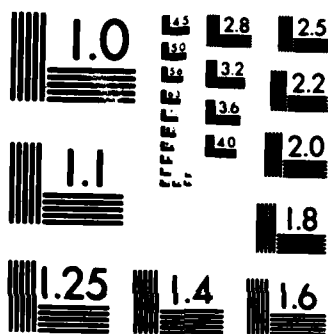


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INSTITUTIONAL ANALYSIS

UPPER MISSISSIPPI RIVER MASTER PLAN

RESOURCE MANAGEMENT

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Navigation in Minneapolis Minnesota to Lock and Dam 10 in Guttenburg, Iowa; the St. Croix River, from the Head of Navigation at Stillwater, Minnesota, to the confluence with the Mississippi River; and the Minnesota River, from the Head of Navigation at Savage, Minnesota, to the confluence with the Mississippi River.

Descriptions of the institutions, legislation governing the institutions, perceptions operating within the institutions, and site-specific recommendations concerning the institutions will provide background data to aid in future decisions regarding management of existing recreational resources and facilities and development of proposed and existing recreation facilities.

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U. S. ARMY CORPS OF ENGINEERS
1135 U. S. Post Office & Custom House
St. Paul, Minnesota 55101**

INSTITUTIONAL ANALYSIS

UPPER MISSISSIPPI RIVER MASTER PLAN

RESOURCE MANAGEMENT

JUNE 1981

Prepared Under Contract Number
DACW37-79-D-0040-0012



Prepared Under the Supervision of:

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INTRODUCTION

Definition and Purpose of Institutional Analysis

Institutional analysis is a planning procedure developed by the Corps of Engineers. It consists of three basic steps: 1) an in-depth study of the organizational structure, legislation, financial resources, and political interdependencies of the institutions in the study area, 2) an analysis of the capabilities of the institutions to plan for and develop land use legislation and recreational facilities, and 3) the development and recommendation of alternative institutional arrangements necessary to implement technical alternatives for the study area.

Essentially, institutional analysis is a tool utilized by the Corps of Engineers for a master planning study of resource management. The purpose of the present master plan is to provide a revised plan for management of existing recreational resources and facilities and for the development of proposed and existing recreation facilities.

The Study Area

The study area encompasses all lands adjoining the Upper Mississippi River 9-foot channel system, including: The Mississippi River, from the Head of Navigation in Minneapolis, Minnesota, to Lock and Dam 10 in Guttenberg, Iowa; The St. Croix River, from the Head of Navigation at Stillwater, Minnesota, to the confluence with the Mississippi River; and the Minnesota River, from the Head of Navigation at Savage, Minnesota, to the confluence with the Mississippi River.

*Institutions, for the purposes of this study, are defined first; as organizations that are highly structured, systematized, and stable, and second; as commonly accepted practices or processes. Organizations that are focussed on in this study include governmental bodies or agencies at or below the county level. Commonly accepted practices include attitudes and perceptions toward acceptance or rejection of land use development, and desires for recreation and water quality.

Description of Major Sections in the Report

The three states in the study area; Iowa, Wisconsin, and Minnesota are discussed in separate sections. Within each state discussion, there are eight substantive sections. First, an inventory of pertinent organizations and their authority governing land use within the study area is described. Second, descriptive data on interviewed organizations is provided. These are broken down by pool. Third, a breakdown of local legislation currently operable in the study area is presented in a summary of local land use legislation. Fourth, perceived organizational objectives and responsibilities currently operating in the interviewed organizations is presented. Fifth, water-related problems that were identified are delineated. Perceptions of local government officials regarding other organizations who have overlapping power and authority is the sixth substantive section. Seventh, organizational interrelations concerning planning and expressed concern for involvement with the Corps of Engineers' master plan is discussed. Finally, some site-specific recommendations are offered.

It is hoped that each of these sections will provide for a thorough analysis of the institutions involved. Descriptions of the institutions, legislation governing the institutions, perceptions operating within the institutions, and site-specific recommendations concerning the institutions will provide background data to aid in future decisions regarding management of existing recreational resources and facilities and development of proposed and existing recreation facilities.

EXECUTIVE SUMMARY

EXECUTIVE SUMMARY

IOWA

The following organizations are influential in what is done with the river-front land in the study area:

- Iowa Conservation Commission-The Iowa Conservation Commission is an owner of land along the Mississippi River.
- Counties-Counties have the power to develop and enforce zoning restrictions only with reference to land and structures located within the county but lying outside the corporate limits of any city.
- Upper Explorerland Regional Planning Commission-The UERPC composes comprehensive studies and plans for the development of the area.
- Iowa Natural Resources Council-The Iowa NRC has the duty and authority to establish a comprehensive state-wide plan "for the control, utilization, and protection of the water resources of the state...".

Representatives from nine organizations were interviewed in the Iowa portion of the study area. These organizations included two counties and seven municipalities. Descriptive data on these organizations are presented in section II of the Iowa section of the report.

An index of local land use legislation currently operable in the study area can be found in section III of the Iowa section of the report. This summary encompasses mostly zoning and floodplain ordinances.

Perceived organizational responsibilities and objectives were obtained by asking the representatives of the political subdivisions the following:

- What ordinances do you have regulating the study area?
- What are the goals and objectives of the ordinances?

Most representatives identified a zoning and/or a floodplain ordinance operating in their jurisdiction. Perceived goals and objectives of identified ordinances include:

- Prevent undesirable haphazard building along the river;
- Soil conservation;
- Protect agricultural land;
- Maintain existing land use;
- Promote safety from flooding;
- Make riverfront available to potential users;
- Maintain a clean riverfront.

Perceptions of local government officials regarding other organizations who have overlapping power and authority are found in section VI of the Iowa section of the report. Agencies identified as having overlapping power and authority include:

- F.E.M.A.;
- Iowa Natural Resources Council;
- Iowa Conservation Commission;
- Zoning Board of Adjustment.

The representatives expressed varying concerns for involvement with the Corps of Engineers' Master Plan. Among these concerns are the following:

- Would not like to be involved;
- Mayor is willing to work personally with the COE;
- Would like to be kept informed;
- Would attend meetings/hearings.

A specific break down of responses by political subdivision is delineated in section VII of the Iowa section.

In section VIII, site-specific recommendations can be found. Two political subdivisions do not have any jurisdiction along the river and therefore, no recommendations are offered for these organizations. Site-specific recommendations for the Iowa localities are, to a large extent, dependent on the size of the locality. The small municipalities barely have adequate city services (i.e., police, fire, street department, etc.) and can hardly afford to assist in recreational planning. Recreational development at other locations is recommended only after assessing the current river usage by commercial, industrial, and recreational users from the surrounding area. In addition, the Higgins' Eye Clam issue is present in this area and any proposed development involving dredging may face strong opposition from local interest groups.

WISCONSIN

The following organizations are influential in what is done with the riverfront land in the study area:

- Counties-Counties have the authority to "plan for the physical development and zoning of territory within the county..." §59.97(1).
- Villages-Village planning is governed by §61.35 of the Wisconsin Statutes. What is provided in this section is a general statement conferring the powers and imposing the duties outlined in §62.23 upon the President, the Village Board and other village officials. As a result, the village officials exercise the same authority as city officials.
- Cities-A city planning commission has the duty to adopt a master plan for physical development of the municipality.
- Regional Planning Commissions-A regional planning commission is solely advisory to the local governments. Their function and duty are to make and adopt a master plan for the physical development of the river. *Local government units within the region may adopt all or any portion of the plans and other programs prepared and adopted by the regional planning commission.* §66.945(12).

- Wisconsin Department of Natural Resources-The DNR is authorized to "have and take general care, protection, and supervision of all state parks, of all state fish hatcheries, and lands owned by the state or in which it has any interests. The DNR is also authorized to review floodplain zoning ordinances developed by local government units.

Representatives from thirty-one organizations were interviewed in the Wisconsin portion of the study area. Descriptive data on these organizations are presented in section II of the Wisconsin section of the report.

A summary table of local land use legislation currently operable in the study area can be found in section III of the Wisconsin section of the analysis. This summary includes zoning, floodplain, subdivision, and shoreland ordinances. It should be noted that the Wisconsin DNR has developed a model floodplain ordinance which several of the local government units have adopted.

The Wisconsin representatives perceived several types of ordinances regulating the study area. Among these include: floodplain ordinance, zoning ordinance, shoreland ordinance, building ordinance, sanitation ordinance, and the Lower St. Croix National Riverway ordinance. Perceived goals and objectives of identified ordinances include:

- Protect quality of water;
- Prevent blockage of possible flood water;
- Promote organized and planned development;
- Satisfy federal flood insurance requirements;
- Promote health and welfare of people;
- Prevent soil erosion;
- Preserve wildlife;
- Make riverfront available to general public;
- Keep riverfront clean;
- Control of recreational structures;
- Scenic preservation.

Numerous water-related problems were identified in the study area. Some of the major problems are presented below.

- The Corps of Engineers is not renewing land leases along the river to local citizens.
- There is a conflict concerning dredging and its affect on the Higgins' Eye clam.
- There exists a lack of coordination among the various state agencies governing the riverfront.
- Rising costs of state parks contribute to their decreasing use.
- Pollution of the Mississippi inhibits swimming.
- Soil erosion is considered problematic.
- There is a concern with the high PCB level.
- Overlapping federal regulations were perceived.

Perceptions of Wisconsin local government officials regarding other organizations who have overlapping power and authority are found in section VI of the Wisconsin section of the report. The Wisconsin DNR was identified by 22 of 31 local government units as having input or regulating authority over zoning matters in floodplain areas. Some representatives identified F.E.M.A. and the DNR as entities with overlapping authority with respect to floodplain legislation. Several other agencies were identified by individual representatives. For a detailed breakdown, consult section VI.

Organizations identified as being involved in the planning process are delineated in section VII of the Wisconsin section. These agencies were seen as performing the following functions:

- Data collection/organization;
- Planning and design;
- Financing;
- Regulation;
- Assistance;
- Advisory;
- Coordination;
- Direction.

The Wisconsin representatives expressed varying concerns for involvement with the Corps of Engineers' Master Plan. Among these concerns include:

- Would like to be kept informed;
- Would attend public hearings/meetings;
- Would not like to be involved;
- Would like to be active only if plans affect their area.

A specific breakdown of responses by political subdivision is delineated in section VIII of the Wisconsin section of the report.

Site-specific recommendations for the Wisconsin portion of the study area can be found in section IX. Especially significant recommendations are highlighted below.

- Measures should be taken to alleviate the high concentration of PCB's in Pool 4 before planning any new projects in this area.
- Existing parks located along the riverfront offer excellent opportunities for improvement or expansion.
- Dredging is needed in particular areas to eliminate watercraft damage resulting from bottoming out.
- Cooperation should be obtained between Burlington Northern, an owner of land along the river, and local government units.
- Some of the land along the river is bottomland and, as such, is devoted to wildlife refuge. Preservation of this area is a high priority.

- A small craft harbor is under consideration at one of the local government units in Pool 6. This offers an opportunity for development in this area.
- Cooperation with recreational development from some entities may be lacking as some representatives expressed the desire to leave the riverfront as it currently exists.
- Recreational development along the St. Croix River would be limited by existing development. Recreational development in this area will largely be confined to maintenance or expansion of existing facilities.

MINNESOTA

The following organizations are influential in what is done with the riverfront land in the study area.

- Counties-In all counties, except Hennepin and Ramsey, the board of county commissioners "shall have the power and authority to prepare and adopt by ordinance, a comprehensive plan". This plan, when adopted by ordinance "shall be the basis for official controls" adopted under the county planning and zoning provisions of the Minnesota Statutes §394.23. In Hennepin and Ramsey counties, zoning powers have been delegated to the municipalities within these counties.
- Cities-There are two types of cities within Minnesota; home rule charter cities, and statutory cities. The home rule charter cities have adopted a charter that delineates its form of government and its powers. The statutory cities operate under general provisions outlined in the Minnesota Statutes. According to the state statutes, the city council shall have the power to establish harbor and dock limits, regulate the construction of buildings, and enact zoning provisions by ordinance under the "promotion of health, safety, order, convenience, and general welfare. §412.191(1).
- Regional Development Commissions-Regional development commissions were created for the purpose of facilitating intergovernmental cooperation and in order to insure the orderly and harmonious coordination of state, federal, and local comprehensive planning and development programs for the solution of economic, social, physical and governmental problems of the state and its citizens.
- Metropolitan Council-The Metropolitan Council shall prepare and adopt,...a comprehensive development guide for the metropolitan area. "The comprehensive development guide shall recognize and encompass physical, social or economic needs of the metropolitan area and those future developments which will have an impact on the entire area including but not limited to such matters as land use, parks and open space land needs...". §473.145.
- Environmental Quality Board-The Board has the authority to review programs of state agencies that significantly affect the environment and coordinate those it determines are interdepartmental in nature. It also may review environmental regulations and criteria for granting and denying permits by state agencies and may resolve conflicts involving state agencies with regard to programs, regulations, permits and procedures significantly affecting the environment.

- Department of Natural Resources-The commissioner of natural resources is to "have charge and control of all the public lands, parks, timber, waters, minerals, and wild animals of the state and of the use, sale, or other disposition thereof, and of all records pertaining to the performance of his functions relating thereto". §84.027(2). The commission also has the authority to review local floodplain ordinances.

Representatives from forty organizations were interviewed in the Minnesota portion of the study area. Descriptive data on these organizations are presented in section II of the Minnesota section of the report.

A summary table of local land use legislation currently operable in the study area can be found in section III of the Minnesota section of the analysis. This summary includes zoning, floodplain, shoreland, subdivision, and bluffland and shoreland ordinances. It should be noted that the Minnesota DNR has developed a model floodplain ordinance which several of the local government units have adopted.

The Minnesota representatives perceived several types of ordinances regulating the study area. Among these include: floodplain, zoning, shoreland zoning, Mississippi River Corridor, subdivision, and shoreland and bluffland ordinances. In addition, a critical area plan governing development is perceived by a few representatives. Perceived goals and objectives of these ordinances include:

- Prevent substandard housing;
- Satisfy federal flood insurance requirements;
- Positive control of environment;
- Promote and protect health, safety, and welfare of people;
- Prevent building in floodplain;
- Minimize pollution;
- Preservation of natural resources, rural and open space;
- Permit use of floodplain for necessary human and compatible use;
- Preserve riverfront for industrial, commercial, and recreational uses.

Perceived water-related problems in the study area include the following:

- There exists a discontinuity between the Minnesota DNR, Wisconsin DNR, and the Corps of Engineers' regulations governing the river.
- Sedimentation and erosion of the river is considered problematic.
- The dumping of dredge material was identified as a problem.
- There was an expressed disgust with the Metropolitan Council. It was felt that planning should be left up to the local government units.
- The noise level of river traffic was perceived as excessive.
- There was a concern for the safety of river users due to competing industrial and recreational users.
- Excessive boat traffic on the St. Croix River was identified as a problem.

A breakdown of water-related problems by political subdivision can be found in section V of the Minnesota section of the analysis.

Perceptions of Minnesota local government officials regarding other organizations who have overlapping power and authority are found in section VI. The DNR was identified as being the approval agency for local floodplain ordinances. Several representatives identified the Minnesota Pollution Control Agency as providing regulation and assistance to their political subdivision. Other agencies identified as having authority over matters regarding the river include: F.E.M.A., HRA, HUD, Metropolitan Council, Metropolitan Open Space Commission, Minnesota Department of Transportation, Minnesota Environmental Quality Board, Minnesota-Wisconsin Boundary Area Commission, National Park Service, U.S. Army Corps of Engineers, U.S. Department of Interior, and the U.S. Fish and Wildlife Service.

The Minnesota representatives expressed varying concerns for involvement with the Corps of Engineers' Master Plan. Among these concerns include:

- Should be involved during the whole planning process.
- Would not like to be involved.
- Would like to be kept informed.
- Would attend locally held meetings.
- Reviewal/Approval of final report.
- Would like to be put on a mailing list.
- Review data for reliability.
- Would like to give input.

A specific breakdown of responses by political subdivision is delineated in section VII of the Minnesota section of the report.

Site-specific recommendations for the Minnesota portion of the study area can be found in section VIII. Significant recommendations are cited below.

- Recreational planning along the Minnesota River would have to take into account a trail system that is currently being planned throughout the Minnesota River bottomland by the Minnesota Department of Natural Resources and the U.S. Fish and Wildlife Service.
- There is little opportunity for further development of land along the Mississippi River in Pool 1.
- Some entities along Pool 2 are too small to assist in recreational planning.
- Recreational planning should include local planning commissions as well as the Metropolitan Council.
- There exists opportunity within Pool 3 for expansion of current recreation facilities.
- Pool 4 offers one of the highest quality areas for recreation along the Mississippi. Proposed recreational development in this area should be closely coordinated with local planning commissions.

- Recreational development within Pool 6 should focus primarily on maintenance or expansion of existing recreation facilities.
- Pool 7 currently possesses excellent recreation resources and would be an ideal location for further recreational development.
- Located within Pool 8, there are railroad tracks that are no longer in use. This may provide for horseback and hiking trails in the summer and snowmobile or ski trails in the winter.
- All land along the St. Croix River in the unincorporated areas is private property, thereby making it unavailable for recreational development.
- Proposed recreational development within the incorporated areas along the St. Croix should be closely coordinated with local government units.

IOWA

1. INVENTORY OF PERTINENT ORGANIZATIONS AND THEIR AUTHORITY

The Constitution of the State of Iowa is the fount of authority permitting the General Assembly to promulgate statutes and regulations governing the area within the boundaries of Iowa. Boundaries are delimited in the constitution, extending out into the Mississippi River, which forms the border between Iowa and Wisconsin.

The Iowa General Assembly has delegated legislative powers through the statutes to certain state agencies and commissions and to the various local government units. Within the study area, direct delegations have been made to the counties and cities located on, or near the banks of the Mississippi River. However, defined procedures for adopting controls over land use must be followed by a city or county before it can exercise the powers granted by the statutes.

A. Iowa Conservation Commission

One of the owners of lands along the Mississippi River within the Iowa boundaries is the State of Iowa. Jurisdiction belongs to the Iowa Conservation Commission. Chapter 107, Title V, of the Code of Iowa grants power to the Conservation Commission to acquire lands or waters suitable for hunting, fishing or trapping in accordance with the law and the regulations of the commission. This power includes the right to extend or consolidate suitable lands or waters by exchanging lands or waters that are currently state-owned for other lands or waters. These powers of acquisition have been used to acquire properties along the Mississippi, since the statutes only grant jurisdiction over "meandered lakes and streams" directly to the Conservation Commission.

The Commission has been delegated the duty to adopt rules and regulations to be used in determining when permits should be issued to applicants who desire to use state-owned lands. Section 111.4 of the Iowa Code provides that "no person, association or corporation, shall build or erect any pier, wharf, sluice, piling, wall, fence, obstruction, building or erection of any kind upon or over any state-owned land or water under the jurisdiction of the commission, without first obtaining from such commission a written permit.....". If an application is made for a permit which in any manner will affect flood control, approval of the Iowa Natural Resources Council must also be secured.

B. Counties

Chapter 358A, Title XIV, of the Code of Iowa grants to the counties the power to develop and enforce zoning restrictions "only with reference to land and structures located within the county but lying outside the corporate limits of any city" (§358A.3). This Chapter is only applicable to a county at the option of its Board of Supervisors (§358A.1). In order to exercise these zoning powers, the Board of Supervisors must appoint a county zoning commission (§358.8). This Commission has the responsibility to develop plans and submit them to the full board for approval and adoption. The Board of Supervisors also appoints an Administrative Officer, who has the authority to enforce the resolutions or ordinances adopted by the Board. An appointed body, known as the Board of Adjustment, has the authority to hear any grievances brought by parties adversely affected by a decision of the Administrative Officer.

County zoning regulations do not apply to land acquired and maintained by the state for governmental purposes, unless this immunity is exercised in an abusive fashion. Whenever any regulation proposed under Chapter 358A relates to activities in or on the floodplain of any river or stream, prior approval of the Iowa Natural Resources Council is needed to "establish, amend, supplement, change or modify such regulation or to grant any variance or exception therefrom (§358A.24). Figure 1 illustrates the interrelationships of the various individuals and boards who have a role in the land use planning and control process at the county level.

C. Cities

Cities receive their authority to develop and enforce zoning restrictions within their corporate limits from Chapter 414, Title XV, of the Iowa Code. These powers are practically identical to those granted to the counties. Any city is empowered to formulate zoning regulations directly by statute (§414.1) and in accordance with a comprehensive plan (§414.3). The city council is responsible for determining how the districts should be established and enforced (§414.4). A planning or zoning commission is to be appointed by the council and has the responsibility of making recommendations to the council, which must approve and adopt them in order to give effect to those plans. The council also appoints a Board of Adjustment (§414.7), which performs the same function outlined previously for its counterpart at the county level.

As with the county zoning provisions, any regulations pertaining to "any structure, building, dam, obstruction, deposit or excavation in or on the floodplains of any river or stream" requires prior approval of the Iowa Natural Resources Council (§414.21). Section 414.23 grants power to a city to extend by ordinance its zoning regulations to the unincorporated areas up to two miles beyond the city limits "except for those areas within a county where a county zoning ordinance exists". See Figure 2 for the interrelationships between officials regarding city zoning powers.

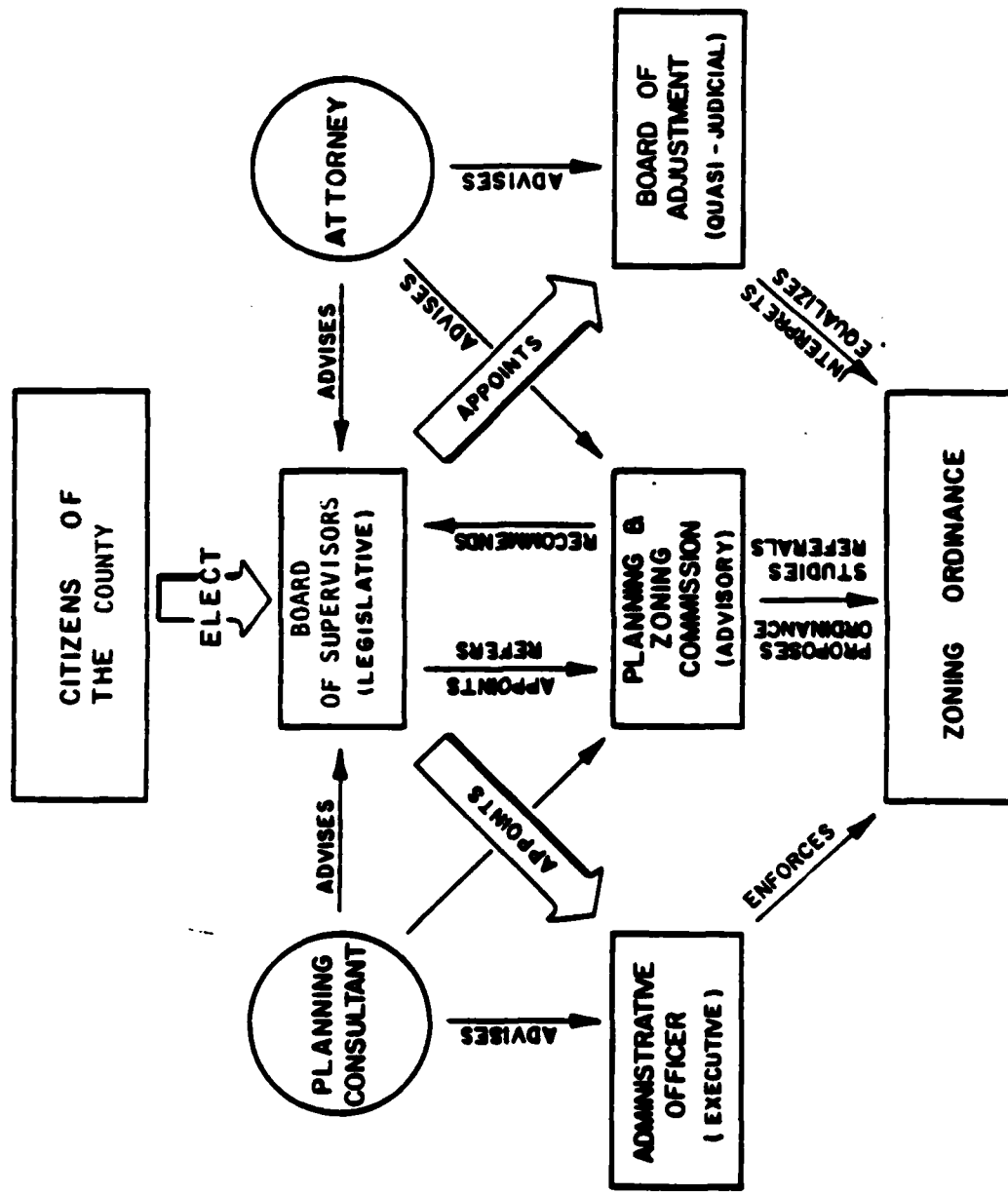
D. Upper Explorerland Regional Planning Commission

Pursuant to Chapter 473A, Title XVII, of the Iowa Code, the governing bodies at the local level in Northeastern Iowa have joined together in the creation of the Upper Explorerland Regional Planning Commission. All seven cities and the two counties in the study area are members of this planning commission. This commission currently has 23 members, the majority of which hold no other public office or position, except for appointive membership on a city or other planning commission, board or agency. The commission has the authority and the duty to "make comprehensive studies and plans for the development of the area...". (§473A.4). Plans made by this commission may be adopted wholly or in part by the governing bodies of the co-operating cities and counties as the general plan of the adopting entity. The actual legislative authority with respect to zoning and planning remains with the co-operating member entities (§473A.7).

E. Iowa Natural Resources Council

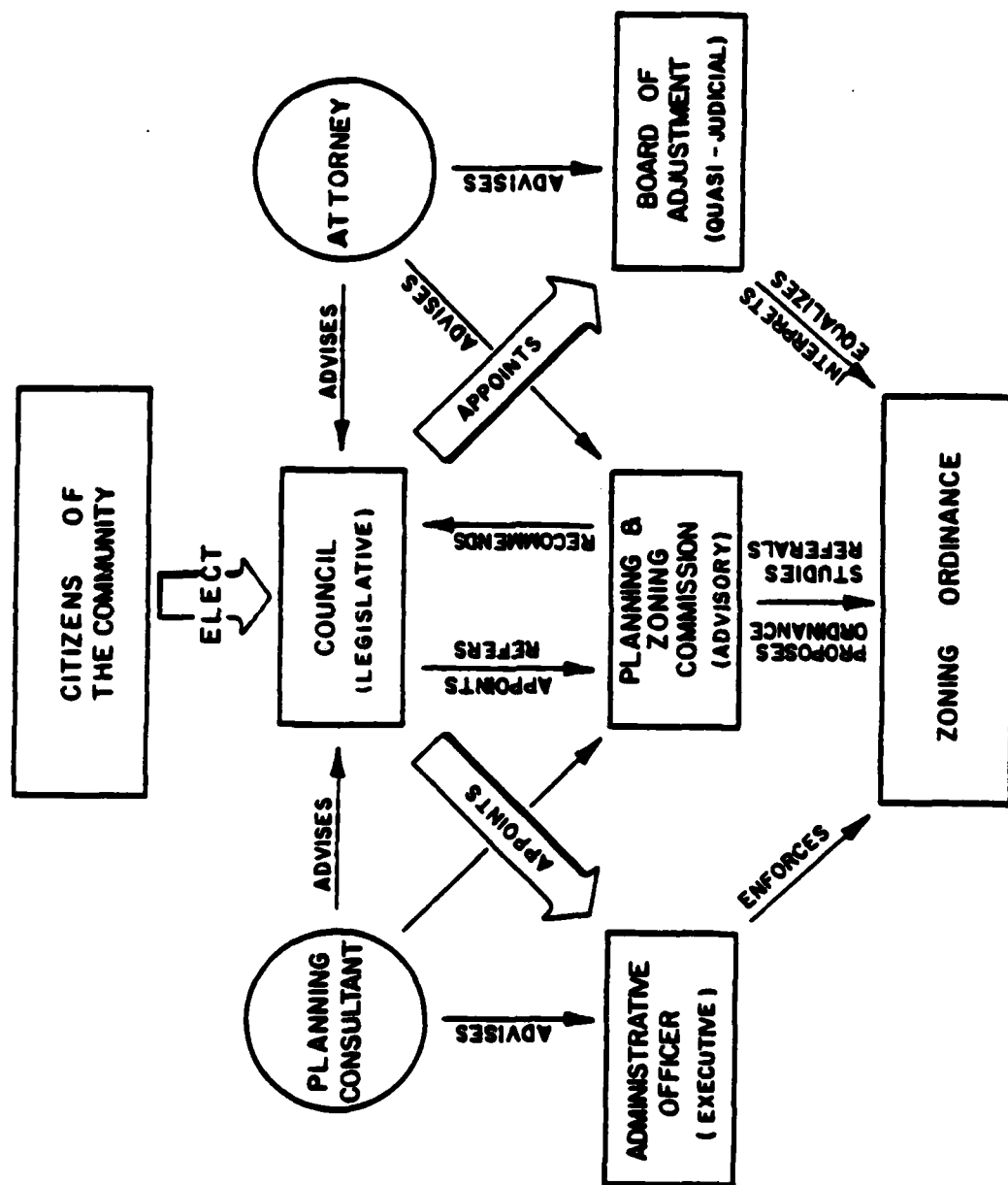
The Iowa Natural Resources Council was created by the General Assembly of Iowa in 1949. It is governed by Chapter 455A, Title XVII of the Code of Iowa. The council has the duty and authority to establish a comprehensive state-wide plan "for the control, utilization, and protection of the water resources

Figure 1. Interrelationships of Individuals and Boards Concerning Zoning at the County Level.



SOURCE: Adapted from 1970 Clayton County Comprehensive Plan.

Figure 2. Interrelationships of Individuals and Boards Concerning Zoning at the City Level.



Source: 1970 Clayton County Comprehensive Plan.

of the state...". Permits will be granted by the council for uses and developments of water resources regulated under Chapter 455A only if compatible with the plan. The statewide plan is not to be implemented until a concurrent resolution receives approval by an affirmative vote of the majority of each house in the General Assembly.

The council has been designated as the "official representative of the state of Iowa on all comprehensive water resource planning groups for which state participation is provided". (§455A.17). It is empowered to co-ordinate state planning with local and national planning and to undertake the resolution of any conflicts that may arise between the various agencies involved in fulfillment of its duties.

The natural resources council is also granted the authority to "procure and obtain flood control works and water resource projects from and through or by co-operation with the United States or any agency of the United States, by co-operation with and action of the cities and other subdivisions of the state, under the laws of the state relating to flood control and use of water resources for the achievement of the policies of the state of Iowa and the state comprehensive plan for water resources" (§455A.17). By virtue of this authority the council has authority to approve or disapprove plans for "any structure, dam, obstruction, deposit or excavation in or on any floodway" and may abate as a public nuisance any of these developments which would adversely affect flood control. The council is acting as the state co-ordinating agency for the National Flood Insurance Program.

11. DESCRIPTIVE DATA ON INTERVIEWED ORGANIZATIONS

The characteristics of the local and regional organizations which will benefit planning, as specified in the scope, are not directly applicable to the interviewed entities located in the Iowa portion of the study area. A descriptive inventory of how these entities are organized and how they operate is contained in the tabular summary that follows. They are listed according to pool.

[illegible]

MISSISSIPPI RIVER

POOL 9

Allamakee County, Iowa.

Political Subdivision:

Organization:

County Board Chairman, two member Board of Supervisors,
County Treasurer, County Auditor, County Assessor,
County Engineer, County Attorney.
Chapter 358A, Iowa Code.

Enabling Legislation:

Commissions/Committees
(of the political subdivision)
Affecting Riverfront Lands:

Planning and Zoning Commission .

River Miles Covered by Corporate Limits:

637.3 to 673.8.

Extraterritorial Jurisdiction:

None.

Ordinances/Legislation
Affecting Riverfront Lands:

Zoning Ordinance of Allamakee County.

Flood Plain Ordinance:

None.

Recreational Plan Available:

None.

Miscellaneous:

Member of Upper Explorerland Regional Planning Commission.
Receives technical assistance from Iowa Conservation
Commission, Soil Conservation, and Watershed Commission.

(Part of this county lies adjacent to Pool 10).

Political Subdivision:

New Albin, Iowa; Allamakee County.

Organization:

Mayor, five member council, City Clerk, City Treasurer.

Enabling Legislation:

Chapter 414, Title XV, Iowa Code.

Commissions/Committees
(of the political subdivision)
Affecting Riverfront Lands:

City Council.

River Miles Covered by Corporate Limits:

N/A; city lies approximately four miles west of the riverfront.

Extraterritorial Jurisdiction:

None.

Ordinances/Legislation
Affecting Riverfront Lands:

None.

Flood Plain Ordinance:

None.

Recreational Plan Available:

None.

Miscellaneous:

Some land along the riverfront is under the jurisdiction of the Iowa Conservation Commission. Member of Upper Explorerland Regional Planning Commission.

Political Subdivision:

Lansing, Iowa; Allamakee County.

Organization:

Mayor, five member council, City Clerk, City Treasurer.

Enabling Legislation:

Chapter 414, Title XV, Iowa Code.

Commissions/Committees
(of the political subdivision)
Affecting Riverfront Lands:

Dock Commission, (obsolete-no longer owns the river front
land) Park and Recreation Commission.

River Miles Covered by Corporate Limits:

N/A; Some land along the river is under jurisdiction
of Iowa Conservation Commission.

Extraterritorial Jurisdiction:

Yes.

Ordinances/Legislation
Affecting Riverfront Lands:

None.

Flood Plain Ordinance:

None.

Recreational Plan Available:

None.

Miscellaneous:

Some land along river under jurisdiction of Iowa
Conservation Commission. Member of Upper Explorerland
Regional Planning Commission.

POOL 10

Political Subdivision:

Clayton County, Iowa.

Organization:

County Board Chairman, two member Board of Supervisors,
County Treasurer, County Clerk, County Zoning Administrator.

Enabling Legislation:

Chapter 358A, Iowa Code.

Commissions/Committees
(of the political subdivision)
Affecting Riverfront Lands:

Planning and Zoning Commission.

River Miles Covered by Corporate Limits:

601 to 637.

Extraterritorial Jurisdiction:

None.

Ordinances/Legislation
Affecting Riverfront Lands:

Zoning Ordinance of Clayton County.

Flood Plain Ordinance:

None.

Recreational Plan Available:

None.

Miscellaneous:

Member of Upper Explorerland Regional Planning Commission.
Does have a comprehensive plan (1970).

Political Subdivision:

Harpers Ferry, Iowa; Alamakee County.

Organization:

Mayor, five member council, one Clerk/Treasurer/Secretary.

Enabling Legislation:

Chapter 414, Title XV, Iowa Code.

Commissions/Committees
(of the political subdivision)
Affecting Riverfront Lands:

City Council.

River Miles Covered by Corporate Limits:

645 to 646.

Extraterritorial Jurisdiction:

None.

Ordinances/Legislation
Affecting Riverfront Lands:

Ordinance #5 (Zoning).

Flood Plain Ordinance:

None.

Recreational Plan Available:

None.

Miscellaneous:

Member of Upper Explorerland Regional Planning Commission.

Political Subdivision:

Marquette, Iowa; Clayton County.

Organization:

Mayor, five member council, City Clerk/Treasurer.

Enabling Legislation:

Chapter 414, Iowa Code.

Commissions/Committees
(of the political subdivision)
Affecting Riverfront Lands:

City Council.

River Miles Covered by Corporate Limits:

634.25 to 635.2.

Extraterritorial Jurisdiction:

None.

Ordinances/Legislation
Affecting Riverfront Lands:

-M-

Flood Plain Ordinance:

None.

Recreational Plan Available:

None.

Miscellaneous:

Member of Upper Explorerland Regional Planning
Commission.

Political Subdivision:

McGregor, Iowa; Clayton County.

Organization:

Mayor, five member council, City Clerk, City Treasurer,
City Zoning Administrator.

Enabling Legislation:

Chapter 414, Title XV, Iowa Code.

Commissions/Committees
(of the political subdivision)
Affecting Riverfront Lands:

Dock Commission, Planning and Zoning Board.

River Miles Covered by Corporate Limits:

632⁺ to 634⁺,

Extraterritorial Jurisdiction:

None

Ordinances/Legislation
Affecting Riverfront Lands:

Zoning Ordinance-334.

Flood Plain Ordinance:

Flood Damage Prevention Ordinance-381.

Recreational Plan Available:

None.

Miscellaneous:

Member of Upper Explorerland Regional Planning
Commission.

Political Subdivision:

Clayton, Iowa; Clayton County.

Organization:

Mayor, five member council, City Clerk, City Treasurer.

Enabling Legislation:

Chapter 414, Title XV, Iowa Code.

Commissions/Committees
(of the political subdivision)
Affecting Riverfront Lands:

Park Commissioner. City Council.

River Miles Covered by Corporate Limits:

624 to 624.75.

Extraterritorial Jurisdiction:

None.

Ordinances/Legislation
Affecting Riverfront Lands:

None.

Flood Plain Ordinance:

None.

Recreational Plan Available:

None.

Miscellaneous:

Member of Upper Explorerland Regional Planning Commission.

III. SUMMARY OF LOCAL LAND USE LEGISLATION

Table I presents a breakdown of the local legislation currently operable in the study area. Three of the local government units, Clayton, Lansing, and New Albin are not zoned at the present time and have no other relevant ordinances.

A. County Legislation

The two Iowa counties in the study area derive their authority from Chapter 358A of the Code of Iowa. Both counties have adopted a county zoning ordinance.

1. *The Zoning Ordinance of Allamakee County.*

The Allamakee County Zoning ordinance governs any land outside incorporated areas. The purpose of the ordinance is to regulate and restrict the location and use of buildings, structures, and land for trade, industry, residence, and other purposes; the number and size of buildings and other structures; to establish minimum lot areas; to regulate the density of population and the percentage of lot that may be occupied; to require off-street parking; to regulate the location, size and number of signs; and to divide the unincorporated area of the county into districts for such purposes. The zoning ordinance establishes the following districts: Agricultural, Residential, Mobile Home Parks, Commercial, Industrial, and Flood Plain.

A Zoning Administrator is appointed by the County Board of Supervisors and is responsible for administration and enforcement of the ordinance.

Any violations of the ordinance constitutes a misdemeanor and could result in a fine of not more than one hundred dollars or imprisonment for not more than thirty days.

In addition a Construction Compliance Certificate must be obtained from the Administrative Officer prior to any construction in the county zoned areas.

A Board of Adjustment is appointed by the Board of Supervisors and is charged with the duty to hear and decide appeals where it is alleged that there is error in any order, requirement, decision, or determination made by the Administrative Officer in the enforcement of the ordinance.

2. *The Zoning Ordinance of Clayton County.*

The Clayton County Zoning Ordinance governs any land outside incorporated areas. The purpose of the ordinance follows the same outline as the Allamakee County Zoning Ordinance delineated previously. The Clayton County Zoning Ordinance establishes the following districts: Agricultural, Limited Agricultural, Suburban Residential, Single-Family Residential, Highway Commercial, General Office and Retail, Industrial Park, Industrial, and Flood Plain.

TABLE I
Ordinances Affecting Riverfront

	<u>Zoning Ordinance</u>	<u>Flood Plain Ordinance</u>	<u>Other Ordinance</u>	<u>Total Ordinances</u>
Allamakee County	X			1
Clayton County	X			1
Clayton				0
Guttenberg	X	X	X	3
Harpers Ferry	X			1
Lansing				0
Marquette	X			1
McGregor	X	X		2
New Albin				0

The Board of Supervisors appoints an Administrative Officer and is responsible for the administration and enforcement of the ordinance. Again, any appeals to the decisions made by the Administrative Officer may be taken to an appointed Board of Adjustments.

Any violations of the zoning ordinance could result in conviction of a misdemeanor and incur a fine of not more than one hundred dollars or imprisonment for not more than thirty days.

Also, a Construction Compliance Certificate must be obtained from the Administrative Officer prior to any construction in the county zoned areas.

It should be noted that the information obtained on the Clayton County Zoning Ordinance was taken from the 1970 Clayton County Comprehensive Plan. As a result, changes may have occurred since the adoption of the zoning ordinance. It is estimated that a new zoning ordinance will be ready for adoption in 1981 or 1982*.

B. Municipal Legislation

Chapter 414 of the Code of Iowa delegates authority to municipalities to adopt a zoning ordinance. However, not all municipalities in the study area have adopted ordinances. Those municipalities that have legislation governing the riverfront are: Guttenberg, Harpers Ferry, Marquette, and McGregor. Those municipalities that do not have legislation governing the riverfront include: Clayton, Lansing, and New Albin.

1. Guttenberg

The city of Guttenberg has three ordinances governing the study area. They are: Ordinance Number 145-72-'Official Subdivision Ordinance of the City of Guttenberg, Iowa,' Ordinance Number 222-79-'Flood Plain Management Ordinance,' and 'Flood Control System Ordinance'.

a. *Official Subdivision Ordinance of the City of Guttenberg, Iowa-145-72.*

The purpose of the city subdivision ordinance parallels that of the counties. Although, it governs only the area inside the corporate limits of Guttenberg.

The city has established the following districts: Limited Agricultural Single-Family Residential, Multi-Family Residential, Mixed Residential, Highway Commercial, General Office and Retail, Industrial Park, Industrial, and Flood Plain.

*Telephone interview with Steven Helfer; Clayton County Zoning Administrator; February 19, 1981.

The city council appoints an Administrative Officer who is responsible for administration and enforcement of the ordinance. In addition, the council appoints a Board of Adjustment which is responsible to hear and decide appeals where it is alleged that there is error in any order, requirement, decision, or determination made by the Administrative Officer in the enforcement of the ordinance.

Again, any violations of the ordinance constitutes a misdemeanor and could result in the same penalties as outlined in the county ordinances.

In addition, a Construction Compliance Certificate must be obtained from the Administrative Officer prior to any building in the city of Guttenberg.

b. Flood Plain Management Ordinance-222-79.

The Flood Plain Management Ordinance is designed to:

- Reserve sufficient floodplain area for the conveyance of flood flows so that flood heights and velocities will not be increased substantially.
- Restrict or prohibit uses which are dangerous to health, safety, or property in times of flood or which cause excessive increases in flood heights or velocities.
- Require that uses vulnerable to floods, including public utilities which serve such uses, be protected against flood damage at the time of initial construction.
- Protect individuals from buying lands which are unsuited for intended purposes because of flood hazard.
- Assure that eligibility is maintained for property owners in the community to purchase flood insurance through the National Flood Insurance Program.

The Flood Plain areas within the jurisdiction of this ordinance are divided into the following districts: Floodway (Overlay) District, Floodway Fringe (Overlay) District, General Flood Plain (Overlay) District, Shallow Flooding (Overlay) District. There are several permitted uses within each district (for a detailed breakdown of permitted uses consult the ordinance).

A zoning administrator, appointed by the city council, is responsible for administering and enforcing the ordinance. Flood Plain Development Permits, which are required prior to development of any floodplain, are issued by the administrator.

In addition, a Board of Adjustment is appointed to hear and decide:
1) applications for conditional uses, 2) appeals, and 3) requests for variances.

Once again, violations of the ordinance constitute a misdemeanor.

c. *Flood Control System Ordinance 2.1-1.0507.*

Due to the special character of this ordinance, it has been set forth below in its entirety.

2.1-1.0507 FLOOD CONTROL SYSTEM. It shall be unlawful to damage, interfere with or misuse the Guttenberg Flood Control System, as defined herein, so as to hinder the safe and proper operation of the system or cause unnecessary costs to the city.

1. **System Defined.** The term "Flood Control System" shall mean all structures and property, including flood protection levies, pumping stations, drainage structures, ditches, culverts, ponding areas, and ponding area right of way markers, that are or will be established, constructed, or placed for the purpose of controlling flood waters in the corporate limits of the city.

2. **Prohibited Acts.** The following acts shall be considered misusing, damaging or interfering with the Flood Control System and prohibited by this article.

- A. The driving or operating of any motorized vehicle on any part of any flood control levy or embankment thereof, except as authorized by an officer of the city for the purpose of maintenance, repair, or other nondestructive activity.
- B. The abandoning or storing of any motorized vehicles or part thereof on any Flood Control System Property.
- C. The removal, destruction or defacing of any ponding area right-of-way marker, drainage structure, building, gate, or fence that exists as a part of the Flood Control System.
- D. The depositing of any items such as junk, rubbish, ground, brush, trees, boards, tires and so forth, on any levy, in any ponding area, or in any drainage ditch of the Flood Control System.
- E. The removal or displacement of any ground, rock, or sod from any levy, drainage ditch or ponding area without the authorization of the mayor or city manager.

