

## **ORDINANCE NO. 3-24**

### **AN ORDINANCE AMENDING THE MUNICIPAL CODE OF THE CITY OF HUDSON, WISCONSIN**

Upon review, recommendation, and consideration by the City of Hudson Common Council that the Common Council do ordain that Municipal Code Chapter 252 is hereby adopted and reads as follows:

## **Chapter 252 St. Croix Scenic Riverway**

### **§ 252-1 Purpose.**

This chapter is enacted to create regulations to protect the continued eligibility of the Lower St. Croix River for inclusion in the National Wild and Scenic River System and to guarantee the protection of the wild, scenic, and recreational qualities of the river for present and future generations. These rules are intended to reduce the adverse effects of overcrowding and poorly planned shoreline and bluff area development, to preserve and maintain the scenic beauty of the shoreland and bluffs above the river, to prevent pollution and the contamination of surface and groundwaters and soil erosion, to provide sufficient space on lots for sanitary facilities, to minimize flood damage, to maintain property values, and to preserve and maintain the exceptional scenic, cultural and natural characteristics of the water and related land of the Lower St. Croix Riverway in a manner consistent with the National Wild and Scenic Rivers Act (P.L. 90-542), the federal Lower St. Croix River Act of 1972 (P.L. 92-560) and the Wisconsin Lower St. Croix River Act (§ 30.27, Wis. Stats.).

### **§ 252-2 Statutory Authority.**

This chapter is enacted under the authority and requirement of s. 30.27, Stats, and s. NR 118.09(1) and 118.02(3), Wis. Admin. Code.

### **§ 252-3 Boundaries.**

A. This chapter shall apply to land in the City of Hudson and within the boundaries of the Lower St. Croix National Riverway as set forth in the Master Plan jointly prepared by the States of Minnesota and Wisconsin and the National Park Service, pursuant to P.L. 92-560.

(1) A boundary map and legal description of the riverway boundary is available in the City of Hudson Zoning Department.

#### **B. Interpretation**

##### **(1) Compliance**

(a) No development of land or water shall be implemented, and no use, structure or part thereof shall be located, erected, moved, reconstructed, extended, enlarged, converted or structurally altered without full compliance with provisions of this chapter and all other applicable local, State and federal regulations.

##### **(2) Abrogation**

- (a) If any provision of this chapter conflicts with any provision of Chapter 255 of the City of Hudson Zoning Ordinance the more restrictive provision shall apply.
- (b) This chapter is not intended to repeal, abrogate, or impair any existing deed restrictions, covenants or easements. However, where this chapter imposes greater restrictions, the provisions of this chapter shall take precedence.

**C. Liberal Construction**

- (1) The provisions of this chapter shall be liberally construed in favor of the City of Hudson and shall not be construed to be a limitation or repeal of any other power now possessed or granted to the City of Hudson.

**D. Severability**

- (1) Should any portion of this subchapter be declared invalid or unconstitutional for any reason, by a court of competent jurisdiction, the remainder of this chapter shall not be affected.

**§ 252-4 Definitions.**

As used in this chapter, the following terms shall have the meanings indicated:

**ACCESSORY STRUCTURE.** A subordinate structure, the use of which is incidental to, and customarily found in connection with, the principal structure or use of the property. Accessory structures include, but are not limited to, detached garages, sheds, barns, gazebos, patios, decks (both detached and attached), swimming pools, hot tubs, fences, retaining walls, driveways, parking lots, sidewalks, detached stairways, and lifts.

**ACCESSORY USE.** A use subordinate to and serving the principal use on the same lot and customarily incidental thereto.

**AGRICULTURE.** Beekeeping; livestock grazing; orchards; raising of grain, grass or seed crops; raising of fruits, nuts or berries; placing land in federal programs in return for payments in kind; owning land, at least 35 acres of which is enrolled in the conservation reserve program under 16 USC 3831 to 3836; and vegetable raising.

**ANTENNA.** Any device or equipment used for the transmission or reception of electromagnetic waves, which may include an omnidirectional antenna (rod), a directional antenna (panel) or a parabolic antenna (disc).

**BED-AND-BREAKFAST OPERATION.** A place of lodging for transient guests that is the owner's personal residence, that is occupied by the owner at the time of rental, and in which the only meal served to guests is breakfast.

**BLUFFLINE.** A line along the top of the slope preservation zone.

**BUILDING LINE.** A line measured across the width of a lot at that point where the principal structure is placed in accordance with setback provisions.

**CAMOUFLAGE DESIGN.** A wireless communication service facility that is disguised, hidden, or screened, but remains recognizable as a tower or antenna.

**COMPLIANT BUILDING LOCATION.** An area on a lot where a building could be located in compliance with all applicable ordinance requirements.

**CONDITIONAL USE.** A use that is specifically listed in a local zoning ordinance as either a conditional use or special exception and that may only be permitted if the local zoning authority determines that the conditions specified in the ordinance for that use are satisfied.

**DEPARTMENT.** The Wisconsin Department of Natural Resources.

**DISABLED.** Having a physical or mental impairment that substantially limits one or more major life activities.

**EARTH-TONE.** Colors that harmonize with the natural surroundings on the site during leaf-on conditions.

**EXPANSION.** An addition to an existing structure regardless of whether the addition is vertical or horizontal or both.

**FILTERED VIEW OF THE RIVER.** One can see the river through the vegetation, while any structure remains visually inconspicuous.

**FOOTPRINT.** The land area covered by a structure at ground level, measured on a horizontal plane. The footprint of a residence includes attached garages and porches, but excludes decks, patios, carports, and roof overhangs.

**FOUNDATION.** The underlying base of a building or other structure, including but not limited to pillars, footings, and concrete and masonry walls.

**HISTORIC DISTRICT.** An area designated by the Common Council, on recommendation of the Plan Commission, that contains historic buildings, improvements, or sites.

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

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

**HUMAN HABITATION.** The use of a building or other structure for human occupancy, including but not limited to cooking, eating, bathing, and sleeping.

**IMPROVEMENT.** Any building, structure, place, work of art or other object constituting a physical betterment of real property or any part of such betterment, including streets, alleys, sidewalks, curbs, lighting fixtures, signs and the like.

**LAND DIVISION.** Any division of a parcel of land by the owner or the owner's agent, for the purpose of transfer of ownership or building development, which creates one or more parcels or building sites of 20 acres or less.

**LANDSCAPE ARCHITECT.** A person who has graduated with a major in landscape architecture from a college accredited by the American Society of Landscape Architects.

**LIFT.** A mechanical device, either temporary or permanent, containing a mobile open-top car including hand or guard rails, a track upon which the open-top car moves, and a mechanical device to provide power to the open-top car.

**LOCAL ZONING ORDINANCE.** Any county, town, city or village zoning ordinance, portion of an ordinance, or amendments thereto, adopted by a local jurisdiction, with authority from state enabling legislation, which regulates the use of land within the Lower St. Croix riverway.

