18) "EXPANSION TO EXISTING MOBILE/MANUFACTURED HOME PARK" - The preparation of additional sites by the construction of facilities for servicing the lots on which the manufactured homes are to be affixed. This includes installation of utilities, construction of streets and either final site grading, or the pouring of concrete pads.
- 19) "FEDERAL EMERGENCY MANAGEMENT AGENCY (FEMA)" - The federal agency that administers the National Flood Insurance Program.
- 20) "FLOOD INSURANCE RATE MAP" (FIRM) - A map of a community on which the Federal Insurance Administration has delineated both special flood hazard areas (the floodplain) and the risk premium zones applicable to the community. This map can only be amended by the Federal Emergency Management Agency.
- 21) "FLOOD" or "FLOODING" – A general and temporary condition of partial or complete inundation of normally dry land areas caused by one of the following conditions:
 - ✓ The overflow or rise of inland waters,
 - ✓ The rapid accumulation or runoff of surface waters from any source,
 - ✓ The inundation caused by waves or currents of water exceeding anticipated cyclical levels along the shore of Lake Michigan or Lake Superior, or
 - ✓ The sudden increase caused by an unusually high water level in a natural body of water, accompanied by a severe storm, or by an unanticipated force of nature, such as a seiche, or by some similarly unusual event.

- 22) "FLOOD FREQUENCY" - The probability of a flood occurrence which is determined from statistical analyses. The frequency of a particular flood event is usually expressed as occurring, on the average, once in a specified number of years or as a percent (%) chance of occurring in any given year.
- 23) "FLOODFRINGE" - That portion of the floodplain outside of the floodway which is covered by flood waters during the regional flood and associated with standing water rather than flowing water.
- 24) "FLOOD HAZARD BOUNDARY MAP" - A map designating approximate flood hazard areas. Flood hazard areas are designated as unnumbered A-Zones and do not contain floodway lines or regional flood elevations. This map forms the basis for both the regulatory and insurance aspects of the National Flood Insurance Program (NFIP) until superseded by a Flood Insurance Study and a Flood Insurance Rate Map.
- 25) "FLOOD INSURANCE STUDY" - A technical engineering examination, evaluation, and determination of the local flood hazard areas. It provides maps designating those areas affected by the regional flood and provides both flood insurance rate zones and base flood elevations and may provide floodway lines. The flood hazard areas are designated as numbered and unnumbered A-Zones. Flood Insurance Rate Maps, that accompany the Flood Insurance Study, form the basis for both the regulatory and the insurance aspects of the National Flood Insurance Program.
- 26) "FLOODPLAIN" - Land which has been or may be covered by flood water during the regional flood. It includes the floodway and the floodfringe, and may include other designated floodplain areas for regulatory purposes.
- 27) "FLOODPLAIN ISLAND" - A natural geologic land formation within the floodplain that is surrounded, but not covered, by floodwater during the regional flood.
- 28) "FLOODPLAIN MANAGEMENT" - Policy and procedures to insure wise use of floodplains, including mapping and engineering, mitigation, education, and administration and enforcement of floodplain regulations.
- 29) "FLOOD PROFILE" - A graph or a longitudinal profile line showing the relationship of the water surface elevation of a flood event to locations of land surface elevations along a stream or river.
- 30) "FLOODPROOFING" - Any combination of structural provisions, changes or adjustments to properties and structures, water and sanitary facilities and contents of buildings subject to flooding, for the purpose of reducing or eliminating flood damage.
- 31) "FLOOD PROTECTION ELEVATION" - An elevation of two feet of freeboard above the water surface profile elevation designated for the regional flood. (Also see: FREEBOARD.)
- 32) "FLOOD STORAGE" - Those floodplain areas where storage of floodwaters has been taken into account during analysis in reducing the regional flood discharge.
- 33) "FLOODWAY" - The channel of a river or stream and those portions of the floodplain adjoining the channel required to carry the regional flood discharge.
- 34) "FREEBOARD" - A safety factor expressed in terms of a specified number of feet above a calculated flood level. Freeboard compensates for any factors that cause flood heights greater than those calculated, including ice jams, debris accumulation, wave action, obstruction of bridge openings and floodways, the effects of watershed urbanization, loss of flood storage areas due to development and aggregation of the river or stream bed.