3. **Abatement.** Any action prohibited by paragraphs B through E of subsection 2 hereof shall be considered a nuisance and may be abated in the manner prescribed in Chapter 1 of Title III of this code.

4. **Special Penalty.** In no event shall the penalty for violation of this section be less than ten (10) days imprisonment or a fine of thirty five dollars (\$35.00).

2. Harpers Ferry

The city of Harpers Ferry has a zoning ordinance, *Ordinance Number 5*, which governs the study area. The purpose of the ordinance is to establish regulations to preserve the residential character of the various areas of the city which are in the best interest of the health, safety, and general welfare of the community.

The city has established the following districts: Restricted Residential, Commercial, and Unrestricted.

A written special permit is required for the construction of any building and for its occupancy within the restricted residential district except for buildings for residences, residential accessory use, schools, churches, and church schools.

Any violations of the ordinance is deemed a nuisance and may result in a fine not to exceed one hundred dollars or thirty days in jail.

3. McGregor

The city of McGregor has two ordinances affecting the study area. They are Ordinance Number 334-Zoning Ordinance of the Town of McGregor and Ordinance Number 381-Flood Damage Protection Ordinance.

A. *Zoning Ordinance of the Town of McGregor, Iowa-#334.*

Again, the purpose of the city zoning ordinance is similar to the Allamakee and Clayton County Zoning Ordinances. Also, it has jurisdiction only within the corporate limits of McGregor.

The city has established the following districts: Limited Agricultural, Single-Family, Residential, Mixed Residential, Highway Commercial, General Office, and Retail, Industrial Park, Industrial, and Flood Plain.

An Administrative Officer is appointed by the city council to administer and enforce the zoning ordinance. In addition, a Board of Adjustment is appointed by the city council and has been delegated the responsibility to hear and decide appeals where it is alleged that there is error in any order, requirement, decision, or determination made by the Administrative Officer.

Any violations of the ordinance constitutes a misdemeanor and may result in a fine of not more than one hundred dollars or imprisoned for not more than thirty days.

B. *Flood Damage Prevention Ordinance-#381.*

The purpose of the Flood Damage Prevention Ordinance is to: 1) restrict or prohibit uses which are dangerous to health, safety, and property due to water or erosion or in flood heights or velocities, 2) require that uses vulnerable to floods, including facilities which serve such uses, be protected against flood damage at the time of initial construction, 3) control the alteration of natural floodplains, stream channels, and natural protective barriers, which are involved in the accomodation of flood waters, 4) control filling, grading, dredging and other development which may increase erosion

or flood damage, and 5) prevent or regulate the construction of flood barriers which will unnaturally divert flood waters or which may increase flood hazards to other lands.

The ordinance applies to all areas of special flood hazards within the jurisdiction of McGregor.

A Board of Adjustment is appointed by the city council and is responsible for administering and enforcing the ordinance. Any application for development permit must be made to the Board of Adjustment.

Again, violation of the ordinance constitutes a misdemeanor.

C. Township Legislation.

Townships have not been granted authority by the Iowa Legislature to develop and adopt their own ordinances for zoning or related purposes. They are subject to the provisions of the county ordinances.

IV. PERCEIVED ORGANIZATIONAL OBJECTIVES AND RESPONSIBILITIES

Perceived organizational responsibilities and objectives were obtained by asking the political subdivisions the following:

- What ordinances do you have regulating the study area?
- Who is responsible for enforcement of the relevant ordinance(s)?
- Are variances granted to the ordinance(s)?
- What are the goals and objectives of the ordinance(s)?

The results of these responses are tabulated in Table 2. Most representatives of the political subdivisions are aware of existing ordinances governing their jurisdiction. However, one respondent did indicate that there were no ordinances relevant to the study area, but in fact there is an existing zoning ordinance operating in that jurisdiction.

Representatives of the political subdivisions all perceived at least one central goal. That goal is the prevention and regulation of undesirable and haphazard building. Some other perceived objectives of the various ordinances include:

- soil conservation
- protection of agricultural land
- maintain orderly development of the land
- maintain existing land use
- promote safety from flooding
- make riverfront available to potential users
- maintain a clean riverfront

For a detailed breakdown, see Table 2.

It should be noted that it was expressed by several representatives that their local government unit does not have any financial resources to aid in the master planning process. For example, the representative from Clayton County stated that because of the limited funding situation in their county, they would prefer not to be involved with master planning efforts.

TABLE 2

Perceptions of: Ordinances Regulating Study Area, Who is Responsible for Enforcement of Ordinances, Are Variances to Ordinances Granted, Goals and Objectives of Relevant Ordinances.

Political Subdivision	Identified Ordinances	Perceived Enforcement	Perceived Variances Granted	Perceived Goals and Objectives of Relevant Ordinances
Allamakee County	County Zoning Ordinance	Zoning Commission	Yes	Prevent undesirable haphazard building along river, soil conservation, protect agricultural land.
Clayton	None	N/A	N/A	N/A
Clayton County	County Zoning Ordinance	Planning and Zoning Administrator	Yes	Maintain primarily agricultural land, control orderly development of the land, maintain existing land use.
Guttenberg	Flood System Control Ordinance Flood Plain Mgt. Zoning Subdivision Ordinance	City Manager City Manager Zoning Administrator	Yes	Maintenance of maximum operating conditions at all times, safety from flooding prevention of building below minimum level.
Harpers Ferry	City Zoning Ordinance	Mayor	No	Maintain clean riverfront, authorize orderly development, prevent establishment of Mobile homes in floodplain.
Lansing	None	N/A	N/A	N/A
Marquette*	None	N/A	N/A	N/A
McGregor	City Zoning Ordinance City Flood Plain Ordinance	City Council City Council	Yes Yes	Regulate building in the floodplain.
New Albin	None	N/A	N/A	N/A

* Respondent from Marquette perceived that there are no ordinances pertaining to the river. However, Marquette does have a zoning ordinance.

V. IDENTIFIED WATER-RELATED PROBLEMS IN THE STUDY AREA

The size of the political subdivision seems to play a role in major water resource and riparian land use problems. For example, Guttenberg is the largest municipality in the study area. A larger municipality requires a more complex organizational structure to carry out city functions. Also, a larger city has more financial resources and manpower to act on needs of the city. An example of this is Guttenberg's enactment of three ordinances which regulate the study area (these ordinances were identified in section III). Of particular interest to recreation users in Guttenberg is a land lease procedure used to regulate usage of the riverfront.

Smaller municipalities, on the other hand, simply do not have the financial resources or the manpower to provide for nonvital city services. For example, Clayton has not adopted any ordinances regulating the study area. More specifically, all cities smaller than Guttenberg in the study area do not have the resources to institute recreation oriented plans or regulations.

As a result of this lack of resources by the smaller municipalities, some problems were identified by their representatives. For example, the representative from Clayton perceived a coordination problem between the COE and the Fish and Wildlife Service; although he could not offer any cause for this problem. In addition, the Clayton representative identified an erosion problem along the riverfront due to barges traveling at excessive speeds. As a solution to this problem, he expressed a desire for greater control of barge traffic by the COE.

The representative from Harpers Ferry identified a lack of dredging as a major problem near Lock and Dam Number Nine. Currently, there is a sedimentation problem causing large houseboats entering the channel near Harpers Ferry to bottom out. This problem has become an emotional issue to many houseboat owners, many of which are not locals. In fact, this representative indicated that he would not eliminate the possibility of private citizens taking it into their own hands to solve the dredging problem (e.g., dynamiting the channel).

Similarly, the New Albin representative also identified dredging as a problem. He perceived that further dredging of the Mississippi River would minimize flooding of local fields. He felt that the tributary, Winnebago Creek, would not back up if further dredging was done.

VI. ASSESSMENTS OF OTHER REGULATING ENTITIES

Table 3 illustrates the perceptions of local government officials regarding other organizations who have overlapping power and authority. Three of the cities have no zoning and, as a result, do not exercise authority that could conflict with other organizations. A fourth city, Marquette, has at least one ordinance, but the interviewee did not know of its existence. Harpers Ferry has a comprehensive municipal ordinance, which contains a zoning ordinance. No other organizations were named as being involved in development or enforcement of that ordinance.

The official at Guttenberg identified FEMA as the federal agency pushing the local government units to adopt floodplain management ordinances. That individual also identified the Iowa Natural Resources Council as the state agency which coordinates federal and local planning. To assist in this procedure, the council prepares a model ordinance which includes the minimal standards necessary for compliance with federal requirements.

The official from Clayton referred to the conservation commission as being an authority in affairs relating to the river. This is true where the state of Iowa owns land.

As is evident from the list of agencies given in Table 3, perceptions of compatibility or conflict are not easily assessable, since most of the entities are not aware of what organizational interconnections exist according to the state statutes outlined earlier. This may not be so surprising upon consideration of the fact that local governments change officers now and then, and newly elected officials may not have had the occasion to identify or utilize the existing relationships between their unit and these other agencies. Also, only Guttenberg and McGregor identified the existence of local floodplain management ordinances. These ordinances require contact with State and Federal agencies. As far as general zoning ordinances are concerned, the cities and counties have direct statutory authority to adopt them without the requirement of approval from outside agencies.

Problems that may develop laterally between communities or between counties are to be worked out via the regional planning commission of which all of these local government units are members. Only the representative of Clayton County identified the Upper Explorerland Regional Planning Commission as being involved in local planning. That individual did not identify the commission as being of assistance in developing the county's ordinances, however.

TABLE 3
Perceptions of Local Government Officials Regarding Other Organizations Having
Overlapping Authority.

	New Albin	Lansing	Harpers Ferry	Marquette	McGregor	Clayton County	Guttenberg	Allamakee County	Clayton
*County Sanitarian					X				
F.E.H.A.							X		
Iowa Natural Resources Council							X		
Zoning Board of Adjustment								X	
Iowa Conservation Commission						X			

* This is pursuant to the city's zoning ordinance, regarding on-site waste disposal systems.
This individual can override the city's decisions in such matters.

VII. ORGANIZATIONAL INTERRELATIONS AND THE PLANNING PROCESS

Due to the fact that the interviewed political subdivisions in Iowa are relatively small and have limited involvement with other planning organizations, this section is not applicable.

VIII. PROSPECTS FOR LOCAL GOVERNMENT INVOLVEMENT

Expressed concern for involvement with the U.S. Army Corps of Engineers Master Planning Study was obtained by asking the following question of the political subdivisions:

- How do you wish to be involved with the COE's Master Plan?

Responses are illustrated in Table 4.

IX. SITE-SPECIFIC RECOMMENDATIONS

Confining this section to the Iowa localities which are a part of the study limits, to a large extent, what can be offered in the way of site-specific recommendations. Lansing and New Albin are the only cities lying adjacent to Pool 9. Neither city has any legal authority over riverfront property, so whether they would agree to or be opposed to possible recreational development in their vicinity would be a matter of preference only. According to our interviews at these places, the agency of concern with authority to effect its desires would be the state conservation commission.

The other cities all lie adjacent to Pool 10. The implications of any future development will vary according to the location selected for that development. The City of Guttenberg has a comprehensive set of ordinances and permit procedures to control recreational development and usage in its jurisdiction. For the smaller cities, this is not the case. Representatives at both Clayton and Harpers Ferry spoke of the population swell which takes place during peak recreational periods throughout the year. This has the effect of severely stretching the city's capability of handling both the needs of local people and transients.

A concrete example of possible overuse involves the City of Clayton. It has only one paved access route for traffic into and out of the town. There is one other means of access (an old truck route), but signs warn of any use, with the exception of qualified truckers, being at the risk of the driver making the decision to use the route. The paved access route has a ditch running along one side of it and when water runs through it, the pavement erodes gradually. It is even now a very narrow access route and in the words of the Clayton representative completely inadequate during the peak recreational seasons. The adequacy of the city services must be considered and proposals to provide auxiliary assistance, at least on a temporary basis, must be developed before any recreational facilities are constructed in or near any of the smaller municipalities.

Table 4
Expressed Concern for Involvement in the Corps of Engineers' Master Plan.

<u>Political Subdivision</u>	<u>Expressed Concern</u>
Allamakee County	No Response.
Clayton	Mayor is willing to work personally with the COE.
Clayton County	Would not like to be involved.
Guttenberg	Mayor would actively participate as public official and private citizen.
Harpers Ferry	Would actively participate when plans are mutually beneficial.
Lansing	N/A. Lansing has no jurisdiction on the riverfront.
Marquette	Would like to be kept informed through mailings.
McGregor	Would participate in public hearings. Would like to have the opportunity to participate.
New Albin	N/A. New Albin has no jurisdiction on the riverfront.

WISCONSIN

1. INVENTORY OF PERTINENT ORGANIZATIONS AND THEIR AUTHORITY

The Constitution of the State of Wisconsin delegates power to the local government units to act on matters of local concern within the limits of the powers granted them by the State Legislature. The delegations of power made by the Legislature to the local units are to be broadly construed and limited only by express language to the contrary. The boundaries of the State of Wisconsin extend out into the Mississippi River which forms the border between Wisconsin and Iowa, and further upstream between Wisconsin and Minnesota.

The general enabling legislation is found in Title VIII of the Wisconsin Statutes. Chapter 59 outlines the powers which counties may properly exercise. Chapter 60 sets forth the powers of a town, Chapter 61 outlines those for villages and Chapter 62 describes those pertaining to cities.

A. Counties

Chapter 59, Title VIII, of the Wisconsin Statutes authorizes the County board to "plan for the physical development and zoning of territory within the county as set forth in this section....". §59.97 (1). In order to exercise this power the county may create a planning and zoning committee or designate a currently existing committee to act in this capacity. §59.97 (2). The draft of the zoning ordinance is prepared and recommended by the planning and zoning committee. Then it is sent on to the County Board for adoption, rejection or recommendation for alterations. §59.97 (5). Upon board approval, the ordinance will become effective within the areas inside the county boundaries, but outside of incorporated cities and villages. The county ordinance will not be effective in any town until it has been approved by the town board. §59.97 (5) (c). It is the responsibility of the county board to "prescribe such rules and regulations and administrative procedures, and provide such administrative personnel as it may deem necessary for the enforcement of the provisions of this section.....". §59.97 (11).

Counties may, by ordinance enacted separately from ordinances pursuant to §59.97, zone all shorelands in their unincorporated areas within the following distances from the normal high-water elevation of navigable waters:

- 1,000 feet from a lake, pond or flowage
- 300 feet from a river or stream or to the landward side of a floodplain, whichever distance is greater. §59.971.

Further provision under §59.971 are best enumerated in full to prevent misconceptions of their meaning.

- (2) (a) Except as otherwise specified, all provisions of §59.97 apply to ordinances and their amendments enacted under this section, but they *shall not require approval or be subject to disapproval by any town or town board.*
- (b) If an existing town ordinance relating to shorelands is more restrictive than an ordinance later enacted under this section affecting the same shorelands, it *continues as a town ordinance in all respects to the extent of the greater restrictions*, but not otherwise.

- (c) Ordinances enacted under this section shall accord and be consistent with any comprehensive zoning plan or general zoning ordinance applicable to the enacting counties, so far as practicable.
- (3) All powers granted to a county under §236.45 may be exercised by it with respect to shorelands, but it must have or provide a planning agency as defined in §236.02 (1).
- (4) (a) Section 66.30 applies to this section, except that for the purposes of this section any agreement under §66.30 shall be effected by ordinance. If the municipalities as defined in §144.26 are served by a regional planning commission under §66.945, the commission may, with its consent, be empowered by the ordinance of agreement to administer each ordinance enacted hereunder throughout its enacting municipality, whether or not the area otherwise served by the commission includes all of that municipality.
- (b) Variances and appeals regarding shorelands within a county are for the board of adjustment for that county under §59.99, and the procedures of that section apply.
- (5) *An ordinance enacted under this section supersedes all provisions of an ordinance enacted under §59.97 that relate to shorelands.*
- (6) If any county does not adopt an ordinance by January 1, 1968, or if the department of natural resources, after notice and hearing, determines that a county has adopted an ordinance which fails to meet reasonable minimum standards in accomplishing the shoreland protection objectives of §144.26 (1), the department of natural resources shall adopt such an ordinance. As far as possible, §87.30 shall apply to this subsection.

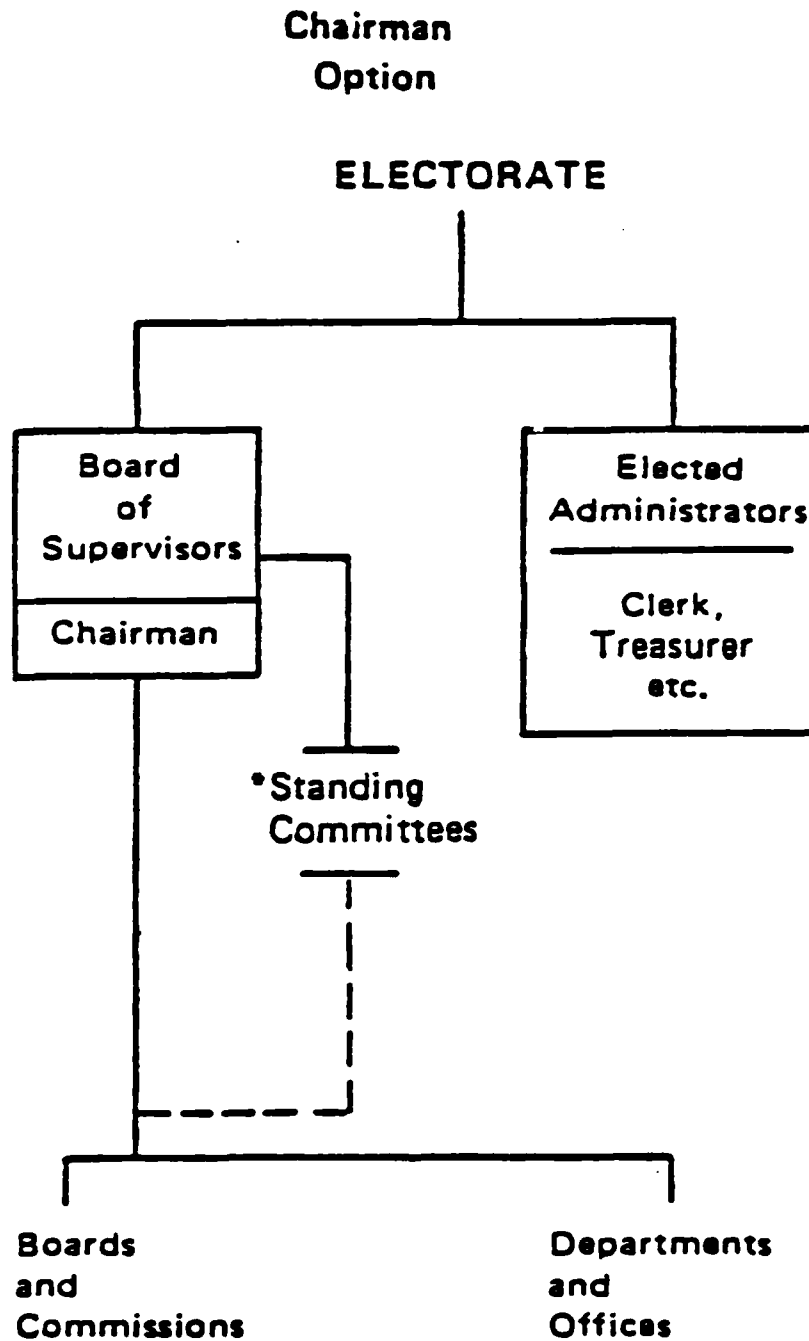
The county board may provide for the appointment of a board of adjustment and in regulations and restriction adopted pursuant to §59.97 provide that such board of adjustment may, in appropriate cases and subject to appropriate condition and safeguards, make special exceptions to the terms of the ordinance in harmony with its general purpose and intent and in accordance with general or specific rules therein contained. §59.99 (1).

Any aggrieved person or any officer, department board or bureau of the municipality affected by any decision of the Building inspector or other administrative officer may take an appeal to the board of adjustment. §59.99 (4).

See Figure 3 for an illustration of the organizational chart which applies to all of the Wisconsin Counties in the study area. Two other options exist, an executive option and an administrator option, but since neither of these apply to any county in the study area they will not be mentioned further.

Figure 3.

PATTERNS OF COUNTY ORGANIZATION.



* Committees established by statute are assigned some supervision over activities.

SOURCE: Adapted from Wisconsin Blue Book 1979-1980.

B. Towns

Chapter 60, Title VIII, of the Wisconsin Statutes is the general enabling legislation for towns (which in some states are called townships). Section 60.74 of the Wisconsin Statutes outlines zoning powers granted to towns located in a county which has not adopted a county zoning ordinance.

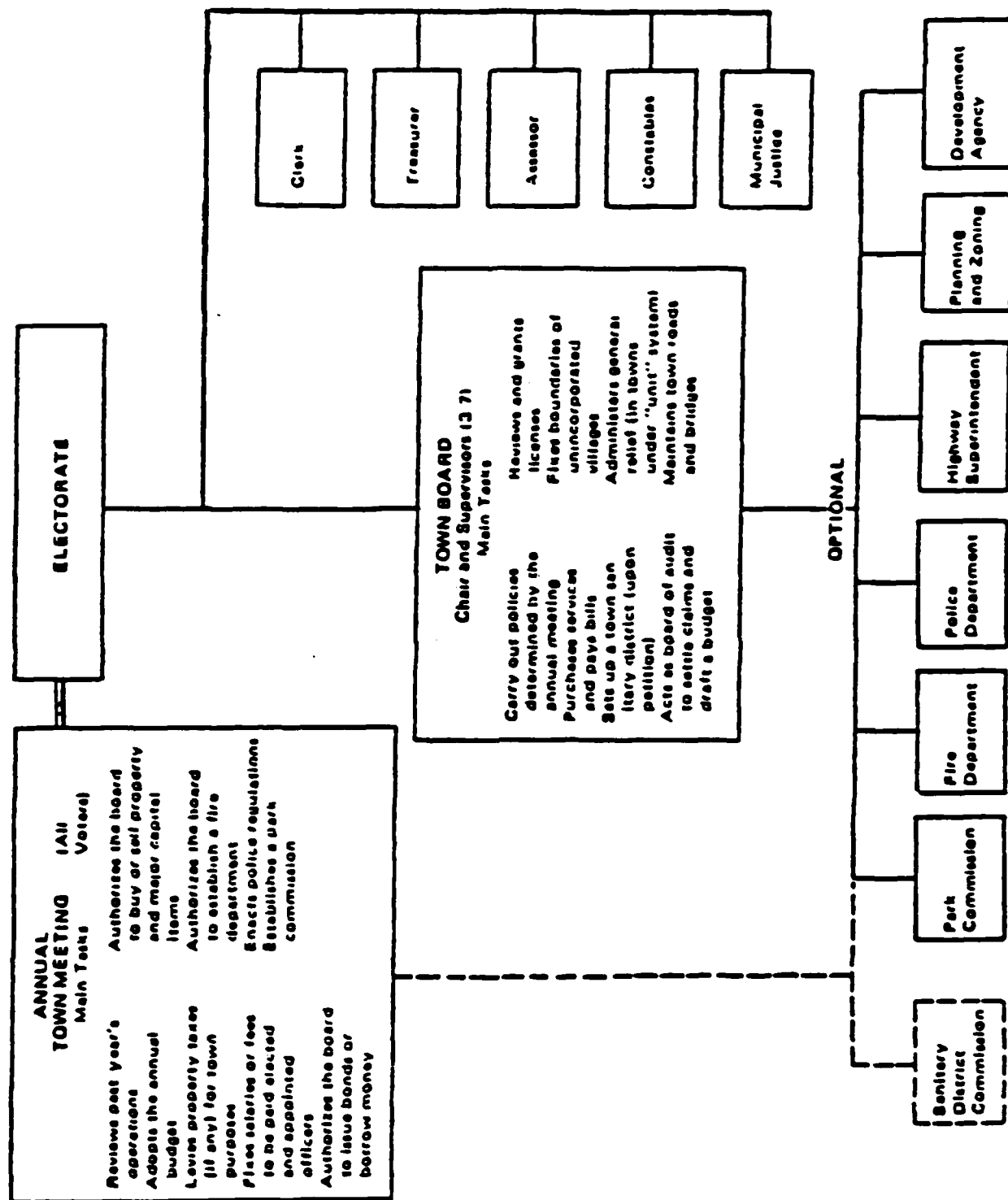
In view of the fact that most, if not all, counties in Wisconsin have adopted county zoning ordinances the other method of exercising zoning powers at the town level will be highlighted. Very simply, §60.18 (12) of the Wisconsin Statutes allows for the town board to be directed by resolution to exercise "all powers relating to villages and conferred on village boards by chapter 61, except such power, the exercise of which would conflict with the statutes relating to towns and town boards". See Figure 4 for an illustration of the structure of government at the town level in Wisconsin.

C. Villages

Village planning is governed by §61.35 of the Wisconsin Statutes. What is provided in this section is a general statement conferring the powers and imposing the duties outlined in §62.23 upon the President, the Village Board and other village officials. As a result, the village officials exercise the same authority as city officials.

Figure 4.

Town Organization.



Source: Adapted from data in *The Wisconsin Taxpayer*.

As presented in Wisconsin Blue Book 1979-1980.

D. Cities

City Councils are authorized in §62.23 (1) to create a city plan commission by ordinance. The composition of such commission consists of the Mayor, City Engineer, President of the Park Board, one Alderman and 3 citizens. In cities which do not have an engineer or a park board, citizens may be appointed to fill those seats.

The Commission has a duty to make and adopt a master plan for physical development of the municipality. Upon request of the council, the plan commission shall prepare and recommend a district plan and regulations for the city. Final approval rests with the common council. §62.23 (7) (d). For cities that have not adopted a zoning ordinance, the common council may enact an interim zoning ordinance without referring the matter to the plan commission. Interim zoning can only be effective for a maximum period of 2 years.

Similar to the provision outlined earlier for counties, the common council may by ordinance provide for the appointment of a board of appeals. Parties entitled to take an appeal to the board and the limits of authority of such board are the same as those for a county board of adjustment.

Cities and villages that have created a plan commission and adopted a zoning ordinance in accord with §62.23 (7) may exercise extraterritorial zoning power. Extraterritorial zoning jurisdiction is defined in §62.23 (7a) to mean "the unincorporated area within 3 miles of the corporate limits of a first, second or third class city or 1-1/2 miles of a fourth class city or a village". In order to exercise extraterritorial jurisdiction, the governing entity seeking to do so shall specify *by resolution* the description of the area to be zoned within its extraterritorial zoning jurisdiction sufficiently accurate to determine its location and *such area shall be contiguous to the city (village)*. §62.23 (7a) (a).

E. Regional Planning Commissions

The governor or a state agency or official of his designation may create a regional planning commission "upon petition in the form of a resolution by the governing body of a local governmental unit and the holding of a public hearing on such petition". §66.945 (2). If the governing bodies of all local units in the proposed region join in the petition, the hearing may be dispensed with.

Upon finding of a need for a regional planning commission and receiving the consent of governing bodies which include over 50% of the population and equalized assessed valuation of the region, the governor may create the regional planning commission by order and designate the area and boundaries of the commission's jurisdiction. No regional planning commission may be created to include territory located in three or more uniform state districts. §66.945 (2m).

The functions of the regional planning commission "*shall be solely advisory to the local governments and local government officials comprising the region*". §66.945 (8). The regional planning commission "*shall have the function and duty of making and adopting a master plan for the physical development of the region*". §66.945 (9). *Local government units within the region may adopt all or any portion of the plans and other programs prepared and adopted by the regional planning commission.* §66.945(12).

Not all local government units within a region choose to participate in a regional planning commission. Within 90 days of creation of a regional planning commission by the governor, any local unit within the region may withdraw from the jurisdiction of such commission by a 2/3 vote of the members-elect of the governing body after a public hearing. Local units may also withdraw *at the close of any fiscal year* by a 2/3 vote of the members-elect of the governing body *taken at least 6 months prior* to the effective date of such withdrawal. §66.945 (16).

1. Southwestern Wisconsin Regional Planning Commission.

This regional planning commission currently retains a staff of 15 members and is located in Platteville, Wisconsin. Grant County, the Village of Bagley and the Towns of Glen Haven and Wyalusing are located within this region. No local government units have withdrawn from the jurisdiction of the Southwestern Wisconsin Regional Planning Commission.

2. Mississippi River Regional Planning Commission.

MRRPC currently retains a staff of 24 members and is located in LaCrosse, Wisconsin. The majority of the interviewed local government units from Wisconsin lie within the jurisdiction of this region. Of the local government units located in this region, only Jackson County (not within the study area) has withdrawn. See Figure 5 which identifies the local units in this region.

3. West Central Wisconsin Regional Planning Commission.

WCWRPC currently has a staff of 17 members and is located in Eau Claire, Wisconsin. From the study area, only St. Croix County, the City of Hudson and the Village of North Hudson lie in this region. Though some local units have withdrawn from the jurisdiction of this regional planning commission, none of these lie within the study area.

F. Wisconsin Department of Natural Resources

The DNR was created under §15.34 of the Wisconsin Statutes and operates under the direction and supervision of the natural resources board. Chapter 23 outlines the several powers and duties of the DNR and §23.11 authorizes it to "*have and take general care, protection and supervision of all state parks, of all state fish hatcheries and lands used therewith, of all state forests, and of all lands owned by the state or in which it has any interests, except lands the care and supervision of which are vested in some other officer, body or board*".

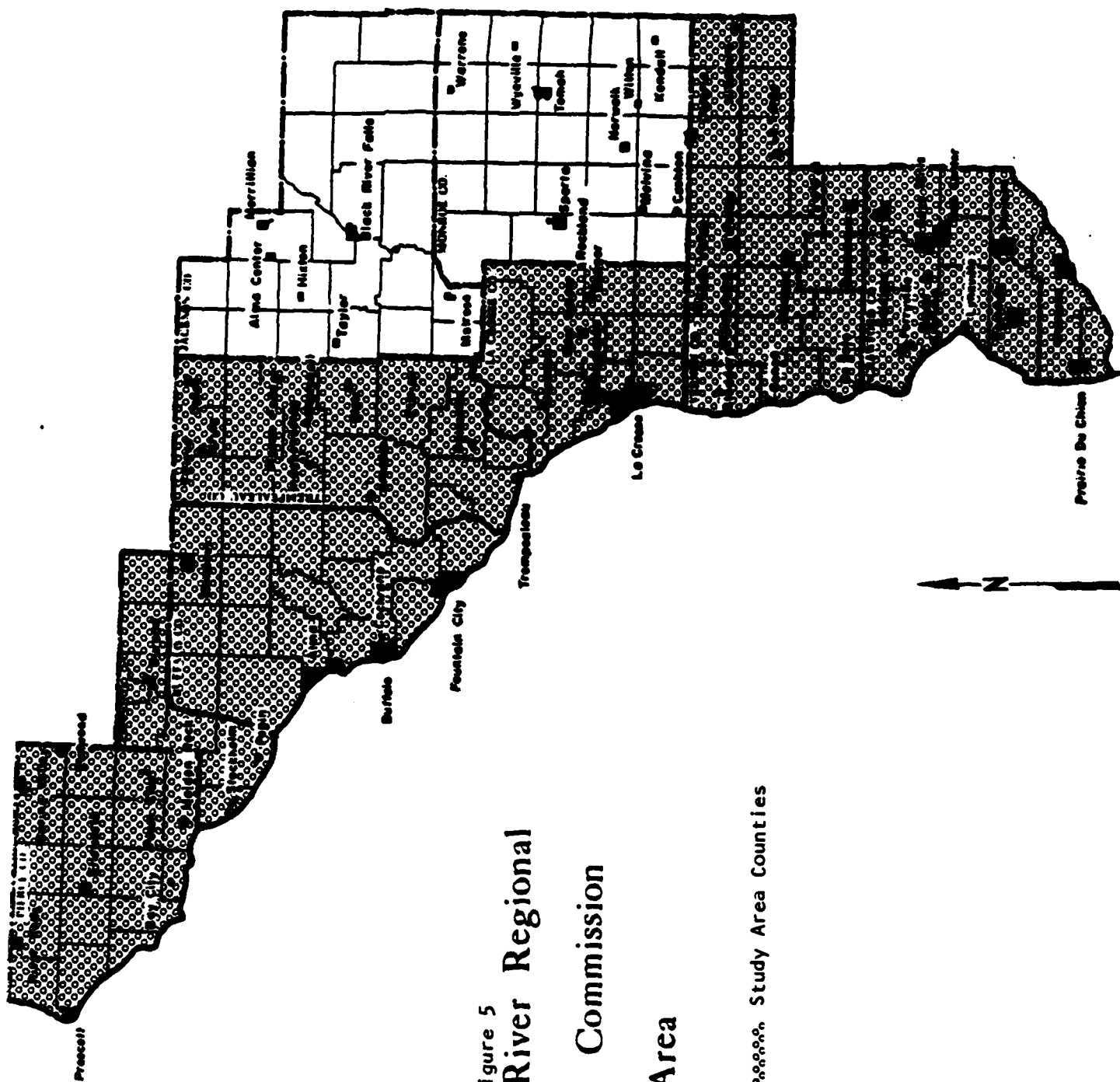


Figure 5
Mississippi River Regional
Planning Commission
Area

..... Study Area Counties

Chapter 87 of the Wisconsin Statutes provides for flood control. In §87.02, the DNR is authorized:

- (1) To order the straightening, widening, altering, deepening, changing or the removing of obstructions from the course of any river, watercourse, pond, lake, creek or natural stream, ditch, drain or sewer, and the concentration, diversion or division of the flow of water therein; provided that in the case of navigable waters no such work shall substantially impair the navigability thereof.
- (2) To order the construction and maintenance or the removal of ditches, canals, levees, dikes, dams, sluices, revetments, reservoirs, holding basins, floodways, pumping stations, sewers and siphons, and any other works reasonably adapted or required to accomplish the purposes of said §§87.01 to 87.17.

The DNR is authorized to review the floodplain zoning ordinances developed by local government units. If any village, city or county does not adopt a *reasonable and effective* floodplain zoning ordinance within one year after hydraulic and engineering data adequate for the formation of such an ordinance becomes available, the DNR *shall*, upon petition of an interested state agency, a municipality or upon its own motion determine and fix by order the limits of any or all floodplains within a county, city or village within which serious damage may occur.

"Failure of a local government unit to adopt a floodplain zoning ordinance for an area where appreciable damage from floods is likely to occur or to adopt an ordinance which will result in a practical minimum of flood damage in an area *shall be prima facie proof* of necessity for action.....by the department (of natural resources)".

Action taken in regard to floodplain determination and zoning regulation by the DNR shall be of the same effect as if adopted by the county, city or village. Even if the floodplain ordinance is developed without the assistance or approval of the local unit, that unit will inherit the responsibility of administering and enforcing the ordinance drawn up by the DNR.

II. DESCRIPTIVE DATA ON INTERVIEWED ORGANIZATIONS

Characteristics of Municipal and County organizations interviewed in the Wisconsin portion of the study area are contained in a tabular summary that follows. This descriptive inventory includes variables which will aid in the planning process. For LaCrosse, the most densely populated organization in the Wisconsin portion of the study area, an additional organizational chart is provided. The political subdivisions are listed according to pool.

MISSISSIPPI RIVER

POOL 3

Pierce County, Wisconsin.

Political Subdivision:

Organization:

County Board Chairman, seventeen member Board of Supervisors (including chairman), County Clerk, County Treasurer, County Zoning Administrator.
Chapter 59, Title VIII, Wisconsin Statutes.

Enabling Legislation:

Commissions/Committees
(of the political subdivision)
Affecting Riverfront Lands:

Zoning Committee.

River Miles Covered by Corporate Limits:

780 to 811.3 (Mississippi River).
0.0 to 8+ (St. Croix River).

Extraterritorial Jurisdiction:

None.

Ordinances/Legislation
Affecting Riverfront Lands:

St. Croix Riverway Zoning.
Shoreland Protection Ordinance Pierce County, Wisconsin.

Flood Plain Ordinance:

Flood Plain Ordinance Pierce County, Wisconsin.

Recreational Plan Available:

Yes.

Miscellaneous:

County floodplain and shoreland ordinances are in force in all towns in Pierce County.
Pierce County also has comprehensive zoning but the Towns of Trenton and Diamond Bluff are not governed by this zoning scheme.

Political Subdivision:	City of <u>Prescott, Wisconsin</u> ; Pierce County.
Organization:	Mayor, six member council, Clerk/Treasurer, Building Inspector.
Enabling Legislation:	Chapter 62, Title VIII, Wisconsin Statutes.
Commissions/Committees (of the political subdivision) Affecting Riverfront Lands:	Planning Commission.
River Miles Covered by Corporate Limits:	810 to 811.3 (Mississippi River). 0.0 to 1.5 (St. Croix River).
Extraterritorial Jurisdiction:	None.
Ordinances/Legislation Affecting Riverfront Lands:	City of Prescott Zoning Ordinance.
Flood Plain Ordinance:	City of Prescott Flood Plain Ordinance.
Recreational Plan Available:	None.
Miscellaneous:	Participates in the Mississippi River Regional Planning Commission.

Political Subdivision:	Town of <u>Diamond Bluff, Wisconsin</u> ; Pierce County.
Organization:	Chairman, two member Town Board, Clerk, Treasurer.
Enabling Legislation:	Chapter 60, Title VIII, Wisconsin Statutes.
Commissions/Committees (of the political subdivision) Affecting Riverfront Lands:	Town Board.
River Miles Covered by Corporate Limits:	800 to 801.
Extraterritorial Jurisdiction:	None.
Ordinances/Legislation Affecting Riverfront Lands:	None.
Flood Plain Ordinance:	None.
Recreational Plan Available:	None.
Miscellaneous:	Subject to Pierce County Floodplain and shoreland ordinances.

POOL 4

Political Subdivision:

Village of Bay City, Wisconsin; Pierce County.

Organization:

President, two member Board of Trustees, Village Clerk, Village Treasurer.

Enabling Legislation:

Chapter 61, Title VIII, Wisconsin Statutes.

Commissions/Committees
(of the political subdivision)
Affecting Riverfront Lands:

Village Board.

River Miles Covered by Corporate Limits:

785.5 to 787.

Extraterritorial Jurisdiction:

Yes.

Ordinances/Legislation
Affecting Riverfront Lands:

None.

Flood Plain Ordinance:

Flood Plain Ordinance for Bay City, Wisconsin-#75.

Recreational Plan Available:

None.

Miscellaneous:

Political Subdivision:	Village of Stockholm, Wisconsin; Pepin County.
Organization:	President, four member Board of Trustees, Village Clerk/Treasurer.
Enabling Legislation:	Chapter 61, Title VIII, Wisconsin Statutes.
Commissions/Committees (of the political subdivision) Affecting Riverfront Lands:	Village Board. Board of Appeals.
River Miles Covered by Corporate Limits:	773 to 776.
Extraterritorial Jurisdiction:	None.
Ordinances/Legislation Affecting Riverfront Lands:	None.
Flood Plain Ordinance:	Flood Plain Ordinance for Stockholm, Wisconsin.
Recreational Plan Available:	None.
Miscellaneous:	

Political Subdivision:

Pepin County, Wisconsin.

Organization:

County Board Chairman, twelve member Board of Supervisors (including chairman), County Clerk, County Treasurer, County Zoning Administrator.

Enabling Legislation:

Chapter 59, Title VIII, Wisconsin Statutes.

Commissions/Committees
(of the political subdivision)
Affecting Riverfront Lands:

Agricultural and Home Economics and Zoning Committee.
County Board of Adjustment.

River Miles Covered by Corporate Limits:

763+ to 779+.

Extraterritorial Jurisdiction:

None.

Ordinances/Legislation
Affecting Riverfront Lands:

An Ordinance Creating a Sanitary Code covering Water Supply, Sewage, and Waste Disposal and Solid Waste Disposal in Pepin County.

Flood Plain Ordinance:

Zoning Ordinance pertaining to Land Use and Sanitation regulations for Unincorporated Areas.

Flood Plain Ordinance for Pepin County, Wisconsin.

Recreational Plan Available:

Yes.

Miscellaneous:

Adopted the Model Flood Plain Ordinance developed by the Department of Natural Resources.

The main interest of Pepin County is in the Chippewa River, where the Corps has invested a significant amount of funds for a recent project.

Political Subdivision:	Village of <u>Pepin, Wisconsin</u> ; Pepin County.
Organization:	President, six member Board of Trustees, Village Clerk, Village Treasurer.
Enabling Legislation:	Chapter 61, Title VIII, Wisconsin Statutes.
Commissions/Committees (of the political subdivision) Affecting Riverfront Lands:	Village Board. Harbor Commission.
River Miles Covered by Corporate Limits:	766 to 768.
Extraterritorial Jurisdiction:	None.
Ordinances/Legislation Affecting Riverfront Lands:	None.
Flood Plain Ordinance:	Flood Plain Ordinance for Pepin, Wisconsin-#94A.
Recreational Plan Available:	None.
Miscellaneous:	

POOL 5

Political Subdivision:

City of Alma, Wisconsin; Buffalo County.

Organization:

Mayor, nine Alderman, City Clerk/Treasurer, City Attorney.

Enabling Legislation:

Chapter 62, Title VIII, Wisconsin Statutes.

Commissions/Committees
(of the political subdivision)
Affecting Riverfront Lands:

Recreation Committee.
Harbor Committee.

River Miles Covered by Corporate Limits:

751 to 757.

Extraterritorial Jurisdiction:

None.

Ordinances/Legislation
Affecting Riverfront Lands:

Zoning Ordinance City of Alma, Wisconsin.

Flood Plain Ordinance:

Flood Plain Ordinance for Alma, Wisconsin.

Recreational Plan Available:

None.

Miscellaneous:

Political Subdivision:	<u>Buffalo County, Wisconsin.</u>
Organization:	County Board Chairman, fourteen member Board of Supervisors (including chairman), County Clerk, County Treasurer, County Zoning Administrator.
Enabling Legislation:	Chapter 59, Title VIII, Wisconsin Statutes.
Commissions/Committees (of the political subdivision) Affecting Riverfront Lands:	Agricultural Committee (designated to be the Zoning Committee).
River Miles Covered by Corporate Limits:	721+ to 763+.
Extraterritorial Jurisdiction:	None.
Ordinances/Legislation Affecting Riverfront Lands:	County Zoning Ordinance in latter stages of development.
Flood Plain Ordinance:	Buffalo County Flood Plain Ordinance.
Recreational Plan Available:	Yes.
Miscellaneous:	Adopted the Model Flood Plain Ordinance as developed by the Department of Natural Resources. Only areas of development where the channel comes up to the shoreline are in Fountain City and Alma.

Political Subdivision:	City of <u>Buffalo, Wisconsin</u> ; Buffalo County.
Organization:	Mayor, four member council, City Clerk, City Treasurer.
Enabling Legislation:	Chapter 62, Title VIII, Wisconsin Statutes.
Commissions/Committees (of the political subdivision) Affecting Riverfront Lands:	Building Permit Committee. Riverfront Committee.
River Miles Covered by Corporate Limits:	740+ to 746.
Extraterritorial Jurisdiction:	Yes.
Ordinances/Legislation Affecting Riverfront Lands:	An ordinance regulating the operation and maintenance of Riverfront Projects-No. 49. Ordinance No. 59--Building Regulations.
Flood Plain Ordinance:	Flood Plain Ordinance for the City of Buffalo, Wisconsin.
Recreational Plan Available:	None.
Miscellaneous:	Adopted the Model Flood Plain Ordinance developed by the Department of Natural Resources.

POOL 6

Political Subdivision:	City of <u>Fountain City, Wisconsin</u> ; Buffalo County.
Organization:	Mayor, six member city council, City Clerk/Treasurer, City Assessor.
Enabling Legislation:	Chapter 62, Title VIII, Wisconsin Statutes.
Commissions/Committees (of the political subdivision) Affecting Riverfront Lands:	Zoning Committee.
River Miles Covered by Corporate Limits:	729 to 734.2.
Extraterritorial Jurisdiction:	None.
Ordinances/Legislation Affecting Riverfront Lands:	Zoning Ordinance.
Flood Plain Ordinance:	Flood Plain Ordinance; DNR approved; June, 1973.
Recreational Plan Available:	None.
Miscellaneous:	

Trempealeau County, Wisconsin.

Political Subdivision:

County Board Chairman, twenty-one member Board of Supervisors (including chairman), County Clerk, County Treasurer, County Zoning Administrator.

Organization:

Chapter 59, Title VIII, Wisconsin Statutes.