**LOT.** A contiguous parcel of land with described boundaries.

**LOWER ST. CROIX RIVERWAY or LOWER ST. CROIX NATIONAL SCENIC RIVERWAY.** The area described in NR 118.02(1).

**MANAGEMENT ZONES.** The Lower St. Croix riverway management zones established in NR 118.04.

**MITIGATION.** Action taken to minimize the adverse impacts of development. The term "mitigation" includes, but is not limited to, the installation of vegetative buffers, the removal of

nonconforming structures from the shoreland setback area, and the implementation of best management practices for erosion control and stormwater management.

NET PROJECT AREA. Developable land area minus slope preservation zones, floodplains, road rights-of-way and wetlands.

NONCONFORMING STRUCTURE. A building or other structure whose location, dimensions or other physical characteristics do not conform to the standards in the current local zoning ordinance, but which was legally constructed or placed in its current location prior to the adoption of the ordinance or ordinance amendment that made it nonconforming.

NONCONFORMING USE. The use of land, a structure, or other premises that does not conform to the land use restrictions in the current local zoning ordinance, but which was legally established prior to the adoption of the ordinance or ordinance amendment that made it nonconforming.

NOXIOUS WEEDS. Noxious weeds include those species designated by § 66.96(2), Wis. Stats., and any other such weeds as the City of Hudson or the St. Croix County Board of Supervisors by ordinance or resolution declares to be noxious within its respective boundaries.

ORDINARY HIGH WATER MARK. Has been defined by the Wisconsin Supreme Court to mean the point on the bank or shore up to which the presence and action of surface water is so continuous as to leave a distinctive mark such as by erosion, destruction or prevention of terrestrial vegetation, predominance of aquatic vegetation, or other easily recognized characteristic. Where the bank or shore at any place is of such character that it is difficult or impossible to ascertain where the point of ordinary high-water mark is, recourse may be had to the opposite bank of a stream or to other places on the shore of a lake or flowage to determine whether a given stage of water is above or below the ordinary high-water mark.

ORDINARY MAINTENANCE AND REPAIR. Any work done on a nonconforming structure that does not constitute expansion, structural alteration, or reconstruction and does not involve the replacement, alteration, or improvement of any portion of the structure's foundation.

PLANNED CLUSTER DEVELOPMENT. A pattern of development that places residences into compact groupings as a means of preserving open space.

PORCH. A building walkway with a roof over it, providing access to a building entrance.

PRINCIPAL STRUCTURE. The main building or other structure on a lot that is utilized for the property's principal use. The term "principal structure" includes attached garages and porches.

REASONABLE ACCOMMODATION. Allowing a disabled person to deviate from the strict requirements of the county's zoning ordinances if an accommodation is necessary and reasonable, in order not to unlawfully discriminate against the disabled person and to allow him or her equal housing opportunity.

RECONSTRUCTION. The replacement of all or substantially all of the components of a structure other than the foundation.

SELECTION CUTTING. The removal of selected trees throughout the range of merchantable sizes at regular intervals, either singly or in small groups, leaving a uniformly distributed stocking of desirable tree and shrub size classes.

SETBACK. The minimum horizontal distance between a structure and either the ordinary high-water mark or the bluffline.

SHELTERWOOD CUT. A partial removal of mature trees leaving trees of desirable species and form to provide shade, seed source, and a desirable seedbed for natural regeneration with the final removal of the overstory after adequate regeneration is established.

SINGLE-FAMILY RESIDENCE. A detached structure used for human habitation for one family.

**SLOPE PRESERVATION ZONE.** The area riverward from the bluffline where the slope towards the river is 12% or more, as measured horizontally for a distance of not more than 50 feet or less than 25 feet.

**SMALL REGENERATION CUT.** A harvest of not more than one-third of the contiguous forested ownership within a ten-year period with each opening not exceeding six acres in size and not closer than 75 feet at their closest points.

**STEALTH DESIGN.** A wireless communication service facility that models or mimics in size or shape and color something in the surrounding landscape, such as silos in farm settings and trees in forested lands and is unrecognizable year-round as an antenna or antenna mount.

**STRUCTURAL ALTERATION.** The replacement or alteration of one or more of the structural components of any of a nonconforming structure's exterior walls.

**STRUCTURAL COMPONENT.** Any part of the framework of a building or other structure. The structural components of a building's exterior walls include the vertical studs, top and bottom plates, and window and doorsills and headers. A structural component may be non-load bearing, such as the framework of a wall at the gable end of a one-story house. Wallcoverings, such as siding on the exterior and dry wall on the interior, are not included in the definition of structural component.

**STRUCTURAL EROSION CONTROL MEASURES.** A retaining wall or other man-made structure whose primary function is to control erosion.

**STRUCTURE.** Any man-made object with form, shape, and utility, that is constructed or otherwise erected, attached to or permanently or temporarily placed, either upon the ground, a riverbed, streambed, or lakebed or upon another structure. For the purposes of this chapter, the term "structure" includes swimming pools, hot tubs, patios, decks and retaining walls, but does not include landscaping or earthwork such as graded areas, filled areas, ditches, berms, or earthen terraces. The term "structure" does not include small objects that are easily moved by hand, such as lawn chairs, portable grills, portable picnic tables, bird feeders, birdhouses, and birdbaths.

**SUBSTANDARD LOT.** A lot with dimensions that do not conform to all of the requirements of the local zoning ordinance.

**TRANSMISSION SERVICES.** Electric power lines, telephone and telegraph lines, communication towers, cables, sewage lift stations, sewer and water pipes, and other pipes, conduits and accessory structures that are used to transport power, convey information, or transport material between two points, other than wireless communication service facilities.

**VISUALLY INCONSPICUOUS.** Difficult to see, or not readily noticeable, in summer months as viewed from at or near the mid-line of the Lower St. Croix River.

**WETLAND.** Has the meaning found in § 23.32(1), Wis. Stats.

Note: Section 23.32 (1), Wis. Stats., defines wetland to mean an area where water is at, near, or above the land surface long enough to be capable of supporting aquatic or hydrophytic vegetation and which has soils indicative of wet conditions.

**WIRELESS COMMUNICATION SERVICE FACILITIES.** Hardware that provides wireless communication services, including antennas, towers, all associated equipment, buildings, and other structures.

### **§ 252-5 Rivertown and Rural Residential Management Zones.**

- A. The River Town Management Zone (River Town). Is the area bounded on the north by the north corporate limit of the city of Hudson as it existed on June 1, 2004 and on the south by the south corporate limit of the city of Hudson, as it existed on June 1, 2004.
- B. Rural Residential Management Zone (Rural Residential). Is an area bounded on the north by the south corporate limit of the city of Hudson, as it existed on June 1, 2004, to the north boundary of Kinnickinnic state park.
- C. Both of these zones are shown on the St. Croix Riverway Zone Map. They exist without regard to municipal boundaries and may not be changed by annexation or any action other than revision by the State of Wisconsin.