- 35) "HABITABLE STRUCTURE" - Any structure or portion thereof used or designed for human habitation.
- 36) "HEARING NOTICE" - Publication or posting meeting the requirements of Ch. 985, Stats. For appeals, a Class 1 notice, published once at least one week (7 days) before the hearing, is required. For all zoning ordinances and amendments, a Class 2 notice, published twice, once each week consecutively, the last at least a week (7 days) before the hearing. Local ordinances or bylaws may require additional notice, exceeding these minimums.
- 37) "HIGH FLOOD DAMAGE POTENTIAL" - Damage that could result from flooding that includes any danger to life or health or any significant economic loss to a structure or building and its contents.
- 38) "HISTORIC STRUCTURE" - Any structure that is either:
- ✓ Listed individually in the National Register of Historic Places or preliminarily determined by the Secretary of the Interior as meeting the requirements for individual listing on the National Register,
 - ✓ Certified or preliminarily determined by the Secretary of the Interior as contributing to the historical significance of a registered historic district or a district preliminarily determined by the Secretary to qualify as a registered historic district,
 - ✓ Individually listed on a state inventory of historic places in states with historic preservation programs which have been approved by the Secretary of the Interior, or
 - ✓ Individually listed on a local inventory of historic places in communities with historic preservation programs that have been certified either by an approved state program, as determined by the Secretary of the Interior; or by the Secretary of the Interior in states without approved programs.
- 39) "INCREASE IN REGIONAL FLOOD HEIGHT" - A calculated upward rise in the regional flood elevation, equal to or greater than 0.01 foot, based on a comparison of existing conditions and proposed conditions which is directly attributable to development in the floodplain but not attributable to manipulation of mathematical variables such as roughness factors, expansion and contraction coefficients and discharge.
- 40) "LAND USE" - Any nonstructural use made of unimproved or improved real estate. (Also see DEVELOPMENT.)
- 41) "MANUFACTURED HOME" - A structure transportable in one or more sections, which is built on a permanent chassis and is designed to be used with or without a permanent foundation when connected to required utilities. The term "manufactured home" includes a mobile home but does not include a "mobile recreational vehicle."
- 42) "MOBILE RECREATIONAL VEHICLE" - A vehicle which is built on a single chassis, 400 square feet or less when measured at the largest horizontal projection, designed to be self-propelled, carried or permanently towable by a licensed, light-duty vehicle, is licensed for highway use if registration is required and is designed primarily not for use as a permanent dwelling, but as temporary living quarters for recreational, camping, travel or seasonal use. Manufactured homes that are towed or carried onto a parcel of land, but do not remain capable of being towed or carried, including park model homes, do not fall within the definition of "mobile recreational vehicles."
- 43) "MUNICIPALITY" or "MUNICIPAL" - The county, city or village governmental units enacting, administering and enforcing this zoning ordinance.
- 44) "NAVD" or "NORTH AMERICAN VERTICAL DATUM" –Elevations referenced to mean sea level datum, 1988 adjustment.