Enabling Legislation:

Zoning Committee.

Commissions/Committees
(of the political subdivision)
Affecting Riverfront Lands:

713 to 722.

River Miles Covered by Corporate Limits:

None.

Extraterritorial Jurisdiction:

None.

Ordinances/Legislation
Affecting Riverfront Lands:

Trempealeau County Integrated Shoreland Floodplain Protection Ordinance.

Flood Plain Ordinance:

Yes.

Recreational Plan Available:

National Wildlife Refuge within county limits now includes Delta Fish and Fur Farm.

Miscellaneous:

Most of the land on the river front is already settled. Little room available for development.

Political Subdivision:

Village of Trempealeau, Wisconsin; Trempealeau, County.

Organization:

President, six-member Board of Trustees, Village Clerk, Village Treasurer.

Enabling Legislation:

Chapter 61, Title VIII, Wisconsin Statutes.

Commissions/Committees
(of the political subdivision)
Affecting Riverfront Lands:

Planning Commission.
Harbor Committee.

River Miles Covered by Corporate Limits:

713 to 715.

Extraterritorial Jurisdiction:

Yes. (Will have, once the zoning ordinance is adopted).

Ordinances/Legislation
Affecting Riverfront Lands:

None.

Flood Plain Ordinance:

An Ordinance regulating the Floodplain of the Mississippi River in the Village of Trempealeau, Trempealeau County, Wisconsin.

Recreational Plan Available:

No.

Miscellaneous:

Does not have zoning yet. Interim land-use zoning is now in force to freeze current use of lands.

Small craft harbor has been approved by the Trempealeau County Board.

POOL 7

SEE POOL 8 - LaCROSSE COUNTY.

POOL 8

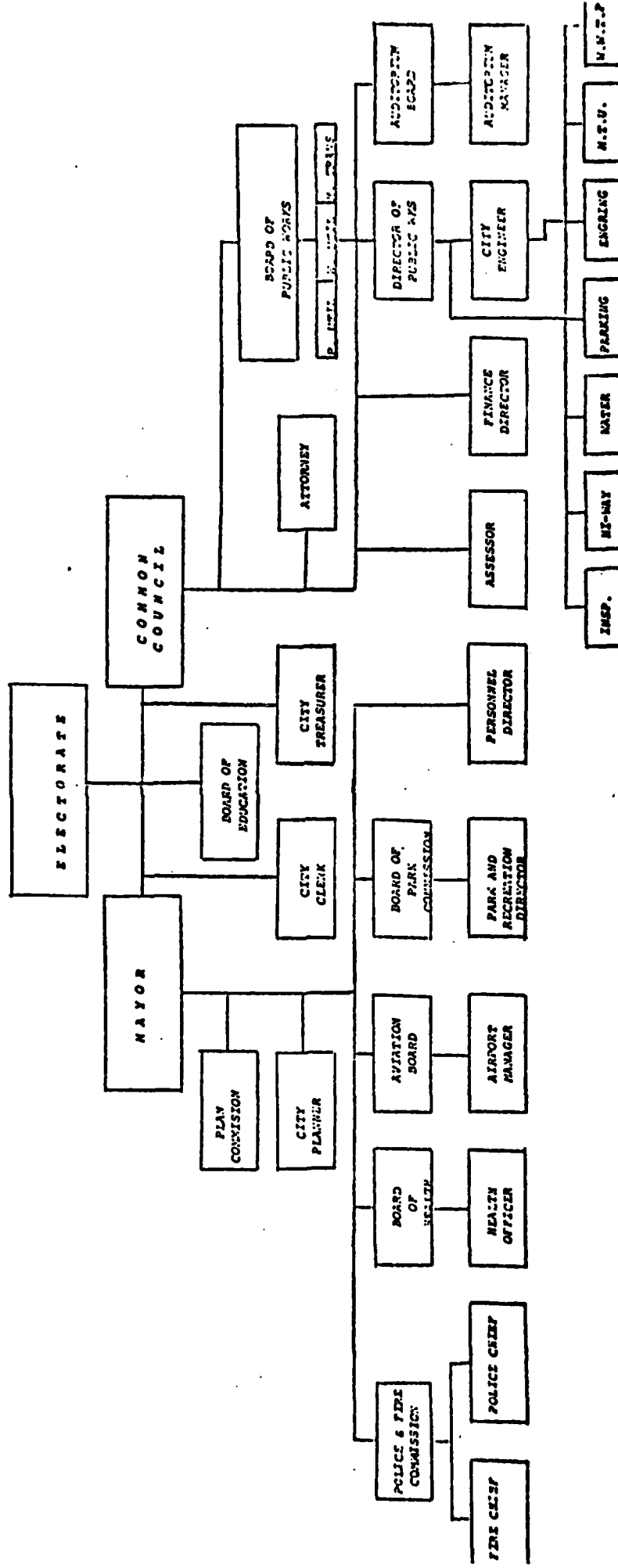
Political Subdivision:	<u>LaCrosse County, Wisconsin.</u>
Organization:	County Board Chairman, thirty-four member Board of Supervisors (including chairman), County Clerk, County Treasurer, County Auditor, County Zoning Administrator.
Enabling Legislation:	Chapter 59, Title VIII, Wisconsin Statutes.
Commissions/Committees (of the political subdivision) Affecting Riverfront Lands:	Zoning Committee. LaCrosse County Soil and Water Conservation District.
River Miles Covered by Corporate Limits:	691 to 713.
Extraterritorial Jurisdiction:	None.
Ordinances/Legislation Affecting Riverfront Lands:	LaCrosse County Zoning Ordinance. LaCrosse County Subdivision Control Ordinance.
Flood Plain Ordinance:	Shoreland and Floodplain Zoning Code.
Recreational Plan Available:	Yes.
Miscellaneous:	

Political Subdivision:	City of <u>LaCrosse</u> , <u>Wisconsin</u> ; LaCrosse County.
Organization:	Mayor, twenty-one member council, City Clerk, City Treasurer, City Finance Director.
Enabling Legislation:	Chapter 62, Title VIII, Wisconsin Statutes.
Commissions/Committees (of the political subdivision) Affecting Riverfront Lands:	City Planning Commission. LaCrosse Area Planning Committee*.
River Miles Covered by Corporate Limits:	693+ to 702.
Extraterritorial Jurisdiction:	Yes.
Ordinances/Legislation Affecting Riverfront Lands:	City Zoning Ordinance (Comprehensive).
Flood Plain Ordinance:	Incorporated in the City Zoning Ordinance.
Recreational Plan Available:	Yes.
Miscellaneous:	Organizational Chart of City Government appears on the next page. City had to pass floodplain legislation by January 15, 1981. This legislation is very new and information about how it is functioning is limited.

* Not mentioned by the representative from the City of LaCrosse.

Figure 6. Organization Chart.

CITY OF LA CROSSE



Source: City of LaCrosse personnel department.

Political Subdivision:	<u>Vernon County, Wisconsin.</u>
Organization:	Chairman, twenty-nine member Board of Supervisors (including chairman), County Clerk, County Treasurer, County Zoning Commissioner.
Enabling Legislation:	Chapter 59, Title VIII, Wisconsin Statutes.
Commissions/Committees (of the political subdivision) Affecting Riverfront Lands:	Zoning Committee, Parks Committee.
River Miles Covered by Corporate Limits:	667 to 691 +.
Extraterritorial Jurisdiction:	None.
Ordinances/Legislation Affecting Riverfront Lands:	Comprehensive Zoning Ordinance for Vernon County.
Flood Plain Ordinance:	Flood Plain Ordinance for Vernon County.
Recreational Plan Available:	Yes.
Miscellaneous:	A section of wetland area, Goose Island, which is within the boundary of Vernon County, as it extends out into the Mississippi River, has been transferred to LaCrosse County. See the Navigation Map for the specifics.

Political Subdivision:	Village of <u>Stoddard, Wisconsin</u> ; Vernon County.
Organization:	President, six member Board of Trustees, Village Clerk/Treasurer.
Enabling Legislation:	Chapter 61, Title VIII, Wisconsin Statutes.
Commissions/Committees (of the political subdivision) Affecting Riverfront Lands:	Zoning Committee. Subdivision Committee.
River Miles Covered by Corporate Limits:	685.5 to 687.
Extraterritorial Jurisdiction:	Yes.
Ordinances/Legislation Affecting Riverfront Lands:	None.
Flood Plain Ordinance:	City of Stoddard Floodplain Ordinance.
Recreational Plan Available:	Yes.
Miscellaneous:	Adopted the Model Flood Plain Ordinance developed by the Department of Natural Resources.

Political Subdivision:

Village of Genoa, Wisconsin; Vernon County.

Organization:

President, four member Board of Trustees, Village Clerk, Village Treasurer.

Enabling Legislation:

Chapter 61, Title VIII, Wisconsin Statutes.

**Commissions/Committees
(of the political subdivision)
Affecting Riverfront Lands:**

Park Board.

River Miles Covered by Corporate Limits:

678 to 680+.

Extraterritorial Jurisdiction:

None.

**Ordinances/Legislation
Affecting Riverfront Lands:**

None.

Flood Plain Ordinance:

DNR approved Flood Plain Ordinance; May, 1979.

Recreational Plan Available:

None.

Miscellaneous:

Great River Road Commission is the leader on a project to build a boat dock above Lock and Dam 8.

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POOL 9

Political Subdivision:

Village of DeSoto, Wisconsin; Vernon County.

Organization:

President, two member Board of Trustees,
Village Clerk/Treasurer.

Enabling Legislation:

Chapter 61, Title VIII, Wisconsin Statutes.

Commissions/Committees
(of the political subdivision)
Affecting Riverfront Lands:

Village Board

River Miles Covered by Corporate Limits:

666+ to 668+.

Extraterritorial Jurisdiction:

None.

Ordinances/Legislation
Affecting Riverfront Lands:

None.

Flood Plain Ordinance:

Flood Plain Zoning Ordinance for DeSoto, Wisconsin.

Recreational Plan Available:

None.

Miscellaneous:

Has adopted the Model Flood Plain Ordinance developed
by the Department of Natural Resources (Adopted in
January 1981).

Political Subdivision:

Village of Ferryville, Wisconsin; Crawford County.

Organization:

President, two member Board of Trustees, Village Clerk/Treasurer.

Enabling Legislation:

Chapter 61, Title VIII, Wisconsin Statutes.

**Commissions/Committees
(of the political subdivision)
Affecting Riverfront Lands:**

Village Board.

River Miles Covered by Corporate Limits:

656 to 658.

Extraterritorial Jurisdiction:

None.

**Ordinances/Legislation
Affecting Riverfront Lands:**

None.

Flood Plain Ordinance:

Flood Plain Ordinance for Ferryville, Wisconsin.

Recreational Plan Available:

None.

Miscellaneous:

Has adopted the Model Flood Plain Ordinance developed by the Department of Natural Resources.

Political Subdivision: Village of Lynxville, Wisconsin; Crawford County.

Organization: President, two member Board of Trustees, Village Clerk, Village Treasurer.

Enabling Legislation: Chapter 61, Title VIII, Wisconsin Statutes.

Commissions/Committees
(of the political subdivision)
Affecting Riverfront Lands: Village Board.

River Miles Covered by Corporate Limits: 650.75 to 651.8.

Extraterritorial Jurisdiction: None.

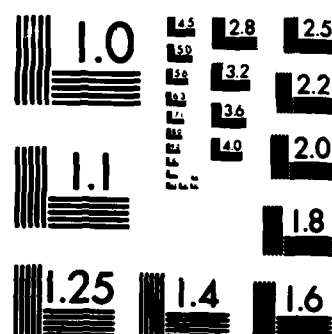
Ordinances/Legislation
Affecting Riverfront Lands: None.

Flood Plain Ordinance: Flood Plain Ordinance; DNR approved; August, 1973.

Recreational Plan Available: None.

Miscellaneous:

POOL 10



MICROCOPY RESOLUTION TEST CHART
NATIONAL BUREAU OF STANDARDS-1963-A

Political Subdivision:

Crawford County, Wisconsin.

Organization:

Chairman, seventeen member Board of Supervisors,
County Clerk, County Treasurer, County Zoning Administrator.

Enabling Legislation:

Chapter 59, Title VIII, Wisconsin Statutes.

Commissions/Committees
(of the political subdivision)
Affecting Riverfront Lands:

Planning and Zoning Commission.

River Miles Covered by Corporate Limits:

630+ to 667.5.

Extraterritorial Jurisdiction:

None.

Ordinances/Legislation
Affecting Riverfront Lands:

Crawford County Zoning Ordinance.

Flood Plain Ordinance:

Crawford County Flood Plain Shoreland Ordinance.

Recreational Plan Available:

Yes.

Miscellaneous:

Title of the Flood Plain Ordinance is expected to change by May, 1981 to: Crawford County Land Use Ordinance. Has adopted the model ordinance developed by the Department of Natural Resources.

Political Subdivision:	City of <u>Prairie du Chien, Wisconsin</u> ; Crawford County.
Organization:	Mayor, eleven member city council, City Clerk-Treasurer, City Assessor/Building Inspector, City Attorney.
Enabling Legislation:	Chapter 62, Title VIII, Wisconsin Statutes.
Commissions/Committees (of the political subdivision) Affecting Riverfront Lands:	Properties Committee. Harbor Commission. Industrial Commission.
River Miles Covered by Corporate Limits:	633 to 635.75.
Extraterritorial Jurisdiction:	None.
Ordinances/Legislation Affecting Riverfront Lands:	Zone Code (§17 of Municipal Code of the City of Prairie du Chien).
Flood Plain Ordinance:	Ordinance No. 461.
Recreational Plan Available:	None.
Miscellaneous:	

Political Subdivision:

Grant County; Wisconsin.

Organization:

Chairman; thirty-one member Board of Supervisors (including chairman), County Clerk, County Treasurer, County Zoning Administrator.
Chapter 59, Title VIII, Wisconsin Statutes.

Enabling Legislation:

**Commissions/Committees
(of the political subdivision)
Affecting Riverfront Lands:**

Planning and Zoning Committee.
Park Commission.

River Miles Covered by Corporate Limits:

580.6 to 631.3.

Extraterritorial Jurisdiction:

None.

**Ordinances/Legislation
Affecting Riverfront Lands:**

Grant County Zoning Ordinance.

Flood Plain Ordinance:

Grant County Flood Plain Ordinance.

Recreational Plan Available:

Yes.

Miscellaneous:

Adopted the Model Flood Plain Ordinance developed by the Department of Natural Resources.

Political Subdivision:	Town of Wyalusing, Wisconsin; Grant County.
Organization:	Town Chairman, two member Board of Supervisors, Town Clerk, Town Treasurer.
Enabling Legislation:	Chapter 60, Title VIII, Wisconsin Statutes.
Commissions/Committees (of the political subdivision) Affecting Riverfront Lands:	Town Board.
River Miles Covered by Corporate Limits:	624.5 to 631.25.
Extraterritorial Jurisdiction:	None.
Ordinances/Legislation Affecting Riverfront Lands:	None.
Flood Plain Ordinance:	None.
Recreational Plan Available:	None.
Miscellaneous:	Subject to Grant County zoning provisions.

Political Subdivision:	Village of Bagley, Wisconsin; Grant County.
Organization:	President, two member Board of Trustees, Village Clerk, Village Treasurer.
Enabling Legislation:	Chapter 61, Title VIII, Wisconsin Statutes.
Commissions/Committees (of the political subdivision) Affecting Riverfront Lands:	None.
River Miles Covered by Corporate Limits:	624 to 625.
Extraterritorial Jurisdiction:	None.
Ordinances/Legislation Affecting Riverfront Lands:	None.
Flood Plain Ordinance:	DNR approved Flood Plain Ordinance; June, 1971.
Recreational Plan Available:	None.
Miscellaneous:	

Political Subdivision:

Town of Glen Haven, Wisconsin; Grant County.

Organization:

**Town Chairman, two member Board of Supervisors,
City Clerk, City Treasurer.**

Enabling Legislation:

Chapter 60, Title VIII Wisconsin Statutes.

**Commissions/Committees
(of the political subdivision)
Affecting Riverfront Lands:**

Town Board.

River Miles Covered by Corporate Limits:

613.75 to 619.33.

Extraterritorial Jurisdiction:

None.

Ordinances/Legislation Affecting Riverfront Lands:

None.

Flood Plain Ordinance:

None.

Recreational Plan Available:

None.

Miscellaneous:

Subject to Grant County zoning provisions.

ST. CROIX RIVER

Political Subdivision:

St. Croix County, Wisconsin.

Organization:

County Board Chairman, thirty-one member Board of Supervisors (including chairman), County Clerk, County Treasurer, County Zoning Administrator.

Enabling Legislation:

Chapter 59, Title VIII, Wisconsin Statutes.

**Commissions/Committees
(of the political subdivision)
Affecting Riverfront Lands:**

Zoning/Planning Commission.

River Miles Covered by Corporate Limits:

8+ to 24.5 (St. Croix River).

Extraterritorial Jurisdiction:

None.

**Ordinances/Legislation
Affecting Riverfront Lands:**

St. Croix County Zoning Ordinance.

Flood Plain Ordinance:

Incorporated in the Zoning Ordinance (Article IV).

Recreational Plan Available:

Yes.

Miscellaneous:

Political Subdivision:	Village of <u>North Hudson, Wisconsin</u> ; St. Croix County.
Organization:	President, six member Board of Trustees, Village Clerk, Village Treasurer.
Enabling Legislation:	Chapter 61, Title VIII, Wisconsin Statutes.
Commissions/Committees (of the political subdivision) Affecting Riverfront Lands:	Plan Commission.
River Miles Covered by Corporate Limits:	18.0 to 18.75 (St. Croix River).
Extraterritorial Jurisdiction:	Yes.
Ordinances/Legislation Affecting Riverfront Lands:	Zoning Ordinance.
Flood Plain Ordinance:	Flood Plain Ordinance; DNR approved; May, 1978.
Recreational Plan Available:	None.
Miscellaneous:	Presently working on a master plan.

Political Subdivision:

City of Hudson, Wisconsin; St. Croix County.

Organization:

Mayor, six member council, Clerk/Treasurer, Building Inspector/Assessor.

Enabling Legislation:

Chapter 62, Title VIII, Wisconsin Statutes.

**Commissions/Committees
(of the political subdivision)
Affecting Riverfront Lands:**

Planning Commission, Park Board, Industrial Committee,
Board of Appeals.

River Miles Covered by Corporate Limits:

15.25 to 17.75 (St. Croix River).

Extraterritorial Jurisdiction:

Yes.

**Ordinances/Legislation
Affecting Riverfront Lands:**

Great River Ordinance.

Flood Plain Ordinance:

City of Hudson Flood Plain Ordinance.

Recreational Plan Available:

None.

Miscellaneous:

Participates in the West Central Wisconsin Regional
Planning Commission.

III. SUMMARY OF LOCAL LAND USE LEGISLATION

Due to the large number of ordinances operating in the Wisconsin portion of the study area, ordinances that were obtained during data collection are summarized in Table 5. It should be noted that there exists additional local land use legislation; however, copies of these ordinances were unavailable at time of data collection. Therefore, they are not included in the summary Table.

Table 5
Summary of Local Land Use Legislation.

Ordinance	Jurisdiction	Districts	Permitted Uses	Provision for Nonconforming Uses	Set Back Provisions	Exceptions Permit	Exceptions	Administration	Certificate of Compliance	Penalties	Special Provisions
Grant County Flood Plain Ordinance	All unincorporated lands and waters within the boundaries of Grant County	Floodway Dist. Flood Fringe Dist. General Flood Plain Dist.	FM \$3.3-\$3.4 FF \$4.3-\$4.4 GFP \$5.3-\$5.4	\$6.0			Variances \$7.34	Zoning Administrator Board of Appeals/ Adjustment	Required	Fine of not less than \$10 and not more than \$200 per offense	
City of Prairie du Chien Ordinance No. 461	All lands and waters within the corporate limits of Prairie du Chien	General Flood Plain Dist.		\$17.08(3)			Modifications of sewage disposal and water supply facilities, landscaping, periods of operation, operational controls, sureties, deed restrictions, and adequate flood proofing.				\$17.04(7)(c)
Village of Ferryville Flood Plain Zoning Ordinance	All lands within the corporate limits of Ferryville that would be inundated by the "regional flood"	Floodway Dist. Flood Fringe Dist. General Flood Plain Dist.	FM\$11.33-\$11.34\$11.6 FF\$11.43-\$11.44 GFP\$11.53-\$11.54				Variances \$11.734	Zoning Administrator Board of Appeals	Required	Fine of not less than \$50 and not more than \$200 per offense	\$11.29
Village of DeSoto DeSoto Flood Plain Zoning Ordinance	All lands within the corporate limits of DeSoto that would be inundated by the "regional flood"	Floodway District Flood Fringe District General Flood Plain District	FM\$3.3-\$3.4 FF\$4.3-\$4.4 GFP\$5.3-\$5.4	\$6.0			Variances \$7.34	Zoning Administrator Zoning Agency Board of Adjustment/ Appeals	Required	-N-	\$2.9

Ordinance	Jurisdiction	Districts	Permitted Uses	Provision for Nonconforming Uses	Set Back Provisions	Exceptions Permit	Exceptions	Administration	Certificate of Compliance	Penalties	Special Provisions
Village of Stoddard Stoddard Flood Plain Ordinance	All lands within the corporate limits of Stoddard that would be inundated by the "Regional Flood"	Floodway District Flood Fringe District General Flood Plain District	FV13.3-13.4 FF14.3-14.4 GFP15.3-15.4	46.0			\$7.34 Variances	Zoning Administrator Zoning Agency Board of Adjustment/ Appeals	Required	-H-	\$2.9
City of LaCrosse LaCrosse Zoning Code	All lands within the corporate limits of LaCrosse	15 Basic Zoning Dist. 3 Flood Zoning Over-lay Dist.	FM15.19 FF 15.20 FS15.21	\$15.27	\$15.25(b)		\$15.25	Inspection Department Board of Appeals	Required	Fine of not less than \$20 and not more than \$500 per offense plus costs of action	\$15.03(b)
LaCrosse County Shoreland and Floodplain Zoning Code	Shorelands of navigable waters in the unincorporated areas of LaCrosse County	General Flood Plain District	Compliance §3.2	\$3.4143.46	75 ft. back from water line 3 ft. above the experienced high water elevation lots abutting navigable waters	Filling Grading Lagooning Dredging	19.0	Board of Adjustment	Required	Not more than \$200 fine per offense	
LaCrosse County Zoning Ordinance	All lands within the unincorporated area of LaCrosse County	3 Residential Districts 4 Agricultural Districts 3 Commercial Districts 1 Industrial 1 Mobile Home Court District		\$17.11				Board of Adjustment County Zoning Commissioner		Removal of Structure and/or a fine of not less than \$10 and not more than \$100 per offense plus costs of action	
LaCrosse County Subdivision Control Ordinance	All land within the unincorporated areas of LaCrosse County	N/A	Compliance §18.21	None	None	None	\$18.23 Variances	County Land Use Coordinator/ Zoning Commissioner		A fine of not less than \$100 and not more than \$1,000 per offense plus costs of action	

Ordinance	Jurisdiction	Districts	Permitted Uses	Provision for Nonconforming Uses	Set Back Provisions	Exceptions Permit	Exceptions	Administration	Certificate of Compliance	Penalties	Special Provisions
<u>Trempealeau County</u> Trempealeau County Integrated Shoreland-Floodplain Protection Ordinance	All lands with- in the unincor- porated areas of Trempealeau County that would be inun- dated by the "regional flood"	General Flood Plain District	§4.4	§3.0	§6.0-§6.3	§13.6 Filling Grading Lagooning Dredging	§4.5	Zoning Administrator Board of Adjustment	Required	Fine of not less than \$10 and not more than \$200 per offense	
<u>Village of Trempealeau</u> Flood Plain Ordinance for Village of Trempealeau	All lands ad- jacent to the Mississippi River within the corporate limits of Trempealeau that would be inundated by the "region- al flood"	General Flood Plain District	§4.4	§3.0		§7.5		Zoning Administrator Board of Appeals	Required	Fine of not more than \$50 per offense	§5.3
<u>City of Buffalo</u> City of Buffalo Flood Plain Ordinance	All lands with- in the corporate limits that would be in- undated by the "regional flood"	Floodway Dist Flood Fringe District General Flood Plain Dist.	FW§3.3-§3.4 FF§4.3-§4.4 GF§15.3-§15.4	§6.0			§7.34 Variances	Zoning Administrator Zoning Agency Board of Adjust ment/Appeals		Fine of not less than \$10 and not more than \$100 per offense plus costs of action	§2.9

Ordinance	Jurisdiction	Districts	Permitted Uses	Provision for Nonconforming Uses	Set Back Provisions	Exceptions Permit	Exceptions	Administration	Certificate of Compliance	Penalties	Special Provisions
<u>City of Alma</u> Flood Plain Ordinance for Alma Wisconsin	All lands within the corporate limits of Alma that would be inundated by the "regional flood"	Floodway District Flood Fringe District General Flood Plain District	FMS3.3-33.4 FF44.3-44.4 GF45.3-45.4	16.0			Variances \$7.34	Zoning Administrator Zoning Agency Board of Adjustment/Appeals	Required	Fine of not less than \$10 and not more than \$100 per offense plus costs of action	\$2.9
City of Alma Comprehensive Zoning Ordinance	All land and water area within the corporate limits of Alma	3 Residential Dist. 1 Business Dist. 1 Industrial Dist. 1 Agricultural District 1 Planned Unit Development Dist.	14.0	17.0			Conditional Uses \$5.0	Zoning Administrator City Zoning Committee City Planning Commission Board of Appeals		Fine of not less than \$10 and not more than \$200 per offense plus costs of action	
<u>Buffalo County</u> Buffalo County Flood Plain Ordinance	All unincorporated lands within Buffalo County that would be inundated by the "regional flood"	Floodway District Flood Fringe District General Flood Plain District	FMS3.3-33.4 FF44.3-44.4 GF45.3-45.4	16.0			Variances \$7.34	Zoning Administrator Zoning Agency Board of Adjustment/Appeals	Required	Fine of not less than \$10 and not more than \$200 per offense plus costs of action	

Ordinance	Jurisdiction	Districts	Permitted Uses	Provision for Nonconforming Uses	Set Back Provisions	Special Exceptions Permit	Exceptions	Administration	Certificate of Compliance	Penalties	Special Provisions
<u>Village of Pepin</u> Pepin Flood Plain Ordinance	All lands with- in the corpor- ate limits of Pepin that would be inun- dated by the "regional flood"	Floodway District Flood Fringe District General Flood Plain District	FMS 3-33.4 FFS 4.3-44.4 GFP 5.3-55.4	16.0			Variances 17.34	Zoning Administrator Zoning Agency Board of Adjust- ment/Appeals	Required	-N-	
<u>Pepin County</u> Pepin County Flood Plain Ordinance	All lands with- in the corpor- ate limits of Pepin County that would be inundated by the "regional flood"	Floodway District Flood Fringe District General Flood Plain District	FMS 3-33.4 FFS 4.3-44.4 GFP 5.3-55.4	16.0			Variances 17.34	Zoning Administrator Zoning Agency Board of Adjustment/ Appeals	Required	Fine of not less than \$10 and not more than \$200 per offense plus costs of action	
<u>Pepin County</u> Zoning Ordinance	All lands with- in the unincor- porated areas of Pepin County	Conservancy District Recreational/ Residential District General Purpose District	14.4	117.0	\$14.0	Filling Grading Lagooning Dredging		Board of Adjustment	Required	Fine of not more than \$50 per offense	
<u>Village of Stockholm</u> Stockholm Flood Plain Ordinance	All lands with- in the corpor- ate limits of Stockholm that would be inun- dated by the "regional flood"	Floodway District Flood Fringe District General Flood Plain District	FMS 3-33.4 FFS 4.3-44.4 GFP 5.3-55.4	16.0			17.34 Variances	Zoning Administrator Zoning Agency Board of Adjustment/ Appeals	Required	Fine of not less than \$10 and not more than \$200 per offense plus costs of action	
<u>Village of Bay City</u> Bay City Flood Plain Ordinance	All lands with- in the corpor- ate limits of Bay City that would be inun- dated by the "regional flood"	Floodway District Flood Fringe District General Flood Plain District	FMS 3-33.4 FFS 4.3-44.4 GFP 5.3-55.4	16.0			17.34 Variances	Zoning Administrator Zoning Agency Board of Adjustment/ Appeals	Required	Fine of not less than \$10 and not more than \$100 per offense plus cost of action	

Ordinance	Jurisdiction	Districts	Permitted Uses	Provision for Nonconforming Uses	Set Back Provisions	Exceptions Permit	Exceptions	Administration	Certificate of Compliance	Penalties	Special Provisions
Pierce County Flood Plain Ordinance	All lands adjacent to navigable water within the bound- aries of Pierce Co. Shorelands of Pierce County	General Flood Plain District	§4.4	§3.0		§4.5 §17.60.240 (A) (4)	§8.0 Changes and Amendments	Zoning Administrator Board of Adjust- ment	Required	Fine of not less than \$10 and not more than \$200 per offense	§4.3
Pierce County Shoreland Protection Ordinance	Shorelands of Pierce County in the unincor- porated areas of Pierce County	Conservancy District Recreational/ Residential District General Purpose Dist. St. Croix River Dist.	§7.3.8.3	§5.0	75 ft. back from the waterline	§4.0 Filling Grading Lagooning Dredging	§10.0 Changes and Amendments	Zoning Administrator Board of Adjust- ment	Required	Fine of not less than \$10 and not more than \$200 per offense plus cost of action.	
St. Croix Riverway Zoning Ordinance	All unincor- porated lands in Pierce County established and designated in the Master Plan for the Lower St. Croix National Scenic Riverway	St. Croix River Dist.	§19.20.010	§19.24.020	200 ft from the ordinary high water mark or 100 ft from the Bluffline, whichever dis- tance is greater from the ordin- ary high water mark		§19.28.040 Variances	Zoning Administrator Board of Adjust- ment		Fine of not less than \$10 and not more than \$200 per offense plus costs of action	
St. Croix County Zoning Ordinance	All lands within the unincorporated areas of St. Croix County	Residence Dist. §2.3A, 2.4A, §9.4 Agricultural Dist. 2.6A, 2.7A, Residential 2.8A, 2.9A, District 2.11A Conservancy District 2 Commercial Industrial Dist.				§2.3F, 2.4F, 2.6F, 2.7B, 2.8C, 2.11F.		Zoning Administrator		Fine of not less than \$10 per offense	
B. Shoreland Zoning	Shorelands of navigable waters in the unincor- porated areas of St. Croix County	Conservancy District Recreational- Residential District St. Croix River Valley District	§3.39, 3.118, §9.4		§3.7	Filling Grading Lagooning Dredging §3.11C	Variances §3.12 J	Zoning Administrator Board of Adjust- ment		Fine of not less than \$10 per offense	
C. Flood Plain Zoning	All unincor- porated lands with- in St. Croix County that are determined to be subject to flooding	General Flood Plain District	§4.3A	§9.4		§4.3B		Zoning Administrator Board of Adjustment		Fine of not more than \$500 per offense	

A. Special Items of Legislation

Most of the ordinances and other legislation gathered, or at least identified in the course of the interviewing was of the traditional type--floodplain ordinances, zoning ordinances and subdivision ordinances. However, the City of Buffalo provided a copy of their Building Regulations Ordinance and their Riverfront Ordinance. Because of their specialized nature, both of these ordinances have been included in full in the analysis.

Figure 7. City of Buffalo Building Regulations.

**ORDINANCE NO. 39
BUILDING REGULATIONS
CITY OF BUFFALO**

PERMITS REQUIRED

1. General Permit Requirement. No building, plumbing, or electrical work costing more than \$100.00, shall be performed in the City of Buffalo unless a permit therefor is obtained as required in the provisions of this chapter.

2. Payment of Fees. All fees shall be paid to the City Treasurer and his receipt, showing that the fees prescribed by ordinance have been paid, presented to the Building Inspector before the Inspector shall issue the permit for electrical or plumbing work.

3. Permit Lapses. A building, electrical or plumbing permit shall lapse and be void unless operations under the permit are commenced within six months from the date of issuance thereof, unless extended by the Building Inspector for not more than six months.

4. Revocation. If the Building Inspector shall find at any time that the above mentioned ordinance, laws, orders, plans and specifications are not being complied with, and that the holder of the permit refuses to conform after a written warning or instruction has been issued to him, he shall revoke the building, electrical or plumbing permit by written notice posted at the site of the work. When any such permit is revoked, it shall be unlawful to do any further work thereunder until the permit is renewed, excepting such work as the Building Inspector may order to be done as a condition precedent to the renewal of the permit, or as he may require for the preservation of human life and safety or property.

5. Report on Violations. It shall be the duty of all police officers to report at once to the Building Inspector any building, electrical or plumbing work which is being carried on without a permit as required by this ordinance.

6. Records. The Building Inspector shall keep a record of all permits, fees, and inspections and shall make a semi-annual report thereon to the City Council.

BUILDING CODE

1. Building Permits and Inspections.

a. Permit Required. No building or any part thereof shall hereafter be erected within the City of Buffalo or ground broken for the same, except as hereinafter provided, until a permit therefor shall first have been obtained from the Building Inspector by the owner, or his authorized agent. The term "building" as used in this section shall include any building or structure, and any enlargement, alteration, heating or ventilating installation, moving or demolishing, or anything affecting the fire hazards or safety of any building or structure.

b. Application. Application for a building permit shall be made in writing upon a form furnished by the Building Inspector and shall state the name and address of the owner of the land, and size of the owner of the building, if different, the legal description of the land upon which the building is to be located, and shall contain such other information as the Building Inspector may require for effective enforcement of this section.

c. Plans. With such application there shall be submitted two complete sets of plans and specifications, including a plot plan showing the location of the proposed building with respect to adjoining streets, alleys, lot lines, and buildings. Plans for buildings required to comply with the State Building Code shall bear a stamp of approval from the Industrial Commission. Such plans and specifications shall be submitted in duplicate; one set shall be returned after approval as hereinafter provided; the other set shall remain on file in the office of the Clerk. All plans and specifications shall be signed by the designer.

d. Withdrawal of Plans. If the Building Inspector finds that the

character of the work is sufficiently described in the application, he may waive the filing of plans for alterations, repairs or moving provided the cost of such work does not exceed \$1,000.00.

e. Approval of Plans. If the Building Inspector determines that the proposed building will comply in every respect with all ordinances of the city and all applicable laws and orders of the State of Wisconsin, he shall officially approve and stamp one set of the plans and return it to the owner, and issue a building permit therefor which shall be kept and displayed at the site of the proposed building. After being approved, the plans and specifications shall not be altered in any respect which involves any of the above-mentioned ordinances, laws and orders, or which involves the safety of the building or occupants, except with the written consent of the Building Inspector.

f. Minor Repairs. The Building Inspector may authorize minor repairs or alterations valued at less than \$100.00 which do not change the occupancy, area, structural strength, fire protection, exits, light or ventilation of the building without issuing a building permit.

g. Fees. The fees for building permits shall be \$1.00 for every \$1,000.00 or part thereof of the cost of the proposed building, additions or alterations, up to \$10,000; plus 20 cents for every additional \$1,000 or part thereof up to \$20,000; plus 25 cents for every \$1,000 in excess of \$20,000. The minimum fee shall be \$1.00.

h. Inspection of Work. The Building Inspector shall inspect all buildings upon completion of the foundation, frame, or before the foundation is laid, and again when ready for lock and plaster, or before painting is applied. After completion he shall make a final inspection of all new buildings and alterations.

i. Dwellings. The term "dwelling" as used in this section includes every building occupied exclusively as a residence by not more than two families.

j. New Methods and Materials. All materials, methods of construction and devices designed for use in buildings or structures covered by this ordinance and not specifically mentioned in or permitted by this ordinance shall not be so used until approved in writing by the Industrial Commission of Wisconsin for use in buildings or structures covered by the Wisconsin State Building Code, except sanitary appliances, which shall be approved in accordance with the State Plumbing Code issued by the State Board of Health. Such materials, methods of construction and devices, when approved, must be installed or used in strict compliance with the manufacturer's specifications and any rules or conditions of use established by the Industrial Commission. The date, tests and other evidence necessary to prove the merits of such material, method of construction or device shall be determined by the Industrial Commission.

k. Unsafe Buildings. Whenever the Building Inspector finds any building or part thereof within the city to be in his judgment so old, dilapidated or so out of repair as to be dangerous, unsafe, insanitary or otherwise unfit for human habitation, occupancy or use, and so that it would be unreasonable to require the same, he shall order the owner to raise and remove such building or part thereof, or if it can be made safe by repair, to repair and make safe and sanitary or to raise and remove at the owner's option. Such order and proceedings shall be as provided in a 65.05 (9) of the Wisconsin Statutes.

ELECTRICAL CODE

1. State Code Applies. All electrical work, including the placing of wires and other equipment, shall conform to the Wisconsin State Electrical Code, as amended by the Industrial Commission of Wisconsin, 5th Edition, 1944, and amendments and revisions adopted in code, which

is hereby made by reference a part of this ordinance.

2. Permit. No electric wiring or other equipment shall be installed or altered without first securing a permit therefor from the City Building Inspector, except that repairs or replacement of broken or defective switches, switches or lamp receptacles may be made without a permit. The application for such permit shall clearly state the work planned, alterations to be made, and equipment and materials to be used, and all later deviations from such plan must be submitted to and approved by the Building Inspector. A fee of ten cents per outlet shall be charged for the permit, with a minimum fee of \$1.00.

Inspection of work. After roughing in the wiring of any building and before any such work is covered up or upon completion of any outside wiring construction work, it shall be the duty of the person doing such work to notify the Building Inspector who shall at once inspect, or cause to be inspected, the same. Upon completion of such wiring, the Inspector shall be notified and shall inspect or cause to be inspected the finished work. If he finds that the work conforms to the State Electrical Code, he shall issue a certificate of compliance which shall contain the date and an outline of the result of such inspection, a duplicate of which shall be filed by location in the office of the Building Inspector. It shall be unlawful to use any such electrical equipment until such certificate has been issued.

PLUMBING CODE

1. State Code Applies. The construction, reconstruction, installation and alteration of all plumbing, drainage and plumbing ventilation shall conform to the Wis. Adm. Code, (State Plumbing Code) adopted by the State Board of Health, which is hereby adopted by reference as a part of this ordinance.

2. Permit. No plumbing or drainage of any kind shall be installed or altered, except that leakage or stoppage repairs may be made without first securing a permit therefor from the Building Inspector. The application for such permit shall be on a form furnished by the Building Inspector and shall state clearly the work planned, alterations to be made, and equipment and materials to be used. All later deviations from such plan must be submitted to and approved by the Building Inspector. A fee of \$1.00 shall be charged for each permit, plus ten cents for each fixture.

3. Licensed Plumber Required. All plumbing work shall be done only by a plumber licensed by the State Board of Health, except that a property owner may make repairs or installations in a single family building owned and occupied by him as his home, provided that a permit is issued and the work is done in accordance with the provisions of this ordinance.

4. Inspection of Work. Upon completion of the plumbing work on any premises, the person doing such work shall notify the Building Inspector before such work is covered up, and the Building Inspector shall at once inspect or cause to be inspected the work. If he finds that the work conforms to the State Plumbing Code, he shall issue a certificate of compliance which shall contain the date and an outline of the result of such inspection, a duplicate of which shall be filed by location in the office of the Building Inspector. No person shall use or permit to be used any plumbing or drainage until it has been inspected by the Building Inspector.

FLAMMABLE LIQUIDS

The Wis. Adm. Code (Flammable Liquids Code) issued by the Industrial Commission of Wisconsin, is hereby adopted by reference as a part of this ordinance, and it shall be the duty of the Building Inspector to enforce the provisions thereof.

5. Fire District Regulations. The fire district in the City of Buffalo shall

be the entire area within the city limits which hereafter may be named as Commercial.

2. Definitions. The terms "fire-retardant construction", "fire-retardant material", "fire-retardant roof covering" shall have the meaning as defined in the Wisconsin State Building Code.

3. Regulations With Fire District.

a. Requirements. Every building hereafter erected, enlarged or moved within or into the fire district shall be of fire-retardant, masonry or concrete construction, except as otherwise provided by this ordinance.

b. Exceptions. No building of frame construction shall be constructed within or moved within or into the fire district except the following:

1. Buildings occupied as a private garage, not more than one story in height nor more than 700 square feet in area, located on the same lot with a dwelling; provided that any such building shall be placed at least three feet from the lot line of adjoining property.

2. Buildings of frame construction, except when used for a high pressure company, not exceeding 2,000 square feet in area when used for a business company or 1,000 square feet in area when used for other purposes, not more than one story in height, and having a horizontal separation of not less than ten feet on all sides. Walls having a horizontal separation of less than ten feet shall have a fire-retardant rating of not less than one hour.

3. Greenhouses not more than 10 feet in height.

4. Sheds open on the long side, not more than 15 feet in height nor more than 500 square feet in area, located at least five feet from buildings and from adjoining lot lines.

5. Buildings situated for use only in connection with a duly authorized building operation.

6. Such Old Tanks Prohibited. The storage of Class I and Class II flammable liquids as defined in a 14.01, Wis. Adm. Code, in above-ground tanks outside of buildings is prohibited within the fire district, but this section shall not apply to farms.

7. Raising Old or Damaged Buildings. Any existing building of frame construction within the fire limits which may hereafter be damaged by fire, or which has deteriorated to an extent greater than one-half of its value, exclusive of the foundation, as determined by the City Assessor, shall not be repaired or rebuilt, but shall be ordered removed by the Building Inspector under the provisions of a 65.05 of the Wisconsin Statutes.

Flammable Liquids

a. Every roof hereafter constructed within the fire district, including buildings listed in sub. 2b, shall be covered with roofing having a fire-retardant rating equivalent to Class "B" or better of the Underwriters Laboratories, Inc. classification in their "List of Inspected Materials", which is hereby adopted by reference and incorporated in this section as if fully set forth herein.

b. No roofing on an existing roof shall be removed or repaired to a greater extent than one-fourth of the roof surface, except in conformity with the requirements of par. a. of this section.

7. The Building Inspector (or Fire Chief or other designated person) is hereby authorized and it shall be his duty to enforce the provisions of this ordinance.

PENALTIES

In addition to the revocation provisions herein, the penalty for violating any provision of this chapter shall be as provided in a 15.04 of this code. A separate offense shall be deemed committed on each day of which a violation of any provision of this chapter occurs or continues.

Passed this 5th day of December, 1939.

Lloyd R. Johnson, Mayor

Attest: Eugene J. Ferguson, Clerk

Published December 29, 1939.

Ordinance No. 49

An Ordinance Regulating the Operation and Maintenance of Riverfront Projects.

First. The Mayor shall appoint a committee to be known as the "Riverfront, Park and Recreation Committee" and to consist of four members: The Mayor, one Alderman, and two citizens. This Committee shall direct the operation and maintenance of riverfront projects.

Second. No person shall place any tangible object within the project boundaries without first obtaining a permit from the Committee. Having received a permit and number, this number shall be placed upon the designated site in a conspicuous place. The Committee reserves the right to cancel a permit given to anyone making application for a site and not using the same for a period of one year.

Third. Permits shall be issued by the City Clerk after having been approved by the Committee as follows:

Mooring sites: Up to 20 feet — \$2.00. Over 20 feet — \$10.00.

Floats: Less than 20 feet — \$2.00. Over 20 feet — \$10.00.

Utility Buildings: Less than 10 feet sq. \$2.00. Over 10 feet sq. \$10.00.

Boat Houses: Less than 20 feet — \$8.00. Over 20 feet — \$10.00.

These rates may be changed by the Committee at any time prior to May 31 of any year and shall take effect for the succeeding year. Such rates, before becoming effective, shall be approved by the City Council.

Fourth. Failure to obtain a permit as provided herein, along the project boundary, shall subject the owner of any boat, equipment or facility to a fine of not less than \$10.00 nor more than \$25.00 for each offense. Each seventy - two hours after the owner thereof has been notified of the requirement to have a permit, shall constitute a separate offense. Notice posted on said boat equipment or facility by the City Marshal shall be considered notice to the owner thereof. In the event that such permit is not obtained within thirty days after posting of such notice, such boat, equipment or facility shall be removed by the City until such permit is obtained.

Fifth. It shall be the duty of the City Marshal to see that

all users of the project boundary shall have the permits provided for herein, and that proper and fair usage be made thereof.

Sixth. All moneys received by the City Clerk for permit fees, forfeitures, or other revenue from the use of the project boundary by the City or those having permits from the City, shall be turned over to the City Treasurer and entered in a River Front fund, which shall be used by the Committee for improvement and maintenance of the project. Any additional funds needed shall be requested by the Committee and approved by the Council.