### **§ 252-6 Permitted Uses and Structures.**

#### **A. Permitted Uses and Structures.**

- (1) The following uses are allowed in both management zones if the standards in 252-7 are met:
  - (a) Single-family residential and accessory uses.
  - (b) Conservancy.
  - (c) Forestry.
  - (d) Agriculture.
  - (e) Public parks, areas devoted to natural resource management and interpretation, waysides, rest areas, information areas and scenic overlooks.
  - (f) Filling and grading outside of slope preservation zones.
  - (g) Those permitted uses as described in Chapter 255 of the City of Hudson Zoning Ordinance.
- (2) The following structures are allowed in both management zones if the standards in 252-7 are met:
  - (a) Single-family residences and accessory structures.
  - (b) Piers or wharves that have required state and federal permits or that meet statutory criteria or administrative rule standards and do not require a state or federal permit.
  - (c) Signs.
  - (d) Structural erosion control measures constructed outside of slope preservation zones. Rock rip-rap may be allowed within a slope preservation zone and in the ordinary high water mark setback area if the local zoning authority determines that rip-rap is necessary to prevent erosion in flood-prone areas, and either a state permit is granted for the rip-rap or statutory criteria or administrative rule standards are met and a state permit is not required for the rip-rap.
  - (e) Those permitted structures as described in Chapter 255 of the City of Hudson Zoning Ordinance.
- (3) In the River Town Management Zone, other uses and structures that are allowed by the City of Hudson's underlying zoning ordinance may be allowed as permitted uses and structures, provided that the permitted uses and structures are listed in the City of Hudson Zoning Ordinance with standards for those uses and structures that satisfy all of the following criteria:
  - (a) Protect the natural and scenic qualities of the Lower St. Croix riverway.
  - (b) Protect public health and safety.

- (c) Prevent erosion and water pollution.
- B. Conditional Uses.**
  - (1) The following uses and structures are conditionally permitted uses in both management zones. Conditional use permits for these uses and structures shall comply with the applicable requirements of this chapter, including sections 252-7 and 252-8, and with the applicable requirements of Chapter 255, of the City of Hudson Zoning Ordinance.
    - (a) Land divisions.
    - (b) Planned cluster developments for single-family residences.
    - (c) Transmission services.
    - (d) Wireless communication service facilities.
    - (e) Filling and grading within slope preservation zones.
    - (f) Structural erosion control measures constructed in slope preservation zones.
    - (g) Stairways.
    - (h) Lifts.
    - (i) Public roads and private roads serving two or more properties or single-family residences.
    - (j) Bed-and-breakfast operations.
    - (k) Home occupations.
    - (l) Nature-oriented educational, nonprofit facilities.
- C. Prohibited.** All uses and structures not listed in this Ordinance or in Chapter 255 of the City of Hudson Zoning Ordinance as permitted or conditional uses shall be prohibited.

## § 252-7 General Provisions.

- A. Dimensional and Other Standards.**
  - (1) Density and minimum lot size.
    - (a) The density shall be regulated as established in the zoning district as defined in Chapter 255, of the City of Hudson Zoning Ordinance.
    - (b) The minimum lot size shall be regulated as established in the zoning district as defined in Chapter 255, of the City of Hudson Zoning Ordinance.
  - (2) Minimum lot width.
    - (a) The minimum lot width shall apply at the building line and at the side of the lot nearest the river.
    - (b) Rivertown. The minimum lot width shall be regulated as established in the zoning district as defined in Chapter 255, Of the City of Hudson Zoning Ordinance.
    - (c) Rural Residential. The minimum lot width shall be 200 feet.
  - (3) Maximum structure height.
    - (a) The maximum structure height shall be measured, before filling and grading, between the average ground elevation and the uppermost point of the structure, excluding chimneys.
    - (b) River Town. The maximum structure height shall be 45 feet except for wireless communication service facilities which meet the requirements of 252-8 D.
    - (c) Rural Residential. The maximum structure height shall be 35 feet except for wireless communication service facilities which meet the requirements of 252-8 D.
  - (4) Ordinary high water mark setback.

- (a) The ordinary high water mark setback shall be measured on a horizontal plane from the point of the structure that is nearest the ordinary high-water mark, including roof overhangs and any cantilevered portions of the structure.
  - (b) River Town Management Zone. All structures, except piers, wharves, structural erosion control measures, stairways, and lifts, shall be set back at least 100 feet from the ordinary high-water mark.
  - (c) Rural Residential Management Zone. All structures, except piers, wharves, structural erosion control measures, stairways, and lifts, shall be set back at least 200 feet from the ordinary high-water mark.
- (5) Bluffline setback.
- (a) Bluffline setback. The bluffline setback shall be measured on a horizontal plane from the point of the structure that is nearest to the bluffline, including roof overhangs and any cantilevered portions of the structure.
  - (b) River Town Management Zone. All structures, except piers, wharves, structural erosion control measures, stairways, and lifts, shall be set back 40 feet from the bluffline.
  - (c) Rural Residential Management Zone. All structures, except piers, wharves, structural erosion control measures, stairways, and lifts, shall be set back 100 feet from the bluffline, except that structures may be set back less than 100 feet from the bluffline, but not less than 40 feet from the bluffline, if all the following conditions are met:
    - [1] No part of the structure protrudes above the bluff line when viewed from at or near the midline of the river or from 250 feet riverward from the shoreline, whichever is less.
    - [2] The structure is not located within a slope preservation zone.
    - [3] The structure utilizes earth-tone building materials that are of a nonreflective nature, except that windows may be made of ordinary window glass or nonreflective glass but may not be made of glass designed to reflect more light than ordinary window glass.
    - [4] The structure is visually inconspicuous.
    - [5] The structure is located at least 200 feet from the ordinary high-water mark.
- B. Structure Color Standards.** The following structure color standards shall apply to both management zones:
- (1) Structures shall be either earth-tone colored or colored appropriate to the period in history for which they were constructed.
  - (2) Structures located in the Downtown Overlay District shall meet the standards found in §255-17.6 of the City of Hudson Zoning Ordinance.
- C. Sign Standards.** Signs are allowed in both management zones if one or more of the following criteria are met:
- (1) The sign is approved by state or local government and is necessary for public health or safety.
  - (2) The sign indicates areas that are available or not available for public use.
  - (3) The sign is not visible from the river and is otherwise lawful.
  - (4) Signs located in the Downtown Overlay District shall also meet the standards found in §255-17.6 (K) of the City of Hudson Zoning Ordinance.