- 45) "NGVD" or "NATIONAL GEODETIC VERTICAL DATUM" - Elevations referenced to mean sea level datum, 1929 adjustment.
- 46) "NEW CONSTRUCTION" - For floodplain management purposes, "new construction" means structures for which the start of construction commenced on or after the effective date of floodplain zoning regulations adopted by this community and includes any subsequent improvements to such structures. For the purpose of determining flood insurance rates, it includes any structures for which the "start of construction" commenced on or after the effective date of an initial FIRM or after December 31, 1974, whichever is later, and includes any subsequent improvements to such structures.
- 47) "NONCONFORMING STRUCTURE" - An existing lawful structure or building which is not in conformity with the dimensional or structural requirements of this ordinance for the area of the floodplain which it occupies. (For example, an existing residential structure in the floodfringe district is a conforming use. However, if the lowest floor is lower than the flood protection elevation, the structure is nonconforming.)
- 48) "NONCONFORMING USE" - An existing lawful use or accessory use of a structure or building which is not in conformity with the provisions of this ordinance for the area of the floodplain which it occupies. (Such as a residence in the floodway.)
- 49) "OBSTRUCTION TO FLOW" - Any development which blocks the conveyance of floodwaters such that this development alone or together with any future development will cause an increase in regional flood height.
- 50) "OFFICIAL FLOODPLAIN ZONING MAP" - That map, adopted and made part of this ordinance, as described in s. 1.5(2), which has been approved by the Department and FEMA.
- 51) "OPEN SPACE USE" - Those uses having a relatively low flood damage potential and not involving structures.
- 52) "ORDINARY HIGHWATER MARK" - The point on the bank or shore up to which the presence and action of surface water is so continuous as to leave a distinctive mark such as by erosion, destruction or prevention of terrestrial vegetation, predominance of aquatic vegetation, or other easily recognized characteristic.
- 53) "PERSON" - An individual, or group of individuals, corporation, partnership, association, municipality or state agency.
- 54) "PRIVATE SEWAGE SYSTEM" - A sewage treatment and disposal system serving one structure with a septic tank and soil absorption field located on the same parcel as the structure. It also means an alternative sewage system approved by the Department of Commerce, including a substitute for the septic tank or soil absorption field, a holding tank, a system serving more than one structure or a system located on a different parcel than the structure.
- 55) "PUBLIC UTILITIES" - Those utilities using underground or overhead transmission lines such as electric, telephone and telegraph, and distribution and collection systems such as water, sanitary sewer and storm sewer.
- 56) "REASONABLY SAFE FROM FLOODING" - Means base flood waters will not inundate the land or damage structures to be removed from the special flood hazard area and that any subsurface waters related to the base flood will not damage existing or proposed buildings.
- 57) "REGIONAL FLOOD" - A flood determined to be representative of large floods known to have occurred in Wisconsin. A regional flood is a flood with a one percent chance of being equaled or exceeded in any given year, and if depicted on the FIRM, the RFE is equivalent to the BFE.

- 58) "START OF CONSTRUCTION" - The date the building permit was issued, provided the actual start of construction, repair, reconstruction, rehabilitation, addition, placement, or other improvement was within 180 days of the permit date. The actual start means either the first placement of permanent construction on a site, such as the pouring of slab or footings, the installation of piles, the construction of columns, or any work beyond initial excavation, or the placement of a manufactured home on a foundation. Permanent construction does not include land preparation, such as clearing, grading and filling, nor does it include the installation of streets and/or walkways, nor does it include excavation for a basement, footings, piers or foundations or the erection of temporary forms, nor does it include the installation on the property of accessory buildings, such as garages or sheds not occupied as dwelling units or not part of the main structure. For an alteration, the actual start of construction means the first alteration of any wall, ceiling, floor or other structural part of a building, whether or not that alteration affects the external dimensions of the building.
- 59) "STRUCTURE" - Any manmade object with form, shape and utility, either permanently or temporarily attached to, placed upon or set into the ground, stream bed or lake bed, including, but not limited to, roofed and walled buildings, gas or liquid storage tanks, bridges, dams and culverts.
- 60) "SUBDIVISION" - Has the meaning given in s. 236.02(12), Wis. Stats.
- 61) "SUBSTANTIAL DAMAGE" - Damage of any origin sustained by a structure, whereby the cost of restoring the structure to its pre-damaged condition would equal or exceed 50 percent of the equalized assessed value of the structure before the damage occurred.
- 62) "UNNECESSARY HARDSHIP" - Where special conditions affecting a particular property, which were not self-created, have made strict conformity with restrictions governing areas, setbacks, frontage, height or density unnecessarily burdensome or unreasonable in light of the purposes of the ordinance.
- 63) "VARIANCE" - An authorization by the board of adjustment or appeals for the construction or maintenance of a building or structure in a manner which is inconsistent with dimensional standards (not uses) contained in the floodplain zoning ordinance.
- 64) "VIOLATION" - The failure of a structure or other development to be fully compliant with the floodplain zoning ordinance. A structure or other development without required permits, lowest floor elevation documentation, floodproofing certificates or required floodway encroachment calculations is presumed to be in violation until such time as that documentation is provided.
- 65) "WATERSHED" - The entire region contributing runoff or surface water to a watercourse or body of water.
- 66) "WATER SURFACE PROFILE" - A graphical representation showing the elevation of the water surface of a watercourse for each position along a reach of river or stream at a certain flood flow. A water surface profile of the regional flood is used in regulating floodplain areas.
- 67) **"WELL" - means an excavation opening in the ground made by digging, boring, drilling, driving or other methods, to obtain groundwater regardless**

Ordinance introduced by Councilmember Allen who moved its adoption. Seconded by Councilmember Binnie. AYES: Allen, Nosek, Taylor, Binnie, Singer, Kienbaum, Stewart. NOES: None. ADOPTED April 8, 2009.