Seventh. It shall be the duty of the City Street Commissioner to see that all grass, weeds, brush and trees are cut as necessary for the proper use of the project boundary and he shall police the area as necessary to keep it clear of impediments not approved by the Committee.

Eighth. No person shall cut any trees, brush or make any change in the river bank in any manner whatsoever without first obtaining permission from the Street Commissioner.

Ninth. Any person damaging the river bank or cutting trees, or making any change thereon, without permission, will be subject to a forfeiture of not less than Five Dollars nor more than Ten Dollars, in addition to any cost of repairing such damage.

Tenth. Any person violating any provision of this Ordinance shall, upon conviction thereof, forfeit to the City of Buffalo City the sum provided herein, together with the cost of prosecution. In default of payment of such forfeiture and costs, he shall be imprisoned in the County Jail until such payment of forfeiture and costs, but not exceeding thirty days for each violation.

Eleventh. If any section, subsection, paragraph, clause or provision of this Ordinance shall be held invalid by a Court of Law, such adjudication shall apply only to the provision so adjudged and the rest of this Code shall remain valid and in full force and effect.

This Ordinance shall take effect upon passage and publication.

LLOYD JOHNSON, Mayor
H. A. ZEICHERT, Clerk
Passed April 16, 1963.
Published April 18, 1963.

B. Towns

In section one of this portion of the analysis, the powers available to the various types of organizations were outlined. If a town has by resolution been granted village powers pursuant to §60.18 (12), it may enact its own zoning provisions. The one stipulation is that in a county which has adopted a county zoning ordinance for unincorporated areas, the town ordinance must be at least as restrictive as that of the county. Table 6 presents the current status of towns situated on either the Mississippi River or the St. Croix River in the Wisconsin portion of the study area. A letter was written to the town chairman of each of these towns. Several have not as yet responded. The majority of towns responding indicated that they did not have village powers. Of those having village powers, some have enacted no local zoning ordinances, some have enacted zoning ordinances but not for the floodplain areas, and one is in the process of drawing up its own local floodplain ordinance.

Table 6
Status of Flood Plain Legislation in Wisconsin Towns.

Towns Bordering Mississippi/St. Croix Rivers

Status regarding Town floodplain zoning	Glen Haven	Bloomington	Wyalusing	Bridgeport	Prairie du Chien	Eastman	Seneca	Freeman	Wheatland	Genoa	Bergen	Shelby	Campbell	Omaha	Holland	Trempealeau	Buffalo	Milton	Belvidere	Alma	Nelson	Pepin	Stockholm	Maiden Rock	Isabelle	Trenton	Diamond Bluff	Oak Grove	Clifton	Troy	Hudson	St. Joseph	Somerset
Drawing Up Ordinance Pursuant to Village Powers																					X												
Village Powers, Town Ordinances, but county floodplain zoning is adhered to													X		X																		
Village Powers, but no floodplain Ordinance at the town level								X																									
No Village Powers		X					X		X		X	X				X	X	X				X				X							
No Response Received				X	X	X				X									X	X	X				X			X	X	X	X	X	
Town was an interviewed organization	X		X																								X						

IV. PERCEIVED ORGANIZATIONAL OBJECTIVES AND RESPONSIBILITIES

Perceived organizational responsibilities and objectives were obtained by asking representatives of the political subdivisions the following:

- What ordinances do you have regulating the study area?
- Who is responsible for enforcement of the relevant ordinance(s)?
- Are variances granted to the ordinance(s)?
- What are the goals and objectives of the ordinance(s)?

The results of these responses are tabulated in Table 7. Most representatives of the political subdivisions were aware of existing ordinances governing their jurisdiction. However, a few representatives either did not know or misperceived who is responsible for enforcement of relevant ordinances. Many representatives were aware that their jurisdiction has adopted a model floodplain ordinance. This model ordinance, developed by the Wisconsin Department of Natural Resources, can be adopted in full or can serve as a pattern for governmental units which want to adopt a more restrictive ordinance. Representatives from four political subdivisions did not perceive that a floodplain ordinance was adopted by their local unit when in fact, such action has been taken.

Several goals and objectives of ordinances pertaining to the river were identified. These include:

- Protect quality of water
- Prevent blockage of possible flood water
- Promote organized and planned development
- Fulfill Federal Flood Insurance requirements
- Promote health and welfare of public
- Prevent soil erosion
- Preserve wildlife
- Make riverfront available to the public
- Scenic preservation

For a detailed breakdown of responses by political subdivision, see Table 7.

Table 7
Perceptions of: Ordinances Regulating Study Area, Who is Responsible for Enforcement of Ordinances, Are Variances Granted, Goals and Objectives of Relevant Ordinances.

<u>Political Subdivision</u>	<u>Identified Ordinances</u>	<u>Perceived Enforcement</u>	<u>Perceived Variances Granted</u>	<u>Perceived Goals and Objectives of Relevant Ordinances</u>
Grant County	Flood Plain Ordinance	Zoning Administrator	Yes	Protect quality of water.
Glen Haven	None	N/A	N/A	N/A
Wyalusing	None	N/A	N/A	N/A
Bagley	None	N/A	N/A	N/A
Prairie du Chien	Flood Plain Ordinance			
	Zoning Ordinance	Wisconsin DNR, Police	Yes Yes	Prevent blockage of possible flood water. Promote organized and planned development.
Crawford County	Flood Plain Zoning Ordinance	District Attorney's Office	Yes	Promote controlled expansion of development.
Lynxville	Flood Plain Ordinance	Don't Know	-M-	None
Ferryville	Flood Plain Ordinance	-M-	-M-	See Buffalo County
DeSoto	Flood Plain Ordinance	-M-	-M-	See Buffalo County
Genoa	None	N/A	N/A	N/A
Vernon County	Flood Plain Ordinance	-M-	-M-	-M-
Stoddard	Flood Plain Ordinance	Village Board	No	Satisfy federal flood insurance requirements.

<u>Political Subdivision</u>	<u>Identified Ordinances</u>	<u>Perceived Enforcement</u>	<u>Perceived Variances Granted</u>	<u>Perceived Goals and Objectives of Relevant Ordinances</u>
LaCrosse	Flood Plain Ordinance	Inspection Department	Yes	Objectives of Ordinance pertain mostly to several bodies of water in the LaCrosse area.
LaCrosse County	Shoreland and Flood Plain Zoning Ordinance	Zoning Commissioner	Yes	Promote health and welfare of people.
	Zoning Ordinance Subdivision Control	Zoning Administrator	Yes	Prevent soil erosion.
		Zoning Administrator	Yes	Promote orderly development
Trempealeau	Flood Plain Ordinance	Village Board	No	Safe, efficient, well regulated protection.
	Building Code	Village Board	Yes	
Trempealeau County	Shoreland-Flood Plain Protection Ordinance	Zoning Administrator	Yes	Comply with Wisconsin DNR mandates. Promote safe and orderly development. Preserve wildlife.
Fountain City	Zoning Ordinance	City Council	Yes	Prevent development that would be detrimental to surrounding property.
Buffalo	Flood Plain Zoning Ordinance	Building Committee	No	Satisfy federal flood insurance requirements.
	Riverfront Ordinance	Police Chief	No	Make riverfront available to general public. Keep riverfront clean.

<u>Political Subdivision</u>	<u>Identified Ordinances</u>	<u>Perceived Enforcement</u>	<u>Perceived Variances Granted</u>	<u>Perceived Goals and Objectives of Relevant Ordinances</u>
Buffalo County	Flood Plain and Shoreline Zoning Ordinance	Zoning Administrator	Yes	Protect life, health, and property. Minimize expenditures of public monies for costly flood control projects; rescue and relief efforts; business interruptions; damage to public facilities on the flood plains; the occurrence of future flood blight areas on the flood plains. Discourage the victimization of unwary land and home buyers.
Alma	Flood Plain Ordinance Zoning Ordinance	City Council City Council	No No	See Buffalo County.
Pepin	Flood Plain Ordinance	Building Inspector	Yes	See Buffalo County.
Pepin County	Flood Plain Ordinance	Zoning Department	Yes	Promote public safety. Control of recreational structures.
Stockholm	Flood Plain Zoning Ordinance	Village Board	No	See Buffalo County.
Maiden Rock	Flood Plain Zoning * Ordinance	Village Board	No	See Pierce County
Bay City	Flood Plain Ordinance Shoreland Ordinance Lower St. Croix National Riverway	Zoning Administrator Zoning Administrator Zoning Administrator	Yes Yes Yes	Promote health, safety and welfare of public. Scenic preservation.

* Pursuant to §62.23 of the Wisconsin Statutes, the Village of Maiden Rock has by resolution adopted the Pierce County Zoning Ordinance.

<u>Political Subdivision</u>	<u>Identified Ordinances</u>	<u>Perceived Enforcement</u>	<u>Perceived Variances Granted</u>	<u>Perceived Goals and Objectives of Relevant Ordinances</u>
Diamond Bluff Prescott	None	N/A	N/A	N/A
	Zoning Ordinance	Police/City Council	Yes	Control development of riverfront and keep it available to the public.
Hudson	Flood Plain Ordinance	Building Inspector	No	Restrict any development along the river. Provide a scenic and recreational river.
	Great River Ordinance	Building Inspector	Yes	
North Hudson	Flood Plain Ordinance	Village Board	Yes	Prevent excessive building along the river. Minimize erosion.
St. Croix County	Building Ordinance	Zoning Administrator	Yes	Restrict building in the floodplain. Minimize pollution and erosion.
	Sanitation Ordinance	Zoning Administrator	No	

V. IDENTIFIED WATER-RELATED PROBLEMS IN THE STUDY AREA

No pattern to water-related and land use problems exists in the Wisconsin portion of the study area. Instead, many problems identified are unique to the political subdivisions. Therefore, individual problems identified will be discussed by political subdivisions.

GRANT COUNTY: The problem perceived here is that the Corps of Engineers is not renewing land leases along the river to the citizens of Grant County.

WYALUSING: A problem identified here concerns the State Park located adjacent to the Town of Wyalusing. First, local residents do not utilize the park due to a service charge. Second, the representative stated that the park takes away taxable township land and, therefore, increases taxes for Wyalusing residents.

**PRAIRIE
DU CHIEN:** This representative identified a conflict between the Wisconsin Department of Natural Resources and the City concerning dredging. The DNR does not want dredging in order to preserve the habitat of the Higgins' Eye Clam. Prairie du Chien, on the other hand, wants dredging for vital economic reasons. If no dredging was done, Prairie du Chien could stand to lose income by the curtailing of water-related industry because of the filling in of the entrance to the channel.

**CRAWFORD
COUNTY:** A strong perception of a poor relationship with the Wisconsin DNR exists in this county. It was stated that compliance with DNR regulations inhibited economic growth; however, no specific reasons were offered.

LYNXVILLE: This representative identified a general disgust with what the Corps of Engineers has done around their village. He did not offer to go into more detail. He also identified pollution of the river as a problem in Lynxville. Finally, he expressed a need for more dredging of the river.

TREMPEALEAU: This representative also stated that the use of Perrot State Park near Trempealeau has declined. He perceived that the public are staying at home due to rising costs of everything.

**TREMPEALEAU
COUNTY:** This representative stated that the Mississippi River is too polluted for swimming.

FOUNTAIN CITY: This representative identified soil erosion as a problem in their area as well as pollution of the river. He also expressed a desire for more dredging.

BUFFALO: The representative from Buffalo stated that there has been a problem with people abandoning sunken houseboats in the Mississippi River. In addition, local residents have complained about commercial fisherman docking at Buffalo for one or two days per stop. According to the residents, this interferes with use of the riverfront for recreation.

- PEPIN COUNTY: This representative stated that approximately ninety percent of the county's interest with respect to river usage is on the Chippewa River, not the Mississippi River. However, one problem identified was a decrease in fishing due to the high PCB level.
- STOCKHOLM: The only problem identified here also concerned the PCB level in Lake Pepin.
- MAIDEN ROCK: This representative stated that the village of Maiden Rock cannot negotiate a long-term lease for the land along the river with the owner, Burlington Northern. As a result, the village cannot obtain DNR approval to install a dock. In addition, boats bottom out when attempting to come ashore at Maiden Rock. Dredging was offered as a solution to this identified problem.
- BAY CITY: This representative also stated that dredging was needed in their portion of the river or the entrance to the channel will not be useable anymore. Also some commercial fishing enterprises have had to close up recently, due to the PCB pollution in the Mississippi River nearby.
- HUDSON: This representative identified a problem with Federal regulation of the river. Specifically, he perceived that there are too many overlapping Federal regulations and he would oppose any further legislation.

In sum, fourteen entities identified some kind of water-related or land use problem in their area, while seventeen did not. Those political subdivisions where no problems were identified include:

Glen Haven
Bagley
Ferryville
DeSoto
Genoa
Vernon County
Stoddard
LaCrosse
LaCrosse County

Alma
Buffalo County
Pepin
Pierce County
Diamond Bluff
Prescott
St. Croix County
North Hudson

VI. ASSESSMENTS OF OTHER REGULATING ENTITIES

The perceptions of Wisconsin local government officials regarding other organizations who have overlapping authority are presented in Table 8. Three town officials were interviewed (representatives of Glen Haven, Wyalusing and Diamond Bluff) and none of these entities exercises zoning powers by virtue of having been granted village powers. Consequently, no overlapping of authority occurs in these locations*. The representative from Diamond Bluff did identify Pierce County and the State of Wisconsin as being the entities responsible for zoning of shorelands for the Town of Diamond Bluff.

The Wisconsin Department of Natural Resources was identified by 22 out of 31 Wisconsin local government units interviewed as having input or regulating authority over zoning matters in floodplain areas. Of the 9 remaining units, three did not have zoning authority, one did not identify any ordinances, three did not name any entities as being involved in developing their floodplain ordinances, and one unit did not respond. The other unit identified only a Federal Agency.

The representative from Stoddard identified F.E.M.A. and the State DNR as entities with overlapping authority. He had a letter from F.E.M.A. in his file with the floodplain ordinance indicating a deficiency in the floodplain ordinance passed by the Village Board prior to its adoption of the DNR model ordinance. That letter indicated how the authority structure works concerning floodplain legislation.

The representative from the City of LaCrosse also identified the Wisconsin DNR and F.E.M.A. as the agencies which must lend their approval to floodplain ordinances and variances to them. This individual stated that these agencies are advisory but their position on the requirements of floodplain ordinances is not negotiable with the local government units.

The LaCrosse County representative indicated that the DNR serves in an advisory capacity, but where they have jurisdiction they can override the actions of local government units. To a lesser extent the Corps of Engineers and the Fish and Wildlife Service are involved, but they usually appear at meetings and participate only upon being requested to do so.

The only agency mentioned by the representative from the Village of Trempealeau was the Department of Housing and Urban Development. He did not expound on this.

The Trempealeau County representative stated that the function of the DNR is to provide recommendations and the county follows these. He also mentioned that the Corps of Engineers is incidentally involved in matters concerning floodplain and shoreland affairs.

The zoning administrator for Pepin County indicated that F.E.M.A. and the Federal Insurance Administration are involved in floodplain legislation from the Federal level and that the DNR coordinates at the State level. He also mentioned the Bureau of Plumbing, from the Department of Industry, as being responsible for setting requirements for private sewage disposal systems in floodplain areas.

* Between local and State or Federal branches.

Table 8

Perceptions of Local Government Officials Regarding Other Organizations Having Overlapping Authority

Agency	LOCAL GOVERNMENT UNIT																															
Board of Adjustment/ Appeals	Grant County	Glen Haven	Wyalusing	Bagley	Prairie du Chien	Crawford Co.	Lynxville	Ferryville	Desoto	Genoa	Vernon Co.	Stoddard	Lacrosse	Lacrosse County	Trempealeau County	Trempealeau County	Fountain City	Buffalo	Alma	Buffalo Co.	Pepin	Pepin Co.	Stockholm	Maiden Rock	Bay City	Pierce Co.	Diamond Bluff	Prescott	Hudson	St. Croix Co.	No. Hudson	
Bureau of Plumbing Dept. of Industry *	X													X					X			X										
C.O.E.	X													X					X												X	
DNR	X						X			X		X	X	X				X	X	X	X	X	X	X	X	X	X	X	X	X	X	
F.E.H.A.												X	X						X		X	X										
F.I.A.																																
Fish & Wildlife Services														X																		
H.U.D.	X																															X
MW-VI Boundary Area Commission																																
Pepin County																																
Pierce County																																
Soil & Water Conservation Comm.																																
State of Wisconsin																																

* Requirements for private sewage disposal in a floodplain area.

The Village of Stockholm identified Pepin County as well as the DNR as being entities with authority in developing local floodplain legislation. The Pepin County Zoning Administrator did assist the village in explaining the Federal and State requirements to the board and advising them during the process of adopting their recent floodplain ordinance. The Zoning Administrator from Pierce County identified the Minnesota-Wisconsin Boundary Area Commission as being involved in some way with the St. Croix Riverway Zoning Ordinance. He did state that the requirements were set by the DNR.

In addition to the DNR, the representative from St. Croix County also identified the Soil Conservation Service as being responsible for reviewing the river banks and enforcing the zoning ordinance (which includes the floodplain zoning section). A county employee works with the U.S. Department of Agriculture in fulfilling these duties.

The North Hudson representative stated that the ties between the local unit and the DNR were loose and poorly structured. This individual also indicated that the Minnesota-Wisconsin Boundary Area Commission reviews the village's zoning actions.

VII. ORGANIZATIONAL INTERRELATIONS AND THE PLANNING PROCESS

Table 9 presents a breakdown of the various agencies which the local governments identified as being involved in the planning process. Where received, information regarding the specific functions served by these agencies is indicated. Some local government units did not identify any agencies as providing services and appear with no markings in the Table.

The City of Buffalo representative stated that he was aware of the Mississippi River Regional Planning Commission and the Mississippi River Parkway Commission but that Buffalo did not have anything going with either agency at the present time. The representative from Maiden Rock stated that the Mississippi River Parkway Commission had done a lot of work downstream from Stockholm and upstream from Hager City. In between these locations the MRPC has done very little.

According to the key attached to the Table, an X represents the fact that a local unit identified that agency but either did not say how that agency helped or said that they helped in some way not listed in the matrix appearing in the questionnaire. Most of the agencies identified were credited with having provided several types of services.

VIII. PROSPECTS FOR LOCAL GOVERNMENT INVOLVEMENT

Expressed concern for involvement with the U.S. Army Corps of Engineers Master Plan by representatives of the Wisconsin political subdivisions are summarized in Table 10.

Table 9
Organizations Identified as Being Involved in the Planning Process.

Agency	Grant County	Glen Haven	Wausling	Prairie du Chien	Crawford Co.	Lynxville	Ferryville	Desoto	Genoa	Vernon Co.	Stoddard	LaCrosse	LaCrosse County	Trempealeau	Trempealeau County	AB	E	Buffalo City	Buffalo	Alma	Buffalo Co.	Pepin	Pepin County	Stockholm	Maiden Rock	Bay City	Pierce Co.	Diamond Bluff	Prescott	Hudson	St. Croix Co.	No. Hudson	
Corps of Engineers				AG BH							X																						
County Zoning Department																																	
DNR				AGB HIE				X			X																		X				
Fish & Wildlife Service											X									D													
LaCrosse Area Planning												X																					
WI-VI Boundary Area Commission																																	
Mississippi River Parkway Commission										AB CG		X	C								BC DE	X	X	X		X				X			
Mississippi River Regional Planning Commission					AG BH			AG BH				X	AC BH E	AB E	X						BC DE	X	AB		X	X	EF						
Mount Trempealeau Corp.																																	
Soil Conservation Service																																	
State Highway Department										BG																				X			

KEY:

- A - Data Collection/Organization
- B - Planning and Design
- C - Financing
- D - Regulation
- E - Assistance
- F - Advisory
- G - Coordination
- H - Direction
- X - Identified without specifying function.

Table 10.

Expressed Concern for Involvement in the Corps of Engineers' Master Plan

<u>Political Subdivision</u>	<u>Expressed Concern</u>
Grant County	Would like to be kept informed of progress.
Glen Haven	Would attend public hearings.
Wyalusing	Would like to be kept informed.
Bagley	Would attend meetings. Would like correspondence between COE and Bagley.
Prairie du Chien	Would like to give input from the beginning.
Crawford County	Would be involved in an unspecified manner.
Lynxville	Would not like to be involved.
Ferryville	Community would be interested in planning efforts.
DeSoto	Would attend public meetings.
Genoa	Would like to be kept informed.
Vernon County	Representative would like to be involved in an unspecified manner.
Stoddard	Would like to be kept informed through mailings.
LaCrosse	A city representative would attend locally held meetings.
La Crosse County	Would like opportunity to give input.
Trempealeau	No response.
Trempealeau County	Would attend meetings. Would like to be kept informed.
Fountain City	Would attend meetings. Would assist in planning efforts in any possible way.
Buffalo	Would like to be kept informed if Buffalo is affected.
Alma	Would like to be active on plans relevant to Alma.

Political Subdivisions

Expressed Concern

Buffalo County

Involvement is contingent on whether the Master Plan would affect Buffalo County.

Pepin

Would like to be kept informed on issues affecting Pepin.

Pepin County

Would like to be kept informed through mailings.

Stockholm

Would like to be kept informed.

Maiden Rock

Would like to be kept informed on planning efforts.

Bay City

Would be involved in an unspecified manner.

Pierce County

Only possible involvement would concern the Mississippi River and not the St. Croix River.

Diamond Bluff

Would only like to be kept informed if planning affects Diamond Bluff.

Prescott

Would like to be kept informed. Would like to be put on a mailing list for correspondence. Would attend locally held public hearings.

Hudson

Do not want to be involved.

St. Croix County

Would like to be involved in an advisory capacity.

North Hudson

Would attend public hearings. Would like to be kept informed.

IX. SITE-SPECIFIC RECOMMENDATIONS-----MISSISSIPPI RIVER

POOL 3.

Pool 3 is the final (northernmost) section of the Mississippi River to form a boundary between the States of Minnesota and Wisconsin. As such, it is an appropriate point at which to begin outlining recommendations geared for the Wisconsin political subdivisions by pool.

Pierce County, the Town of Diamond Bluff and the City of Prescott are all situated in this area. No particular problems or special needs were identified by the representatives of these organizations. Some sentiment about maintaining the area as it presently exists was expressed, though. No recommendations are offered here as to new developments which would be beneficial to this area, while at the same time being feasible in terms of costs, aesthetics and other mandatory considerations. No developments currently in progress were identified. Some concerns, like the PCB problem, certainly affect this area, but will be discussed later, in the context of the area in which the representatives most often spoke of the problem.

POOL 4.

The problem of chief concern in Pool 4 is the dangerously high PCB level in the Lake Pepin area. This concern was voiced by the representatives at Bay City, Stockholm, Pepin and Pepin County. Recreational developments in Pool 4 will necessarily be affected by this problem. Therefore, it appears that certain measures need to be taken to alleviate the high concentration of PCB's before planning any new projects in this area.

Commercial fishing has been greatly reduced by the PBC problem and some operations, including a large outfit operating out of Bay City, have closed down entirely.

Both Stockholm and Bay City have nice municipal parks located right on the riverfront. They are quite large and offer excellent opportunities to combine land-oriented activities like picnicking and camping with water sports. Maintenance and improvements of these parks should probably be the top priority for any recreational monies to be expended in these municipalities.

The entrance to the channel at Bay City has filled in considerably and is no longer safe for large watercraft. This has caused a good deal of disenchantment on the part of both the locals and transients, who like to dock at Bay City. Dredging is badly needed and the locals would like to see this done in the near future to prevent the complete loss of their access route to the channel.

The Village of Maiden Rock has attempted several times to develop its river-front area, but has had no success. This is due in part to the ownership of much riverfront property on the shoreline in Wisconsin by Burlington Northern. BN owns the shoreline property in Maiden Rock and has refused to grant a long-term lease to the village for a piece of property on which to build a dock. Without a long-term lease, the DNR will not grant the village a permit to construct a dock. The village tried to acquire river front access by putting fill out beyond the BN land, but BN in turn claims to own all the land from its inland boundary out to the river's edge.

The entrance to the channel at Maiden Rock also has filled in and the bigger boats traveling on the Mississippi bottom out when attempting to come ashore there. Maiden Rock was not able to get two sponsors in order to get the Corps to proceed with dredging operations. The potential for development of some kind exists in this area, but currently things are at a stalemate. The local people are losing faith in the ability to realize results from planning that has been done in the past.

Specifically, the Corps or another agency with similar authority should step forward and coordinate the efforts of the Village of Maiden Rock to come to terms with BN, on the one hand, and the Department of Natural Resources, on the other. BN will play a major role in most new developments on the riverfront because of its ownership of large amounts of land along the Wisconsin shoreline. BN has not shown a predisposition toward cooperation with the development plans of local government units up to this point.

Available local funds from political subdivisions abutting Pool 4 in Wisconsin are extremely limited. Pepin County is mainly concerned with the Chippewa River and devotes most of its interest and energy to this river, rather than the Mississippi River. The municipalities in this area are all quite small. Representatives from Bay City, Maiden Rock, Stockholm and Pepin all mentioned in one way or another that provision of essential services is plenty taxing on the local government right now and that official duties are performed by the elected officials for not much more than the minimum compensation allowable. Reliance would have to be almost totally placed upon State, Regional or Federal agencies to come up with the funds necessary for any developments in this particular area.

POOL 5

Pool 5 encompasses the City of Buffalo, the City of Alma and the major portion of Buffalo County. Recommendations for developments in this area are slight because much of the Wisconsin side of the river is bottomland and, as such, is devoted to a wildlife refuge. Most of this land is currently owned by the Fish and Wildlife Service and the Wisconsin DNR. Preservation of this area as it currently exists will be a high priority.

Specific recommendations would be too speculative to be of much value at this time. The channel comes up to the Wisconsin shoreline in Buffalo County at only two built up areas, Alma and Fountain City (in Pool 6 area). Potential developments in Buffalo County will in all likelihood be at either of these locations. The topography of both cities is strikingly similar. Each city is spread out in a long narrow fashion being constrained by the river on one side and a backdrop of hills just a few blocks inland from the shoreline on the other. This limits considerably the amount of available land for new developments. Any such developments would have to consider making maximum use of a small amount of territory. Extracting land lying within the corporate limits out of the tax base at either of these cities would cause difficulties because expansion can only be done to the north or south. East-West expansion is not possible. Careful planning well in advance of action is absolutely imperative here.

POOL 6

The Pool 6 area involves the remainder of Buffalo County, Fountain City, Trempealeau County and the Village of Trempealeau. Some of the discussion in the previous area was applicable to Fountain City. A few additional items can be added here, though. BN owns most of the shoreline rights in Fountain City, which could create some difficulties if attempts are made to develop in the riverfront area. Local officials are concerned with keeping the riverfront clean and uncluttered. A docking facility is desired and a suitable location for it is being sought.

The problem of unclean water surfaced in Trempealeau County again. Presumably this is related to the PCB problem cited by several individuals in the Pool 4 area. This has cast a shadow on the use of the Mississippi River for swimming and other water sports. The Village of Trempealeau built a pool for the local people to use as an alternative to the river. Pollution has driven people to other areas in search of recreational opportunities. It seems fair to assume that clean-up efforts ought to antedate any efforts at creating new or developing existing facilities. No comparisons were offered between the decrease in commercial fishing of late and any fluctuation in use patterns of the recreational facilities during this same time period. In any event, this problem should appear as an overlay on top of all other relevant factors concerning any new developments or improvements to existing facilities from Pool 3 down through at least Pool 6.

The Village of Trempealeau lies adjacent to Pool 6. In fact Lock and Dam 6 lies on the edge of the corporate limits. The main concern at this time in Trempealeau is the proposed construction of a small craft harbor just above Lock and Dam 6. The Trempealeau County Board is supporting the project as well as citizens from many of the surrounding municipalities. The major question will be whether the area has sufficient demand to justify undertaking this project.

POOL 7

None of the interviewed Wisconsin entities lie adjacent to Pool 7 with the exception of the northern portion of LaCrosse County. As a result, no site specific recommendations will be proposed for Pool 7 at this point in the report. The Minnesota entities in the Pool 7 area are Winona County, Dakota, and Dresbach, and recommendations specific to those areas can be found in the Minnesota section of this analysis. Recommendations for LaCrosse County will be found under Pool 8.

POOL 8

No particular problems or specific needs were identified by the representatives from LaCrosse County or the City of LaCrosse. A document entitled the Park and Recreation Plan for the LaCrosse Area has been written and released. This publication expresses the plans for recreational facilities in the LaCrosse area over the coming years.

Some considerations should be kept in mind when making recommendations relative to this particular area. The City of LaCrosse has the highest concentration of population in the Wisconsin portion of the study area. As such, more recreation opportunities are needed to accommodate the number of people seeking such activities. Much of the land in the riverfront area here is wetland, and preservation of the land as such will undoubtedly be a high priority in the future.

The proximity of the City of LaCrosse to Trempealeau should be a major consideration in the planned development of a small boat harbor at Trempealeau (in Pool 6). A survey of the available recreational facilities in the LaCrosse area as well as their demand capacity and current usage level would be instructive for the purpose of testing the propriety of developing facilities so close by.

The City of LaCrosse has recently had to upgrade its floodplain zoning regulations and the new portions in its floodplain ordinance are virtually untested. Therefore, little information about matters like the granting of variances is available.

The only project mentioned by the representative at Genoa was the building of a boat dock. The Great River Road Commission was named as the prime mover assisting the community in getting this program off the ground. This project is to be constructed just above Lock and Dam 8, which is just off the south end of the village limits.

POOL 9

The entities located adjacent to Pool 9 are the Village of DeSoto, the major portion of Crawford County, the Village of Ferryville and the Village of Lynxville.

The Village of DeSoto has a boat landing on the Mississippi River which for unspecified reasons is no longer useful. The locals want to get it opened up for use again. Attempts were made to do so but approvals for dredging and other activities were not sought from the proper officials. No action as of yet has been taken. Village officials have been in contact with the Mississippi River Regional Planning Commission and the Wisconsin DNR for the purposes of securing funding and planning assistance. A revival of interest in the river and its potential uses was apparent on the part of village officials here.

Again, though, Burlington Northern is the owner of much of the land on and near the shoreline.

The Village of Ferryville is very small and is short of available space for any developments. The river on one side and the hills just a few blocks inland keep development limited in the same fashion as at Alma (Pool 5). Burlington Northern owns most of the riverfront property. The perception in the community was pretty much one of being powerless to enlist the help of agencies to assist in development. Funds just are not available for recreational developments.

Pollution of the river and soil erosion were problems that the Village of Lynxville is concerned with eliminating.

POOL 10

The major item of concern in Pool 10 centers around the Higgins' Eye clam issue. A clam bed is located just off the northern tip of the island lying adjacent to the channel at Prairie du Chien. The DNR is opposed to dredging in this area, while the city is in the position of promoting the need for dredging of the channel to keep the river in condition to handle the many uses which are vital to the economic condition of Prairie du Chien and Crawford County. Finding a satisfactory resolution to this issue is the number one priority in this area before other affairs involving river merit discussion.

The City of Prairie du Chien experienced a major setback in January, 1981, when the bridge spanning the river between Prairie du Chien and Marquette, Iowa was declared unsafe for crossing. The effect of this event on the economy in this area cannot be adequately assessed yet. It most certainly will result in a financial reverse, thus limiting or extinguishing any local funds which may have previously been available for recreational developments or improvements in in that area.

Developments at Prairie du Chien or at Marquette or McGregor, Iowa should be considered with an emphasis toward the general effect on river traffic in the area as all these municipalities lie so close together. A lot of commercial and industrial river traffic already goes on in this area without considering current recreational use.

The local people in the area around Bagley would like to see more dredging in the backwaters areas. Some people come to the Village by boat to procure services. This is becoming more difficult to do as time passes.

Sentiment for maintaining the riverfront area as it currently exists was expressed in the towns in Grant County. Probably the major concern, though, exists in regard to the fact that the Corps has not been renewing the leases on lots on the riverfront to the citizens of Grant County. Whatever the reasons are for this practice, some communication between the Corps and the local citizens involved is called for to extent of clarifying what plans the Corps has for the land in this area. Perhaps some involvement of these citizens in the planning process for this area would relieve some of the negative feelings which are developing in this area toward the Corps of Engineers.

SITE SPECIFIC RECOMMENDATIONS--- ST. CROIX RIVER.

Any additional recreational development along the St. Croix River would be limited by existing land users. For example, the shoreline in the city of Hudson is already extensively developed. There exists some industry, residential and park areas; however, a large marina highlights the shore of the St. Croix River in this area. There is a park along the river, which is used for swimming that could be a source for further recreational development. Hudson currently has a plan for recreational development affecting the river but it has not yet been adopted by the city council. The city Park Board is very influential in development along the river and would be a primary contact for any future recreational planning in this area.

St. Croix County also is a potential source for recreational development along the St. Croix River. Much of the river in this area is utilized for recreation (e.g., boating, camping, swimming, fishing, and waterskiing). Additional recreational planning would probably be welcome by the locals; however, it should involve the county planning agency in an advisory capacity.

The Village of North Hudson is the final source of recreational development along the St. Croix River. Here, riverfront land is currently being used for residential and recreational purposes. Additional recreational planning in this area could possibly be limited to maintenance of existing park area. However, there is a recreational plan presently being developed that would affect the river in North Hudson. This may provide an additional source of assistance for the Corps' Master Plan.

MINNESOTA

I. INVENTORY OF PERTINENT ORGANIZATIONS

The boundaries of the State of Minnesota, as stated in the Constitution of Minnesota, extend out into the Mississippi River and allow Minnesota to exercise concurrent jurisdiction over it with any state for which this body of water forms a common boundary. Article XII, Section 3 of this constitution delegates power to the legislature to "provide by law for the creation, organization, administration, consolidation, division and dissolution of local government units...". Article XII, Section 4 provides that "any local government unit when authorized by law may adopt a home rule charter for its government".

A. Counties

The official legislative body at the county level in the State of Minnesota is the County Board of Commissioners. In all Counties except Hennepin, Ramsey and St. Louis, the county board consists of five commissioners, each of whom has a four year term of office. In Hennepin, Ramsey, and St. Louis counties, the board consists of seven members. §375.01.

Each county shall operate under the plan of county government in effect for that county on July 1, 1973 until the adoption of one or more of several options. These options include:

- (a) An elected county executive to be known as the elected executive plan;
- (b) A county manager to be known as the county manager plan;
- (c) The chairman of the county board elected at large by all the voters of the county to be known as the at-large chairman plan;
- (d) A county administrator, to be known as the county administrator plan;
- (e) Executive Secretary to be known as the Executive Secretary to the County Board;
- (f) A county auditor to have the additional powers and duties of county administrator, to be known as the county auditor-administrator plan.

The elected executive, county manager, and at-large chairman plans are mutually exclusive, and a county may adopt only one of these plans. A county may not adopt the county administrator or the auditor-administrator plan while it is operating under either the elected executive or the county manager plan; and a county may not adopt the auditor-administrator plan while it is operating under the at-large chairman plan. A county may adopt the at-large chairman plan and the county administrator plan either concurrently or while the other is in force. §375A.01.

The counties within the study area currently operate under various plans. Hennepin, Scott, Washington and Dakota Counties are operating under the County Administrator Plan. Carver and Winona Counties are operating under the Executive Secretary to the County Board Plan. Ramsey County has an Executive Director which functions as a county administrator. Goodhue, Wabasha and Houston Counties have not adopted one of the optional plans and therefore, are operating under the plan in effect for these counties on July 1, 1973.

Any county in Minnesota "having less than 300,000 population according to the 1950 federal census" can carry on county planning and zoning activities. §394.21 (1). In the Minnesota section of the study area, this means all counties except Hennepin and Ramsey. The board of county commissioners "shall have the power and authority to prepare and adopt by ordinance, a comprehensive plan". This plan, when adopted by ordinance "shall be the basis for official controls" adopted under the county planning and zoning provisions of the Minnesota Statutes. §394.23.

Articulation of the nature and applicability of official controls must be done very carefully. The section containing these provisions is set forth below in full with the critical language italicized for emphasis.

394.24 OFFICIAL CONTROLS.

Subdivision 1. Official controls which shall further the purpose and objectives of the comprehensive plan and parts thereof shall be adopted by ordinance.

Subdivision 2. Official controls adopted by a board shall apply to and be binding upon the *county or any parts thereof including areas within the incorporated limits of a municipality, when requested by the municipality under section 394.32.*

Subdivision 3. For the area within which official controls adopted by the board are effective, such controls *shall apply to the use of land for both private and public purposes,* provided that the need for adequate, timely and convenient public and semi-public services and facilities must receive due consideration in the formulation, administration and enforcement of all official controls and *no land owned or leased by the federal or state government shall be subject to official controls of the county.* With respect to the use of land for public purposes, the provisions of this subdivision shall not apply in the metropolitan area as described in section 473.122.

Official controls may take the form of zoning ordinances establishing districts, official maps, erosion and sediment controls or any of several other forms listed in §394.25 of the Minnesota Statutes.

At the same time when official controls are adopted by a county board, the board *must also create a board of adjustment* by ordinance. §394.27 (1). The board of adjustment must have at least 3 but not more than 7 members. The board of adjustment has the authority to "order the issuance of variances, hear and decide appeals from and review any order, requirement, decision, or determination made by any administrative official charged with enforcing any ordinance adopted pursuant to the provision of sections 394.21 to 394.37, order the issuance of permits for buildings in areas designated for future public use on an official map and perform such other duties as required by the official controls. Such appeal may be taken by any person aggrieved or by any officer, department, board or bureau of a town, municipality, county or state". §394.27 (5).

To carry out the county planning and zoning activities the county board "may employ a planning director and such staff as it deems necessary to assist the planning director in carrying out his assigned responsibilities, including but not limited to a zoning administrator, sanitary inspector and a building official". § 394.29. The county board may contract with or employ a planning authority or commission, any agency of the state or federal government, a regional development commission or with planning consultants or other specialists. § 394.29.

Any county board may by ordinance appoint a planning commission composed of not less than five nor more than eleven members appointed by the chairman of the board. § 394.30 (1). "The planning commission shall....cooperate with the planning director and other employees of the county in preparing and recommending to the board for adoptions a comprehensive plan and recommendations for plan execution in the form of official controls, and other measures, and amendments thereto". § 394.30 (4). The planning commission may be required by the board to review any comprehensive plans and official controls and any plans for public land acquisition and development sent to the county for that purpose by any local unit of government or any state or federal agency and shall report thereon in writing to the board. § 394.30 (5).

The governing body of any municipality may contract with the county board for planning and zoning services to be provided by the county. § 394.32 (1). This contract may provide for "joint county-municipal planning activities", or it may "designate the board as the planning agency for the municipality". § 394.32 (2).

Subdivision 3 of section 394.32 requires careful examination and is produced in full below, with the critical language again being italicized for emphasis.

The governing body of any municipality may request a county board to submit to such governing body *a comprehensive plan for the municipality* setting forth such provisions as the board deems applicable to the municipality and for its best interests, or to *include the area within the municipality in a county-wide comprehensive plan*, or to prepare official controls to apply to the area within the municipality. Notwithstanding the adoption of the comprehensive plan and recommendations for the municipality the plan and recommendations shall not be binding until official controls are adopted by the municipality in accordance with the plan or until the county adopts official controls for the areas within the incorporated limits of the municipality when requested by the governing body of the municipality. *After the county adopts official controls for areas within a municipality, the county shall enforce the controls* unless the county and municipality provided otherwise by agreement. A municipality may at *any time, by resolution of its governing body, take over planning functions*, including adoption and enforcement of official controls, with respect to areas within its corporate limits for which a county has adopted official controls.

The adoption of official controls for a county or portion thereof by the board of county commissioners affects the authority of towns having the power of a statutory city. After such adoption "no town shall enact or enforce official controls inconsistent with or less restrictive than the standards prescribed in the official controls adopted by the board". § 394.33 (1). "Nothing in this section shall limit any town's power to adopt official controls, *including shoreland regulations* which are more restrictive than provided in the controls adopted by the county". § 394.33 (1).

The statutory language in §394.34 allows a county that has or in good faith intends to conduct studies, or has or is intending to hold public hearings for the purpose of considering a comprehensive plan or official controls or amendments, extensions, or additions thereto, to adopt *temporary interim zoning provisions*. These provisions are limited to one year from the date the resolution becomes effective and to one year renewal thereafter.

The county board of commissioners is responsible for providing for enforcement of the county planning and zoning provisions and of ordinances and regulations made thereunder and may impose enforcement duties upon any officer, department, agency or employee of the county. §394.37.

B. Cities

The statutory provisions for the different types of cities in Minnesota are numerous and quite complex. Three variations of statutory plans are available under which cities of Minnesota can operate. A "statutory city" is defined to mean "any city which has not adopted a home rule charter pursuant to the constitution and laws". §410.015. The specific provisions peculiar to each of the plans are presented in Appendix G.

Some cities in Minnesota operate under charter. Chapter 410 of the Minnesota Statutes contains the general provisions relating to charter cities. "Any city in the state may frame a city charter for its own government....". §410.04. A "home rule charter city" is defined to mean any city which has adopted such a charter. §410.015. Operation under home rule charter is possible only after the appointment of a charter commission to frame and amend a charter in accordance with the procedure articulated in §410.05 of the Minnesota Statutes. The charter commission "may incorporate as part of the proposed charter for any city the commission, mayor-council, council-manager form of city government or any other form not inconsistent with constitution or statute....." §410.16. Provisions "defining the powers and duties of the mayor and each member of the council" may be incorporated into the charter by the charter commission. The commission may further provide that each member of the council shall perform such administrative duties as may be designated in the charter. §410.19.

In view of these facts, the powers and duties of city officials as presented in the statutes will be applicable only to "statutory cities". The individual charters of "home rule charter cities" must be consulted to identify the provisions applicable to those cities. The following cities in the Minnesota portion of the study area are currently "home rule charter cities":

Bloomington	St. Paul
Hastings	South St. Paul
Lake City	Stillwater
Minneapolis	Wabasha
Red Wing	Winona

The three types of statutory cities currently operating in Minnesota are the following: Standard Plan, Option Plan A and Option Plan B. General statutory provisions governing the statutory cities in Minnesota are contained in Chapter 412 of the Minnesota Statutes. These provisions apply to "any city which has not adopted a home rule charter pursuant to the constitution and laws of this state". §412.016 (1).

In standard plan cities, the city council consists of the mayor, the clerk and three councilmen. §412.191 (1). In option plan cities (with one minor exception), the city council consists of the mayor and the four councilmen. §412.191 (1).

Specific powers of city councils are enumerated individually in §412.221 of the Minnesota Statutes. For the purposes of this analysis, the three subdivisions set forth below are most relevant here.

Subdivision 12. Harbors, docks. The council shall have power to establish harbor and dock limits and by ordinance regulate the location, construction and use of piers, docks, wharves, and boat houses on navigable waters and fix rates of wharfage. The council may construct and maintain public docks and warehouses and by ordinance regulate their use.

Subdivision 28. Regulation of buildings. The council shall have power by ordinance to regulate the construction of buildings.

Subdivision 32. General Welfare. The council shall have power to provide for the government and good order of the city, the suppression of vice and immorality, the prevention of crime, the protection of public and private property, the benefit of residence, trade, and commerce, and the promotion of health, safety, order, convenience, and the general welfare by such ordinances not inconsistent with the constitution and laws of the United States or of this state as it shall deem expedient.

The general welfare clause provides authorization for a statutory city to enact zoning provisions by ordinance under the "promotion of health, safety, order, convenience...." objectives expressly stated therein.

Any statutory city is authorized to establish, improve, ornament, maintain and manage parks, parkways, and recreational facilities and by ordinance protect and regulate their use. §412.491. In any city of more than 1,000 population, the council may, by ordinance, establish a park board. §412.501.

The breakdown of statutory cities by the plan under which they are currently operating is presented below:

Standard Plan
None in study area

Option Plan A
Afton
Bayport
Brownsville
Cottage Grove
Dakota
Eagan
Inver Grove Heights
LaCrescent
Lakeland
Lilydale
Mendota
Mendota Heights
Minneiska
Newport
Rosemount
St. Paul Park
Savage

Option Plan B
Burnsville

Municipal planning and development is specifically authorized by Chapter 462 of the Minnesota Statutes. In §462.353, municipalities are authorized to "carry on comprehensive municipal planning activities.... and...prepare, adopt and amend a comprehensive municipal plan and implement such plan by ordinance...."