D. **Structural Erosion Control Measures.** In both management zones except for rock riprap that is allowed in compliance with the requirements in NR 118.05(1)(a)2. d., structural erosion control measures may only be placed above the ordinary high-water mark and within the ordinary high water mark setback area and bluffline setback area if all the following criteria are met:

- (1) The structural erosion control measure is constructed outside of slope preservation zones, or a conditional use permit has been issued in compliance with the requirements of NR 118.07(6).
- (2) The Zoning Administrator determines structural erosion control measures are necessary to address significant ongoing erosion that nonstructural erosion control measures cannot control.
- (3) The structural erosion control measure is constructed of natural materials and shall be as visually inconspicuous as possible.
- (4) The applicant shall submit to the City of Hudson Zoning Administrator a detailed construction plan, an erosion control plan, and a vegetative management plan, showing each of the following:
  - (a) How the structural erosion control measure will be constructed.
  - (b) What land disturbing activities will take place.
  - (c) What, if any, vegetation will be removed.
  - (d) How new, native vegetation will be re-established. Construction may not proceed until the local zoning authority has approved the plans.
- (5) Construction may not proceed until the City of Hudson Zoning Administrator has approved such plans.

E. **Slope Preservation Zone Standards.** No structures, except piers, wharves, structural erosion control measures, stairways, and lifts, may be placed in slope preservation zones. Slopes greater than 12% may not be altered to become less than 12%.

F. **Vegetation Management.**

- (1) All of the following standards shall apply in both management zones:
  - (a) Vegetation in ordinary high water mark setback areas, slope preservation zones, and 40 feet landward of blufflines shall be left undisturbed, except as provided elsewhere in this subsection or in s. 252-8 C, D, and I.
  - (b) Vegetation may not be disturbed or removed if it would disrupt the visually inconspicuous character of structures, reduce the quality or diversity of the plant community, or increase the potential for erosion, except as provided elsewhere in this subsection or in NR 118.07(3), (4), or (9).
  - (c) Routine pruning of trees or shrubs to improve their health and vigor, pruning to provide a filtered view of the river, pruning to prevent property damage, or removing trees that pose an imminent safety hazard to persons or structures is allowed.
  - (d) Lawns within the ordinary high water mark setback areas, slope preservation zones, and bluffline setback areas may not be expanded. However, mowing of existing lawns may be continued.
  - (e) These standards do not prohibit the growth and harvest of non-wood-fiber crops, the removal of vegetation in order to allow permitted uses or structures or conditional uses, the removal of state-designated noxious weeds, and the pruning

or removal of vegetation to prevent insect infestation or disease that threatens large areas of vegetative cover.

- (f) In the River Town Management Zone, if there are fewer than 25 trees over five inches in diameter on the lot between the building line and the river, the existing number of trees over five inches in diameter shall be maintained, and any trees that are removed as allowed in Subsection F (1) shall be replaced by trees that are at least one inch in circumference at the base.
- (g) In the Rural Residential Management Zone, additional vegetation management standards apply, including the following:
  - [1] Herbicide use shall be limited to direct topical application to cut stems to kill noxious weeds, exotic species, poison ivy, poison oak or poison sumac, or as a prescribed treatment within a forest stewardship plan.
  - [2] The practice of forestry shall be allowed on lands for which a forest stewardship plan has been developed under ch. 77, Stats., or ch. NR 46 or 47, and on lands managed under forest stewardship plans that employ best management practices for water quality protection, erosion control and generally accepted forest management guidelines and have been approved by a department forester. Forest stewardship plans prepared under this section shall be implemented to employ commonly accepted silvicultural practices approved by a department forester, to ensure that silvicultural practices are compatible with the riverway goals of protecting natural scenic values and ensuring that structures will remain visually inconspicuous. Cutting, harvesting or removal of timber under this provision on land that is visible from the river during the time when the leaves are on the deciduous trees may only include the following practices:
    - [a] Small regeneration cuts with boundaries designed to harmonize with naturally occurring shapes.
    - [b] Shelterwood cuts not to exceed the size, shape, spacing or timing of regeneration cuts.
    - [c] Selection cutting leaving a residual timber stand of at least 60 square feet basal area.
- (h) Penalties. In addition to any other penalties assessed by the City of Hudson, the penalty for removing vegetation in violation of the City's Zoning Ordinance shall include replacement of vegetation with native vegetation at the property owner's expense.

G. **Private On-Site Wastewater Treatment Systems.** Private on-site wastewater treatment systems shall be constructed in accordance with the requirements of SPS 383.

H. **Filling and Grading.** Filling and grading may be permitted outside slope preservation zones if all the following are met:

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

- (6) As part of an erosion control plan, Wisconsin construction site best management practices are implemented.

### § 252-8 Conditional Use Standards.

The conditional uses and structures listed in Subsection 252-6 B may be permitted if the requirements in 252-7 and the following standards are met:

- A. **Land Divisions.** A conditional use permit may be granted to divide property into lots if all the following conditions are met:
  - (1) All lots proposed to be built on shall meet the minimum lot size requirements in 252-7 A (1) and (2) and shall be suitable for residential development in their existing condition without the need for a variance.
  - (2) All lots are suitable for their proposed use and will not be subject to the potential for flooding, inadequate drainage, severe erosion, inadequate water supply, or inadequate sewage disposal capabilities.
  - (3) Use of the lots will not be limited by unfavorable soil and rock formations, unfavorable topography, or any other feature which is likely to result in harm to the health, safety, or welfare of future residents of the lots or of the City of Hudson.
  - (4) The Zoning Administrator shall consult with the state historical society concerning potential impacts to archeological sites. If the property is found to contain an archeological site, the City of Hudson and the applicant shall develop and implement a plan to avoid or mitigate impacts to the archeological site with the assistance from the state historical society.
- B. **Planned Cluster Developments.** A conditional use permit may be issued for a planned cluster development for single-family residences if all the following are met:
  - (1) The proposed clustering provides a better means of preserving scenic views, open space, and shoreline than a traditional single-family residential subdivision.
  - (2) The proposed structures comply with the minimum ordinary high-water mark and bluffline setbacks and height standards in 252-7 A.
  - (3) Exceptions to the standards in 252-7 A (1) and (2) may be allowed for planned cluster developments, provided that the total number of single-family residences may not exceed 50% more than the total number of single-family residences allowed if the development complied with all standards in 252-7 A (1) and (2).
  - (4) On any lots that abut the river, all of the standards in 252-7 A shall be met.
  - (5) If lands are divided, the land division meets the requirements of Subsection 252-8 A.
- C. **Transmission Services.** A conditional use permit may be issued for the construction, updating, maintenance, or reconstruction of transmission services if all the following are met:
  - (1) All new, updated, or reconstructed transmission services shall be placed underground, if underground placement is determined to be technically feasible by the City. If an applicant seeks to establish that underground placement is technically infeasible, the application shall explain what factors make it infeasible.
  - (2) If underground placement is determined to be technically infeasible, overhead or above ground transmission services may be permitted, but shall be designed to minimize the adverse visual impact on the scenic character of the riverway.
  - (3) New, updated or reconstructed transmission services shall be constructed and maintained using minimally invasive techniques for construction and maintenance,

including erosion control. Existing transmission facilities shall be maintained using minimally invasive techniques for maintenance, including erosion control.