Kevin M. Brunner, City Manager

Michele R. Smith, City Clerk

CONSIDERATION OF ACTION ON CDA REQUEST TO INCREASE THEIR APPROPRIATION FROM TID 4 BY \$15,000 MARKETING BUDGET BY \$15,000.

It was moved by Stewart and seconded by Binnie to approve the increase in the CDA's appropriation from TID 4 for the marketing budget by \$15,000. AYES: Allen, Taylor, Binnie, Singer, Kienbaum, Stewart. NOES: None. Absent: Nosek.

CONSIDERATION OF APPROVAL OF MEMO OF UNDERSTANDING BETWEEN CITY AND CDA.

Memorandum of Understanding

This memorandum of understanding made this 1st day of April, 2009 by and between the City of Whitewater, hereinafter called City, and the Whitewater Community Development Authority, hereinafter called CDA.

Witnesseth:

The City and the CDA have enjoyed a positive working relationship for many years and the two parties are desirous of better defining this relationship. The CDA has been established pursuant to Wisconsin State Statutes 66.1335 by the City for the purpose of carrying out blight elimination, urban renewal programs and projects and housing projects. In addition, the CDA has been charged by the City to act as the agent of the City in planning and carrying out community development programs and activities approved by the City Council under the federal housing and community development act of 1974 as well as to act as agent of the City to carry out the tax increment financing (TIF) planning and programming activities of the City with final approval of TIF budgets and plans by the City Council.

The City and CDA hereby agree to the following:

1. The CDA will provide written quarterly reports to City Council commencing in 2009. These reports will be presented to the Council at one of its regularly scheduled meetings. In addition, an annual report detailing the CDA's activities and finances, as required by Chapter 2.48 of the Whitewater Municipal Code will be presented to the City Council no later than April 15th of each year.
2. The CDA will conduct an annual meeting at which time the economic and community development goals and objectives of the City will be discussed and determined. City Council members as well as community members will be encouraged to attend the annual CDA meeting. The CDA annual meeting shall be held in conjunction with the annual City budget process in the fall of each year.
3. The CDA's financial records will be maintained by the City Finance Director. Quarterly Tax Incremental Finance District reports will be provided by the Finance Director to both the City Council and CDA. Monthly financial reports will also be provided to the CDA of its financial activities.
4. All CDA funds will be accounted for in separate enterprise funds maintained by the City Finance Department. These funds shall be maintained according to General Accepted Accounting Principles (GAAP) and will be subject to annual audit by the City's auditor.

Approval of special enterprise fund expenditures shall be the responsibility of the CDA and monthly revenue/expenditure reports will be produced by the City Finance Department and approved by the CDA Board of Directors.

5. The City Council will appoint two of its members to serve on the CDA Board of Directors. These City Council representatives will be responsible for attending and participating fully in all CDA meetings and with reporting periodically to the Council on CDA activities.
6. The parties to this agreement recognize that there may be occasions in the future when, due to conflicting positions, the CDA may have a different position on a matter than the City Manager on an issue which concerns the City Council. This section is set forth for the purpose of providing a process for the parties to follow when such circumstances arise. If a conflict arises, an ad hoc committee shall be formed that will consist of a City Council member appointed by the City Council, a Community Development Authority member appointed by the Community Development Authority (who shall not be a member of the Common Council), and the City Manager. If it is not practical for the City Council to appoint a member due to the immediacy of the circumstances, the City Council President shall act as the City Council representative. If it is not practical for the Community Development Authority to appoint a member due to the immediacy of the circumstances, the Community Development Authority Chairperson shall act as the Community Development Authority representative. The committee so formed shall attempt to resolve the conflict. If the committee is unable to resolve the conflict, the CDA committee member shall be authorized to communicate the CDA's position to the City of Whitewater Common Council. Upon completion of the work of the committee on the issue in question, the committee shall adjourn sine die.
7. The CDA assigns the responsibilities for its Executive Director to the City Manager. In consultation with the City Manager, the CDA Board of Directors is responsible for the hiring/firing of the CDA Coordinator subject to the employment agreement executed for this position. The CDA Coordinator will report on a daily basis to the City Manager with policy direction to come from the CDA Board of Directors.
8. The annual CDA budget will be developed by the CDA Coordinator and then reviewed and adopted by the CDA Board of Directors before it is submitted to the City Manager for eventual presentation to the City Council. Final approval of annual CDA budgets shall be made by the City Council.