By charter or ordinance, a municipality may create a planning agency which shall be advisory, except as other powers and duties are imposed on it by §§462.351 to 462.364, by statute, by charter, or by ordinance consistent with the municipal charter. §462.354 (1). The planning agency may take either of the following forms:

- (1) It may consist of a planning commission, which may or may not include municipal officials among its members. The planning commission may be provided with staff which may be a division of the administrative structure of the municipal government. The commission shall be advisory directly to the governing body.
- (2) It may consist of a planning department with a planning commission advisory to it and shall function as a department advisory to the governing body and the municipal administration. The planning department may be provided with an executive director and other staff as in the case of other municipal departments.

Any municipality which has a zoning ordinance or official map in effect or is adopting one *shall have a board of appeals and adjustments* provided through an ordinance of its governing body. §462.354 (2). Any affected person, upon compliance with *any reasonable conditions* imposed by the zoning ordinance, may take an appeal to the board of appeals and adjustments. The powers of a board of appeals and adjustments with respect to zoning ordinances are as follows:

- (1) To hear and decide appeals where it is alleged that there is an error in any order, requirement, decision, or determination made by an administrative officer in the enforcement of the zoning ordinance.
- (2) To hear requests for variances from the literal provisions of the ordinance in instances *where their strict enforcement would cause undue hardship* because of circumstances unique to the individual property under consideration, and to grant such variances only when it is demonstrated that such actions will be in keeping with the spirit and intent of the ordinance. Undue hardship includes, but is not limited to, inadequate access to direct sunlight for solar energy systems. Variances shall be granted for earth sheltered construction as defined in section 116H.02, subdivision 3, when in harmony with the ordinance. *The board of appeals and adjustments or the governing body as the case may be, may not permit as a variance any use that is not permitted under the ordinance for property in the zone where the affected person's land is located.* The board or governing body as the case may be, may permit as a variance the temporary use of a one family dwelling as a two family dwelling. The board or governing body as the case may be may impose conditions in the granting of variances to insure compliance and to protect adjacent properties.

The board of appeals and adjustments also has powers with respect to official maps. These powers are contained in §462.359 (4) and appear in Appendix I of this analysis. Provisions for required filings and appeals to authorities higher than the board of appeals and adjustment are presented in Appendix J.

A municipality has the power to provide for the enforcement of ordinances or regulations adopted under the municipal planning and development provisions of the statutes, and may provide penalties for violations of them. §462.362.

The comprehensive plan is to be prepared by the planning agency, which "shall consult with and coordinate the planning activities of other departments and agencies of the municipality to insure conformity with and to assist in the development of the comprehensive municipal plan". §462.355 (1). A resolution adopted by a majority of all the members of the planning commission is required for adoption and amendment of the comprehensive municipal plan or any section thereof. §462.355 (2). Upon passage of such a resolution, a copy of the plan or of any section or amendment thereof is to be certified to the governing body of the municipality. Until its adoption by the governing body, the plan *constitutes only the recommendation of the planning agency*. §462.355 (3). Provisions for interim ordinances are expressly provided in §462.355 (4) and are almost the exact equivalent of the interim provisions previously outlined under the section on counties. The one major difference is that in addition to the effective period of one year following enactment, renewal may be attained for an additional period up to 18 months instead of just 12 months, as in counties.

The express delegation of authority by the legislature to the municipalities, giving them the power to zone, is contained in §462.357 of the Minnesota Statutes. The full text of the authority granted is presented in Appendix L. By ordinance, a city is able to extend application of its zoning regulations to "unincorporated territory located within two miles of its limits in any direction, but not in a county or town which has adopted zoning regulations". §462.357 (1).

C. Towns

Towns (townships) in Minnesota may choose between any of four optional plans for organizational structure, with certain qualifications. The options available are the following:

Option A; five member town board. Any town may provide for a five member board of supervisors as hereinafter provided in Laws 1975, Chapter 274. This option shall be referred to as option A.

Option B: appointment of clerk and treasurer. Any town may provide for the appointment by the town board of its clerk and treasurer, or clerk-treasurer, as hereinafter provided for in Laws 1975, Chapter 274. This option shall be referred to as option B.

Option C: town administrator. Any town may provide for the appointment of an administrator as hereinafter provided for in Laws 1975, Chapter 274. This option shall be referred to as option C.

Option D: combination of the offices of clerk and treasurer. Any town exercising the powers of a statutory city pursuant to section 368.01 or pursuant to a special law granting substantially similar powers may provide for combining the offices of clerk and treasurer. This option shall be referred to as option D.

Option D refers to towns exercising the powers of a statutory city pursuant to §368.01 of the Minnesota Statutes. The requirements necessary for a town to exercise the powers of a statutory city in Minnesota are either that it has within its boundaries platted portions in which there reside 1,200 or more people, or that it has within its boundaries a platted area lying within 20 miles of the city hall of a city of the first class having over 200,000 population.

The only towns in the Minnesota portion of the study area from which a representative was interviewed were the Towns of Dresbach and Homer. Dresbach is an Option Plan A town and Homer has adopted Option Plan B.

Zoning provisions for towns in Minnesota are contained in Chapter 366 of the statutes. The question of whether or not the town board shall adopt building and zoning regulations and restrictions in the town may be submitted by the board of supervisors of any town to the legal voters of the town for their approval or rejection at any annual or special town meeting. §366.10. If an affirmative vote of the majority of legal voters is received, the board of supervisors may appoint a planning and zoning commission and determine the number of members it shall have. §366.17. This commission will be advisory to the town board and may be empowered to employ a civil engineer or city planner, as may be required for establishing the districts or zones of any parts of such towns. §366.17. Appendix K contains the full text of the specific authority granted to towns for zoning purposes.

Zoning regulations may be enforced by withholding building permits. The town board may establish the position of "town building commissioner" for the purpose of accomplishing its zoning objectives. §366.16. Knowing violation, infraction or disobedience of any of the provisions or rules of zoning regulations adopted by any town board shall make the offender guilty of a misdemeanor.

D. Regional Development Commissions

Regional development commissions were created for the purpose of facilitating intergovernmental cooperation and in order to insure the orderly and harmonious coordination of state, federal and local comprehensive planning and development programs for the solution of economic, social, physical and governmental problems of the state and its citizens. §462.383. *The provisions relating to regional development commissions have no application to the Metropolitan Council.* §462.382.

Regions designated by executive order of the governor shall constitute development regions for the state. §462.385 (1). Continuous studies and analysis of the boundaries of regions are to be conducted by the state planning agency, which shall make recommendations for their modification where necessary. §462.385 (3).

Any combination of counties or municipalities representing a majority of the population of the region for which a commission is proposed may petition the state planning officer by formal resolution, setting forth its desire to establish, and the need for, the establishment of a regional development commission. § 462.387 (1). A regional development commission shall be established by the state planning officer upon receipt of such petition and the notification of all local government units within the region for which the commission is proposed. §462.387 (2). "The commission shall prepare and adopt...a comprehensive development plan for the region". §462.39 (3). *No development plan or portion thereof for the region shall be adopted by the commission until it has been submitted to the state planning agency for review and comment and a period of 60 days has elapsed after such submission.* Upon adoption of a development plan, it shall be distributed to all local government units within the region by the commission. §462.39 (3).

Long term comprehensive plans of each city, town, county, watershed district, and soil conservation district are to be submitted to the commission for comment and recommendation thereon. §462.391 (1). The commission also has the authority to "review all applications of governmental units, independent commissions, boards or agencies operating in the region for a loan or grant from the United States of America or any agency....if the application clearly is related to the region... whether or not such review is required by the federal government". §462.391 (3).

The commission *"may coordinate civil defense, community shelter planning, and flood plain management programs within the region....and contract with local governmental agencies and consultants in connection therewith."* §462.391 (6). The commission may contract with local units of government for the purpose of providing them with services and technical assistance in the conduct of local planning and development activities. §462.391 (10). Any regional planning commission may levy a tax on all taxable property in the region to provide funds for regional development activities. §462.396 (1).

Any combination of counties or municipalities representing a majority of the population of the region for which a commission exists may petition the state planning officer by formal resolution stating that the existence of the commission is no longer in the public welfare and interest and no longer needed. §462.398 (1). Upon receipt of the petition, the state planning officer must fix the time and place for a hearing, to be conducted by members of the commission. If the commission determines that its existence is no longer required, it shall recommend to the state planning officer that he terminate the commission. Within 60 days of the receipt of such recommendations, the state planning officer shall terminate the commission by giving notice of the termination to all government units within the region for which the commission was established. §462.398 (2).

1. Region Ten Development Commission

This regional development commission currently retains a staff of 51 members and is located in Rochester, Minnesota. Goodhue County, Wabasha County, Winona County, and Houston County, in addition to municipalities located within these counties are located within this region. No local government units in the study area have withdrawn from the jurisdiction of the Region 10 Development Commission.

E. Metropolitan Council

To accomplish the coordination of planning and development of the metropolitan area comprising the counties of Anoka, Carver, Dakota, Hennepin, Ramsey, Scott and Washington an administrative agency, the Metropolitan Council, was created. §473.123. "The metropolitan council shall prepare and adopt,....a comprehensive development guide for the metropolitan area." §473.145. The comprehensive development guide "shall recognize and encompass physical, social or economic needs of the metropolitan area and those future developments which will have an impact on the entire area including but not limited to such matters as land use, parks and open space land needs.....". §473.145.

The metropolitan council is granted the authority to *review all proposed matters of metropolitan significance* to be undertaken by any private organization, independent commission, board or agency, local government unit or any state agency. §473.173 (1). Regulations establishing standards, guidelines and procedures for determining whether any proposed matter is of metropolitan significance were adopted by the council pursuant to §473.173 (2).

At the request of local government units, the council may enter into contracts or make other arrangements with local government units for the provision of services for and assistance with comprehensive community planning. §473.191. The council may also provide technical assistance to cities, counties and towns to expedite adoption and enforcement of local ordinances under §104.04 (floodplain), §105.485 (shoreland development), and §§473.203 to 473.208 (management and use of natural resources).

Beginning at §473.851 of the Minnesota Statutes, provisions relating to the metropolitan council and its role in metropolitan land use planning are presented. The council shall establish an advisory metropolitan land use committee as authorized in section 473.127. §473.853. The council was required to submit a "Metropolitan Systems Statement" to each local government unit, which was to contain information relating to the unit and appropriate surrounding territory that the council has determined should be considered by the local unit in preparing its comprehensive plan. §473.855. The items for consideration are:

(a) The timing, character, function, location, projected capacity and conditions on use, for existing or planned metropolitan public facilities, as specified in metropolitan system plans, and for state and federal public facilities to the extent known to the council;

(b) The population, employment and housing need projections which have been used by the council as a basis for its metropolitan system plans;

(c) *Any parts of the land use plan, public facilities plan or implementation program which may be excluded from the plan of the local governmental unit.* The exclusion of parts shall be based on the nature and character of existing and projected development within each local governmental unit and on policies, statements, and recommendations contained in metropolitan system plans.

According to statute, these system statements were to be received by the local government units by July 1, 1977. Within 3 years following receipt of such statement, each of the affected local government units was to have prepared a comprehensive plan in accordance with Laws 1976, Chapter 127, Sections 1 to 23 and the applicable planning statute and have submitted this plan to the council for review. §473.858 (1). At least six months prior to submission of such plan to the council, the local units are to submit their proposed plans to adjacent governmental units and affected school districts. §473.858 (2). The plans are to be *submitted to the council following approval of the planning commission of the local unit and after consideration but before final approval by the governing body of the local government unit.* §473.858 (3).

The required content of such comprehensive plans is set forth in §473.859. The major elements include a land use plan, a public facilities plan, an implementation program and any five year urbanization areas which the unit wants to designate. See Appendix M for the full text of the required contents of comprehensive plans.

Comprehensive plans of cities shall include the matters specified in §473.859, except as otherwise provided in the systems statement. §473.86. By December 31, 1976, towns authorized to plan under §§462.351 to 462.364 or under special law were required by resolution to determine whether they would prepare a comprehensive plan for their jurisdiction (in Anoka, Carver, Dakota, Scott, and Washington Counties only). Any part of a town plan or its official controls which are prepared by the county, pursuant to agreement, are to be specified. §473.861 (2). In the case of towns, located within counties which have adopted comprehensive plans applicable to the towns, maximum use of county preparation of their comprehensive plans is to be sought. §473.861 (3).

Provisions required of county comprehensive plans are set forth below:

(a) *Except for the counties of Hennepin and Ramsey, a land use plan as specified in section 473.859, subdivision 2, for all unincorporated territory within the county;*

(b) A public facilities plan which shall include all appropriate matters specified in section 473.859, subdivision 3, including a transportation plan, and a description of existing and projected solid waste disposal sites and facilities;

(c) An implementation program, as specified in section 473.859, subdivision 4.

Subdivision 2. Each county other than Hennepin and Ramsey shall prepare, with the participation and assistance of the town, the comprehensive plan *for any town within the county which fails by December 31, 1976, to take action by resolution pursuant to section 473.861, subdivision 2 and shall prepare all or part of any plan delegated to it pursuant to section 473.861, subdivision 2.*

Subdivision 3. Each county other than Hennepin and Ramsey shall prepare, with the participation and assistance of the town, the comprehensive plan for each town within the county not authorized to plan under sections 462.351 to 462.364, or under special law.

After adoption of its comprehensive plan, each local government unit is to adopt official controls as described in the plan. Copies of such official controls are to be submitted to the Metropolitan Council within 30 days of adoption. §473.865 (1).

The Metropolitan Council is to establish a *planning assistance fund* pursuant to §473.867 (2). This is for the purpose of making grants and loans to local government units. The specific details regarding how much can be loaned or granted to any individual unit and what uses to which these monies can be put are explained in §473.867 which is set forth in Appendix N.

Any tax levied under section 473 of the statutes is to be deposited into a separate fund in the municipal treasury and used only for purposes authorized by this section. §473.87 (2).

F. Environmental Quality Board

Because of the fact that problems relating to the environment often encompass the responsibilities of several state agencies, the process of finding solutions to them requires interaction of these various agencies. The environmental quality board was created by the Legislature to serve this function. §116C.03 (1). The official positions of the persons, who are to compose the membership of this board, are described in Appendix O.

The environmental quality board, hereinafter referred to as the EQB, is to determine which environmental problems of "interdepartmental concern to state government" are to be considered by the board. 116C.04 (2)(a). Some of the topics for investigation enumerated in the statutes are "future population and settlement patterns, *air and water resources and quality*, solid waste management, transportation and utility corridors, economically productive open space, energy policy and need, *growth and development*, and *land use planning*". §116C.04(2)(a). Specifically, the following delegations are made to the EQB:

The board shall review programs of state agencies that significantly affect the environment and *coordinate those it determines are interdepartmental* in nature, and insure agency compliance with state environmental policy.

The board *may review* environmental regulations and criteria for granting and denying permits by state agencies and may resolve conflicts involving state agencies with regard to programs, regulations, permits and procedures significantly affecting the environment, *provided that such resolution of conflicts is consistent with state environmental policy*.

State agencies shall submit to the board *all proposed legislation of major significance relating to the environment* and the board shall submit a report to the governor and the legislature with comments on such major environmental proposals of state agencies.

Section 116C.23 recites the purposes underlying the Minnesota Environmental Coordination Procedures Act. These purposes are critical to the understanding of what functions this board is intended to serve, and are presented below for this reason. Section (a) is particularly relevant for purposes of this institutional analysis.

"It shall be the purpose of sections 116C.22 to 116C.34:

(a) to provide an optional procedure *to assist those who*, in the course of satisfying the requirements of state government prior to undertaking a project which contemplates the use of the state's air, land, or water resources, *must obtain more than one state permit*, by establishing a mechanism in state government which will coordinate administrative decision-making procedures, and related quasi-judicial and judicial review, pertaining to these permits;

(b) to provide to the members of the public a better and easier opportunity to *present their views comprehensively on proposed uses of natural resources* and related environmental matters prior to the making of decisions on these uses by state or local agencies;

(c) to provide to the members of the public a greater degree of *certainty in terms of permit requirements* of state and local government;

(d) to provide better *coordination and understanding between state and local agencies* in the administration of the various programs relating to air, water, and land resources; and

(e) to establish the opportunity for members of the public to *obtain information pertaining to requirements of federal and state law* which must be satisfied prior to undertaking a project in this state".

The actual application procedure and provisions for public hearings and local certification are important, but are included in Appendix p for reference purposes only.

G. Department of Natural Resources

The Department of Natural Resources, hereinafter referred to as the DNR, is the state agency which replaced the old department of conservation and inherited its powers and duties. §84.01 (1). The commissioner of natural resources is to "have charge and control of all the public lands, parks, timber, waters, minerals, and wild animals of the state and of the use, sale, leasing, or other disposition thereof, and of all records pertaining to the performance of his functions relating thereto." §84.027(2).

The Commissioner is given specific assignments in §84.028 of the Minnesota Statutes, one of which is the following:

Subdivision 2. The overall coordination of acquisition and development programs, comprehensive planning activities, *including statewide recreational planning programs required by state or federal law*, and not the responsibility of the state planning agency, are under the control and supervision of the commissioner.

In cooperation with other state and federal agencies, regional development commissions, the metropolitan council, local government units, and citizens, the commissioner of natural resources was to assist (pursuant to §105.403) in the preparation of a *statewide framework and assessment water and related land resources plan* for presentation to the Legislature. Among the issues for which provisions were to be made were the following:

- Regulation of improvements and land development by abutting landowners of the beds, banks, and shores of lakes, streams, watercourses, and marshes by permit or otherwise in order to preserve them for beneficial use;
- Regulation of construction of improvements on and prevention of encroachments in the flood plains of the rivers, streams, lakes, and marshes of the state;
- Control or alleviation of damages by flood waters;
- Preventive or remedial measures to control or alleviate land and soil erosion and siltation of watercourses or bodies of water affected thereby;
- Regulation of uses of water surfaces.

Control over the permit process for appropriation and use of waters is vested in the commissioner of natural resources by virtue of §105.41. The provisions of this section do not apply to the use of water for domestic purposes serving less than 25 persons. Appendix Q contains the full statements of provisions relating to the granting of permits, the prioritization among conflicting uses, and other relevant concerns.

The three major pieces of legislation involving the study area and entailing considerable responsibility for action by the DNR, are: the Flood Plain Management Act, The Lower St. Croix Wild and Scenic Rivers Act of 1972, and the Minnesota Wild and Scenic Rivers Act. Each of these acts should be read in full, as the details are of considerable importance to particular portions of the study area. These acts appear respectively as Appendices R, S, and T at the end of the analysis for convenient reference purposes.

Shoreland development is to be regulated in accordance with §105.485, with shoreland being defined as follows:

Subdivision 2. DEFINITIONS. For the purpose of this section the terms defined in this section have the meanings given them: (a) "Shoreland" means land located within the following distances from the ordinary high water elevation of public waters: (1) Land within 1,000 feet from the normal high watermark of a lake, pond, or flowage; and (2) land within 300 feet of a river or stream or the landward side of flood plain delineated by ordinance on such a river or stream, whichever is greater. (b) "Unincorporated area" means the area outside a city. (c) "Municipality" means a city.

The commissioner of natural resources has the responsibility of promulgating "model standards and criteria...for the subdivision, use, and development of shoreland in municipalities...". §105.485 (3). Municipalities having shoreland within their corporate limits are to submit any ordinances, rules, or regulations affecting the use and development of such shorelands to the commissioner for his review. If the commissioner determines that such ordinances, rules or regulations of a municipality do not substantially comply with the state standards and criteria for municipal shoreland management, he is to notify the municipality of this fact and indicate to the municipality the changes which are necessary to bring the ordinances, rules, or regulations into substantial compliance with state standards and criteria. §105.485 (6).

If any municipality having shoreland within its corporate limits either does not adopt the necessary ordinances, rules or regulations or adopts ones that are not sufficient to substantially comply with state standards and criteria, the commissioner "may adopt an ordinance, rules or regulations for the municipality...". §105.485 (6).

To the maximum extent practical, municipal planning and land use controls for land other than shoreland, in the vicinity of shoreland, is to be compatible with planning and land use controls for shoreland adopted pursuant to subdivision 6. §105.485(7).

A municipality is not prohibited from adopting and enforcing ordinances, rules, or regulations affecting the use and development of shoreland which are more restrictive than the state standards and criteria. §105.485(8).

Appendix U contains the complete text of the statute regarding the commissioner's responsibilities and provisions for unincorporated areas.

H. State of Minnesota

The State of Minnesota claims ownership of the beds and the lands under the waters of all rivers in Minnesota which are navigable for commercial purposes, pursuant to §465.18 of the Minnesota Statutes. The precise language is quoted below:

The ownership of the beds and the lands under the waters of all rivers in this state which are navigable for commercial purposes are hereby declared to be and shall be in the state of Minnesota in fee simple, subject only to the regulations made by the congress of the United States with regard to the public navigation and commerce and the lawful use by the public of the waters while thereon.

History: 1911 c 291 s 1 (1349)

II. DESCRIPTIVE DATA ON INTERVIEWED ORGANIZATIONS

Characteristics of municipal and county organizations interviewed in the Minnesota portion of the study area are contained in a tabular summary that follows. This descriptive inventory includes variables which will aid in the planning process. For the largest jurisdictions in Minnesota, Minneapolis, St. Paul, Hennepin County, and Ramsey County, more detailed descriptions are provided. The political subdivisions are listed according to pool.

MISSISSIPPI RIVER

POOL 1

Political Subdivision:

Hennepin County, Minnesota.

Organization:

County Board Chairman, seven member Board of Commissioners (including chairman), County Administrator.

Enabling Legislation:

Chapter 394, Minnesota Statutes.

**Commissions/Committees
(of the political subdivision)
Affecting Riverfront Lands:**

County Board, Capital Budgeting Task Force.

River Miles Covered by Corporate Limits:

0.0 to 24.75 (Minnesota River).
844 to 860 (Mississippi River).

Extraterritorial Jurisdiction:

None.

**Ordinances/Legislation
Affecting Riverfront Lands:**

None.

Flood Plain Ordinance:

None.

Recreational Plan Available:

None.

Miscellaneous:

Hennepin County is only one of two counties in Minnesota where all zoning powers have been delegated to the municipalities within the county.

City of Minneapolis, Minnesota; Hennepin County.

Political Subdivision:

Organization:

See Figure 10.

Enabling Legislation:

Chapter 462, Minnesota Statutes.

Commissions/Committees
(of the political subdivision)
Affecting Riverfront Lands:

City Council, Parks and Recreation Board, Housing and Redevelopment Authority, Industrial Development Commission, Civil Defense, Riverfront Development Coordinating Board, Heritage Preservation Commission.

River Miles Covered by Corporate Limits:

847 to 859.1.

Extraterritorial Jurisdiction:

None.

Ordinances/Legislation
Affecting Riverfront Lands:

Park Board Ordinances.
Minneapolis Zoning Code.
Interim Development Regulations*.

Flood Plain Ordinance:

Within the Zoning Code, DNR approved; February, 1981.

Recreational Plan Available:

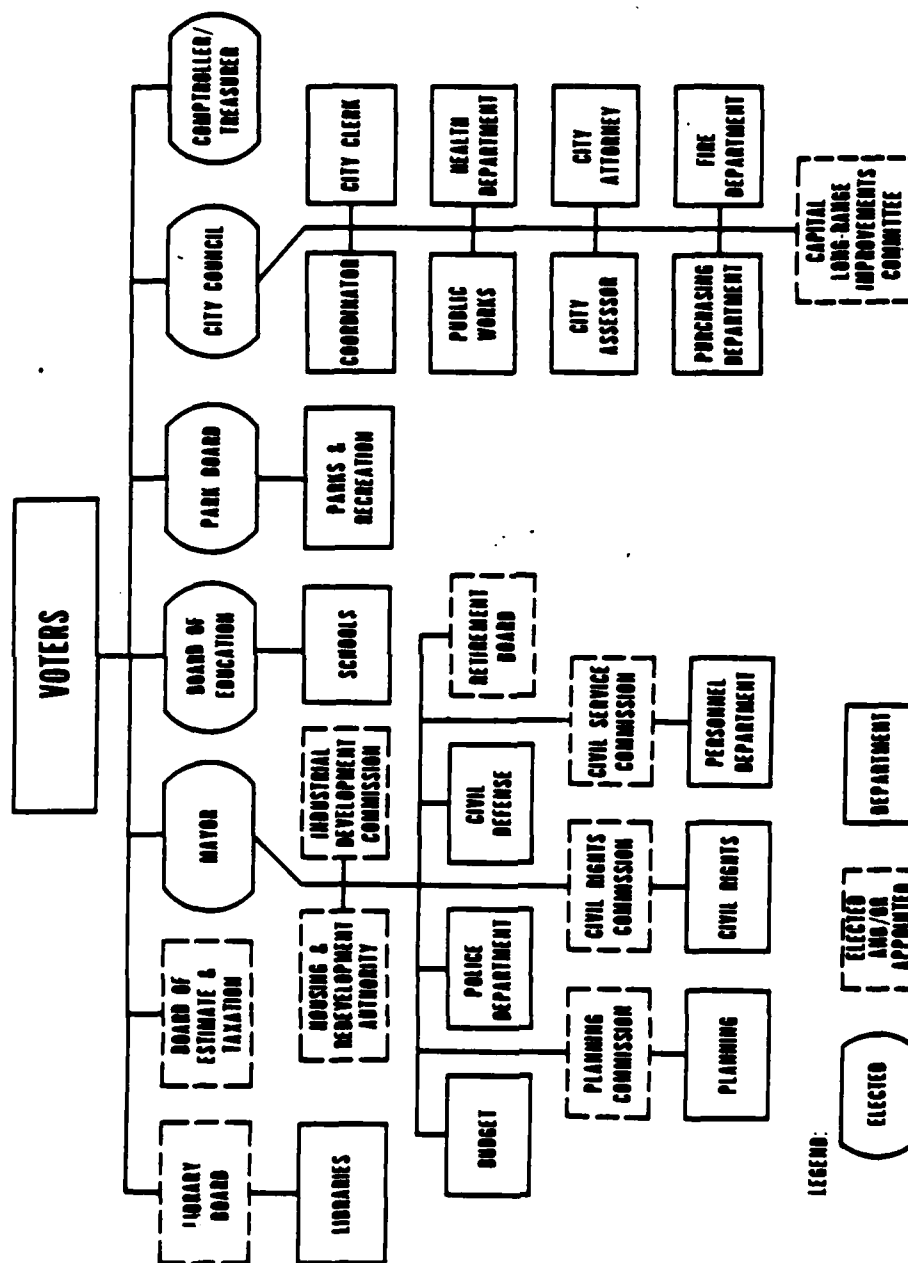
None.

Miscellaneous:

* Regulations promulgated by Minnesota Environmental Quality Board which must be adhered to until Minneapolis develops a critical river corridor plan that is approved by the EQB.

MINNEAPOLIS CITY-GOVERNMENT

Figure 9.



Source: Chapter 20 of General Management of the Plan for the 1980's.

POOL 2

Ramsey County, Minnesota.

Political Subdivision:

Organization:

County Board Chairman, seven member Board of Commissioners (including chairman), Executive Director.

Enabling Legislation:

Chapter 394, Minnesota Statutes.

Commissions/Committees
(of the political subdivision)
Affecting Riverfront Lands:

Public Works and Parks and Recreation Committee.
Policy and Planning Committee.

River Miles Covered by Corporate Limits:

833.1 to 850.4.

Extraterritorial Jurisdiction:

None.

Ordinances/Legislation
Affecting Riverfront Lands:

An Ordinance for the Control and Management of Open Space Areas and Facilities Under the Jurisdiction of the Board of Ramsey County Commissioners.

Flood Plain Ordinance:

None.

Recreational Plan Available:

None.

Miscellaneous:

Ramsey County is only one of two counties in Minnesota where all zoning powers have been delegated to the municipalities within the county. A plan for recreational development is currently being prepared and is expected to be completed during April, 1981.

Political Subdivision: City of St. Paul, Minnesota; Ramsey County.

Organization: See Figure 9.

Enabling Legislation: Chapter 462, Minnesota Statutes.

Commissions/Committees
(of the political subdivision)
Affecting Riverfront Lands: City Planning Commission, City Council,
St. Paul Port Authority.

River Miles Covered by Corporate Limits: 833+ to 854+.

Extraterritorial Jurisdiction: None.

Ordinances/Legislation
Affecting Riverfront Lands: Interim Development Regulations*.

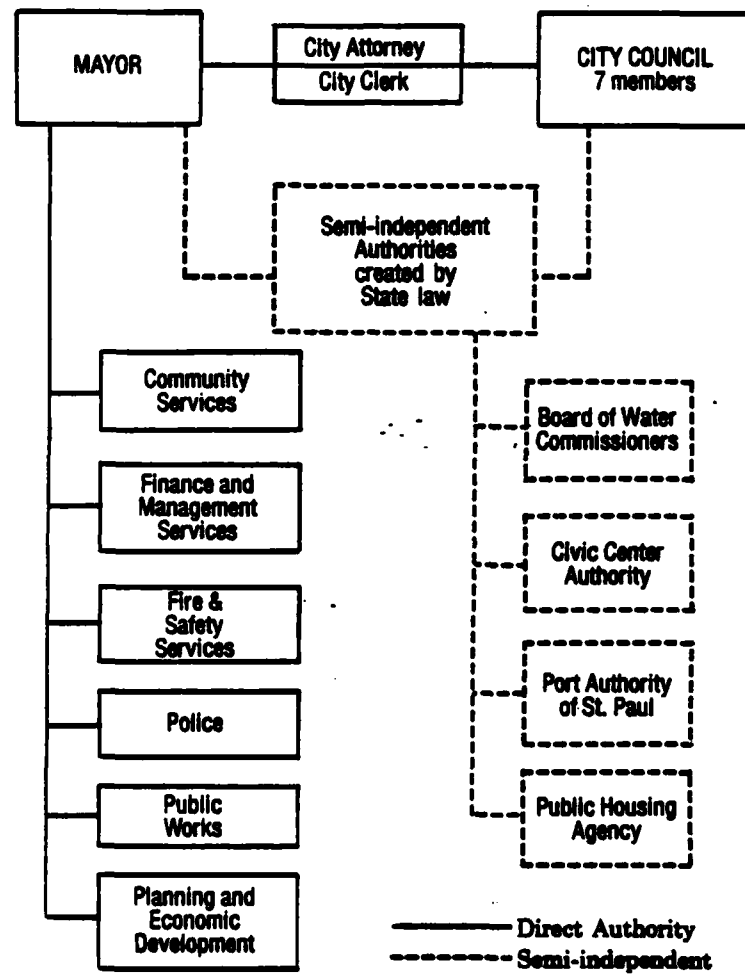
Flood Plain Ordinance: Flood Plain District (Within Zoning Ordinance), DNR
approved; February, 1973.

Recreational Plan Available: Yes.

Miscellaneous:
* Regulations promulgated by Minnesota Environmental Quality Board which must be adhered to until St. Paul develops a critical river corridor plan that is approved by the EQB.

Figure 10.

ST. PAUL CITY-GOVERNMENT



Source: Citizens Guide City of Saint Paul... Ramsey County.

Political Subdivision:

City of Lilydale, Minnesota; Dakota County.

Organization:

Mayor, four member council, Clerk/Treasurer.

Enabling Legislation:

Chapter 462, Minnesota Statutes.

Commissions/Committees
(of the political subdivision)
Affecting Riverfront Lands:

Planning Commission.

River Miles Covered by Corporate Limits:

841.5 to 844.5.

Extraterritorial Jurisdiction:

None.

Ordinances/Legislation
Affecting Riverfront Lands:

None.

Flood Plain Ordinance:

DNR approved Flood Plain Ordinance; February, 1973.

Recreational Plan Available:

None.

Miscellaneous:

Political Subdivision:

City of South St. Paul, Minnesota; Dakota County.

Organization:

Mayor, seven member council, City Coordinator, Clerk/Recorder/Treasurer, Code Enforcement Officer (Zoning Administrator).
Chapter 462, Minnesota Statutes.

Enabling Legislation:

**Commissions/Committees
(of the political subdivision)
Affecting Riverfront Lands:**

Planning Commission, Park/Recreation
Advisory Commission, Economic
Development Commission.

River Miles Covered by Corporate Limits:

831.7 to 835.8.

Extraterritorial Jurisdiction:

None.

**Ordinances/Legislation
Affecting Riverfront Lands:**

Zoning Ordinance.
Critical River Corridor Plan.

Flood Plain Ordinance:

DNR approved Flood Plain Ordinance; June, 1980.

Recreational Plan Available:

Yes.

Miscellaneous:

Political Subdivision:

City of Newport, Minnesota; Washington County.

Organization:

Mayor, four member council, City Administrator (Zoning Administrator), Clerk/Treasurer.

Enabling Legislation:

Chapter 462, Minnesota Statutes.

**Commissions/Committees
(of the political subdivision)
Affecting Riverfront Lands:**

Planning Commission.

River Miles Covered by Corporate Limits:

830.3 to 832.75.

Extraterritorial Jurisdiction:

None.

**Ordinances/Legislation
Affecting Riverfront Lands:**

None.

Flood Plain Ordinance:

Flood Plain Ordinance # 197, DNR approved; July, 1980.

Recreational Plan Available:

None.

Miscellaneous:

Plans for recreational development affecting the river are addressed in City of Newport Comprehensive Plan.

Political Subdivision:

City of Inver Grove Heights, Minnesota; Dakota County.

Organization:

Mayor, four member council, Clerk/Treasurer.

Enabling Legislation:

Chapter 462, Minnesota Statutes.

Commissions/Committees
(of the political subdivision)
Affecting Riverfront Lands:

Planning Commission, Park Commission, Municipal Affairs
Committee.

River Miles Covered by Corporate Limits:

824.6 to 831.8.

Extraterritorial Jurisdiction:

None.

Ordinances/Legislation
Affecting Riverfront Lands:

Zoning Ordinance.
Comprehensive Development Plan.
Critical River Corridor Plan.

Flood Plain Ordinance:

Section 516 of the City Zoning Ordinance, DNR approved;
August, 1980.

Recreational Plan Available:

None.

Miscellaneous:

Political Subdivision:

City of St. Paul Park, Minnesota; Washington County.

Organization:

Mayor, four member council, Clerk/Treasurer.

Enabling Legislation:

Chapter 462, Minnesota Statutes.

Commissions/Committees
(of the political subdivision)
Affecting Riverfront Lands:

Planning Commission, Parks and Recreation Commission.

River Miles Covered by Corporate Limits:

829 to 830.33.

Extraterritorial Jurisdiction:

None.

Ordinances/Legislation
Affecting Riverfront Lands:

Zoning Ordinance.

Flood Plain Ordinance:

Within the City Zoning Ordinance, DNR approved; June 1980.

Recreational Plan Available:

None.

Miscellaneous:

Political Subdivision:

City of Rosemount, Minnesota; Dakota County.

Organization:

Mayor, four member council, Clerk/Treasurer, Zoning Administrator/Planner.

Enabling Legislation:

Chapter 462, Minnesota Statutes.

Commissions/Committees
(of the political subdivision)
Affecting Riverfront Lands:

City Council, Planning Commission.

River Miles Covered by Corporate Limits:

821.5 to 824.6.

Extraterritorial Jurisdiction:

None.

Ordinances/Legislation
Affecting Riverfront Lands:

Zoning Ordinance, Subdivision Ordinance.
Comprehensive Plan.

Mississippi River Corridor Ordinance.

Mississippi River Critical River Plan.

Flood Plain Ordinance:

Within the City Zoning Ordinance, DNR approved July, 1980.

Recreational Plan Available:

None.

Miscellaneous:

Political Subdivision:

City of Cottage Grove, Minnesota; Washington County.

Organization:

Mayor, five member council, Clerk, Finance Director, Director of Planning.

Enabling Legislation:

Chapter 462, Minnesota Statutes.

Commissions/Committees
(of the political subdivision)
Affecting Riverfront Lands:

Planning Commission, Parks Commission, Lower Grey Cloud Island Reclamation Committee.

River Miles Covered by Corporate Limits:

816.5 to 823.

Extraterritorial Jurisdiction:

Yes.

Ordinances/Legislation
Affecting Riverfront Lands:

Zoning Ordinance.
Critical Area Plan.

Flood Plain Ordinance:

Section 28-67 of the Zoning Ordinance.
DNR approved; April, 1976.

Recreational Plan Available:

Yes.

Miscellaneous:

POOL 3

Dakota County, Minnesota.

Political Subdivision:

Organization:

County Board Chairman, five member Board of Commissioners (including chairman), Administrator, Treasurer, Auditor, Planner (Zoning Administrator). Chapter 394, Minnesota Statutes.

Enabling Legislation:

Planning Advisory Commission, Park Board.

Commissions/Committees
(of the political subdivision)
Affecting Riverfront Lands:

807 to 835.9 (Mississippi River).
0 to 13 (Minnesota River).

River Miles Covered by Corporate Limits:

None.

Extraterritorial Jurisdiction:

Shoreland Zoning Ordinance.
Critical Area Plan.

Ordinances/Legislation
Affecting Riverfront Lands:

DNR approved Flood Plain Ordinance; April, 1981.

Flood Plain Ordinance:

Yes.

Recreational Plan Available:

Miscellaneous:

Political Subdivision:

City of Hastings, Minnesota; Dakota County.

Organization:

Mayor, eight member council, City Administrator, Clerk, Planner (Zoning Administrator).

Enabling Legislation:

Chapter 462, Minnesota Statutes.

Commissions/Committees
(of the political subdivision)
Affecting Riverfront Lands:

Hastings Natural Resource Commission, Planning Commission.

River Miles Covered by Corporate Limits:

812 to 815.5.

Extraterritorial Jurisdiction:

None.

Ordinances/Legislation
Affecting Riverfront Lands:

Critical Area Plan.
Urban Diversified.

Flood Plain Ordinance:

DNR approved Flood Plain Ordinance; July, 1980.

Recreational Plan Available:

Yes.

Miscellaneous:

POOL 4

Political Subdivision:

Goodhue County; Minnesota.

Organization:

County Board Chairman, five member Board of Commissioners,
(including Chairman), Auditor, Treasurer, Zoning Administrator.

Enabling Legislation:

Chapter 394, Minnesota Statutes.

Commissions/Committees
(of the political subdivision)
Affecting Riverfront Lands:

Zoning Commission.

River Miles Covered by Corporate Limits:

772.5 to 807.

Extraterritorial Jurisdiction:

None.

Ordinances/Legislation
Affecting Riverfront Lands:

Zoning Ordinance.

Flood Plain Ordinance:

DNR approved Flood Plain Ordinance; April, 1978.

Recreational Plan Available:

None.

Miscellaneous:

Political Subdivision:

City of Red Wing, Minnesota; Goodhue County.

Organization:

Mayor, nine member council, Administrator, Clerk, Finance Officer, Zoning Administrator.

Enabling Legislation:

Chapter 462, Minnesota Statutes.

**Commissions/Committees
(of the political subdivision)
Affecting Riverfront Lands:**

City Council, Planning Department, Commercial Industrial Committee, Harbor Commission.

River Miles Covered by Corporate Limits:

788.2 to 801.5.

Extraterritorial Jurisdiction:

Yes.

**Ordinances/Legislation
Affecting Riverfront Lands:**

City Zoning Ordinance.

Flood Plain Ordinance:

City of Red Wing Flood Plain Ordinance-No. 96, DNR approved, September, 1979.

Recreational Plan Available:

Yes.

Miscellaneous:

Political Subdivision:

City of Lake City, Minnesota; Wabasha County, Goodhue County.

Organization:

Mayor, six member council, Administrator, Clerk/
Finance Director, Zoning Administrator.

Enabling Legislation:

Chapter 462, Minnesota Statutes.

**Commissions/Committees
(of the political subdivision)
Affecting Riverfront Lands:**

Park Board, Water Front Board.

River Miles Covered by Corporate Limits:

769.5 to 776.

Extraterritorial Jurisdiction:

Yes.

**Ordinances/Legislation
Affecting Riverfront Lands:**

Lake City Zoning Ordinance.

Flood Plain Ordinance:

Within the City Zoning Ordinance, DNR approved, February, 1981.

Recreational Plan Available:

Yes.

Miscellaneous:

Political Subdivision:

City of Wabasha, Minnesota; Wabasha County.

Organization:

Mayor, six member council, Treasurer, Clerk, Zoning Administrator.

Enabling Legislation:

Chapter 462, Minnesota Statutes.

Commissions/Committees
(of the political subdivision)
Affecting Riverfront Lands:

Park Commission, Harbor Commission, Library Commission, Chamber of Commerce.

River Miles Covered by Corporate Limits:

759 to 762.5.

Extraterritorial Jurisdiction:

None.

Ordinances/Legislation
Affecting Riverfront Lands:

None.

Flood Plain Ordinance:

DNR approved Flood Plain Ordinance; September, 1978.

Recreational Plan Available:

None.

Miscellaneous:

POOL 5

Political Subdivision:

Wabasha County, Minnesota.

Organization:

County Board Chairman, five member Board of Commissioners (including chairman), Treasurer, Auditor.

Enabling Legislation:

Chapter 394, Minnesota Statutes.

**Commissions/Committees
(of the political subdivision)
Affecting Riverfront Lands:**

County Board, Agriculture Stabilization Commission, Planning Commission.

River Miles Covered by Corporate Limits:

742 to 775.3.

Extraterritorial Jurisdiction:

None.

**Ordinances/Legislation
Affecting Riverfront Lands:**

None.

Flood Plain Ordinance:

Wabasha County Flood Plain Ordinance.
DNR approved; February, 1981.

Recreational Plan Available:

None.

Miscellaneous:

POOL 6

Political Subdivision:	City of <u>Winona</u> , Minnesota; Winona County.
Organization:	Mayor, City Manager, six member council, Clerk/Treasurer.
Enabling Legislation:	Chapter 462, Minnesota Statutes.
Commissions/Committees (of the political subdivision) Affecting Riverfront Lands:	Planning Commission, Port Authority (established by State Legislature).
River Miles Covered by Corporate Limits:	723.25 to 727.
Extraterritorial Jurisdiction:	None.
Ordinances/Legislation Affecting Riverfront Lands:	Winona City Zoning Ordinance.
Flood Plain Ordinance:	DNR approved Flood Plain Ordinance; April, 1972.
Recreational Plan Available:	None (However, a Winona Comprehensive Park and Recreation Master Plan does exist).

Miscellaneous:

POOL 7

Political Subdivision:	<u>Winona County, Minnesota.</u>
Organization:	County Board Chairman, five member Board of Commissioners, (including chairman), Auditor, Treasurer, Zoning Administrator.
Enabling Legislation:	Chapter 394, Minnesota Statutes.
Commissions/Committees (of the political subdivision) Affecting Riverfront Lands:	Planning and Zoning Commissions, Environmental Health Task Force.
River Miles Covered by Corporate Limits:	701 to 742.
Extraterritorial Jurisdiction:	None.
Ordinances/Legislation Affecting Riverfront Lands:	Winona County Zoning Ordinance. Winona County Subdivision Ordinance.
Flood Plain Ordinance:	DNR approved Flood Plain Ordinance; October, 1973.
Recreational Plan Available:	None.
Miscellaneous:	

Political Subdivision:	City of Dakota, Minnesota; Winona County.
Organization:	Mayor, four member city council, Clerk/Treasurer.
Enabling Legislation:	Chapter 462, Minnesota Statutes.
Commissions/Committees (of the political subdivision) Affecting Riverfront Lands:	City Council.
River Miles Covered by Corporate Limits:	706+ to 707+.
Extraterritorial Jurisdiction:	None.
Ordinances/Legislation Affecting Riverfront Lands:	None.
Flood Plain Ordinance:	None.
Recreational Plan Available:	None.
Miscellaneous:	

Political Subdivision:	Town of <u>Dresbach, Minnesota</u> ; Winona County.
Organization:	Town Chairman, three member Board of Supervisors, Clerk/Treasurer.
Enabling Legislation:	Chapter 366, Minnesota Statutes.
Commissions/Committees (of the political subdivision) Affecting Riverfront Lands:	Town Board.
River Miles Covered by Corporate Limits:	791 to 797.
Extraterritorial Jurisdiction:	None.
Ordinances/Legislation Affecting Riverfront Lands:	None.
Flood Plain Ordinance:	None.
Recreational Plan Available:	None.
Miscellaneous:	

POOL 8

Political Subdivision:

Houston County, Minnesota.

Organization:

County Board Chairman, five member Board of Commissioners (including chairman), Planning and Zoning, Soil Conservation, Assessor, Auditor, Treasurer, Sheriff.
Chapter 394, Minnesota Statutes.

Enabling Legislation:

**Commissions/Committees
(of the political subdivision)
Affecting Riverfront Lands:**

Planning Commission, Park Committee.