- (4) Cutting or clearing of vegetation for transmission service maintenance may be conducted; however, an understory layer of vegetation shall be maintained to prevent erosion and allow succession. Vegetation management shall protect the quality and diversity of the plant community and prevent erosion. Herbicide use shall be limited to direct topical application to cut stems to prevent regrowth. The pruning of normal tree growth for safety reasons or to prevent interference with the transmission service and removal of noxious weeds is allowed.

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

- (1) Construction and maintenance shall be conducted using techniques which minimize the cutting or pruning of vegetation in order to preserve mature vegetation and provide screening of the facilities. Erosion control measures shall be used.
- (2) Wireless communication service facilities shall use building materials, colors, textures, screening and landscaping that blend the facilities in with surrounding natural features or nearby structures and shall be visually inconspicuous.
- (3) Wireless communication service facilities shall be of camouflage or stealth design, unless placed on existing structures.
- (4) In the River Town Management Zone, the facilities shall be of a height designed to blend in with the historic character of the community.
- (5) In the Rural Residential Management Zone, wireless communication service facilities may not exceed a height of 50 feet or not more than 20 feet above the tallest structure or tree canopy within a 300-foot radius of the proposed wireless communication service facilities as measured horizontally, whichever is higher.
- (6) New or reconstructed wireless communication service facilities may not be placed in slope preservation zones, floodplains, or wetlands.

E. **Filling and Grading Activities.**

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

- F. **Structural Erosion Control Measures in Slope Preservation Zones.** A conditional use permit may be issued for the construction, updating, maintenance, or reconstruction of structural erosion control measures in slope preservation zones if all the following are met:
- (1) The Zoning Administrator determines that structural erosion control measures are necessary to address significant ongoing erosion that nonstructural erosion control measures cannot control.
  - (2) The structural erosion control measure shall be constructed of natural materials and made as visually inconspicuous as possible.
  - (3) The applicant submits a detailed construction plan, an erosion control plan, and a vegetative management plan, showing each of the following:
    - (a) How the structural erosion control measure will be constructed.
    - (b) What land-disturbing activities will take place.
    - (c) What, if any, vegetation will be removed.
    - (d) How new native vegetation will be reestablished.
  - (4) Construction may not proceed until the Zoning Administrator has approved such plans.
- G. **Stairways.** A conditional use permit may be issued for a stairway if all the following are met:
- (1) The stairway is required to provide pedestrian access to the river because of steep, rocky, unstable, or wet site conditions.
  - (2) The tread width of the stairway may not exceed 36 inches.
  - (3) Landings are located at a vertical interval of not less than 20 feet and may not exceed 40 square feet in area.
  - (4) Railings or handrails are permitted in conjunction with stairs and shall be painted or stained the same color as the stairways.
  - (5) Canopies and roofs are not allowed on stairways.
  - (6) Stairways, handrails, and landings shall be anchored and supported above grade with pilings or footings.
  - (7) Stairways shall be constructed of unfinished wood or stone or shall be painted or stained with earth-tone materials.
  - (8) Stairways shall be visually inconspicuous and shall be located in the most visually inconspicuous portion of the lot.
  - (9) Native vegetation plantings shall be used to form a vegetative canopy to screen the stairway from the river. Vegetation shall be planted to effectively screen stairs, or the stairs shall be removed.
  - (10) Existing vegetation may be removed within one foot of either side of the stairway route and up to eight feet above the stairway floor.
  - (11) Only one stairway may be permitted on a lot that abuts the Lower St. Croix River.
- H. **Lift Standards.** A conditional use permit may be issued for a lift if all the following are met:
- (1) The lift is required to provide pedestrian access to the river because of steep, rocky, unstable, or wet site conditions.
  - (2) The car of the lift may not exceed four feet by six feet.
  - (3) Canopies and roofs are not allowed.

- (4) All visible parts of the lift shall be painted or finished in earth-tone, nonreflective materials and shall be visually inconspicuous.
  - (5) Lifts and their transporting device or power source shall be visually inconspicuous and shall be located in the most visually inconspicuous portion of the lot.
  - (6) Native vegetation plantings shall be used to form a vegetative canopy to screen the lift from the river. Vegetation shall be planted to effectively screen the lift, or the lift shall be removed.
  - (7) Existing vegetation may be removed within one foot on either side of the lift route and up to eight feet above the lift floor.
  - (8) Only one lift may be permitted on a lot that abuts the Lower St. Croix River.
- I. **Public and Private Roads Serving Two or More Properties or Single-Family Residences.** A conditional use permit may be issued for the construction, reconstruction, or right-of-way maintenance for public roads and private roads serving two or more properties or single-family residences if all the following are met:
- (1) No new road may be constructed in slope preservation zones, in an area 40 feet landward of bluff lines, within 200 feet of the river, within 100 feet of tributary watercourses or in wetlands.
  - (2) Route design and construction or reconstruction shall minimize visual impacts by using terrain features to blend the road into the landscape, avoiding cuts and fills as much as feasible.
  - (3) New roads shall be visually inconspicuous. Reconstruction of existing roads shall be performed in a manner that does not increase visibility of the road from the river.
  - (4) Cutting or clearing vegetation for road right-of-way maintenance shall be conducted in accordance with the following:
    - (a) Vegetation shall be managed to allow an understory layer to remain in place to prevent erosion and allow succession. Vegetation may not be disturbed in such a way that there would be reduced quality or diversity of the plant community or increased potential for erosion.
    - (b) Herbicide use shall be limited to direct topical application to cut stems to prevent regrowth. The pruning of normal tree growth for safety reasons or to prevent interference with infrastructure and the removal of noxious weeds is permitted.
    - (c) Mowing of a safety zone from the edge of the pavement back 15 feet or to the ditch bottom, whichever is less, and clearing intersection vision triangles is allowed. Other parts of the right-of-way may be mowed to control noxious weeds and undesirable brush only after July 15 of each year to avoid impacts to ground-nesting birds.
    - (d) Cutting trees more than four inches in diameter at breast height is prohibited, except that trees that pose a hazard to public health or safety may be removed.
- J. **Bed-and-Breakfast Operations.** A conditional use permit may be issued for a bed-and-breakfast operation if all the following are met:
- (1) The bed-and-breakfast operation provides four or fewer rooms for rent to transient visitors.
  - (2) The bed-and-breakfast operation has sufficient parking spaces on its lot or on public roads for the guests.

K. **Home Occupations.** A conditional use permit may be issued for the use of a single-family residence for a home occupation provided that in addition to meeting the standards of Ch 255-54 the following are also met:

- (1) The owner or person who rents the residence on a full-time basis conducts the home occupation.
- (2) The home occupation is conducted inside of the residence and is subordinate to the use of the home as a principal residence.
- (3) The home occupation will not cause environmental pollution.
- (4) If the home occupation causes additional persons to visit the residence, sufficient parking is provided on the lot or on public streets.
- (5) Whenever the provisions of any other law or ordinance impose more stringent requirements than are imposed or required by this section, then the provisions of such law or ordinance shall govern.