Agreed to this 8th day of April, 2009.

City of Whitewater

Whitewater Community
Development Authority

Kevin M. Brunner, City Manager

Thomas Miller, Chair

Michele Smith, City Clerk

Alan Marshall, Vice Chair

It was moved by Binnie and seconded by Allen to approve the Memorandum of Understanding between the City and CDA. AYES: Allen, Taylor, Binnie, Singer, Kienbaum, Stewart. NOES: None. Absent: Nosek. APPROVED: April 8, 2009.

CONSIDERATION OF APPROVAL OF COMPREHENSIVE PLANNING SERVICES CONTRACT WITH VANDEWALLE & ASSOCIATES.

It was moved by Binnie and seconded by Allen to approve a contract for comprehensive planning services with Vandewalle & Associates. AYES: Allen, Taylor, Binnie, Singer, Kienbaum, Stewart. NOES: None. Absent: Nosek.

CONSIDERATION OF CLARIFICATION OF THE “OATH OF OFFICE” REQUIREMENT OF BOARDS AND COMMISSION MEMBERS.

Taylor had requested this item be put on the agenda at the request of Mariann Scott. Ms. Scott was not at the meeting to explain.

CONSIDERATION OF REPORT ON MEASURES DETERMINED TO ENSURE COMPLIANCE WITH CITY/STATE RECYCLING REQUIREMENTS BY CURRENTLY NON-CONFORMING MULTI-FAMILY PROPERTIES.

All properties are in the process of being compliant. There was a meeting with DLK and dumpsters have been ordered for his properties.

COUNCILMEMBER REQUESTS FOR FUTURE AGENDA ITEMS. No agenda items requested.

ADJOURNMENT TO EXECUTIVE SESSION AT 10:10 P.M., TO RECONVENE AT 10:20 P.M. PER WISCONSIN STATUTES 19.85(1)(C) “CONSIDERING EMPLOYMENT, PROMOTION, COMPENSATION OR PERFORMANCE EVALUATION DATA OF ANY PUBLIC EMPLOYEE OVER WHICH THE GOVERNMENTAL BODY HAS JURISDICTION OR EXERCISES RESPONSIBILITY” AND 19.85(1)(E) “DELIBERATING OR NEGOTIATING THE PURCHASE OF PUBLIC PROPERTIES, THE INVESTING OF PUBLIC FUNDS, OR CONDUCTING OTHER SPECIFIED PUBLIC BUSINESS, WHENEVER COMPETITIVE OR BARGAINING REASONS REQUIRE A CLOSED SESSION.”

It was moved by Singer and seconded by Allen to adjourn to executive session to discuss WPPA Union Negotiations and Possible Ratification of 2009-2011 Contract. AYES: Allen, Taylor, Binnie, Singer, Kienbaum, Stewart. NOES: None. Absent: Nosek.

RE-ADJOURN TO OPEN SESSION. It was moved by Binnie and seconded by Taylor to reconvene to open session at 10:18 pm.

It was moved by councilmember Binnie and seconded by councilmember Stewart to accept the WPPA 2009-2011 contract. AYES: Allen, Taylor, Binnie, Singer, Kienbaum, Stewart. NOES: None. ABSENT: Nosek.

ADJOURNMENT. It was moved by Binnie and seconded by Taylor to adjourn the meeting. The meeting was adjourned by unanimous agreement at 10:20 pm.

Respectfully Submitted,

Nancy Stanford
Administrative Assistant