River Miles Covered by Corporate Limits:

673.75 to 701.

Extraterritorial Jurisdiction:

None.

**Ordinances/Legislation
Affecting Riverfront Lands:**

Zoning Ordinance Houston County, Minnesota.

Flood Plain Ordinance:

Section 304.1 of the Zoning Ordinance; DNR approved;
October, 1973.

Recreational Plan Available:

Yes.

Miscellaneous:

Political Subdivision:	City of LaCrescent, Minnesota; Houston County.
Organization:	Mayor, four member council, City Clerk/Treasurer/Administrator.
Enabling Legislation:	Chapter 462, Minnesota Statutes.
Commissions/Committees (of the political subdivision) Affecting Riverfront Lands:	Planning Commission.
River Miles Covered by Corporate Limits:	697+ to 700+.
Extraterritorial Jurisdiction:	None.
Ordinances/Legislation Affecting Riverfront Lands:	None.
Flood Plain Ordinance:	Ordinance for Flood Plain Regulations for the City of LaCrescent, Houston County, Minnesota; DNR approved; July, 1973.
Recreational Plan Available:	None.
Miscellaneous:	

Political Subdivision: City of Brownsville, Minnesota; Houston County.

Organization: Mayor, four member council, City Clerk.

Enabling Legislation: Chapter 462, Minnesota Statutes.

Commissions/Committees
(of the political subdivision)
Affecting Riverfront Lands: City Council.

River Miles Covered by Corporate Limits: 688.5 to 689.8

Extraterritorial Jurisdiction: None.

Ordinances/Legislation
Affecting Riverfront Lands: None.

Flood Plain Ordinance: None.

Recreational Plan Available: None.

Miscellaneous:

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INSTITUTIONAL ANALYSIS UPPER MISSISSIPPI RIVER MASTER
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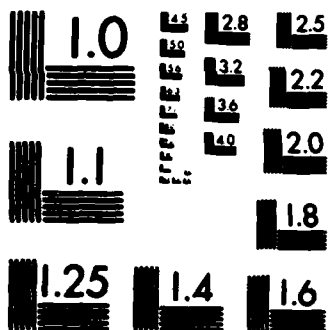
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MINNESOTA RIVER

Political Subdivision:	City of <u>Mendota</u> , <u>Minnesota</u> ; Dakota County.
Organization:	Mayor, four member council, Clerk/Treasurer.
Enabling Legislation:	Chapter 462, Minnesota Statutes.
Commissions/Committees (of the political subdivision) Affecting Riverfront Lands:	City Council.
River Miles Covered by Corporate Limits:	0.3 to 0.6 (Minnesota River).
Extraterritorial Jurisdiction:	None.
Ordinances/Legislation Affecting Riverfront Lands:	Zoning Ordinance.
Flood Plain Ordinance:	None.
Recreational Plan Available:	None.
Miscellaneous:	Fort Snelling State Park lies adjacent of the Mississippi and Minnesota Rivers and Lillydale.

City of Mendota Heights, Minnesota; Dakota County.

Mayor, four member council, City Administrator,
Clerk/Treasurer.

Chapter 462, Minnesota Statutes.

City Council, Planning Commission.

1.2 to 4.2 (Minnesota River).

None.

None.

None.

None.

Mendota Heights does not have jurisdiction along the river
because Fort Snelling State Park lies between the Minnesota
River and the corporate limits.

Political Subdivision:

City of Eagan, Minnesota; Dakota County.

Organization:

Mayor, four member city council, Administrator, Clerk/Treasurer, Planner (Zoning Administrator).

Enabling Legislation:

Chapter 462, Minnesota Statutes.

Commissions/Committees
(of the political subdivision)
Affecting Riverfront Lands:

Planning Commission, Parks and Recreation Committee.

River Miles Covered by Corporate Limits:

4 to 7 (Minnesota River).

Extraterritorial Jurisdiction:

None.

Ordinances/Legislation
Affecting Riverfront Lands:

Zoning Ordinance.
Subdivision Ordinance.

Flood Plain Ordinance:

Within the City Zoning Ordinance, DNR approved; November, 1975.

Recreational Plan Available:

Yes.

Miscellaneous:

Political Subdivision:	City of <u>Burnsville</u> , Minnesota; Dakota County.
Organization:	Mayor, four member council, City Manager, Clerk, Treasurer, Planning Director (Zoning Administrator).
Enabling Legislation:	Chapter 462, Minnesota Statutes.
Commissions/Committees (of the political subdivision) Affecting Riverfront Lands:	Planning Commission, Park Advisory Commission.
River Miles Covered by Corporate Limits:	7 to 13 (Minnesota River).
Extraterritorial Jurisdiction:	None.
Ordinances/Legislation Affecting Riverfront Lands:	Zoning Ordinance.
Flood Plain Ordinance:	DNR approved Flood Plain Ordinance; September, 1977.
Recreational Plan Available:	None.
Miscellaneous:	Most of Burnsville's riverfront land is undeveloped.

Political Subdivision:

City of Bloomington, Minnesota; Hennepin County.

Organization:

Mayor, six member council, City Manager, Clerk/Treasurer, Director of Community Development (Zoning Administrator).

Enabling Legislation:

Chapter 462, Minnesota Statutes.

**Commissions/Committees
(of the political subdivision)
Affecting Riverfront Lands:**

Natural Resources Commission, Traffic and Transportation Commission, Park and Recreation, Economic Development, Planning Commission, Heritage Preservation.

River Miles Covered by Corporate Limits:

4.2 to 17.4 (Minnesota River).

Extraterritorial Jurisdiction:

None.

**Ordinances/Legislation
Affecting Riverfront Lands:**

Zoning Ordinance.

Flood Plain Ordinance:

Section 19.39 of the City Zoning Ordinance, DNR approved; September 1972.

Recreational Plan Available:

Yes.

Miscellaneous:

Plans for recreational development affecting the river are included in Bloomington's Comprehensive Plan.

Political Subdivision:	City of Savage, <u>Minnesota</u> ; Scott County.
Organization:	Mayor, four member council, City Administrator Clerk/Zoning Administrator, Treasurer.
Enabling Legislation:	Chapter 462, Minnesota Statutes.
Commissions/Committees (of the political subdivision) Affecting Riverfront Lands:	Planning Commission, Development and Promotion Board, Park Board, Housing and Redevelopment Authority.
River Miles Covered by Corporate Limits:	13 to 17.45 (Minnesota River).
Extraterritorial Jurisdiction:	None.
Ordinances/Legislation Affecting Riverfront Lands:	Zoning Ordinance. Land Use Subdivision.
Flood Plain Ordinance:	Flood Plain Zoning Ordinance-No. 123, DNR approved; June, 1980.
Recreational Plan Available:	None.
Miscellaneous:	Savage Comprehensive Plan is currently being revised.

Political Subdivision:

Carver County, Minnesota

Organization:

County Board Chairman, five member Board of Commissioners (including chairman), Treasurer, Auditor, Zoning Administrator.

Enabling Legislation:

Chapter 394, Minnesota Statutes.

Commissions/Committees
(of the political subdivision)
Affecting Riverfront Lands:

Park Commission, Planning Commission, Board of Adjustments.

River Miles Covered by Corporate Limits:

25.8 to 27 (Minnesota River).

Extraterritorial Jurisdiction:

None.

Ordinances/Legislation
Affecting Riverfront Lands:

Zoning Ordinance.
Shoreline Management Ordinance.

Flood Plain Ordinance:

DNR approved Flood Plain Ordinance; February, 1978.*

Recreational Plan Available:

None.

Miscellaneous:

* Carver County does not have jurisdiction of any land within the study area.

Scott County, Minnesota.

Political Subdivision:

Organization:

County Board Chairman, five member Board of Commissioners (including chairman), Administrator, Treasurer, Auditor, Zoning Administrator.
Chapter 394, Minnesota Statutes.

Enabling Legislation:

Commissions/Committees
(of the political subdivision)
Affecting Riverfront Lands:

County Commission, Planning Commission.

River Miles Covered by Corporate Limits:

13 to 27 (Minnesota River).

Extraterritorial Jurisdiction:

None.

Ordinances/Legislation
Affecting Riverfront Lands:

Shoreland Management Ordinance Comprehensive Plan.

Flood Plain Ordinance:

DNR approved Flood Plain Ordinance; April 1978*.

Recreational Plan Available:

None.

Miscellaneous:

There also exists a Scott County Park Reserve District which is a separate entity from Scott County. However, the Park Reserve District does not have any jurisdiction in the study area.

* Scott County does not have any jurisdiction in the study area.

ST. CROIX RIVER

Political Subdivision:

Washington County; Minnesota.

Organization:

County Board Chairman, five member Board of Commissioners (including chairman), Administrator, Treasurer, Auditor, Planning Coordinator (Zoning Administrator). Chapter 394, Minnesota Statutes.

Enabling Legislation:

**Commissions/Committees
(of the political subdivision)
Affecting Riverfront Lands:**

Planning Advisory Commission, Park and Open Space Commission, County Board, Zoning Board of Appeals and Adjustments, Platts Commission.

River Miles Covered by Corporate Limits:

0.0 to 26 (St Croix River).
811.5 to 833.1 (Mississippi River).

Extraterritorial Jurisdiction:

None.

**Ordinances/Legislation
Affecting Riverfront Lands:**

Zoning Ordinance.
Shoreland Management Ordinance.
Sanitary Sewer Disposal Ordinance, Subdivision Ordinance.
Mining Ordinance.
Lower St. Croix Bluffland and Shoreland Management Ordinance.

Flood Plain Ordinance:

Flood Plain Ordinance (Chapter 3, Washington County Development Code).

Recreational Plan Available:

None.

Miscellaneous:

Political Subdivision:	City of Stillwater, Minnesota; Washington County.
Organization:	Mayor, four member council, Finance Director, Clerk.
Enabling Legislation:	Chapter 462, Minnesota Statutes.
Commissions/Committees (of the political subdivision) Affecting Riverfront Lands:	Planning Commission, Park Board, Parks and Recreation.
River Miles Covered by Corporate Limits:	22.25 to 24.75 (St. Croix River).
Extraterritorial Jurisdiction:	None.
Ordinances/Legislation Affecting Riverfront Lands:	Zoning. Special Use Permits.
Flood Plain Ordinance:	DNR approved Flood Plain Ordinance; May 1973.
Recreational Plan Available:	Yes.
Miscellaneous:	

Political Subdivision:	City of <u>Bayport, Minnesota</u> ; Washington County.
Organization:	Mayor, four member council, Clerk/Treasurer.
Enabling Legislation:	Chapter 462, Minnesota Statutes.
Commissions/Committees (of the political subdivision) Affecting Riverfront Lands:	Planning/Zoning Commission.
River Miles Covered by Corporate Limits:	18.8 to 20.8 (St. Croix River).
Extraterritorial Jurisdiction:	None.
Ordinances/Legislation Affecting Riverfront Lands:	Zoning Ordinance. Bluffland Ordinance.
Flood Plain Ordinance:	DNR approved Flood Plain Ordinance; May 1972.
Recreational Plan Available:	None.
Miscellaneous:	

Political Subdivision:

City of Lakeland, Minnesota; Washington County.

Organization:

Mayor, four member council, Clerk/Treasurer, Zoning Administrator.

Enabling Legislation:

Chapter 462, Minnesota Statutes.

**Commissions/Committees
(of the political subdivision)
Affecting Riverfront Lands:**

City Council, Planning Commission.

River Miles Covered by Corporate Limits:

14.5 to 16.5 (St.Croix River).

Extraterritorial Jurisdiction:

None.

**Ordinances/Legislation
Affecting Riverfront Lands:**

Scenic River MR 2200.
Lower St. Croix Shoreland Bluffland Ordinance-Section 302.
Zoning Ordinance-Section 300 of Lakeland Code of Ordinances.

Flood Plain Ordinance:

Floodplain Regulation-Section 402 Lakeland Code of Ordinances, DNR approved; February, 1972.

Recreational Plan Available:

Yes.

Miscellaneous:

Political Subdivision:

City of Afton, Minnesota; Washington County.

Organization:

Mayor, four member council, Clerk, Treasurer, Planner, Engineer.

Enabling Legislation:

Chapter 462, Minnesota Statutes.

**Commissions/Committees
(of the political subdivision)
Affecting Riverfront Lands:**

Park and Open Space Committee, Zoning Administration Committee, Village Historic Site Committee.

River Miles Covered by Corporate Limits:

8.5 to 12.2 (St Croix River).

Extraterritorial Jurisdiction:

None.

**Ordinances/Legislation
Affecting Riverfront Lands:**

Zoning Ordinance.
St. Croix River Shoreland and Bluffland Ordinance.

Flood Plain Ordinance:

Flood Plain Ordinance-No. 27, DNR approved; April 1972.

Recreational Plan Available:

None.

Miscellaneous:

A. Summary of Hennepin County, Ramsey County, Minneapolis, St. Paul

Because Hennepin and Ramsey Counties and the cities of Minneapolis and St. Paul compose the largest political subdivisions and have the highest potential use in the study area, they require separate discussions of their land use authority and related activities.

1. Hennepin County

Hennepin County is only one of two counties in Minnesota to which zoning powers are not delegated by the statutes. All land within Hennepin County adjacent to the river lies within corporate limits of some incorporated city. Therefore, Hennepin County has no legislation which would affect the riverfront lands. The only authority Hennepin County would exercise over the riverfront lands is through the Capital Budgeting Task Force, which has reviewal authority over proposed projects affecting the river.

The *Hennepin County Park Reserve District* is separate and distinct from Hennepin County and does have jurisdiction over county parks located along the Minnesota and Mississippi Rivers. However, the Park Reserve District's jurisdiction only covers the Mississippi and Minnesota Rivers beyond the study area.

2. Ramsey County

Ramsey County is the other county in Minnesota to which zoning powers are not delegated. As in Hennepin County, all land within Ramsey County adjacent to the river lies within corporate limits of some incorporated city. However, Ramsey County does appear to have more influence than Hennepin County on matters concerning the riverfront lands. For example, the Public Works and Parks and Recreation Committee has the authority to review all park and public works plans and advise the County Board concerning these plans. In addition, any proposed county policy affecting the river must be reviewed by the County Policy and Planning Committee.

Furthermore, Ramsey County cooperates with municipalities in the operation of regional parks located along the river. For example, there is a regional park located along the Mississippi River at Lilydale which is governed under the cooperation of St. Paul and Ramsey County.

Also, Ramsey County does have an ordinance which governs certain areas within Ramsey County, some of which may lie adjacent to the river. It is entitled: "*An Ordinance for the Control and Management of Open Space Areas and Facilities Under the Jurisdiction of the Board of Ramsey County Commissioners*". The purpose of the ordinance is to govern the conduct of members of the public during their use and enjoyment of the Ramsey County Open Space System so as to further the safety, health, enjoyment, and welfare of all persons in the use thereof, and to protect public property and resources for posterity. The ordinance delineates legal and illegal uses within the designated Open Space Areas.

3. Minneapolis

Minneapolis is the political subdivision with the highest population in the study area and, as a result, has the largest amount of potential users of the river(s). This is reflected in the numerous committees and commissions that Minneapolis has that could affect lands along the Mississippi River. Foremost, the *Minneapolis City Council* plays a major role in affecting the riverfront lands. The City Council is responsible for controlling the budget of all city agencies,

approving zoning amendments, and approving sale of city-owned property. A second committee affecting the riverfront lands is the *Minneapolis Park and Recreation Board*. This Board is an independent body in charge of operation of park land in the city; specifically along the river beginning from the University of Minnesota south to the Minneapolis corporate limit.

The *Minneapolis Housing and Redevelopment Authority* is an owner of land along the river. The philosophy behind this agency is to buy and sell land along the river in order to alter the land use patterns along the river. For example, they may buy land from industrial or commercial users and provide this land for residential use. It is an attempt to bring people closer to the river. The *Minneapolis Industrial Development Commission* is a fourth body that affects the riverfront lands. They ultimately control barge traffic by operating the Upper Harbor Terminal.

The fifth entity affecting the river resources is the *Minneapolis Civil Defense*. The Civil Defense is in charge of the floodplain maps for Minneapolis. A final entity affecting the riverfront is the *Riverfront Development Coordinating Board* composed of the Mayor, City Council, Park Board, and the Housing and Redevelopment Authority. This Board acts as a clearinghouse for proposed plans affecting the riverfront from the Tenth Avenue Bridge to the Plymouth Avenue Bridge.

The riverfront in Minneapolis is governed by several ordinances. First, the City of Minneapolis uses the zoning power granted by the Municipal Planning Act (Minnesota Statutes 462.351) to ensure orderly development and to implement the Comprehensive Municipal Plan, which outlines public goals and objectives. Some of the purposes of the ordinance include:

- Promoting and protecting health, safety, morals, comfort, aesthetics, economic viability and general welfare of the city.
- Encouraging the most appropriate use of land throughout the city.
- Protecting residential, business and manufacturing areas alike from harmful encroachments by incompatible uses.

The zoning code includes three general land use districts: residential, business, and manufacturing. These districts are further subdivided by level of intensity.

There are several intracity entities that play key roles in zoning matters. Listed below are these entities and their potential impact on zoning legislation.

Zoning Administrator--Enforces the Zoning Code; issues all zoning certificates; receives all applications for conditional use permits and rezonings; conducts inspections of buildings, structures and use of land to determine compliance with the Zoning Code; provides and maintains a public information bureau relative to all matters arising out of the Zoning Code.

City Planning Department--Conducts 40-acre rezoning studies; reviews rezonings, conditional use permits, variances, concept plans, lot divisions, subdivision plats; may initiate zoning ordinance amendments; gives final approval or denial on site plan reviews; serves as staff to the City Planning Commission, Board of Adjustment and to the Community Development Committee of the City Council.

City Planning Commission--Recommends actions to the City Council in the following zoning areas: 40-acre rezoning studies, zoning text changes, rezonings, conditional use permits, concept plan reviews, subdivision and lot divisions. Gives final approval or denial to site plan reviews.

Included in the Zoning code is a section for Flood Plain Zoning. According to the representative from Minneapolis, Minneapolis has adopted the *Sample Flood Plain Ordinance for Local Units of Government* developed by the Minnesota Department of Natural Resources*.

Because the river in Minneapolis has been determined a critical area, there are also interim development regulations promulgated by the Minnesota Environmental Quality Board (EQB) which govern the riverfront. These regulations must be adhered to in Minneapolis until Minneapolis develops a critical river corridor plan and it is approved by the EQB.

4. St. Paul

St. Paul is the second most populous organization in the study area. Again, this is reflected by the commissions and committees St. Paul has, which affect the river. First, the *City Planning Commission* is responsible for making all policy including that which affects the river. Second, the *City Council* is responsible for passing all policy, also including that which affects the river. Finally, the *St. Paul Port Authority*, which is considered a quasi-public industrial development agent of the city, has control of the riverfront at industrial parks located along the river. Also, the Port Authority regulates barge traffic through granting of permits for barge fleetings.

The city of St. Paul has two forms of regulations governing the riverfront: 1) floodplain zoning ordinance and 2) interim development regulations promulgated by the Minnesota Environmental Quality Board.

*For a detailed breakdown of the DNR Sample Flood Plain Ordinance, refer to Appendix D.

Flood Plain District

The Flood Plain District is subdivided into three districts: 1) Floodway, 2) Flood Fringe, and 3) General Flood Plain. Within each district, there are specific Permitted Uses and Permitted Uses Subject to Special Conditions. Because of the specificity of this ordinance, it is set forth in its entirety in Appendix E.

As in Minneapolis, there are interim development regulations promulgated by the Minnesota Environmental Quality Board which govern the riverfront. Since the river corridor in St. Paul has been determined a critical area, St. Paul must adhere to these regulations until they develop a critical river corridor plan and it is approved by the EQB.

111. SUMMARY OF LOCAL LAND USE LEGISLATION

Due to the large number of ordinances operating in the Minnesota portion of the study area, ordinances that were obtained during data collection are summarized in Table 11. It should be noted that there exists additional local land use legislation; however, copies of these ordinances were unavailable at time of data collection and therefore, are not included in the summary Table.

Table 11

Summary of Local Land Use Legislation.

Ordinance	Jurisdiction	Districts	Permitted Uses	Provision for Nonconforming Uses	Set Back Provisions	Special Exceptions Permit	Exceptions	Administration	Certificate of Compliance	Penalties	Special Provisions
Houston County Flood Plain Ordinance #117	All area of Houston County outside the incorporated limits of municipalities	Flood Plain 3 Shoreland General Agriculture Suburban Res. 2 Business 2 Industry	\$304.2, 308.2, 312.2, 316.2, 324.2, 328.2, 332.2, 336.2, 340.2, 350.2	\$436		\$ 232 Conditional Use Permits	\$124.2 Variances	Zoning Administrator Board of Adjustment		Fine not to exceed \$300 or imprisonment not to exceed 90 days per offense	
City of LaCrescent Flood Plain Ordinance #117	All lands delineated on the flood in ordinance hazard district zoning map	None delineated	SV	\$1X		\$1V1	\$1X1 Variances	Zoning Administrator Planning Commission		Fine not to exceed \$300 or imprisonment not to exceed 90 days or both-costs	
City of Dakota Zoning Ordinance of Dakota	All land within the corporate limits of Dakota	Floodplain General Residential General General Business Industrial	\$502	\$1200		\$503 Conditional Uses	\$1303 Amendments	Mayor Zoning Administrator Board of Adjustments		Fine not to exceed \$300 or imprisonment not to exceed 90 days or both	
City of Winona Zoning Ordinance Flood Hazard Overlay Districts	All land within the corporate limits of Winona	F - 1 F - 2 F - 3	F-1943.67(a) F-2843.68(b) F-3843.69(b)	\$43.71		\$43.67(c) \$43.68(c) \$43.69(d)	\$43.68(c) \$43.69(d) Variances	Planning Department City Engineer	Required	Fine not to exceed \$300 or imprisonment not to exceed 90 days or both plus costs	
Wabasha County Flood Plain Shoreland Ordinance	All lands within jurisdiction of Wabasha County shown on the Official Zoning Map as being located within the Flood Plain and Shoreland Districts	Floodplain Shoreland	FP-44.31 \$ 44.61	\$8.0	\$6.21	Conditional Uses FP44.32, 4.42, 4.52 \$ 44.62	Variances \$9.3	Zoning Administrator Board of Adjustment	Certificate of Occupancy required	Fine not to exceed \$300 or imprisonment not to exceed 90 days or both per offense	

Ordinance	Jurisdiction	Districts	Permitted Uses	Provision for Nonconforming Uses	Set Back Provisions	Special Exceptions Permit	Exceptions	Administration	Certificate of Compliance	Penalties	Special Provisions
City of Lake City Flood Plain Ordinance	All lands within the jurisdiction of Lake City shown on the Official Zoning Map as being located within the boundaries of the Floodway, Flood Fringe, or General Flood Plain Dist.	Floodway Flood Fringe General Flood Plain	FV-14.1 FF-15.1 GFP-16.1	111.0		Conditional Uses FV 14.2 FF 15.2 GFP 16.2	Variances \$10.33	Zoning Administrator	Required	Fine of not more than \$500 or imprisonment for not more than 90 days or both plus costs per offense	
Zoning Ordinance	All lands and waters within the corporate limits of Lake City	5 Residential 4 Commercial Industrial Conservancy 3 Flood Plain	SIV E.1 F.1 G.1 H.1 J.1 K.1 L.1 M.1 N.1 O.1	1V	SIV 8	1V1.0 Filling Grading Levee	Appeals and Variances \$111 F	Building Inspector Board of Adjustment	Certificate of Occupancy required	Fine of not less than \$25 and not more than \$200 plus costs or im- prisonment in County Jail not to exceed 30 days	
City of Red Wing Flood Plain Ordinance	All lands within the jurisdiction of Red Wing shown on the Official Flood Plain Over- lay Map as being located within the boundaries of the Floodway, Flood Fringe, or General Flood Plain areas	Floodway Flood Fringe General Flood Plain	16.5	16.4		16.5 Conditional Uses		Zoning Administrator Board of Adjustment/ Appeals	Required	Fine of not more than \$100 plus costs per offense or in default, imprisonment for not more than 90 days	

Ordinance	Jurisdiction	Districts	Permitted Uses	Provision for Nonconforming Uses	Set Back Provisions	Special Exceptions Permit	Exceptions	Administration	Certificate of Compliance	Penalties	Special Provisions
Dakota County Shoreland Zoning Ordinance	Lakes, rivers, & designated tributaries located in Natural areas of Dakota County	Recreation Lakes Lakes Environment Lakes and Rivers Recreational Rivers Scenic Rivers	\$200	\$043		\$200 Conditional Uses	\$044.3 Variances	Zoning Administrator Board of Adjustment		Fine not to exceed \$500 or imprisonment not to exceed 90 days or both per offense	
City of Cottage Grove Zoning Ordinance	All areas within the city limits of Cottage Grove	5 Residential 4 Business 5 Industrial Conservancy Flood Plain	\$200-53 through \$28-68			\$28-14 \$28-53 through \$28-68	\$28-12 Variances	Zoning Administrator Planning Commission	Certificate of Occupancy required	Fine of not more than \$300 or imprisonment not to exceed 90 days per offense	Article IV
City of Rosemount Flood Plain Zoning Ordinance	All lands within the corporate limits of Rosemount shown on the Official Zoning Map as being located within the boundaries of the Floodway Dist.	Floodway	\$20.31				\$20.4 Variances	Board of Appeals and Adjustments		-H-	
City of Inver Grove Heights \$516 of Zoning Code Flood Plain Management	All lands within the corporate limits of Inver Grove Heights shown on the Official Zoning Map as being located within the boundaries of the Floodway or flood fringe	Floodway Flood Fringe	FM\$516.11.1 FF\$516.13.1	\$516.23		\$516.11.2 \$516.13.2 Conditional Uses	\$516.21.3(a) Variances	Zoning Administrator City Council	Required	Fine of not more than \$500 or imprisonment for not more than 50 days or both plus costs	

[illegible]

Ordinance	Jurisdiction	Districts	Permitted Uses	Provision for Nonconforming Uses	Set Back Provisions	Special Exceptions Permit	Exceptions	Administration	Certificate of Compliance	Penalties	Special Provisions
City of Savage Flood Plain Zoning Ordinance	All lands within the corporate limits of Savage shown on the Official Zoning Map as being located within the boundaries of the Floodway, Flood Fringe or General Flood Plain Districts	Floodway Flood Fringe General Flood Plain	FVH.1 FFS.1 GFP.1	§ 11.0		FVH.2 FFS.2 GFP.2 Conditional Uses	Variances - §10.3(A)(1)	Zoning Administrator Board of Adjustment	Required	Fine not more than \$500 or imprisonment for not more than 90 days or both plus costs	
Land Subdivision Ordinance	The area within the corporate limits of Savage	N/A	N/A				Variances §11.0	Planning Commission City Council		Fine not more than \$300 or imprisonment not exceeding 90 days or both	§11.1 Presentation Requirements §4 Special Regulations
Zoning Ordinance	The area within the corporate limits of Savage	4 Residential, 4 Commercial, 2 Industrial, Preservation Space, Public Buildings, Flood Plain Open Development, Planned Unit Development	§3.1.1.2 3.1.2.2 3.1.3.2 3.1.4.2 3.1.5.2 3.1.6.2 3.1.7.2 3.1.8.2 3.1.9.2 3.1.10.2 3.1.11.2 3.1.12.2 3.1.13.2 3.1.14.2 3.1.15.2	§2.4		§3.1.1.3 3.1.2.3 3.1.4.3 3.1.5.3 3.1.8.3 3.1.11.3 3.1.13.3 3.1.14.3 Uses by Special Permit	Variances §5.6	City Clerk Planning Commission	Fine not more than \$300 or imprisonment not exceeding 90 days or both		

Ordinance	Jurisdiction	Districts	Permitted Uses	Provision for Nonconforming Uses	Set Back Provisions	Special Exceptions Permit	Exceptions	Administration	Certificate of Compliance	Penalties	Special Provisions
Scott County Flood Plain Ordinance	All lands within the corporate limits of Scott County shown on the Flood Hazard Boundary Map as being located within the boundaries of Floodway and Flood Fringe Districts	Floodway Flood Fringe	FWS4.1 FFS5.1	\$10.0		FWS4.2 FFS5.2 Conditional Uses	Variances \$9.33	Planning Director County Board Planning Commission	Building or Occupancy Permit Required	Fine not more than \$500 or imprisonment for not more than 90 days or both plus costs	
City of Afton Zoning Ordinance (Adopted Washington County Zoning Ordinance)	All land within the corporate limits of Afton	Agriculture, Residential, Commercial, Industrial, Flood Plain, Planned Unit Development, Shopping Ctr., Airport Zone, Townhouse, Multiple Family, Lake and Shoreland, Conservancy, Lakes, Limited Planned Unit Development, Original Village & Historical Sites, St. Croix River	\$604	\$402	\$409	\$505 Conditional Use Permits \$506 Special Use Permits	Variances \$504	Zoning Administrator City Council	Certification of Plans Required	Penalty as established by the State Legislature for misdemeanor offense	
Floodplain Ordinance	All land within the corporate limits of Afton	General Flood Plain Floodway Flood Fringe	GFP3.2 FWS4.1 FFS5.1	\$9.0		GFP3.3 Special Uses FWS4.2 Special Uses FFS5.2 Special Uses	Variances \$8.33	Zoning Administrator Planning Commission		Fine not more than \$500 or imprisonment for not more than 90 days or both plus costs	

Ordinance	Jurisdiction	Districts	Permitted Uses	Provision for Nonconforming Uses	Set Back Provisions	Special Exceptions Permit	Exceptions	Administration	Certificate of Compliance	Penalties	Special Provisions
City of Afton Continued Lower St. Croix River Bluffland and Shoreland Management Ordinance (Adopted Washington County Model) Ordinance	All land within the Rural corporate limits of Urban Afton		\$502			Conditional Uses \$50N	\$805 Variances	Zoning Administrator City Council		Penalty as established by the State Legislature for misdemeanor offenses	
City of Labeland 1402 Floodplain Regulation (Adopted Washing- ton County Model Ordinance)	All areas within the corporate limits of Lake- land subject to inundation by the regional flood	-H-	\$501 Flood Plain Regu- lations (Wash- ington County Model Ordinance)	\$402.130		\$402.060 Special Permit Uses	\$402.110 Variances	Zoning Administrator Board of Adjustment/ Appeals		Penalty as established by the State Legislature for misdemeanor offenses	
Lower St. Croix River Bluffland and Shoreland Management Ordinance (Adopted Washington County Model Ordinance)	See City of Afton	See City of Afton	See City of Afton	See City of Afton	See City of Afton	See City of Afton	See City of Afton	See City of Afton	See City of Afton	See City of Afton	
Washington County Zoning Ordinance	All lands within the corporate limits of Washington County	12 Basic Zoning, 9 Overlay	\$604	\$402	\$602.04	\$505 Conditional Uses	\$503 Appeals & Variances	Zoning Administrator Board of Adjustment/ Appeals		Penalty as established by the State Legislature for misdemeanor offenses plus costs	

[illegible]

Due to the special character of the Bloomington Flood Plain District, it is set forth in its entirety.

Sec. 19.39. Flood Plain (F) District.

(a) *Purpose*—To provide a flood plain management procedure which will help to ensure the wise use of the areas subject to flooding within the City by preserving flood water storage areas, protecting property and improvement from damage by flood waters, and protecting the public health and safety.

(b) *Intent*—To provide a supplementary zoning district within any of the existing original districts. Development in the combined district shall comply with all the requirements of the original district in addition to the requirements of this Section.

(c) *Boundaries*—As shown on the zoning map of the City at the 722-foot elevation and at an elevation along Nine Mile Creek which will include the area shown to the limits of the high water indicated in the Nine Mile Creek Water-shed District Plan and further shown in the zoning map of the City. Three copies of the zoning map indicating said elevation lines shall be kept on file by the City Clerk.

(d) *Uses*—The same as those listed in the original zone as to permitted, accessory, and conditional uses with the following added requirements:

(1) No structure shall be placed or alteration, repair, or improvement of any existing structure be made in the flood plain zone without a conditional use permit granted by the City Council after review and comment by the Natural Resources Commission, the appropriate watershed district, and the Minnesota Department of Natural Resources.

(2) No fill, deposit, excavation, or removal of material shall take place in the flood plain zone without a conditional use permit granted by the City Council after review and comment by the Natural Resources Commission, the appropriate watershed district, and the Minnesota Department of Natural Resources.

(Code, 1958 § 7.15; Added by Ord. No. 71-99, 12-27-71; Ord. No. 73-27, 5-14-73)

IV. PERCEIVED ORGANIZATIONAL OBJECTIVES AND RESPONSIBILITIES

Perceived organizational objectives and responsibilities of the political subdivisions in Minnesota are identified in Table 12 . A total of thirty-seven political subdivisions correctly perceived the existence of a Minnesota Department of Natural Resources approved floodplain regulation governing their jurisdiction. Three representatives did not perceive that a floodplain regulation was adopted in their jurisdiction, although the Minnesota Department of Natural Resources indicates otherwise*.

Several other ordinances and regulations were identified as relevant to the study area. These include: zoning ordinance, subdivision ordinance, critical area plan, Mississippi River Corridor Ordinance, interim development regulations, shoreland management ordinance, Lower St. Croix River Shoreland and Bluffland ordinance, sanitary sewer disposal ordinance and mining ordinance. Again, these responses are broken down by political subdivision in Table .

Perceptions of who has enforcement responsibilities of the various ordinances are accurate in most cases. The zoning administrator and planning department were identified most often as being responsible for enforcement of ordinances.

Several perceived goals and objectives of relevant ordinances include:

- prevent substandard housing
- fulfill federal floodplain insurance requirements
- promote and protect health, safety, and welfare of the public
- prevent building in the floodplain
- assure orderly growth of community
- maximization of the recreational use of water bodies
- protection of water quality
- protect river as multiple resource
- preserve river in scenic state
- provide for economic stability

* Verification provided by Tom Lutgen, Minnesota Department of Natural Resources.

Table 12

Perceptions of: Ordinances Regulating Study Area, Who is Responsible for Enforcement of Ordinances, Are Variances to Ordinances Granted, Goals and Objectives of Relevant Ordinances.

<u>Political Subdivision</u>	<u>Identified Ordinances</u>	<u>Perceived Enforcement</u>	<u>Perceived Variances Granted</u>	<u>Perceived Goals and Objectives of Relevant Ordinances</u>
Houston County	None	N/A	N/A	N/A
Brownsville	None	N/A	N/A	N/A
LaCrescent	Floodplain	Zoning Administrator	No	Prevent substandard housing, satisfy federal flood insurance requirements.
Dresbach	None	N/A	N/A	N/A
Dakota	Zoning Ordinance	-M-	-M-	-M-
Winona County	Zoning Ordinance	Zoning Administrator	Yes	Positive control of environment ; promote, protect health, safety, and welfare of people.
	Floodplain Ordinance	Zoning Administrator	Yes	
	Subdivision Ordinance	Zoning Administrator	Yes	
Homer	None	N/A	N/A	N/A
Winona	Flood Plain Zoning Ordinance	Engineering and Zoning Official	No	Protection of property and safety of citizens.
Wabasha County	Flood Plain Zoning Ordinance	Planning Commission	Yes	Satisfy federal flood insurance requirements, minimize damage from flooding.
Minneiska	None	N/A	N/A	N/A
Wabasha	None	N/A	N/A	N/A
Lake City	Zoning Ordinance	Zoning Administrator	Yes	Prevent building in the floodplain, control building in flood fringe areas, assure orderly growth of community.
	Flood Plain Ordinance	Zoning Administrator	Yes	

<u>Political Subdivision</u>	<u>Identified Ordinances</u>	<u>Perceived Enforcement</u>	<u>Perceived Variances Granted</u>	<u>Perceived Goals and Objectives of Relevant Ordinances</u>
Goodhue County Red Wing	Zoning Ordinance	Zoning Department	Yes	Minimize pollution.
	Zoning Ordinance Flood Plain	City Planning Dept.	No	Satisfy federal flood insurance requirements, control development.
	Zoning Ordinance	City Planning Dept.	No	Protection of: quality of water; health, safety and welfare of shoreland residents which possess outstanding scenic, recreational, natural, historical, scientific, and similar values. The prevention of groundwater pollution. The maximization of the recreational use of affected water bodies.
Dakota County	Shoreland Zoning Ordinance	Planning Department	Yes	
	Critical Area Plan	Planning Department	No	
Hastings	Flood Plain Ordinance	-M-	-M-	-M-
	Critical Area Plan	-M-	-M-	-M-
	Zoning Ordinance	Planning Department	Yes	Preservation of natural resources, rural and open space. Promote safety.
Cottage Grove	Flood Plain Ordinance	Planning Department	No	
	Critical Area Plan	Planning Department	No	
	Zoning Ordinance	Planning/Building Dept.	Yes	
	Subdivision Ordinance	Planning/Building Dept.	No	
	Mississippi River Corridor	Planning/Building Dept.	No	
	Ordinance	Planning/Building Dept.	No	
	Flood Plain Ordinance	Planning Department	-M-	
Rosemount	Critical Area Plan	Planning Department	-M-	
				Protect river as a multiple resource; primarily industry and recreation. Promote orderly growth in the community. Protect environmentally sensitive areas.

<u>Political Subdivision</u>	<u>Identified Ordinances</u>	<u>Perceived Enforcement</u>	<u>Perceived Variances Granted</u>	<u>Perceived Goals and Objectives of Relevant Ordinances</u>
Inver Grove Heights	Flood Plain Ordinance Zoning Ordinance	City Staff City Staff	Yes Yes	Permit use of floodplain for necessary human and compatible use. Set physical standards that development must meet. Accomodate a variety of housing, industrial, and commercial needs
Saint Paul Park	Zoning Ordinance	Police/Building Insp.	Yes	Establish a flood zone, and criteria for development.
Newport	Flood Plain Ordinance	Clerk/Administrator	Yes	Control building in flood plain. Satisfy federal flood insurance requirements.
South St. Paul	Zoning Ordinance Flood Plain Ordinance	Code Enforcement Officer Code Enforcement Officer	No No	Comply with federal and state mandates.
Ramsey County	Parks and Open Space Ordinance	County Sheriff	N/A	Govern the conduct of members of the public during their use and enjoyment of the Ramsey County Open Space System so as to further the safety, health, enjoyment and welfare of all persons in the use thereof, and to protect public property and resources for posterity.

<u>Political Subdivision</u>	<u>Identified Ordinances</u>	<u>Perceived Enforcement</u>	<u>Perceived Variances Granted</u>	<u>Perceived Goals and Objectives of Relevant Ordinances</u>
Saint Paul	Zoning (Flood Plain) Ordinance Interim Development Regulations	Zoning Administrator City Staff	Yes Yes	Promote the public health, safety and general welfare.
Lillydale	None	N/A	N/A	N/A
Hennepin County Minneapolis	None Zoning (Flood Plain) Ordinance Interim Development Regulations Park Board Ordinances	N/A Zoning Administrator City Staff Police	N/A No N/A N/A	N/A Promote the public health, safety, and general welfare.
Mendota	Zoning Ordinance	-N-	-N-	Zoning Ordinance recognizes riverfront as a conservation area.
Mendota Heights	None	N/A	N/A	N/A
Eagan	Zoning (Flood Plain) Ordinance	City Planner	Yes	Protection of human health and life.
Bloomington	Flood Plain Zoning	-N-	No	Control building.
Burnsville	Zoning Ordinance	City Manager	Yes	Assure environmentally safe development along the river.
Savage	Zoning (Flood Plain) Ordinance Land Use Sub-division Ordinance	Zoning Administrator Zoning Administrator	Yes Yes	Preserve riverfront for industrial, commercial, and recreational uses.
Scott County	Flood Plain Ordinance Shoreland Management Ordinance	Planning/Inspection Planning/Inspection	No No	Minimize destruction of life and property in the floodway. Provide for consistent and orderly development along the river.

<u>Political Subdivision</u>	<u>Identified Ordinances</u>	<u>Perceived Enforcement</u>	<u>Perceived Variances Granted</u>	<u>Perceived Goals and Objectives of Relevant Ordinances</u>
Carver County	Flood Plain Ordinance	Zoning Administrator	No	Prevent building in floodplain, Preserve agricultural land. Maintain water quality.
	Zoning Ordinance Shoreline Ordinance	Zoning Administrator	Yes	
		Planning Department		
Afton	Zoning Ordinance	City Council	No	Control development. Preserve river in scenic state. Minimize pollution of river. Provide septic regulations.
	Flood Plain Ordinance	City Council	No	
	Lower St. Croix River Shoreland and Bluffland Ordinance	City Council	No	
Lakeland	Scenic River MR 2200	City Council	No	Control development along river. Protect building in the floodplain.
	Lower St. Croix River Shoreland and Bluffland Ordinance	Minnesota DNR	Yes	
	Flood Plain Ordinance	-M-	Yes	
Bayport	Zoning Ordinance	City Council	No	Follow comprehensive plan. Slope requirements.
	Zoning Ordinance	City Council	Yes	
	Zoning Ordinance Lower St. Croix River Shoreland and Bluffland Ordinance	City Council	Yes	
Stillwater	Zoning Ordinance	City Council	Yes	Land along river should be left undeveloped for parks. Allow special uses within zoned districts
	Special Use Permits	-M-	No	
		City Council	N/A	

<u>Political Subdivision</u>	<u>Identified Ordinances</u>	<u>Perceived Enforcement</u>	<u>Perceived Variances Granted</u>	<u>Perceived Goals and Objectives of Relevant Ordinances</u>
Washington County	Zoning Ordinance	Planning Department	Yes	Provide for orderly growth, economic stability, and general welfare.
	Shoreland Management Ordinance			
	Flood Plain Ordinance	Planning Department	Yes	
	Sanitary Sewer Disposal Ordinance	Planning Department	No	
	Subdivision Ordinance	Planning Department	No	
	Mining Ordinance	Planning Department	Yes	
	Lower St. Croix River Shoreland and Bluffland Ordinance	Planning Department	No	
		Planning Department	Yes	

V. IDENTIFIED WATER-RELATED PROBLEMS IN THE STUDY AREA

Although some political subdivisions share some water-related or land use problems, many perceived problems are unique to a particular political subdivision. Listed below are identified problems by political subdivision.

- WINONA COUNTY: This representative perceived a problem with discontinuity between MINNESOTA DNR, WISCONSIN DNR, and the Corps of Engineers' regulations governing the river. He expressed the desire for uniformity of the regulations governing the river and riverfront lands mandated by these agencies.
- WABASHA COUNTY: This representative identified several water-related or land use problems. First, he perceived a conflict between commercial and recreational users of the river in Wabasha County. However, no cause of or solution to the conflict was offered. Second, the portion of the river which abuts Wabasha County was perceived as being very polluted. Third, sedimentation from a tributary, the Chippewa River, was perceived as a problem. Finally, the dumping of dredge spoil was identified as a problem. It was perceived that the present dumping of spoil contributes to erosion of back waters.
- WABASHA: This representative identified three problems: (1) erosion of the banks of the Mississippi River; (2) the dumping of dredge spoils; and (3) he stated that he does not know what the city can and cannot do because of uncoordinated State and Federal regulations.
- RED WING: The Red Wing representative also perceived a lack of coordination between State and Federal agencies having jurisdiction over the river. Again, no solutions were offered.
- HASTINGS: The representative from Hastings indicated a need for dredging of Lake Isabelle.
- INVER GROVE HEIGHTS: This representative perceived that the Metropolitan Council plays too large a role in the local planning process. He stated that planning should be left up to the local entity.
- ST. PAUL PARK: This representative identified four water-related and land use problems. First, the noise level of river traffic was perceived as excessive. Second, sewage pollution of the river was identified. Third, there was a concern for the safety of river users due to competing industrial and recreational users. Fourth, he perceived that recreational use has declined during the past few years.
- NEWPORT: This representative identified barge traffic as a problem in their area. Specifically, the noise level of passing barges was perceived as being excessive.
- ST. PAUL: The representative from St. Paul stated that participation by Minnesota Department of Transportation (DOT) in concerns of the river is lacking. He perceived that since the Mississippi River is a major source of transportation, the Minnesota DOT should become more involved in matters regarding the river.

- BLOOMINGTON: The only concern identified by this representative was that the City of Bloomington did not want barges to board on the Bloomington side of the Minnesota River.
- AFTON: This representative expressed a need for additional sand to improve a swimming beach at Steamboat Park located along the St. Croix River.
- LAKELAND: This representative perceived two related problems. First, he stated that there was excessive boat traffic on the St. Croix River, especially on weekends. This can be seen as a cause for the second perceived problem. The excessive traffic was perceived as contributing to an annoying noise level.