L. **Nature-Oriented Educational, Nonprofit Facilities.** A conditional use permit may be issued for a nature-oriented educational, nonprofit facility if all the following are met:

- (1) The facility will not cause environmental pollution or erosion.
- (2) The facility has sufficient parking on its property or on public streets for patrons to park.

## § 252-9. Nonconforming Uses and Structures and Substandard Lots.

A. **Nonconforming Uses.** A nonconforming use may not be expanded or enlarged. An increase in the volume, intensity or frequency of use is allowed if the area used for the nonconforming use is not enlarged.

- (1) A change from one nonconforming use to another nonconforming use is not allowed.
- (2) If a nonconforming use is discontinued for a period of 12 months, any future use of the building and premises shall conform to all of the requirements of the City of Hudson Zoning Ordinance

B. **Nonconforming Principal Structures.**

- (1) Ordinary maintenance and repair of nonconforming principal structures is allowed.
- (2) Structural alteration, reconstruction and expansion of nonconforming principal structures and replacement, improvement or structural alteration of the foundation may only be allowed if all of the following requirements are met, where applicable:
  - (a) Reconstruction of nonconforming principal structures. Nonconforming principal structures located within the ordinary high water mark setback area, bluffline setback area or slope preservation zone may be structurally altered or reconstructed, and foundations may be replaced, improved, or structurally altered if all the following requirements are met:
    - [1] The lot has an area of at least 7,000 square feet.
    - [2] The altered or reconstructed structure will be visually inconspicuous or will be rendered so through mitigation in accordance with sub. E.

- [3] The structure is altered or reconstructed in the same footprint as the pre-existing structure.
  - [4] The height of the altered or reconstructed structure complies with Subsection 252-7 A (3) The reconstructed structure may not be any taller than the pre-existing nonconforming structure, except that a flat roof may be replaced with a pitched roof.
  - [5] The color of the structure complies with Subsection 252-7 B.
  - [6] The property owner submits a mitigation plan that complies with the requirements of sub. E. If a permit is issued for the reconstruction, the mitigation plan shall be approved, or modified and approved, by the local zoning authority. The mitigation plan shall be incorporated into the permit and the property owner shall be required to implement the mitigation plan as a permit condition.
  - [7] Private on-site wastewater treatment systems are brought into compliance with the requirements of Ch. SPS 383.
  - [8] The foundation of the structure may not be replaced, improved or structurally altered. Notwithstanding the definition of "reconstruction" in s. NR 118.03 (36) and the preceding sentence, the foundation of the structure may be replaced, improved or structurally altered in conjunction with the reconstruction of the structure if the entire structure is more than 50 feet from the ordinary high-water mark and is not located in a slope preservation zone.
  - [9] An erosion control plan and revegetation plan shall be submitted to the Zoning Administrator for approval, or modification and approval, prior to the issuance of a permit for the structural alteration or reconstruction.
  - [10] Filling and grading activities shall not be conducted during the alteration or reconstruction, except for.
    - [i] The minimum necessary to accomplish the alteration or reconstruction in compliance with other provisions of this chapter, and
    - [ii] As required to upgrade a private on-site wastewater treatment system, to replace sewer or water laterals, or to install storm water or erosion control measures.
  - [11] If the nonconforming principal residence is located in a slope preservation zone, it may be reconstructed only if Wisconsin construction site best management practices applicable to steeper sloped areas are implemented to control erosion.
- (3) Expansion of nonconforming principal structures. Nonconforming principal structures located in the ordinary high water mark setback area or bluffline setback area may be expanded and the pre-existing foundation may be replaced, repaired or structurally altered in conjunction with the expansion if all of the applicable following requirements are met:
- (a) Structures located wholly or partially within 50 feet of the ordinary high-water mark may not be expanded.



- (b) Structures located wholly or partially within slope preservation zones may not be expanded.
- (c) Structures entirely set back more than 50 feet from the ordinary high-water mark but located wholly or partially less than 75 feet from the ordinary high-water mark may be expanded only if there is no compliant building location available on the lot.
- (d) Structures entirely set back more than 75 feet from the ordinary high-water mark may be expanded regardless of whether a compliant building location exists elsewhere on the lot.
- (e) The lot has an area of at least 7,000 square feet.
- (f) The expanded structure will be visually inconspicuous or will be rendered so through mitigation.
- (g) In this subsection any reconstructed portion of the nonconforming structure may only be reconstructed in the same footprint as the pre-existing structure.
  - [1] The pre-existing foundation of a structure that is more than 50 feet from the ordinary high-water mark and is not within a slope preservation zone may be replaced, repaired, or structurally altered in conjunction with the expansion of the structure.
- (h) For structures located wholly or partially within the ordinary high water mark setback area, the total footprint of the structure may not exceed 1500 square feet.
- (i) For structures located wholly or partially within the bluffline setback, but not within the ordinary high water mark setback area, the total footprint of the structure may not exceed 2,000 square feet and the structure shall comply with all of the requirements in s. 252-7 A (5)(c).
- (j) Expansion is on the side of the structure farthest from the river or, if landward expansion is not possible, the expansion is parallel to the ordinary high-water mark or bluffline.
- (k) The height of the structure complies with Subsection 252-7 A (3).
- (l) The color of the structure complies with Subsection 252-7 B.
- (m) The property owner submits a mitigation plan that complies with the requirements of sub. E.
- (n) If a permit is issued after a mitigation plan is approved, or modified and approved, by the Zoning Administrator, the mitigation plan shall be incorporated into the permit and the property owner shall be required to implement the mitigation plan as a permit condition.
- (o) Private on-site wastewater treatment systems are brought into compliance with the requirements of Ch. SPS 383.
- (p) An erosion control plan and revegetation plan shall be submitted to the Zoning Administrator for approval, or modification and approval, prior to the issuance of a permit for the expansion.
- (q) Filling or grading shall not be conducted as part of the reconstruction or expansion except.

- [1] As necessary to reconstruct or build the expansion in compliance with other provisions of this chapter.
  - [2] To upgrade a private on-site wastewater treatment system, replace sewer or water laterals, or install storm water or erosion control measures.
- C. **Nonconforming Accessory Structures.**
- (1) Ordinary maintenance and repair of nonconforming accessory structures is allowed.
  - (2) Nonconforming accessory structures may not be structurally altered, reconstructed, or expanded, except for the following:
    - (a) Garages and storage sheds may be structurally altered, reconstructed, or expanded provided all the following requirements are met where applicable:
      - [1] The entire garage or storage shed is not located in a slope preservation zone.
      - [2] The entire garage or storage shed is set back more than 75 feet from the ordinary high-water mark.
      - [3] The garage or storage shed is not used for human habitation.
      - [4] The total footprint of all nonconforming accessory structures, other than existing driveways, within 75 feet of the ordinary high-water mark, within a slope preservation zone or within the bluffline setback area may not exceed 500 square feet.
      - [5] The garage or storage shed is built with earth-tone building materials that are non-reflective, except that windows may be made of ordinary window glass or non-reflective glass but may not be made of glass designed to reflect more light than ordinary window glass.
      - [6] Mitigation measures are implemented and maintained that comply with the requirements of sub. E.
      - [7] The structure is visually inconspicuous or will be rendered so through a mitigation plan that complies with sub. E.
- D. **Substandard Lots.** Lots of record in the register of deeds office on January 1, 1976, or on the date of the adoption of an amendment to a riverway ordinance that makes a lot substandard, which do not meet the requirements of this chapter, may be allowed as building sites provided that the following criteria are met:
- (1) Lot Ownership
    - (a) The lot is in separate ownership from abutting lands, or
    - (b) The lot by itself or in combination with an adjacent lot or lots under common ownership in an existing subdivision has at least one acre of net project area. Adjacent substandard lots in common ownership may only be sold or developed as separate lots if each of the lots has at least one acre of net project area.
  - (2) All structures that are proposed to be constructed or placed on the lot and the proposed use of the lot comply with the requirements of this ordinance and any underlying zoning or sanitary code requirements.
- E. **Mitigation Requirements.** Expansion or reconstruction of nonconforming principal structures, and the expansion, reconstruction or structural alteration of

nonconforming accessory structures shall trigger mitigation requirements to offset the impacts of the proposed project.

- (1) Mitigation measures shall be roughly proportional to the magnitude of the impacts of the proposed project on scenic resources, water quality, erosion potential and the protection of the shoreland area. Mitigation shall include, but may not be limited to, the following:
  - (a) Planting trees capable of screening the entire structure if existing vegetation is not sufficient to render the structure visually inconspicuous. The trees shall be native to the area, at least 2 inches diameter breast height and planted no more than 12 feet apart.
  - (b) The vegetation in the area within 50 feet of the ordinary high-water mark shall be preserved or restored through planting of native vegetation. Vegetation shall be established or maintained at densities that are adequate to protect water quality, habitat, and natural scenic beauty of the shoreland area. If a nonconforming structure is in this area, the vegetation shall be planted surrounding the structure, although the owner may create a screened view of the river from the structure and may leave a 15-foot-wide mowed area around the structure to protect it from wildfire.
  - (c) Best management practices shall be followed to encourage stormwater infiltration and to limit erosion and runoff.
  - (d) An affidavit describing the approved mitigation plan shall be executed and recorded with the county register of deeds by the property owner within 14 days after approval of the mitigation plan. The affidavit shall alert subsequent purchasers of the land of the requirements of the mitigation plan.

## **§ 252-10 Administrative Provisions.**

### **A. Conditional Use Procedures, Variance Procedures, and Zoning Map and Text Amendment Procedures.**

- (1) Public hearing required. A public hearing preceded by a Class 2 notice shall be held before any conditional use permit, any variance, or any zoning map or text amendment is approved or denied by the City of Hudson.
  - (a) Notice of all public hearings and a copy of all application materials submitted under par. (2) and (3) shall be provided to the department, the county, the West Central Regional Plan Commission and as applicable the town board of the town within which the affected parcel of land is located, at least 30 days before the public hearing.
- (2) Conditional use and variance application requirements.
  - (a) The applicant shall submit to the Zoning Administrator sufficient copies of the following information for all applications:
    - [1] A scale drawing or survey showing the property location, boundaries, dimensions, elevations, blufflines, slope preservation zones, utility and roadway corridors, ordinary high-water mark, ordinary high water

mark setback, floodway and flood fringe boundaries, and adjoining land and water-oriented uses.

- [2] A recent aerial photo with property lines drawn in, showing the location of existing and proposed structures, including height and setback dimensions.
  - [3] The location of existing and proposed alterations of vegetation and topography, including any vegetation removal and replacement that is proposed.
  - [4] A mitigation plan, if required.
  - [5] Photos of the site taken from the river slightly upstream and downstream of the property, and directly offshore.
  - [6] An erosion control plan.
  - [7] A vegetative management plan, showing where vegetation is proposed to be removed and replaced.
  - [8] Other information that the Zoning Administrator or the department requests. If the Zoning Administrator or the department requests additional information, it shall be submitted by the applicant to the Zoning Administrator and the department prior to any hearing on the application.
  - [9] The Board of Zoning Appeals may grant variances from the requirements of the local zoning ordinance, pursuant to s. 59.694 (7) (c) or 62.23 (7) (e) 7., Stats., that will not be contrary to the public interest and where, due to special conditions, a literal enforcement of the provisions of the ordinance will result in unnecessary hardship, so that the spirit of the ordinance shall be observed, and substantial justice done. Economic considerations alone may not constitute a hardship if a reasonable use for the property exists under the conditions allowed by the local zoning ordinance. Conditions may be imposed in the granting of variances to ensure compliance and to protect adjacent properties and the public interest, especially in regard to the view from the river.
- (b) Applications for land divisions, planned cluster developments, bed and breakfast operations, home occupations, nature oriented educational, non-profit facilities and variances shall also include:
- [1] The location of any proposed private on-site wastewater treatment system.
  - [2] Water supply information, including the location of any proposed wells.
  - [3] Applications for filling and grading, structural erosion control structures, and road construction shall also include a plan showing the proposed construction, reconstruction, location and design of the filling grading, structural erosion control measure or road construction.

- [4] Applications for transmission services and wireless communication service facilities shall also include:
    - [i] For transmission services a plan showing the location of proposed facilities, and if not placed underground, a documentation of why this is technically infeasible, and a plan outlining design and construction methods to minimize adverse visual impacts to the riverway.
    - [ii] For wireless communication service facilities, a plan showing the location of proposed facilities and an illustration of the methods to be used to meet design requirements for the appropriate, stealth, camouflage, and height requirements.
  - [5] Applications for stairways and lifts shall also include a plan showing the stairway or lift location, design, dimensions, color, construction materials, erosion control measures and vegetative removal and replacement. The plan shall contain a certification by a registered professional engineer or architect that the stairway or lift components are securely anchored to prevent them from shifting and from causing erosion. The plan shall be approved or modified and approved by the City of Hudson and incorporated into the conditional use permit.
- (3) Map and text amendment procedures.
- (a) Applications for map and text amendments shall include:
    - [1] A scale drawing or survey showing the property location, boundaries, dimensions, elevations, blufflines, slope preservation zones, utility and roadway corridors, ordinary high-water mark, floodway, flood fringe, and adjoining land- and water-oriented uses.
    - [2] Photos of the site taken from the river slightly upstream and downstream of the property and directly offshore.
    - [3] Other information that the City of Hudson Zoning Administrator or Wisconsin Department of Natural Resources requests.
      - [i] If additional information is requested, the applicant shall provide the requested information to the City and Wisconsin Department of Natural Resources prior to the public hearing.
- (4) Public hearing and decision record. The public hearing record shall contain the comments of the department, if any were submitted, and the comments of any other interested parties. The local zoning authority's record of decision shall address the following: preservation of the scenic and recreational resources of the riverway, especially in regard to the view from and use of the river; the maintenance of safe and healthful conditions; the prevention of and control of water pollution, including sedimentation; the location of the site with respect to floodways, floodplains, slope preservation zones and blufflines; the erosion potential of the site based on degree and direction of slope, soil type and vegetative cover; potential impact on terrestrial and aquatic habitat; location of the site with respect to existing or future access roads; adequacy of proposed

wastewater treatment; and compatibility with adjacent land uses. Any plan submitted with an application shall be approved, or modified and approved, and included as part of the permit application. The local zoning authority shall send a copy of each decision, including a summary of the hearing, to the department, within 5 working days after the date of the hearing.