In sum, twelve political subdivisions offered perceived water-related and land use problems, while twenty-eight political subdivisions offered no perceived problems.

VI. ASSESSMENTS OF OTHER REGULATING ENTITIES

Table 13 illustrates the perceptions of local government officials regarding other organizations who have overlapping power and authority. The table also includes those organizations which are perceived to be important in local issues affecting the riverfront (e.g., planning, funding, coordinating assistance, and data collection).

Most representatives identified the Minnesota Department of Natural Resources as the approval agency for floodplain ordinances. However, six representatives did not identify the DNR when in fact, their jurisdictions do have a DNR approved floodplain ordinance. These entities include: LaCrescent, Wabasha, Inver Grove Heights, Lilydale, St. Paul Park, and Burnsville.

Several representatives identified the Minnesota Pollution Control Agency as providing regulation and assistance to their political subdivision.

Representatives from eleven jurisdictions perceived the Corps of Engineers as having authority to grant permits for development affecting the river. Six representatives perceived the Fish and Wildlife Service as also having power to grant permits.

Representatives from twelve metropolitan entities identified the Minnesota Environmental Quality Board as having authority to approve critical river corridor plans developed by their respective planning departments. Similarly, eight metropolitan representatives identified the Metropolitan Council as being influential in the local planning process.

Other agencies perceived by a few political subdivisions as having authority and power over matters regarding the river include: H.U.D., F.E.M.A., Metropolitan Open Space Commission, H.R.A., U.S. Coast Guard, and the Minnesota-Wisconsin Boundary Area Commission.

Several other entities were perceived by local representatives as being important or influential in matters concerning the riverfront. For example, the Soil Conservation Service was identified by three representatives as providing data for local soil studies. Region 10 Development Commission was also identified by one representative as providing data for planning purposes. The Metropolitan Council was also perceived as providing data as well as funding to metropolitan entities.

Other organizations perceived as providing data to local entities include: Minnesota Historical Society, National Park Service, and H.U.D.. Those agencies identified as providing financial assistance to local entities were: U.S. Department of Interior, Metropolitan Open Space Commission, Federal Economic Development Administration, and H.U.D.. For a detailed breakdown by political subdivision, see Table 13.

Table 13

Perceived Organizational Ties.

Agency	Houston County	Brownsville	Lafayette	Dresbach	Dakota	Winona County	Winona	Wabasha County	Minnesota	Wabasha	Lake City	Goodhue County	Red Wing	Dakota County	Hastings	Cottage Grove	Rosemount	Inver Grove Hgts.	St. Paul Park	Newport	So. St. Paul
F.E.M.A.																	X			X	X
H.R.A.																					
H.U.D.																	X				
League of Minnesota Cities																T					
Metropolitan Council														0,X		0,X	0,X	X			
Metropolitan Open Space Commission																					
Minnesota Dept. of Natural Resources	X	X				X		0,X			0,X	X	X		X	X	X			X	X
Minnesota Dept. of Transportation											X										
Minnesota Environmental Quality Board														X	X	X	0,X				X
Minnesota Historical Society											0		0								
Minnesota Pollution Control Agency						X		X					X			X			X		

Key:

- X - Perceived As Having Power and Authority
- 0 - Perceived As Providing Data
- T - Perceived As Providing Funding

Agency	Houston County	Brownsville	LaGracient	Dresbach	Dakota	Winona County	Homer	Winona	Wabasha County	Minnesota	Wabasha	Lake City	Goodhue County	Red Wing	Dakota County	Hastings	Cottage Grove	Rosemount	Inver Grove Hgts.	St. Paul Park	Newport	So. St. Paul
Minnesota-Wisconsin Boundary Area Comm.																						
National Park Service									0													
Region 10 Development Commission																	0					
Soil Conservation Service					0									0								
State Planning Agency																						
U.S. Army Corps of Engineers	X				0			0,X				0,X	X	X								
U.S. Coast Guard																						
U.S. Department of Interior																						
U.S. Fish & Wildlife Service	X							X						X								
U.S. Geological Survey																						

Key:

- X - Perceived As Having Power and Authority
- 0 - Perceived As Providing Data
- T - Perceived As Providing Funding

Agency	Ramsey County	St. Paul	Litdale	Hennepin County	Minneapolis	Mendota	Mendota Heights	Eagan	Bloomington	Burnsville	Savage	Scott County	Carver County	Afton	Lakeland	Dayport	Stillwater	Washington County
F.E.M.A.		0,X													X			0,X
H.R.A.									X									
H.U.D.		T										X						
League of Minnesota Cities																		
Metropolitan Council	X,T			0,T	T,X					X,T	X	X						
Metropolitan Open Space Commission		T																
Minnesota Dept. of Natural Resources		0,X			X			X	X		X	0,X	X	0,X	X	X	X	0,X
Minnesota Dept. of Transportation		X						0										
Minnesota Environmental Quality Board		X	X		X	X				X	X							
Minnesota Historical Society																	0	
Minnesota Pollution Control Agency		0,X			X					X								0,X

Key:

- X - Perceived As Having Power and Authority
- 0 - Perceived As Providing Data
- T - Perceived As Providing Funding

Agency	Ramsey County	St. Paul	Litdale	Hennepin County	Minneapolis	Mendota	Mendota Heights	Canan	St. Cloud	Burnsville	Savage	Scott County	Carver County	Afton	Lakeeland	Bayport	Stillwater	Washington County
Minnesota-Wisconsin Boundary Area Comm.																		X
National Park Service																		0
Region 10 Development Commission																		
Soil Conservation Service														0				
State Planning Agency																		
U.S. Army Corps of Engineers					X				X		X		X		X	X	X	
U.S. Coast Guard										X			X				X	
U.S. Department of Interior		0, T																
U.S. Fish & Wildlife Service									X				X				X	
U.S. Geological Survey													0					

Key:

- X - Percieved As Having Power and Authority
- 0 - Percieved As Providing Data
- T - Percieved As Providing Funding

VII. ORGANIZATIONAL INTERRELATIONS AND THE PLANNING PROCESS

Organizational interrelationships perceived by the representatives of the local government units is addressed in the previous section. Table 13 indicates the perceived relationships between the organizations concerning planning, funding, coordinating assistance, and data collection.

VIII. PROSPECTS FOR LOCAL GOVERNMENT INVOLVEMENT

Expressed concerns for involvement with the U.S. Army Corps of Engineers' Master Plan by representatives of the Minnesota political subdivisions are summarized on Table 14.

Table 14

Expressed Concern for Involvement in the Corps of Engineer's Master Plan.

Political Subdivisions

Expressed Concern

Houston County

County should be involved during the whole planning process.

Brownsville

Would not like to be involved.

LaCrescent

Would like to be informed.

Dresbach

Would give input to policy making through Houston County Planning and Zoning Committee.

Dakota

No Response.

Winona County

County officials would attend meetings. Would like to be kept informed.

Homer

Would attend locally held meetings.

Winona

Would like to be kept informed on any proposed changes.

Wabasha County

Would like to be kept informed and be able to react to any proposal.

Minneiska

Would attend locally held meetings.

Wabasha

Would like communication between the city and the COE to see what is available to the city.

Lake City

Reviewal/Approval of final report.

Goodhue County

Would like the opportunity for review and comment on the final plan.

Red Wing

Would actively participate in a public involvement program.

Dakota County

Would like to be kept informed. Would attend meetings.

Hastings

Would like to give input on development of Lake Isabelle.

Cottage Grove

Would like to be kept informed. Master Plan should incorporate Cottage Grove Master Plan.

Rosemount

Would like to be put on mailing list. Reviewal of plan. Would furnish the COE with information.

Inver Grove Heights

The public should be given the opportunity to participate.

St. Paul Park

Would like to be kept informed.

Political Subdivisions

Expressed Concern

Newport

City Administrator should be put on mailing list to be kept informed.

South St. Paul

Would not like to be involved.

Ramsey County

Review data compiled for reliability. Review Master Plan at design stage. Review final report.

St. Paul

Expressed a strong desire to give input.

Lilydale

Would not like to be involved.

Hennepin County

Would like to have advisory input and reviewal of final plan.

Minneapolis

Would be involved through Metropolitan Council input.

Mendota

Would like to be kept informed.

Mendota Heights

Would like to be put on a mailing list to be kept informed.

Eagan

Would like to be kept informed on plan affecting Eagan.

Bloomington

Would like to be kept informed.

Burnsville

Would attend public hearings. Would like to be kept informed.

Savage

Would like to give input if plan affects Savage.

Scott County

Would like to be put on a mailing list to be kept informed.

Carver County

Would like to be kept informed.

Afton

Would like to be kept informed.

Lakeland

Would like the opportunity to give input, e.g., citizen advisory committee.

Bayport

Would like to be kept informed. Would like input on decisions affecting Bayport.

Stillwater

Review and comment on the final plan.

Washington County

COE should adapt its plan to local plans for the preservation of sensitive ecological systems of the St. Croix River.

IX. SITE-SPECIFIC RECOMMENDATIONS--MINNESOTA RIVER

Scott County would be of limited use for master planning efforts since the only land within the study area is the City of Savage. Savage would be a suitable area to concentrate planning efforts as the city is currently updating its comprehensive plan. Presently, the land along the river is used for commercial, industrial, residential, and limited recreation uses. The recreation identified by this representative include hunting and fishing.

The City of Burnsville is also a prime area for recreational planning. Burnsville is in the process of developing a comprehensive parks and recreation plan, part of which would affect the land along the Minnesota River. However, any planning done in the Burnsville area would have to take into consideration a trail system that is currently being planned throughout the Minnesota River bottomland by the Minnesota Department of Natural Resources and the U.S. Fish and Wildlife Service. The City of Bloomington is also affected by this trail system so any planning in the Bloomington area would have to take account of this.

The City of Eagan should be included in any plans affecting the Minnesota River. There is an active park and recreation committee in Eagan which could provide valuable assistance. Many recreational uses of the river and the land along the river, already take place in Eagan. Some of these include: Fort Snelling State Park, fishing, swimming, hiking, and hunting.

MISSISSIPPI RIVER

POOL 1

There is little opportunity for further development of land along the Mississippi River in Pool One. Minneapolis, for example, includes only a very narrow portion of land along the river for parks and open space in the Minneapolis Land Use Plan for the 1980's. These areas along the river are near Nicollet Island and just north of the University of Minnesota.

The City of St. Paul; however, does provide a little more opportunity for prospective recreational development. Only about five to six percent of the land along the river is privately owned. It is estimated that sixty to sixty-five percent of the land along the river is currently being used in a passive recreational capacity (e.g., picknick grounds).

POOL 2

Those entities located along the river in Pool Two include: Dakota County, Mendota Heights, Mendota, Lilydale, Newport, St. Paul Park, South St. Paul, Inver Grove Heights, Rosemount, and Cottage Grove.

The only area along the river where Dakota County has jurisdiction includes the townships of Ravenna and Ninninger (Ravenna lies in Pool Three). Spring Lake Regional Park Reserve is located in Ninninger Township and the city of Rosemount along the banks of the river. Dakota County is currently in the process of acquiring additional land along the river for the regional park reserve. Coordinated planning efforts should occur in this area to take into consideration the Dakota County Development Concept. That is, any development follows guidelines recommended by the Metropolitan Council. According to these guidelines, development within a regional park reserve will be limited to twenty percent of the total park area to preserve the landscape in its natural condition. Predominant uses in the park are of the passive recreational variety.

The city of Mendota is a small entity that has few resources to devote to recreational planning. In addition, it was stated by the representative of Mendota that the riverfront should remain in its natural state. Therefore, Mendota would contribute little to the master planning efforts.

Similarly, the city of Lilydale has limited funds to spend on planning in addition to the expressed concern that the city does not wish to be involved in planning.

The cities of Newport and St. Paul Park may be of some interest for recreational planning. Representatives from both places expressed a disgust with barge traffic and would welcome alternative uses that would minimize noise level by reducing barge traffic.

The cities of Inver Grove Heights, Rosemount, and Cottage Grove all expressed interest in the Corp's Master Plan. Planning within these cities should not only include the local planning commissions, but also the Metropolitan Council as it has strong influence on planning in these areas. Specifically, Cottage Grove may be a suitable area for recreational planning. Much of the land along the river is rural and open space. In addition, there exists a small park along Lower Grey Cloud Island. It was also stated by the Cottage Grove representative that any planning done that affects Cottage Grove should take into consideration the Cottage Grove Master Plan.

POOL 3

A portion of Dakota County, Ravenna Township, also lies in Pool Three. According to the Ravenna Township Plan, the State of Minnesota currently owns one small and two large parcels of land in Ravenna. These areas are designated as the Gores Wildlife Management Area; and are secured for environmental conservation and preservation. This area is within the Minnesota Memorial Hardwood Forest. The Minnesota Department of Natural Resources and the Federal Bureau of Outdoor Recreation intend to purchase some 200,000 acres of land for multi-purpose conservation/recreation uses within this large area over the next thirty years. The lands to be purchased are primarily along the Mississippi River and its tributaries. It is further stated in the plan that the township will cooperate with all State and Federal agencies in the management of these undeveloped wildlife areas. Therefore, depending on the goals and objectives of the Corps' Master Plan, the township of Ravenna may or may not be of possible assistance.

The city of Hastings could also prove to be beneficial for recreational planning. Currently, Rebecca Park lies along the Mississippi River within the city of Hastings. It was stated that there is an interest for more dockage and a public access to the river. Recreational development in this area could be mutually beneficial for the city of Hastings and the Corps.

POOL 4

There are two political subdivisions in Pool Four that emphasize recreational use of the river. First, Lake City lies along the shores of Lake Pepin. Essentially all of the shoreland is devoted to recreational use (e.g., beach, picknick grounds) or provides access to the river for recreational use (e.g., swimming, waterskiing, fishing). Although most of the land along the river is already developed, Lake City possesses excellent resources for ultimate recreational use of the river.

In Wabasha, the other city in Pool Four, the river is seen as contributing to a high quality recreation area. For example, the Mississippi Queen and the Delta Queen Riverboats board at Wabasha. In addition, the river and the land along the river provide for swimming, camping, fishing, and waterskiing. The city of Wabasha heavily depends economically on recreational users during peak recreational seasons. Therefore, Wabasha would be an ideal location for recreational planning. However, close cooperation and coordination with the local citizens is suggested as the representative from Wabasha expressed skepticism about further federal intervention.

POOL 5

Although part of Wabasha County lies in Pool Four, site-specific recommendations for this area will be discussed here. The greatest potential locations for recreational planning in Wabasha County are Lake City and Wabasha (see Pool Four). The remaining portion of Wabasha County leaves little opportunity for development as railroad tracks lie adjacent to the river.

One possible source for additional recreational facilities in Wabasha County is Minneiska. Although the population of Minneiska is very small and therefore, cannot afford to assist in financial matters, the representative of Minneiska expressed a desire for a small park and a canoe access.

POOL 6

The city of Winona possesses the greatest resources for additional recreational development in Pool Six. Presently, there are parks located along the river which provide boat access to the river. In addition, it was expressed by the Winona representative that there exists a good working relationship with the Corps and expressed for the city a desire to be involved in planning efforts. It should be mentioned that there is a Winona Comprehensive Park and Recreation Master Plan and any additional planning should take this into consideration.

The second entity located along Pool Six is the town of Homer. This appears as an unlikely area for recreational development. There are currently no developed recreation areas in Homer. The swimming and waterskiing that occurs originates from a naturally made sandbar. It was stated by this representative that the goal for the riverfront in Homer is to preserve it in its natural state.

POOL 7

Although portions of Winona County lie along Pools Six and Eight, site-specific recommendations for this area will be discussed here. Most of the developed recreational areas in Winona County lie within the corporate limits of Winona, Dakota, and Dresbach. The land along the river in the unincorporated areas of Winona County offers some opportunity for recreational planning. With the exception of a few boat landings, most of the land is undeveloped.

Presently, the Dakota city council is in favor of maintaining the riverfront as it currently exists. Therefore, until there is a change in the attitude of the members of the city council, recreational planning in this area would be of little value.

Many of the people from Dakota travel to Dresbach for recreational use of the river. The park that is located along the riverfront is very popular during the recreational season. In addition, there is a boat landing that provides access to the river. It was stated by this representative that swimming from Dresbach Island is also a popular form of recreation that utilizes the river. Therefore, Dresbach provides an ideal location for further recreational development.

POOL 8

The city of LaCrescent yields little opportunity for recreational development. With the exception of a boat landing that lies immediately north of the city, there is mostly wetland west of the channel that provides for wildlife preservation. Currently, the citizens of LaCrescent travel short distances to either Dresbach or LaCrosse for recreational use of the river. Therefore, recreational planning in this area would be of limited use.

Although the city of Brownsville is too small to offer financial resources for recreational planning, this representative did favor recreational use of the river. He also indicated that people travel several miles to use the river along the shores at Brownsville. One possible use of the land along the river utilizes the railroad tracks that are no longer in use. This may provide for horseback and hiking trails in the summer and snowmobile or ski trails in the winter.

The last entity in Minnesota, Houston County, lies adjacent to Pools Eight and Nine but will be discussed here. Presently, with the exception of boat landings, the unincorporated land along the river provides for undeveloped recreation such as shore fishing, swimming, and camping. Recreational development that would enhance current uses of the river would be welcome according to the representative from Houston County. However, there is a strong interest group comprised of boat house owners in this area. Concerned About River People (C.A.R.P.) focuses on and is troubled by the elimination of boat houses. Any proposed development that would diminish use of boat houses can expect strong opposition from this group.

SITE-SPECIFIC RECOMMENDATIONS---ST. CROIX RIVER

The Minnesota entities lying along the St. Croix River include: Washington County, Stillwater, Bayport, Lakeland and Afton.

According to the representative from Washington County, all access to the river in the unincorporated areas is private property. This fact makes government sponsored recreational development in this area very unlikely. It should be noted that although the land along the river is privately owned, it is already extensively used for recreation.

The riverfront within the corporate limits of Stillwater is also extensively developed for recreation. At the present time, there are facilities for picknicking, boat parking, and shore fishing. In addition, annual events are held in Stillwater specifically to attract recreationists. The Park Board is very active in matters concerning the riverfront and any proposed development in this area should be coordinated with this department.

The land along the river within the city of Bayport is pretty much already developed. Recreation seems to play a major role in this community as the riverfront is used for parks, public boat landing, swimming, fishing, and snowmobiling. There is a strong interest in this community for local planning and therefore, the city planning and zoning commission should be involved in master planning efforts regarding Bayport.

Currently, Lakeland's recreational use of the river consists of a public swimming beach. There is, however, a design for a boat landing in the city's comprehensive plan. Although the city does not have the resources to assist in recreational planning, there is a desire to be kept informed of planning efforts in the area.

The last Minnesota entity located along the St. Croix River is Afton. The recreational uses cited in this area are of the passive variety such as picknicking, hiking, and birdwatching. The two parks located in this area are Steamboat Park and Afton State Park. Currently, there are no facilities for swimming or boat launching. This representative expressed a desire for a canoe access and sand at Steamboat Park for a swimming beach.

APPENDICES

APPENDIX A

METHODOLOGY

To carry out the institutional analysis, a variety of data collection procedures were used. First, personal interviews of one representative from each of 80 organizations were conducted to collect organizational and financial data as well as individual perceptions and attitudes toward existing land use legislation, organizational ties, and future involvement with the Corps of Engineers' Master Plan. The individuals chosen to be interviewed were the chief executive officers of local units of government (i.e., mayor, county board chairman, county administrator). In a few cases, the chief executive officer was inaccessible and the next highest ranking accessible official was substituted.

Approximately two weeks prior to interviewing, a letter was sent to each interviewee explaining the purpose of the institutional analysis and asking for their assistance. However, due to strict timelines, an explanation letter was not sent to the first ten or fifteen representatives. Rather, they were contacted by telephone one day and were interviewed the next day. As a result, these individuals were not as prepared as those who received an explanation letter and therefore, the data obtained for these organizations is not as complete as for the other organizations.

The interview schedule consisted of close-ended and open-ended questions. The close-ended questions allow one to easily quantify responses while the open-ended questions provide the opportunity for responses that may be unique to an organization. A copy of the questionnaire is provided in Appendix C.

A second procedure involved a search of the Iowa, Wisconsin, and Minnesota Statutes. This was done to determine precisely what authority a county or municipality has regarding land use, floodplain management, or other matters affecting the riverfront. The statutory analysis also delineated formal ties between the local institutions and regional and state organizations that are influential in the study area.

Third, telephone calls were made to key officials to verify data obtained during personal interviews. In addition, in one instance (Bloomington, Minnesota), the interview data was obtained via the telephone due to the inaccessibility of the local representative.

Fourth, county directories were used to verify the organizational structure of counties and municipalities within each county.

The final procedure consisted of a content analysis of local legislation relevant to the riverfront. For those ordinances that were obtained during personal interviews, a summary table was utilized depicting the important aspects of each ordinance.

APPENDIX B

GLOSSARY OF PERSONS INTERVIEWED

Iowa Counties

Allamakee
Clayton

Iowa Cities

Clayton
Guttenberg
Harpers Ferry
Lansing
Marquette
New Albin

Wisconsin Counties

Buffalo
Crawford
Grant
LaCrosse
Pepin
Pierce
St. Croix
Trempealeau
Vernon

Wisconsin Municipalities

Alma
Bagley
Bay City
Buffalo
Diamond Bluff
Ferryville
Fountain City
Genoa
Glen Haven
Hudson
LaCrosse
Lynxville
Maiden Rock
North Hudson
Pepin
Prairie du Chien
Prescott
Stockholm
Stoddard
Trempealeau
Wyalusing

Minnesota Counties

Carver
Dakota
Goodhue
Hennepin
Houston
Ramsey
Scott
Wabasha
Washington
Winona

Minnesota Municipalities

Afton
Bayport
Bloomington
Brownsville
Burnsville
Cottage Grove
Dakota
Dresbach
Eagan
Hastings
Homer
Inver Grove Heights
LaCrescent
Lake City
Lakeland
Lilydale
Mendota
Mendota Heights
Minneapolis
Minneiska
Newport
Red Wing
Rosemount
St. Paul
St. Paul Park
Savage
South St. Paul
Stillwater
Wabasha
Winona

APPENDIX C

ST. PAUL DISTRICT, U.S. ARMY CORPS OF ENGINEERS
INSTITUTIONAL ARRANGEMENTS FOR THE
UPDATED MASTER PLAN
UPPER MISSISSIPPI RIVER

1. BACKGROUND

INTERVIEW DATE: _____

A. Name of Entity: _____

INTERVIEWER: _____

B. Interviewee:

1. Name: _____

2. Title: _____ Elected _____ Appointed _____ Other _____

3. Address: _____

4. Phone: () _____

C. I would like to ask you a series of questions about the structure of your:

COMMUNITY COUNTY ORGANIZATION (Circle one) Does it have:

Office	Elected	Appointed	No.	Term	Primary Duties	*Permanent Department Membership
1. Mayor County Comm. Chief Ex. Off.						
2. City Manager						
3. Council Districts/Citywide Township/Countywide Board of Supervisors						
4. Aldermen Districts/Citywide						
5. Treasurer						
6. Clerk						
7. Zoning Administrator						
8. Auditor						
9.						
10.						

* Is this individual a member of any of the permanent departments listed in D or E?

D. What Commissions or Committees use or affect the lands along the river?

	<u>Committee/Commission</u>	<u>Permanent</u>	<u>Ad hoc</u>	<u>No.</u>	<u>Fixed Appt.</u>	<u>Term</u>
1.	_____	_____	_____	_____	_____	_____
2.	_____	_____	_____	_____	_____	_____
3.	_____	_____	_____	_____	_____	_____
4.	_____	_____	_____	_____	_____	_____
5.	_____	_____	_____	_____	_____	_____
6.	_____	_____	_____	_____	_____	_____
7.	_____	_____	_____	_____	_____	_____

How does this entity affect the river resources? (Repeat for all named)

1. _____
2. _____
3. _____
4. _____
5. _____
6. _____
7. _____

E. Permanent Departments

	BUDGET							Who
	Income	Expenditures	App	Elect	Vol	FT	PT	Hires
1. Police								
2. Fire								
3. Wastewater								
4. Utilities								
5. Streets/San.								
6. Parks/Rec.								
7. _____								
8. _____								

F. What area along the river is covered by your corporate limits?

(Refer to COE map - - mark River Miles) Record here also. _____ to _____

G. Do you have extraterritorial jurisdiction?

_____ Yes _____ No

H. How often have you exerted extraterritorial jurisdiction in the past 3 years?

I. What are the geographic boundaries of your extraterritorial authority?

From _____ To _____

II. Now I would like to ask you a series of questions concerning the COMMUNITY'S COUNTY'S ORGANIZATION'S relationship to the river.

A. What ordinances, regulations or other legislation do you have that regulate the riverfront? (List)

1. Who is responsible for legislating?

2. Who is responsible for enforcing?

3. Are any other agencies actively involved in any way with this _____ (ordinance, regulation)

4. What goals or objectives are you trying to achieve with the _____ (ordinance, regulation).

5. Do you grant variances?

a. (If yes - how many per year?)

6. What factors are considered in granting or denying variances?

7. Does the public participate in matters concerning _____ (ordinance, regulation)

a. (If yes - what is the form of their participation?)

1. _____
2. _____
3. _____
4. _____

LEGAL MANDATES				VARIANCES		
Legislation Regulation Ordinance	Assoc. Resp. (s)	Entities Involved	Goals & Objectives	Variance Granted		Factors in Grant/Denying Variance
				No	Yes: # per yr.	
1.						
2.						
3.						
4.						

PUBLIC INVOLVEMENT							
Does Public Participate in Matters Concerning (Refer to Categories)							
No	Yes:	Form of Participation	Extent of Participation				
			V. Freq.	Freq.	Some.	Seld.	Never

5. _____
6. _____
7. _____
8. _____

LEGAL MANDATES				VARIANCES		
Legislation Regulation Ordinance	Assoc. Resp. (s)	Entities Involved	Goals & Objectives	Variance Granted		Factors in Grant/Denying Variance
No	Yes: #	per yr.				
5.						
6.						
7.						
8.						

PUBLIC INVOLVEMENT							
Does Public Participate in Matters Concerning (Refer to Categories)							
No	Yes:	Form of Participation	Extent of Participation				
			V. Freq.	Freq.	Some.	Seld.	Never

NOTES

B. Again, focusing on the river, you mentioned earlier that other agencies were involved in your _____ ordinance (regulation)

1. Would you explain how you worked with these agencies?

	<u>LEGISLATION</u>	<u>AGENCY</u>	<u>DESCRIPTION</u>
1.	_____	_____	Define Ties: _____ _____ _____ Ex. of powers exerted: _____ _____ _____ 2.
2.	_____	_____	_____ _____ _____ _____ _____ _____ 3.
3.	_____	_____	_____ _____ _____ _____ _____ _____ 4.
4.	_____	_____	_____ _____ _____ _____ _____ _____

C.

1. As I stated at the beginning, the COE is updating its Master Plan for the river.

a. How do you wish to be involved?

b. Are there any recreation-oriented interest groups that should be involved in this?

2.

a. A public involvement program is being designed and will soon be underway. Do you feel the community should be actively involved?

_____ Yes

_____ No

b. Who else do you believe should be active? (list)

Thank you very much for your time and assistance in answering these questions. The last thing that I need are copies of pertinent ordinances, an organization chart, and a zoning map. A copy of the institutional analysis will be mailed to you when the study is completed.

Checklist:

Provided

Need

Organization Chart

Zoning Map

Ordinances

 Zoning

 Land Use

 Floodplain

 Conditional Use

 (List others)

Budget

Charter

III. Finally, I would like to ask you some specific questions about the use of the riverfront lands. For this, I would like to refer to a zoning map. (GET ONE)

A. What is your riverfront used for right now?

_____ Commercial

_____ Recreation (Specify)

_____ Industrial

_____ Residential

_____ Port & Related Activities

B.

1. As far as you know, does the COE own any lands within your community or its extraterritorial jurisdiction?

MARK
ON
MAP

_____ Yes: What are they used for?

_____ No

2. As far as you know, does the F & WS own any lands within your community or its extraterritorial jurisdiction?

MARK
ON
MAP

_____ Yes: What are they used for?

_____ No

3. Does your COMMUNITY COUNTY ORGANIZATION have a master plan for recreational development, affecting the river?

_____ Yes (get copy)

_____ No

4. Do you plan to develop a master plan in the next several years?

_____ Yes

_____ No

APPENDIX D



FIRST NATIONAL BANK BUILDING
322 MINNESOTA STREET
ST. PAUL, MINNESOTA 55101
(612) 291-2465

Dear

We are in the process of writing an institutional analysis for the Corps of Engineers to update the Master Plan for resource management in the Upper Mississippi River. The goal of the study is to provide a revised plan for management of existing recreational resources and facilities and for development of proposed and existing recreational facilities.

The project area encompasses all lands adjoining the Upper Mississippi River 9-foot channel system, including: the Mississippi River, from the Head of Navigation in Minneapolis, MN, to Lock and Dam 10 in Guttenberg, Iowa; the St. Croix River, from the Head of Navigation at Stillwater, MN, to the confluence with the Mississippi River; and the Minnesota River, from the Head of Navigation at Savage, MN, to the confluence with the Mississippi River.

We will be calling you in the next couple of weeks to schedule an interview with you in order to gather information on your community/county structure and its relationship to the river front. The interview will take from 45 minutes to an hour.

It would be of great assistance to us if you could have copies ready of your organizational chart (mapping the structure of government), zoning map, and pertinent ordinances (floodplain, zoning, or land use legislation) that govern the river or river front lands within your jurisdiction. We would also like budget information from your actual budget for 1979 and a copy of your charter or other document which outlines your powers as a governing body.

Your assistance in helping us acquire this information would be greatly appreciated. Any question you may have between the time you receive this letter and our calling you to step up the interview may be directed to our office in St. Paul at (612)-291-2465.

Yours very truly,
ROY F. WESTON, INC.

Joel M. Erickson
Assistant Project Scientist

JME:ebh



FIRST NATIONAL BANK BUILDING
322 MINNESOTA STREET
ST. PAUL, MINNESOTA 55101
(612) 291-2465

Dear

We are in the process of writing an institutional analysis for the Corps of Engineers to update the Master Plan for resource management in the Upper Mississippi River. The goal of the study is to provide a revised plan for management of existing recreational resources and facilities and for development of proposed and existing recreational facilities.

The project area encompasses all lands adjoining the Upper Mississippi River 9-foot channel system, including: the Mississippi River, from the Head of Navigation in Minneapolis, MN, to Lock and Dam 10 in Guttenberg, Iowa; the St. Croix River, from the Head of Navigation at Stillwater, MN, to the confluence with the Mississippi River; and the Minnesota River, from the Head of Navigation at Savage, MN, to the confluence with the Mississippi River.

We have been interviewing city, village and county officials having jurisdiction over lands adjoining the river in the study area. Since our contract limits the number of interviews we can do, we will not be able to interview the town officers.

According to the language of § 60.18 of the Wisconsin Statutes, town boards may be granted the right to exercise the powers of village boards. If this situation prevails, the town may zone shorelands concurrently with counties, provided the town ordinance is in conformity with or more restrictive than the county ordinance.

What I would like to know is if your town has such power and has adopted any ordinances governing the river front lands within the town limits. If so, could you send me a copy of such ordinance(s)? We want to be sure that we have identified all the local floodplain, land use, and zoning ordinances that have any effect on the lands in the study area.

Your attention to this matter would be sincerely appreciated. If you have no such legislation, I would like to be informed of that as well.

Yours very truly,
ROY F. WESTON, INC.

Joel M. Erickson
Assistant Project Scientist



FIRST NATIONAL BANK BUILDING
322 MINNESOTA STREET
ST. PAUL, MINNESOTA 55101
(612) 291-2465

Dear

About four weeks ago, I wrote a letter to the board of each town which borders the river front of the Mississippi or St. Croix Rivers. It concerned an institutional analysis for updating the Master Plan for resource management in the Upper Mississippi River System for the U.S. Army Corps of Engineers.

In that letter I noted the fact that pursuant to Wisconsin Statutes § 60.18, town boards may be granted the right to exercise the powers of a village board. If a town has been granted such powers, it may zone its shorelands concurrently with the county, provided that the town ordinance is in conformity with or more restrictive than the county zoning ordinance.

For the sake of completeness in our analysis, I really need to know whether your town has such power and has adopted any ordinances governing the river front lands within the town limits. Again if you have, I would really appreciate it if you could send me a copy of such ordinance(s). If you do not have such powers and, therefore, have no such legislation, I would like to be informed of that as well.

Your earliest attention to this inquiry would be most appreciated, as our deadline for the draft report is only a few weeks away.

Very truly yours,

Joel M. Erickson
Assistant Project Scientist
ROY F. WESTON, INC.

JME:ebh



FIRST NATIONAL BANK BUILDING
322 MINNESOTA STREET
ST. PAUL, MINNESOTA 55101
(612) 291-2465

Mr. Ernest Peterson
204 W. Maple
Viroqua, WI. 54665

6 January, 1981

Dear Mr. Peterson:

I am currently working on a project for the Corps of Engineers which is being conducted for the purpose of updating the Master Plan for the Upper Mississippi River. I have been interviewing municipal and county officials having jurisdiction over riverfront property from Guttenberg, Iowa to Minneapolis, MN.

Last week I was in the Viroqua area and spoke with Mr. Erlandson by phone. He asked that I interview Mr. Zabolio, as representative of Vernon County. Mr. Zabolio is also a member of the Mississippi River Parkway Commission, and as such was able to provide me with much useful information. I did, however, ask him some questions which he couldn't answer and he told me that I should contact you for answers to them.

The first item I would like to know is whether Vernon County has any ordinances, regulations or other legislation that regulate the riverfront lands? These could be in the form of floodplain regulations, zoning ordinances, land use ordinances, conditional use legislation or something of this type.

I have enclosed a list of questions from the interview schedule which I would like you to respond to for each piece of county legislation you identify in answer to my question above.

The other question that I have is whether Vernon County has a Master Plan for recreational development, affecting the river? If you answer "no" to this question I would like to know whether the county anticipates developing such a Master Plan in the next several years?

Finally, if Vernon County has any floodplain, zoning, or land use ordinances, I would like to have you send me a copy of it if you can. Also if you have a county zoning map and an organizational chart of the county government, I would appreciate copies of those as well.

I would have preferred to stop in and discuss these questions with you personally, but I was scheduled into a pretty tight itinerary and just didn't get the time. I would appreciate any time you can devote to researching and responding to these questions.

Very truly yours,

ROY F. WESTON, INC.

Joel M. Erickson
Assistant Project Scientist



FIRST NATIONAL BANK BUILDING
322 MINNESOTA STREET
ST. PAUL, MINNESOTA 55101
(612) 291-2465

LaCrosse City Planning Department
City Hall
LaCrosse, Wisconsin 54601

4 February, 1981

Dear Sir:

We are in the process of writing an institutional analysis for the Corps of Engineers to update the Master Plan for resource management in the Upper Mississippi River. The goal of the study is to provide a revised plan for management of existing recreational resources and facilities and for development of proposed and existing recreational facilities.

The project area encompasses all lands adjoining the Upper Mississippi River 9-foot channel system, including: the Mississippi River, from the Head of Navigation in Minneapolis, MN, to Lock and Dam 10 in Guttenberg, Iowa; the St. Croix River, from the Head of Navigation at Stillwater, MN, to the confluence with the Mississippi River; and the Minnesota River, from the Head of Navigation at Savage, MN, to the confluence with the Mississippi River.

In connection with the project, we have been interviewing municipal and county officials from villages, cities, and counties having jurisdiction over land in the study area outlined above. Recently, I spoke with Mayor Zielke as a representative of the City of LaCrosse.

Would it be possible for you to send me a copy of the Park and Recreation Plan for the LaCrosse Area to our office in St. Paul? If so, I would appreciate receiving a copy at your earliest convenience.

I realize that a brochure summarizing the high points exists. However, our client, the Corps of Engineers, is interested in perusing the actual plan in some detail. Thank you.

Very truly yours,

Joel M. Erickson
Assistant Project Scientist
ROY F. WESTON, INC.

JME:ebh

APPENDIX E

FLOOD PLAIN ORDINANCE

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FLOOD PLAIN ORDINANCE
FOR _____ WISCONSIN

SECTION 1.0 STATUTORY AUTHORIZATION, FINDING OF FACT, STATEMENT OF PURPOSE AND TITLE

1.1 STATUTORY AUTHORIZATION: This Ordinance for flood plain protection is adopted pursuant to the authorization contained in Sections 62.23, 61.35 and 59.97, and 87.30 of the WISCONSIN STATUTES.

1.2 FINDING OF FACT: The uncontrolled use of the flood plains, rivers or streams of the _____ of _____, Wisconsin adversely affects the public health, safety, convenience and general welfare and impairs the tax base of that _____.

1.3 STATEMENT OF PURPOSE: The purpose of these rules is to provide a uniform basis for the preparation, implementation and administration of sound flood plain regulations for all (community) flood plains to:

1.31 Protect life, health and property;

1.32 Minimize expenditures of public monies for costly flood control projects;

1.33 Minimize rescue and relief efforts, generally undertaken at the expense of the general public;

1.34 Minimize business interruptions;

1.35 Minimize damage to public facilities on the flood plains such as water mains, sewer lines, streets and bridges;

1.36 Minimize the occurrence of future flood blight areas on flood plains; and

1.37 Discourage the victimization of unwary land and home buyers.

1.4 TITLE: _____ Flood Plain Ordinance.

SECTION 2.0 GENERAL PROVISIONS

2.1 AREAS TO BE REGULATED: Areas regulated by this Ordinance include all lands, within the corporate limits of the _____ of _____, Wisconsin, that would be inundated by the "regional flood" defined in the DEFINITIONS, Section 10.1 (30) of this Ordinance.

2.2 DISTRICT BOUNDARIES: The boundaries of the flood plain districts and where shown, the floodway districts, shall be those areas designated as A Zones on (choose one) a. Flood Hazard Boundary Maps, b. Flood Insurance Study Maps, c. Official community flood plain maps which have been approved by the Department of Natural Resources and the Federal Insurance Administration, dated _____, which is on file in the office of the _____.

2.21 Establishment of Districts: The flood plain areas within the jurisdiction of this ordinance are hereby divided into three districts: the Floodway District (FW), Flood Fringe District (FF), and General Flood Plain District (FP), defined as follows:

- (a) The Floodway District consists of the channel of a stream and those portions of the flood plain adjoining the channel that are required to carry and discharge the flood waters or flood flows of any river or stream associated with the regional flood.
- (b) The Flood Fringe District consists of that portion of the flood plain between the regional flood limits and the floodway area.
- (c) The General Flood Plain District consists of the land which has been or may be hereafter covered by flood water during the regional flood and encompasses both the Floodway and Flood Fringe Districts.

Within these districts, all uses not listed as PERMITTED USES shall be prohibited.

2.22 The flood plain boundary lines on the map shall be determined by the use of the scale appearing on the map. Where there is a conflict between the flood plain boundary illustrated on the map and actual field conditions, the dispute shall be settled according to Section 7.33, MAPPING DISPUTES of this Ordinance.

2.23 Compliance with the provisions of this Ordinance shall not be grounds for the removal of lands from the flood plain district unless; such lands are filled to a height of at least two feet above the elevation of the "regional flood" for the particular area and are contiguous to other lands lying outside the flood plain district, approval has been granted by the Department of Natural Resources pursuant to section 8 of this Ordinance, and, where required, an "official letter of map amendment" has been issued by the Federal Insurance Administration of HUD.

2.3 EFFECT OF FLOOD PLAIN DISTRICT REGULATIONS: The regulations set forth in this Ordinance for flood plain, flood fringe and floodway districts shall apply to all flood plains, flood fringes and floodways mapped on the "official flood plain zoning map". (See definition (27)).

2.4 COMPLIANCE: No new use or change in use of any structure, land or water shall be located, extended, converted or structurally altered and no development as defined in this ordinance shall commence without full compliance with the terms of this Ordinance and other applicable regulations.

2.5 ABROGATION AND GREATER RESTRICTIONS:

2.51 This Ordinance supersedes provisions of any zoning ordinance relating to flood plains. However, any underlying zoning shall remain in full force and effect to the extent that its provisions are more restrictive.

2.52 It is not otherwise intended by this Ordinance to repeal, abrogate, or impair any existing deed restrictions; however, where this Ordinance imposes greater restrictions the provisions of this Ordinance shall prevail.

2.6 INTERPRETATION: In their interpretation and application, the provisions of this Ordinance shall be held to be minimum requirements and shall be liberally construed in favor of the governing body and shall not be deemed a limitation or repeal of any other powers granted by WISCONSIN STATUTES.

2.7 WARNING AND DISCLAIMER OF LIABILITY: The degree of flood protection intended to be provided by this Ordinance is considered reasonable for regulatory purposes and is based on engineering and scientific methods of study. Larger floods may occur on rare occasions or the flood height may be increased by man-made or natural causes, such as ice jams and bridge openings restricted by debris. This Ordinance does not imply that areas outside flood plain zoning district boundaries or land uses permitted within such districts will always be totally free from flooding or flood damages, nor shall this Ordinance create a liability on the part of or a cause of action against the (city, village, county) of (name) or any officer or employee thereof for any flood damage that may result from reliance on this Ordinance.

2.8 SEVERABILITY: If any section, clause, provision or portion of this Ordinance is adjudged unconstitutional or invalid by a court of competent jurisdiction, the remainder of this Ordinance shall not be affected thereby.

2.9 SPECIAL PROVISIONS APPLICABLE TO ALL FLOOD PLAIN DISTRICTS

2.91 No developments shall be allowed in floodway areas which, acting alone or in combination with existing or future similar uses, cause an increase equal to or greater than 0.1 foot in height of the regional flood for any main stem, tributaries to the main stem of any stream, drainage ditches, or any other drainage facilities. Said increase shall be calculated using an equal degree of hydraulic encroachment from the hydraulic floodway lines for a hydraulic reach on both sides of a river or stream. Increases equal to or greater than 0.1 foot may be permitted, but only if amendments are made to this ordinance, the official floodway lines, water surface profile and flood plain zoning maps pursuant to Section 8.0 of this ordinance; provided further that the total cumulative allowable increase in height of the regional flood for any given hydraulic reach of a stream shall not exceed one foot.

2.92 No developments in flood fringe areas shall materially affect the storage capacity of flood plains, based upon an equal degree of hydrologic encroachment (volume of the storage area which is lost). For the purpose of this subsection, "materially" is defined as any increase in discharge of the regional flood which causes a rise in the water surface profile of 0.1 foot. Such developments may be permitted only if amendments are made to this ordinance pursuant to Section 8.0 herein; provided further that the total cumulative allowable increase in height of the regional flood for any given reach of a stream shall not exceed one foot.

2.93 Owners or operators of all mobile home parks and mobile home subdivisions located in A Zones shall file adequate evacuation plans indicating vehicular access and escape routes, including mobile home hauler routes, with the appropriate disaster preparedness authorities, and shall provide for adequate surface drainage to minimize flood damage.

2.94 Mobile home replacement in existing parks or subdivisions. All mobile homes to be placed on a site located in an A Zone on a community's Official Flood Plain Zoning Map shall be placed to prevent the flotation, collapse, or lateral movement of the structure due to flooding. Such mobile homes shall be anchored according to the following specifications: (I) over-the-top ties shall be provided at each of the four corners of the mobile home, with two additional ties per side at intermediate locations and mobile homes less than fifty (50) feet long shall require one additional tie per side; (II) frame ties shall be provided at each corner of the mobile home with five (5) additional ties per side at intermediate points and mobile homes less than fifty (50) feet long shall require four (4) additional ties per side; (III) all components of the anchoring system shall be capable of carrying four thousand eight hundred (4,800) pounds; and (IV) any additions to the mobile home shall be similarly anchored.

2.95 All subdivision proposals and other proposed new developments greater than 50 lots or 5 acres, whichever is the lesser, shall include within such proposals regional flood elevation data, and the means to provide adequate surface drainage and to minimize flood damage. Where the estimated cost of such development exceeds \$75,000, and for all subdivision proposals and other proposed new developments greater than 50 lots or 5 acres, whichever is the lesser, the applicant shall provide all necessary computations to show the effects of the proposal(s) on flood heights, velocities and flood plain storage. The provisions of Section 7.4 shall apply hereto.

2.96 Utility facilities such as: dams, flowage areas, transmission lines, pipelines, and water monitoring devices are permitted subject to regulations pursuant to Chapter 30, WISCONSIN STATUTES, and applicable federal regulations.