**B. Reasonable Accommodations for Disabled Persons.**

- (1) Where necessary to accommodate a disabled person entitled to reasonable accommodations under the Americans with Disabilities Act, the Federal Fair Housing Act or the Wisconsin Open Housing Law, the City shall issue a special administrative permit to allow a disabled person an accommodation that is necessary and reasonable and that would otherwise violate the strict requirements of this chapter, provided the accommodation does not cause undue hardship or fiscal or administrative burdens on the City or does not undermine the basic purpose of this chapter, as follows:
  - (a) On a form provided by the Zoning Administrator, the applicant shall provide verification necessary to determine the eligibility of the applicant for a special administrative permit.
  - (b) The process and requirements for obtaining the special administrative permit shall be identical to the conditional permit application process, including required mitigation measures.
- (2) The City may not issue variances to disabled persons unless the statutory variance criteria in § 62.23(7), Wis. Stats. is satisfied. If a special administrative permit is issued to accommodate a disabled person entitled to reasonable accommodations under the Americans with Disabilities Act, the Federal Fair Housing Act, or the Wisconsin Open Housing Law, that special administrative permit terminates when the person whose disability it was intended to accommodate no longer uses the site. Such permits are unique to the individual and are not transferable.

[Note: The Americans with Disabilities Act (ADA), 42 U.S.C. § 12101 to 12213, requires state and local units of government to take action to avoid discriminating against disabled persons in their employment practices, in public accommodations and in all programs, activities and services provided by the governmental entity. The Federal Fair Housing Act, 42 U.S.C. §§ 3601 to 3631, and the Wisconsin Open Housing Law, § 106.50, Wis. Stats., require local governments to make "reasonable accommodations" in the application of zoning ordinances in order to provide equal opportunity in housing to disabled persons. However, the issuance of a variance is not the appropriate mechanism for granting reasonable accommodations that are required because of a person's disabilities because under Wisconsin law variances can only be granted based on the unique characteristics of the property.]

**C. Review of Appeals.**

- (1) All applications for conditional use permits, zoning map or text amendments and variances shall be reviewed by the department and the department's comments shall be submitted to the Zoning Administrator for inclusion in the hearing record.

- (2) Where additional information is introduced at the hearing by the applicant or where the applicant may wish to review the department's or city's opposition, the hearing record may be held open for review of the information.
  - (a) The applicant, the department or the town may submit to the Zoning Administrator a written request for a second hearing.
  - (b) If, at the end of 30 days after the date of the initial hearing, the Zoning Administrator has not scheduled a second hearing on the application the hearing record shall be closed.
  - (c) A conditional use permit may not be granted if the town board objects to the issuance.
- (3) The department shall assist the Zoning Administrator in implementing and enforcing this ordinance.

**D. Penalties.**

- (1) Violations. No building or structure shall be erected, constructed, placed, moved, or structurally altered, reconstructed, or expanded nor shall any use of land, premises, building, or structure be established or changed in violation of any provision of this chapter. No person shall fail to comply with any standard of this chapter or with any condition or qualification placed upon the issuance of any permit, approval or variance granted under this chapter.
- (2) Responsible parties. Owners of land, occupants of land and agents of owners or occupants including, without limitation because of enumeration, building contractors, surveyors, plumbers, installers, soil technicians, landscapers, road builders, grading and excavating contractors and their agents are responsible for compliance with all provisions of this chapter which bear upon their area of competency and responsibility. Any such person who violates or aids or abets any violation of this chapter shall be subject to prosecution for such violations and to legal action seeking remedial action.
- (3) Notice. If the City becomes aware of a condition that is or is likely to become a violation of this chapter as defined in Subsection 1 above, the City shall immediately notify the parties it deems responsible and potentially liable for said violation. The notice shall include a description of the circumstances giving rise to the City's conclusion of an existing or potential violation and a demand that the condition alleged to constitute the present or potential violation be halted, prevented from occurring or remedied. If an enforcement demand from the City is not complied with within 30 days of issuance of the notice, the City may file a complaint to prosecute the alleged violation and may seek remedial action.
- (4) Violation remedies. A forfeiture in the amount established by the Common Council in Chapter 1, § 1-18, and the costs of prosecution., of this Code shall be imposed upon conviction or adjudication of violation of this chapter. The City shall also be entitled to recover its actual legal fees and costs of prosecuting violations of this chapter. Each day a violation exists or continues shall constitute a separate offense for purposes of imposing a forfeiture. The City may also seek emergency or permanent injunctive relief, seeking site restoration or prohibition

of a practice, action or continuing course of action, plus the actual fees and costs of obtaining said order.

(5) Other enforcement provisions.

- (a) Where a permit or variance has been approved subject to specified conditions, and where any such condition is not complied with by the permit or variance holder, the City may conduct a hearing, following procedures similar to those followed in considering the granting of said permit or variance, to consider whether the permit or variance holder is in noncompliance with the conditions of the permit, variance or this chapter. Finding noncompliance with conditions originally imposed or with other provisions of this chapter shall be grounds for revocation of the permit or variance.
- (b) The City may require the creation, approval by the City and recording of correction instruments correcting errors in distances, angles, directions, bearings, chords, or lot numbers, read names or other details of a recorded Certified Survey Map or plat at the expense of the subdivider, or affected property owners.
- (c) No provision of this chapter shall be construed to bar private action to enjoin or abate the use or occupancy of any land or structure as a nuisance by the City or by any private party.

**Effective Date:** This Ordinance shall become effective upon adoption by the Common Council and publication as provided by law.

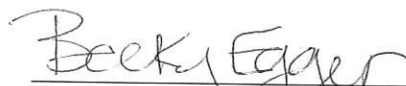
Adopted this 18 day of March, 2024.

**APPROVED:**



Rich O'Connor, Mayor

**ATTEST:**



Becky Eggen, City Clerk

First Reading:    /    / 2024

Date Adopted: 3/18 2024

Date Published: 3/28 2024; please send affidavit of publication.