2.97 Navigational and Drainage Aids such as: Channels, channel markers, buoys, and other such devices are permitted, provided that prior to any alteration or relocation of a watercourse the (TITLE OF OFFICIAL, OFFICE OR AGENCY) shall notify adjacent communities, the Department of Natural Resources and the Federal Insurance Administration, and require the applicant to secure necessary permits. The flood carrying capacity within the altered or relocated portion of any watercourse shall be maintained.

2.98 Other water related uses such as: docks, piers, wharves, bridges, culverts, and river crossings of transmission lines are permitted subject to any pier or dockline regulations, or any other regulations that are required pursuant to Chapter 30, WISCONSIN STATUTES, and applicable federal regulations.

SECTION 3.0 REGIONAL FLOODWAY DISTRICT (FW)

3.1 APPLICABILITY: The provisions of this section shall apply to all areas within the Regional Floodway District, as shown on the official flood plain zoning maps, and to the floodway portion of the General Flood Plain District, as determined pursuant to 7.4 of this Ordinance.

3.2 DESCRIPTION OF DISTRICT: The Regional Floodway District shall include mapped floodway areas so designated on the official flood plain zoning map (see definition (27)) showing the regional flood limits, which are based on the (a) Flood Hazard Boundary maps or (b) Flood Insurance Study maps prepared by Department of Housing and Urban Development, or (c) (describe maps) and dated . All such maps shall be approved by the Department of Natural Resources and the Federal Insurance Administration.

3.3 PERMITTED USES: The following open space uses having a low flood damage potential and not obstructing flood flows, shall be permitted within the Floodway District, and in the floodway portion of the General Floodplain District provided that they are not prohibited by any other ordinance, and provided further that they meet all of the standards contained in Section 3.4, and a Land Use Permit has been issued by the Zoning Administrator.

3.31 Agricultural uses, such as: general farming, pasture, grazing, outdoor plant nurseries, horticulture, viticulture, truck farming, forestry, sod farming and wild crop harvesting.

3.32 Nonstructural, industrial, commercial uses, such as: loading areas, parking areas, airport landing strips.

3.33 Private and public recreational uses, such as: golf courses, tennis courts, driving ranges, archery ranges, picnic grounds, boat launching ramps, swimming areas, parks, wildlife and nature preserves, game farms, fish hatcheries, shooting preserves, target ranges, trap and skeet ranges, hunting and fishing areas, hiking and horseback riding trails.

3.34 Uses or structures accessory to open space uses.

3.35 Extraction of sand, gravel and/or other materials.

3.36 Marinas, boat rentals, docks, piers, wharves.

3.37 Railroads, streets, bridges, pipelines and other water related uses, such as culverts and river crossings of transmission lines and any uses subject to regulations pursuant to Chapter 30, Wisconsin Stats.

3.4 STANDARDS FOR DEVELOPMENTS IN FLOODWAY AREAS

3.41 All of the provisions of Section 2.9 shall apply hereto.

3.42 Structures which are accessory to permitted open space uses may be permitted, providing the structures:

- (a) Are not designed for human habitation;
- (b) Have a low flood damage potential;
- (c) Are to be constructed and placed on the building site so as to offer minimum obstruction to the flow of flood waters. Whenever possible, structures will be constructed with the longitudinal axis parallel to the direction of flow of flood waters, and will be placed with their longitudinal axes approximately on the same line as those of adjoining structures;
- (d) Are firmly anchored to prevent them from floating away and restricting bridge openings or other restricted sections of the stream or river; and
- (e) Have all service facilities, such as electrical and heating equipment at or above the flood protection elevation for the particular area.

3.43 Uses permitted by the Department of Natural Resources pursuant to Chapters 30 and 31, Wis. Stats., provided that the necessary permits are obtained and amendments approved by the (county, city or village) to the official floodway lines, water surface profiles, flood plain zoning maps and flood plain zoning ordinance.

3.44 Public utilities, streets and bridges provided that:

- (a) Adequate flood proofing measures are provided to the flood protection elevation;
- (b) Construction shall not cause any increase of 0.1 foot or greater in the height of the regional flood, except that reasonable increases up to 1.0 foot may be approved if the amendment procedures and all conditions of Section 8.2 are met; and
- (c) The (county, city or village) amends its water surface profiles, flood plain zoning maps and flood plain zoning ordinances to reflect any changes resulting from such construction.

3.45 Fills or deposition of materials may be permitted provided that:

- (a) The provisions of Section 2.91 are met;
- (b) Fill or deposition of materials does not encroach on the channel area between the ordinary high water mark on each bank of the stream unless a permit has been granted by the Department of Natural Resources pursuant to Chapter 30, Wis. Stats., and a permit pursuant to Section 404 of the Federal Water Pollution Control Act, Amendments of 1972, 33 U.S.C. 1334 has been issued, if applicable, and the other requirements of this Section are met; and
- (c) The fill or other materials will be protected against erosion by riprap, vegetative cover, sheet piling and/or bulkheading sufficient to prevent erosion and leachate.

SECTION 4.0 REGIONAL FLOOD FRINGE DISTRICT (FF)

4.1 APPLICABILITY: The provisions of this Section shall apply to all areas within the Regional Flood Fringe District, as shown on the official flood plain zoning maps, and to those portions of the General Flood Plain District that are determined to be in the flood fringe area pursuant to Section 7.4 of this Ordinance.

4.2 DESCRIPTION OF DISTRICT: The regional flood fringe district shall include the A Zones so designated on the official flood plain zoning map showing the regional flood limits, which are based on the (a) Flood Hazard Boundary maps or (b) Flood Insurance Study maps prepared by Department of Housing and Urban Development, or (c) (describe maps) and dated . All such maps shall be approved by the Department of Natural Resources and the Federal Insurance Administration.

4.3 PERMITTED USES: The following uses shall be permitted uses within the Flood Fringe District and flood fringe portions of the General Flood Plain District.

4.31 Any structures, land use, or development may be permitted to the extent that they are not prohibited by this or any other Ordinance or any other Federal, State or local regulations and provided that land use permit has been issued by the Zoning Administrator.

4.4 STANDARDS FOR DEVELOPMENT IN FLOOD FRINGE AREAS.

4.41 All of the provisions of Section 2.9 shall apply hereto.

4.42 RESIDENTIAL: All residential structures shall meet the following standards:

- (a) The first floor of a structure to be erected, constructed, reconstructed, or moved on the flood plain shall be constructed on fill at or above the flood protection elevation for the particular area. The fill shall be not less than one foot above the regional flood elevation for the particular area and the fill shall extend at such elevation at least 15 feet beyond the limits of any structure or building erected thereon.
- (b) The basement floor shall be at or above the regional flood elevation, unless a communitywide exemption allowing flood proofing of basements has been granted by the Federal Insurance Administration of the Department of Housing and Urban Development (HUD).

4.43 COMMERCIAL: In commercial areas, any structure or building which is to be erected, constructed, reconstructed, added to or moved into the flood fringe area shall meet the requirements of Section 4.42(a) and (b) above. Certain yards, parking lots and other accessory land uses may be at lower elevations. However, no such area in general use by the public shall be inundated to a depth greater than two feet or subjected to flood velocities greater than four feet per second upon the occurrence of the regional flood.

4.44 MANUFACTURING AND INDUSTRIAL: Manufacturing and industrial buildings, structures and accessory uses shall be elevated or floodproofed, in accordance with Section 7.5, to two feet above the regional flood elevation. Measures shall be taken to minimize interference with normal plant operations especially for streams having protracted flood durations. Certain accessory land uses such as yards and parking lots may be at lower elevations subject to requirements set out in Section 4.43.

4.45 The storage or processing of materials that are buoyant, flammable, explosive, or which in times of flooding, could be injurious to human, animal, or plant life, shall be at or above the flood protection elevation for the particular area or flood proofed in compliance with Section 7.5 of this Ordinance.

4.46 UTILITIES: Construction and substantial improvements to utilities may be permitted provided that they are flood proofed to the flood protection elevation pursuant to Section 7.5.

4.47 SEWAGE SYSTEMS: All on-site sewage disposal systems shall be flood proofed to the flood protection elevation pursuant to Section 7.5 and shall meet the applicable provisions of local zoning ordinances and Wis. Admin. Code H 62.20.

4.48 WELLS: All wells, whether public or private, shall be flood proofed to the flood protection elevation pursuant to Section 7.5 and shall meet the applicable provisions of Chapters NR 111 and NR 112, Wis. Admin. Code.

4.49 SOLID WASTE DISPOSAL SITES: All solid waste disposal sites, whether public or private, are prohibited in flood fringe areas.

4.50 ACCESSORY USES: An accessory structure (not connected to a principal structure) shall meet the applicable provisions of Section 3.42(a)(b)(c)(d) and (e). A lesser degree of protection, compatible with these criteria and the criteria in Section 4.43 may be permissible for any such accessory structure.

SECTION 5.0 GENERAL FLOOD PLAIN DISTRICT (GFP)

5.1 APPLICABILITY: The provisions for this district shall apply to all flood plains in the (city, village, county) for which "regional flood" data, as defined in the DEFINITIONS, Section 10.1(30) are not available or where regional flood data is available, but floodways have not been delineated. As adequate regional flood data becomes available and floodways are delineated for portions of this district, such portions shall be placed in the Regional Flood Fringe or Regional Floodway District, as appropriate.

5.2 DESCRIPTION OF DISTRICT: The general flood plain district shall include:

5.21 All A Zones shown on the Official Flood Plain Zoning Map which is based on Flood Insurance Study Maps and Flood Hazard Boundary Maps showing the (river(s)) and its tributaries in (community), Wisconsin, prepared by Department of Housing and Urban Development dated _____; and approved by the Department of Natural Resources.

5.3 PERMITTED USES: Those uses permitted in Section 3.3, 3.4, 4.3 and 4.4, provided the procedures of Section 5.4 below are met, and a land use permit has been issued by the Zoning Administrator.

5.4 STANDARDS FOR DEVELOPMENT IN THE GENERAL FLOOD PLAIN DISTRICT: The General Flood Plain District encompasses both floodway and flood fringe areas. Therefore, a determination shall be made pursuant to Section 7.4, to determine whether the proposed use is located within a floodway or flood fringe area. If it is determined that a proposed use is located within a floodway, the provisions of Section 3.3 and 3.4 of this Ordinance shall apply. If it is determined that the proposed use is located within the flood fringe, the provisions of Section 4.3 and 4.4 shall apply.

SECTION 6.0 NONCONFORMING USES

6.1 GENERAL: Insofar as the standards in this section are not inconsistent with the provisions of Sections 59.97(10) and 62.23(7)(h), Wis. Stats., they shall apply to all nonconforming uses. The existing lawful use of a structure or building or its accessory use which is not in conformity with the provisions of this ordinance may be continued subject to the following conditions:

6.11 No modifications or additions to a nonconforming use shall be permitted unless they are made in conformity with the provisions of this Section. For the purposes of this Section the words "modification" and "addition" shall include, but not be limited to, any alteration, addition, modification, rebuilding or replacement of any such existing structure or accessory use. Ordinary maintenance repairs are not considered structural repairs, modifications or additions; such ordinary maintenance repairs include internal and external painting, decorating, paneling, and the replacement of doors, windows, and other nonstructural components; and

6.12 If a nonconforming use is discontinued for 12 consecutive months, any future use of the structure or building shall conform with the appropriate provisions of this ordinance for floodway and flood fringe areas.

SECTION 6.2 FLOODWAY AREAS.

6.21 No modifications or additions shall be allowed to any existing structures which are not in compliance with permitted floodway standards or uses, unless such modifications or additions meet all of the following criteria:

- (a) The modifications or additions to a structure will not increase the amount of obstruction to flood flows pursuant to Section 2.91 of this Ordinance;
- (b) Any addition to a structure shall be flood proofed, pursuant to Section 7.5 by means other than the use of fill, to the flood protection elevation;
- (c) No structural repairs, modifications or additions to a structure, which exceed over the life of the structure 50% of its present equalized assessed value, shall be allowed unless the entire structure is permanently changed to a conforming use;
- (d) If any nonconforming structure is destroyed or is so badly damaged that it cannot be practically restored, it cannot be replaced, reconstructed or rebuilt unless permanently changed to a conforming use. For the purposes of this subsection, restoration is deemed impractical where the total cost of such restoration would exceed 50% of the present equalized assessed value of said structure.

6.22 No new on-site sewage disposal system, or additions to existing on-site sewage disposal systems, shall be allowed in a floodway area. Any replacement, repair or maintenance of an on-site sewage disposal system in a floodway area shall meet the applicable provisions of local ordinances and Wis. Admin. Code H 62.20.

6.23 No new well used to obtain water for ultimate human consumption, or modifications to an existing well, shall be allowed in a floodway area. Any replacement, repair or maintenance of a well in a floodway area shall meet the applicable provisions of local ordinances and Chapters NR 111 and NR 112, Wis. Admin. Code.

6.3 FLOOD FRINGE AREAS

6.31 All modifications or additions to any nonconforming structure, which do not exceed 50% of its present equalized assessed value, shall be protected by flood proofing measures pursuant to Section 7.5 of this Ordinance. No structural modification or addition to any nonconforming structure, which over the life of the structure exceed fifty (50) percent of its present equalized assessed value shall be allowed unless the entire structure is permanently changed to a conforming use.

6.32 Where compliance with the provisions of Subsection 6.31 above would result in unnecessary hardship, and only where the structure will not be either used for human habitation or be associated with a high flood damage potential, the Board of Adjustment/Appeals, using the procedure in 7.34, may grant a variance from those provisions, using the criteria listed below. Modifications or additions to structures or buildings which are protected to elevations lower than the flood protection elevation may be permitted if:

- (a) Human lives are not endangered;
- (b) Public facilities, such as water or sewer, are not to be installed;
- (c) Flood depths will not exceed four feet;
- (d) Flood velocities will not exceed two feet per second; and
- (e) The structure will not be used for storage of materials described in Section 4.45.

6.33 Any new, addition to, replacement, repair or maintenance of an on-site sewage disposal system in a flood fringe area shall meet all the applicable provisions of all ordinances and Wis. Admin. Code H 62.20.

6.34 Any new, addition to, replacement, repair or maintenance of a well in a flood fringe area shall meet the applicable provisions of this ordinance and Chapters NR 111 and NR 112, Wis. Admin. Code.

6.35 If a variance is granted, the community shall notify the property owner that increased flood insurance premiums may result.

SECTION 7.0 ADMINISTRATION

This Ordinance provides for the appointment of appropriate boards and staff, and the development of necessary policies and procedures, to administer the flood plain zoning ordinance in accordance with this section. Where a zoning administrator, planning agency or a board of adjustment/appeals has already been appointed to administer a zoning ordinance adopted under Sections 59.97, 59.971 or 62.23(7), Wis. Stats., these officials shall also administer the flood plain zoning ordinance.

7.1 ZONING ADMINISTRATOR: A Zoning Administrator is hereby appointed to administer the provisions of this Ordinance. The Zoning Administrator shall exercise the following duties and powers:

7.11 Advise applicants as to the provisions of this Ordinance and assist them in preparing permit applications.

7.12 Issue permits and inspect properties for compliance with this Ordinance and issue Certificates of Compliance when appropriate.

7.13 Keep the official records of all water surface profiles, flood plain zoning maps, flood plain zoning ordinances, nonconforming uses and changes thereto, permit applications, permits, appeals, variances and amendments related to the flood plain zoning ordinance.

7.14 Submit copies of any required data, variances, amendments, case-by-case analyses, annual reports, and any other required information to the Department of Natural Resources. An annual summary showing only the number and types of zoning actions taken by the county, city or village shall be submitted to that Department by the Zoning Administrator.

7.15 Investigate, prepare reports and report violations of the flood plain zoning ordinance to the appropriate county, city or village committee and to the municipal attorney, corporation counsel or district attorney, with copies to the appropriate district office of the Department of Natural Resources.

7.16 Submit copies of map and text amendments and annual reports to the Federal Insurance Administration of the Department of Housing and Urban Development.

7.17 Maintain on file a list of all documentations of certified elevations.

7.18 ADMINISTRATIVE PROCEDURES:

(a) LAND USE PERMIT: A land use permit shall be obtained from the Zoning Administrator before any new land use, change in use, or development as defined in 10.1(9), subject to the provisions of this Ordinance, may be initiated. An application for a land use permit shall be made to the Zoning Administrator upon forms furnished and shall include, for the purpose of proper enforcement of these regulations, the following data:

1. Name and address of the applicant and property owner;
2. Legal description of the property and type of proposed use;
3. A sketch showing the dimensions of the lot and locations of buildings from lot line, center line of abutting highways and high-water mark of any abutting watercourse;
4. All information concerning any private water or on-site sewage disposal system to be installed, including a sketch showing surveyed location of wells, streams, lakes, buildings, privies and septic tank systems within 100 feet of proposed sewage disposal site.

(b) CERTIFICATE OF COMPLIANCE: No development as defined in this chapter shall take place, no vacant land in the flood plain shall be occupied or used and no building hereafter erected, altered or moved, shall be occupied until the applicant obtains a Certificate of Compliance from the Zoning Administrator. The local zoning administrator or building inspector shall require that the applicant submit a certification by a registered professional engineer or architect that the finished fill and building floor elevations and other flood plain regulatory factors were accomplished in compliance with appropriate flood plain zoning provisions and other flood plain regulations; the applicant shall submit such certification for all new construction and substantial improvements. Upon written request from the owner, the Zoning Administrator shall issue a certificate of compliance for any building or premises existing at the time of the adoption of this ordinance certifying, after inspection, the extent and type of use made of the building or premises and whether or not such use conforms to the provisions for this ordinance.

(c) OTHER PERMITS: It is the responsibility of the applicant to secure all other necessary permits from all appropriate Federal, State, and local agencies, including those required under Section 404 of the Federal Water Pollution Control Act amendments of 1972, 33 U.S.C. 1334.

7.2 ZONING AGENCY: A zoning agency or committee shall be appointed and given the duties and powers to:

- (a) Oversee the functions of the office of the zoning administrator;
- (b) Review and act upon all proposed amendments to the flood plain zoning ordinance;
- (c) Maintain a complete public record of all proceedings.

7.3 BOARD OF ADJUSTMENT/APPEALS: The appropriate board created under Chapter 59.99, WISCONSIN STATUTES, for counties, or 62.23(7)(e) for cities or villages is hereby authorized to act as board of adjustment (counties) or appeals (cities or villages). The powers of the Board of Adjustment shall be pursuant to Chapter 59.99, WISCONSIN STATUTES; the powers of the Board of Appeals shall be pursuant to Chapter 62.23(7) WISCONSIN STATUTES.

7.31 APPEALS TO THE BOARD: Appeals to the Board of Appeals/Adjustment may be taken by a person aggrieved or by an officer, department, board or bureau of the municipality affected by any decision of the Zoning Administrator. Such appeal shall be taken within a reasonable time, as provided by the rules of the Board, by filing with the Zoning Administrator and with the Board of Appeals/Adjustment a notice of appeal specifying the grounds thereof. The Zoning Administrator shall forthwith transmit to the Board all the papers constituting the record upon which the action appealed from was taken.

7.32 HEARING APPEALS

- (a) The Board of Appeals/Adjustment shall fix a reasonable time for the hearing of the appeal, give public notice thereof by publishing in the official newspaper of (community), a class 2 notice pursuant to Chapter 985, WISCONSIN STATUTES, specifying the date, time and place of hearing and the matters to come before the Board; as well as mailed notices to the parties at interest.
- (b) A decision regarding the appeal shall be made as soon as practicable.
- (c) The final disposition of an appeal or application to the Board of Appeals/Adjustment shall be in the form of a written resolution or order signed by the Secretary of the Board. Such resolution shall state the specific facts which are the basis for the Board's determination and shall 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 prosecution, or grant the application.
- (d) A copy of all decisions by the Board of Adjustments/Appeals shall be mailed to the appropriate District Office of the Department of Natural Resources.

7.33 MAPPING DISPUTES: The following procedure shall be used by the Zoning Board of Appeals/Adjustment in disputes of a flood plain zoning district boundary:

- (a) Flood district boundaries: when the location of the flood plain or floodway district boundary is established by experience flood maps or engineering studies pursuant to Section 3.2, 4.2 or 5.2 of this Ordinance, the flood elevations or "flood profiles" for the point in question shall be the governing factor in locating the district boundary. If no elevation or profiles are available to the Board, any other available evidence may be examined.
- (b) In all cases, the person contesting the location of the district boundary shall be given a reasonable opportunity to present his case to the Zoning Board of Appeals/Adjustment and if he chooses, submit his own technical evidence. The Board shall not allow deviations from the boundary line as mapped unless the evidence clearly and conclusively establishes that the mapped location of the line is incorrect, approval has been granted by the Department of Natural Resources, and an official letter of map amendment has been issued by the Federal Insurance Administration of HUD.

7.34 VARIANCE: Any deviation from the standards of this ordinance, for which a permit has been denied by the Zoning Administrator, may be allowed only upon written request for a variance submitted to the Zoning Administrator, public hearing, and issuance of a variance from by the Board of Adjustment/Appeals. The board may authorize in specific cases such variance from the terms of the ordinance as will not be contrary to the public interest where, owing to special conditions, a literal enforcement of the provisions of this ordinance would result in unnecessary hardship. A variance:

- (a) Shall be consistent with the spirit and intent of this flood plain zoning ordinance.
- (b) Shall not permit any change in established flood elevations or profiles.
- (c) Shall not be granted for a use that is common to a group of adjacent lots or premises. (In such a case, the zoning ordinance would have to be amended through proper procedures.)
- (d) Shall not be granted unless it is shown that the variance will not be contrary to the public interest or damaging to the rights of other persons or property values in the area.

- (e) Shall not be granted for actions which require an amendment to the flood plain zoning ordinance.
- (f) Shall not have the effect of allowing or expanding a use or structure which is prohibited in that zoning district by the flood plain zoning ordinance.
- (g) Shall not be granted solely on the basis of economic gain or loss.
- (h) Shall not be granted for a self-created hardship.

7.4 PROCEDURES FOR DETERMINING FLOODWAY AND FLOOD FRINGE LIMITS.

7.41 APPLICABILITY: When any developments are proposed within a General Flood Plain District, a determination shall be made to establish the boundaries of the floodway and determine whether floodway or flood fringe uses apply, and, where applicable, to determine the regional flood elevation.

7.42 Upon receiving an application for development, the Zoning Administrator shall:

- (a) Require the applicant to submit, at the time of application, two copies of an aerial photograph, or a plan which accurately locates the flood plain proposal with respect to the flood plain district limits, channel of stream, existing flood plain developments, together with all pertinent information such as the nature of the proposal, 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 additional information as is deemed necessary by the Department of Natural Resources for evaluation of the effects of the proposal upon flood flows and to determine the boundaries of the floodway and, where applicable, the regional flood elevation.
 1. A typical valley cross-section showing the channel of the stream, the flood plain adjoining each side of the channel, cross-sectional area to be occupied by the proposed development, and high water information.
 2. Plan (surface view) showing elevations or contours of the ground, pertinent structure, fill or storage elevations; size, location and spatial arrangement of all proposed and existing structures on the site, location and elevations of streets, water supply, 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, flood proofing, filling, dredging, channel improvement, storage of materials, water supply and sanitary facilities.
- (c) Transmit one copy of the information described in subsections (a) and (b) to the Department of Natural Resources along with a written request to have that agency provide technical assistance to establish floodway boundaries and, where applicable, provide regional flood elevation. Where the provisions of Section 2.95 of this ordinance apply, the applicant shall provide all required information and computations.

7.5 FLOOD PROOFING: Flood proofing measures such as the following shall be designed consistent with the flood protection elevation for the particular area as described in Section 10.1(21), to withstand the flood velocities, forces and other factors associated with the flood protection elevation. The applicant shall submit a plan or document certified by a registered professional engineer or architect that the flood proofing measures are adequately designed to protect to the flood protection elevation for the particular area. All flood proofing shall provide anchorage to resist floatation and lateral movement.

Other flood proofing measures may include:

- 7.51 Installation of watertight doors, bulkheads, and shutters.
- 7.52 Reinforcement of walls and floors to resist pressures.
- 7.53 Use of paints, membranes or mortars to reduce seepage of water through walls.

The above sections 7.5, 7.51, 7.52 and 7.53 shall insure that structural walls are watertight, which shall be the minimum standard for certification pursuant to section 7.5 above.

7.54 Addition of mass or weight to structures to prevent flotation.

7.55 Placement of essential utilities above the flood protection elevation.

7.56 Pumping facilities and/or subsurface drainage systems for buildings to relieve external foundation wall and basement floor pressures and to lower water levels in structures.

7.57 Construction of water supply and waste treatment systems to prevent the entrance of flood waters.

7.58 Construction to resist rupture or collapse caused by water pressure or floating debris.

7.59 Cutoff valves on sewer lines or the elimination of gravity flow basement drains.

SECTION 8.0 AMENDMENTS

8.1 GENERAL: The (governing body) of the (county, city, village) of (name), Wisconsin, may from time to time, alter, supplement or change the boundaries of use districts and the regulations contained in the Ordinance in the manner provided by law. Official amendments are required for any changes in the official floodway lines, water surface profiles, flood plain zoning maps or flood plain zoning ordinance. Actions which require an amendment include, but are not limited to, the following:

8.11 Any change in the official floodway lines or in the boundary of the flood plain area.

8.12 Settlement of conflicts between the water surface profiles and flood plain zoning maps, in accordance with Section 7.33 of this Ordinance.

8.13 Any fill or encroachment into the floodway which will result in raising the elevation of an area in the floodway to a height at or above the elevation of the regional flood;

8.14 Any fill or encroachment that will cause a change equal to or greater than 0.1 foot in the water surface profiles of the regional flood; and

8.15 Any upgrading of flood plain zoning ordinances required by law.

8.16 Amendments to this Ordinance may be made upon petition of any interested party in accordance with the provisions of Section 62.23 or 59.97 of the WISCONSIN STATUTES. Such petitions shall include any necessary data required by Sections 7.42 and 2.95 of this Ordinance.

8.2 AMENDMENT PROCEDURE: Copies of any amendment proposed to the (governing body) shall be referred to the (planning agency) which shall be forwarded by the secretary of the (planning agency), together with the first notice of the public hearing thereon, to the main office and appropriate district office of the Department of Natural Resources, and the Federal Insurance Administration. The amendment procedure shall comply with the provisions of Section 62.23 or 59.97, Wis. Statutes. No amendment to the text or maps shall become effective until approved by the Department of Natural Resources, the Federal Insurance Administration and, in the case of map amendments, until an official letter of map amendment has been issued by the Federal Insurance Administration of HUD.

SECTION 9.0 ENFORCEMENT AND PENALTIES

Any violations of the provisions of this Ordinance by any person, firm, association, corporation (including building contractors) or his or their agent, shall be unlawful and shall be forwarded to the Municipal Attorney, who shall expeditiously prosecute all such violators. A violator shall, upon conviction, forfeit to the (county, city, village) a penalty of not less than _____ and not more than _____, together with a taxable cost of such action. Each day during which such violation exists shall constitute a separate offense. Every violation of this Ordinance is a public nuisance and the creation thereof may be enjoined and the maintenance thereof may be abated by action at suit of the (county, city, village), the state, or any citizen thereof.

SECTION 10.0 DEFINITIONS

10.1 Unless specifically defined below, words or phrases used in this Ordinance shall be interpreted so as to give them the same meaning as they have at common law and to give this Ordinance its most reasonable application.

(1) A ZONES - are those areas shown on a community's "Official Flood Plain Zoning Map" (see definition 27) which would be inundated by the "base flood" or "regional flood" as defined herein. These areas may be numbered as A0, A1 to A30, A99, or be 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 USE - An accessory use is any facility, structure, building or use which is accessory or incidental to the principal use of a property, structure or building.

(3) BASE FLOOD - A flood having a one percent chance of being equalled or exceeded in any given year. (See also regional flood)

(4) BASE FLOOD ELEVATION - An elevation equal to that which reflects the height of the base flood as defined in (3) above.

(5) BOARD OF APPEALS/ADJUSTMENT - The body established under Chapter 62.23, WISCONSIN STATUTES, for cities or villages and designated "board of appeals," or as established under Chapter 59.99, WISCONSIN STATUTES, for counties and designated "board of adjustment".

(6) BULKHEAD LINE - A geographic line along a reach of navigable body of water that has been adopted by a municipal ordinance and approved by the Department of Natural Resources pursuant to Section 30.11, WISCONSIN STATUTES, and which allows complete filling on the landward side except where such filling is prohibited by the floodway provisions of this Ordinance.

(7) CERTIFICATE OF COMPLIANCE - A certification by the Zoning Administrator that a structure, use, or development is in compliance with all provisions of this Ordinance.

(8) CHANNEL - A channel is a natural or artificial watercourse with definite bed and banks to confine and conduct the normal flow of water.

(9) DEVELOPMENT - Any man-made change to improved or unimproved real estate, including but not limited to construction of or additions or substantial improvements to buildings, other structures, or accessory uses, the placement of mobile homes, mining, dredging, filling, grading, paving, excavation or drilling operations, deposition of materials.

(10) ENCROACHMENT - An encroachment is any fill, structure, building, accessory use, use or development in the floodway.

(11) ENCROACHMENT/FLOODWAY LINES - Encroachment lines are limits of obstruction to flood flows. These lines are on both sides of and generally parallel to the stream. The lines are established by assuming that the area landward (outside) of the encroachment lines will be ultimately developed in such a way that it will not be available to convey flood flows.

(12) EQUAL DEGREE OF HYDRAULIC ENCROACHMENT - The effect of any encroachment into the floodway must be computed by assuming an equal degree of hydraulic encroachment on the other side of a river or stream for a significant hydraulic reach. This computation assures that property owners up, down or across the river or stream will have the same rights of hydraulic encroachment. Encroachments are analyzed on the basis of the effect upon hydraulic conveyance, not upon the distance the encroachment extends into the floodway.

(13) "EXISTING MOBILE HOME PARK OR MOBILE HOME SUBDIVISION", means a parcel (or contiguous parcels) of land divided into two or more mobile home lots for rent or sale for which the construction of facilities for servicing the lot on which the mobile home is to be affixed (including, at a minimum, the installation of utilities, either final site grading or the pouring of concrete pads, and the construction of streets) is completed before the effective date of flood plain management regulations adopted by a community.

(14) "FLOOD" OR "FLOODING" - A general and temporary condition of partial or complete inundation of normally dry land areas from the overflow of inland waters, or the unusual and rapid accumulation or runoff of surface waters from any source.

(15) FLOOD FRINGE - The flood fringe is that portion of the flood plain outside of the floodway, which is covered by flood waters during the regional flood; it is generally associated with standing water rather than rapidly flowing water.

(16) FLOOD HAZARD BOUNDARY MAP - A map prepared by the U.S. Department of Housing and Urban Development, designating areas of special flood hazard within a given community. Flood hazard areas are designated as A Zones. Said map forms the basis for both the regulatory and insurance aspects of the National Flood Insurance program.

(17) FLOOD INSURANCE STUDY MAP - A map prepared by the U.S. Department of Housing and Urban development, designating areas of special flood hazard and flood insurance rate zones for a given community. Flood hazard and insurance rate zones are designated as A Zones. Said maps forms the basis for the regulatory and/or the insurance aspects of the National Flood Insurance Programs.

(18) FLOOD PLAIN - The flood plain is the land which has been or may be hereafter covered by flood water during the regional flood. The flood plain includes the floodway and the flood fringe.

(19) FLOOD PROFILE - A graph or a longitudinal profile showing the relationship of the water surface elevation of a flood event to locations along a stream or river.

(20) FLOOD PROOFING - Flood proofing involves any combination of structural provisions, changes, or adjustments to properties and structures subject to flooding, primarily for the purpose of reducing or eliminating flood damage to properties, water and sanitary facilities, structures and contents of buildings in flood hazard areas.

(21) FLOOD PROTECTION ELEVATION - The flood protection elevation shall correspond to a point two feet of freeboard above the water surface profile associated with the regional flood and the official floodway lines. Also see: FREEBOARD

(22) FLOODWAY - The floodway is the channel of a river or stream and those portions of the flood plain adjoining the channel required to carry and discharge the flood water or flood flows associated with the regional flood.

(23) FREEBOARD - "Freeboard" is a factor of safety usually expressed in terms of a certain amount of feet above a calculated flood level. Freeboard compensates for the many unknown factors that contribute to flood heights greater than the height calculated. These unknown factors include, but are not limited to, ice jams, debris accumulation, wave action, obstruction of bridge openings and floodways, the effects of urbanization on the hydrology of the watershed, loss of flood storage areas due to development and aggradation of the river or stream bed.

(24) "LAND USE" - any "development" as defined in 10.1(9).

(25) MOBILE HOME - A structure transportable in one or more sections, which is built on a permanent chasis and designed to be used with or without a permanent foundation when connected to the required utilities. For the purpose of this Ordinance it does not include recreational vehicles or travel trailers.

(26) NONCONFORMING USE - A nonconforming use is an existing lawful use of a structure, building or accessory use which is not in conformity with the provisions of the flood plain zoning ordinance for the area of the flood plain which it occupies.

(27) OFFICIAL FLOOD PLAIN ZONING MAP - that map, adopted and made part of this Ordinance, which has been approved by the Department of Natural Resources and the Federal Insurance Administration of HUD, and which delineates those areas which would be inundated by the base or regional flood, including but not limited to numbered and unnumbered A Zones, and where applicable, floodways. This map may be a Flood Hazard Boundary Map (see definition 16), Flood Insurance Study Map (see definition 17), or other approved community flood plain map.

(28) OFFICIAL LETTER OF MAP AMENDMENT - Official notification from the Federal Insurance Administration of HUD that a Flood Hazard Boundary Map or Flood Insurance Study Map has been amended.

(29) REACH, HYDRAULIC - A hydraulic reach along a river or stream is that portion of the river or stream extending from one significant change in the hydraulic character of the river or stream to the next significant change. These changes are usually associated with breaks in the slope of the water surface profile, and may be caused by bridges, dams, expansion and contraction of the water flow, and changes in stream bed slope or vegetation.

(30) REGIONAL FLOOD - The regional flood is a flood determined to be representative of large floods known to have generally occurred in Wisconsin and which may be expected to occur on a particular stream because of like physical characteristics. The flood frequency of the regional flood is once in every 100 years; this means that in any given year there is a 1% chance that the regional flood may occur or be exceeded. During a typical 30-year mortgage period, the regional flood has a 26% chance of occurrence.

(31) STORAGE CAPACITY OF A FLOOD PLAIN - The volume of space above an area of flood plain land that can be occupied by flood water of a given stage at a given time, regardless of whether the water is moving.

(32) STRUCTURE - Anything constructed or erected, the use of which requires a permanent or temporary location on or in the ground, stream bed or lake bed, which includes, but is not limited to, objects such as buildings, factories, sheds and cabins, mobile homes, gas or liquid storage tanks, bridges or culverts.

(33) SUBSTANTIAL IMPROVEMENT - Any repair, reconstruction, or improvement of a structure, the cost of which equals or exceeds fifty percent (50%) of the present equalized assessed value of the structure either before the improvement or repair is started, or if the structure has been damaged, and is being restored, before the damage occurred. The term does not, however, include either: (I) any project for improvement of a structure to comply with existing state or local health, sanitary, or safety code specifications which are solely necessary to assure safe living conditions, or (II) any alteration of a structure or site documented as deserving preservation by the Wisconsin State Historical Society or listed on the National Register of Historic places. Ordinary maintenance repairs are not considered structural repairs, modifications or additions; such ordinary maintenance repairs include internal and external painting, decorating, paneling, and the replacement of doors, windows, and other nonstructural components.

(34) UTILITIES - Any public or private water supply, or waste collection and/or disposal system, including but not limited to; septic systems, private and public wells, and their attendant facilities, public sewage collection systems and treatment facilities.

APPENDIX F

*****INTRODUCTION*****

FLOOD PLAIN MANAGEMENT ACT

Minnesota's Flood Plain Management Act (Minnesota Statutes, Chapter 104) declares that it is the policy of the State of Minnesota "to reduce flood damages through flood plain management, stressing such non-structural measures as flood plain zoning and flood-proofing, and flood warning practices." It further declares that the purpose of flood plain management regulations is not to prohibit but to guide development in the flood plain so that it is consistent with the flood threat and the land use needs of the community. Unwise use of flood plains causes loss of life and property, disruption of commerce and government services, unsanitary conditions, and interruption of transportation and communications. Sound land use development can reduce flood damages, decrease public expenditures and inconveniences, and ensure that a community's lands are put to their most appropriate use.

The Flood Plain Management Act requires that local units of government adopt and enforce flood plain management ordinances as soon as adequate technical data become available. These ordinances must comply with minimum requirements of State-wide Standards and Criteria for Management of Flood Plain Areas of Minnesota (Minnesota Regulations NR 85-93).

NATIONAL FLOOD INSURANCE PROGRAM

Minnesota's flood prone cities and counties are also required by Minnesota Statutes § 104.08 to maintain eligibility in the National Flood Insurance Program administered by the Federal Insurance Administration. The Federal Insurance Administration (FIA) conducts Flood Insurance Studies that delineate areas subject to flooding and requires communities to adopt flood plain ordinances that comply with § 1910.3 of FIA regulations. Most Minnesota communities that adopt flood plain management ordinances will do so based on data contained in these Flood Insurance Studies. This sample ordinance is designed to comply with both state and federal regulations.

FLOOD PLAIN MANAGEMENT STANDARDS

The following is a summary of flood plain management standards which have been established by the Commissioner of Natural Resources for flood plain designation and regulation (Minnesota Regulations NR 85-93):

1. Flood Plain

Flood plain management regulations generally apply to areas that would be inundated by the regional flood. This flood is defined as one that occurs on a statistical average of once every 100 years. Since this is only an average, regional floods have and can occur more frequently, occasionally even in successive years.

2. Floodways and Floodway Uses

The floodway includes the channel of a river or stream and those portions of the adjoining flood plain which are reasonably required to carry and discharge the regional flood. The only land uses permitted in the floodway are those uses that do not obstruct the flow of flood waters and have a low flood damage potential such as agriculture, recreation, parking areas, and similar open space uses.

3. Flood Fringe Uses

The flood fringe includes areas of the flood plain that are outside of the floodway, but still subject to flooding by the regional flood. Virtually all uses permitted by the existing zoning ordinances are allowed in the flood fringe as long as structures are elevated on fill or flood-proofed to above the Regulatory Flood Protection Elevation as defined in the ordinance.

HOW TO USE THE SAMPLE ORDINANCE

This sample ordinance complies with minimum requirements of Statewide Standards and Criteria for Management of Flood Plain Areas of Minnesota (Minnesota Regulations NR 85-93) and Federal Insurance Administration regulations § 1910.3(d). The ordinance supersedes all previous sample flood plain management ordinances developed by the Department of Natural Resources. Sample ordinances are designed to meet the needs of a typical community. Each community has a unique flood problem, and thus, the sample ordinance should be tailored to the specific needs of that community in order to establish a sound workable program for flood plain management.

1. The sample ordinance is a minimum standard that assumes maximum permissible development of the flood plain. State statutes specifically authorize

communities to adopt more restrictive ordinances. Local officials are encouraged to carefully evaluate the seriousness of their community's flood problem. If the circumstances warrant a more restrictive ordinance, they should consider adopting one. As an ordinance is made more restrictive, it can be greatly simplified since there are fewer opportunities for flood plain development.

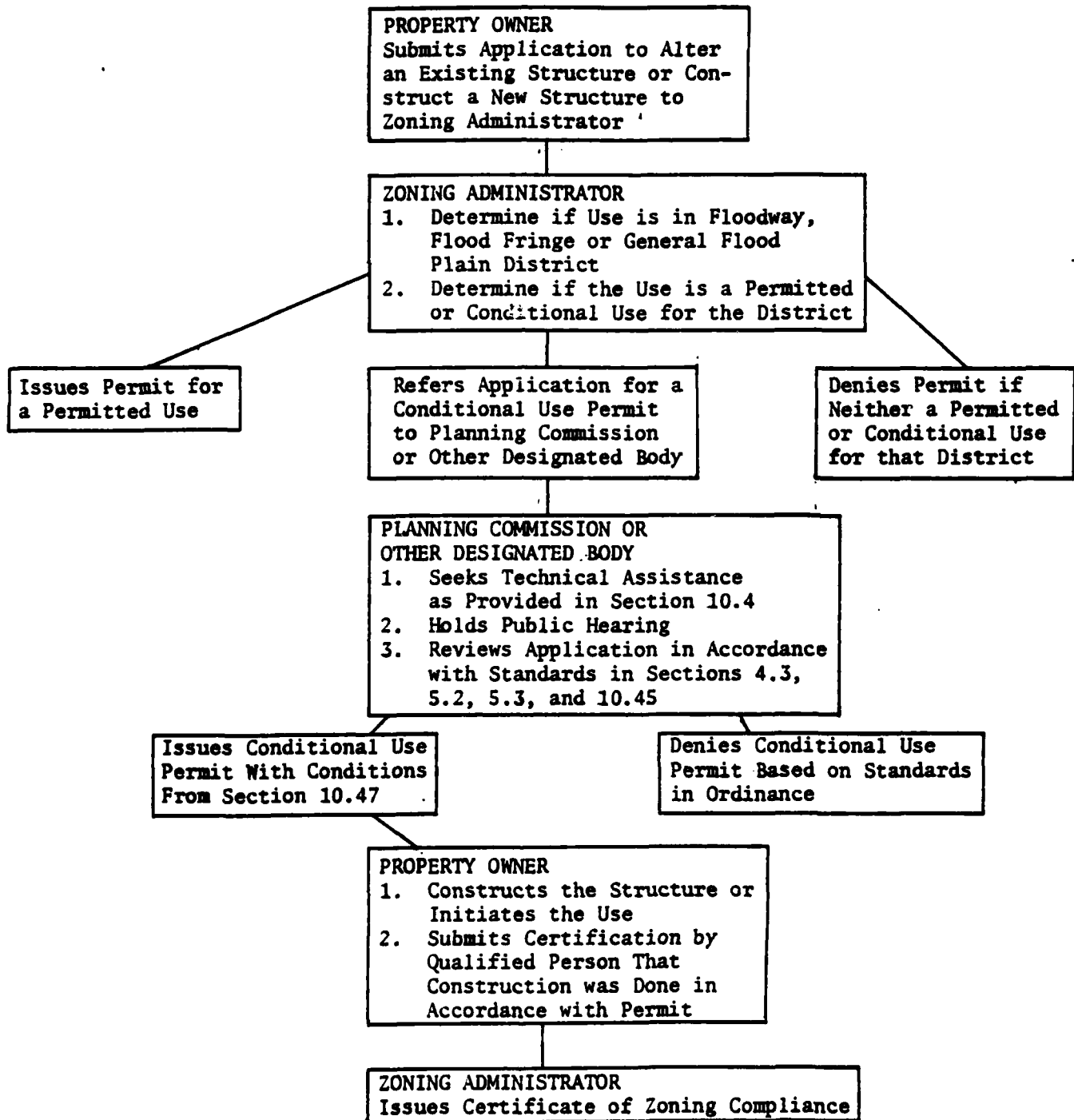
2. Procedures outlined in the sample ordinance work best in regulating flood plains along larger streams and rivers. These procedures will not work as well as other types of regulations in communities that experience flooding from lakes, wetlands, or small drainageways. These communities should contact the Department of Natural Resources for information on other options for regulation such as the State's Shoreland Management Program.
3. The sample sets up administrative procedures and uses terminology that may conflict with those used in other ordinances in force in the community. Every effort should be made to ensure that the adopted ordinance is compatible with the communities comprehensive zoning ordinance.
4. The sample ordinance assumes that a Federal Insurance Administration Flood Insurance Study is the data used to delineate the flood plain. If other technical data are used, the sample ordinance will have to be modified accordingly. The sample also assumes that the Flood Insurance Study contains both areas where a floodway and flood fringe have been designated and areas designated as "unnumbered A zones". Many Flood Insurance Studies will not include these "unnumbered A zones". Communities with this type of study should delete all references to unnumbered A Zones and General Flood Plain Districts from their ordinances before adoption.

The sample ordinance can be used in the following ways:

1. The sample can be adopted virtually as is and function as a free-standing ordinance. Provisions would apply in addition to those in a community's comprehensive zoning ordinance.
2. Provisions from the sample ordinance can be incorporated as an amendment into a community's comprehensive zoning ordinance.
3. The sample ordinance can be used as source of language and ideas for a community that wishes to develop their own ordinance.

Whichever option is chosen, a community should submit a draft ordinance for review by the Department of Natural Resources, at the first opportunity. Minnesota Statutes require that the Commissioner approve all flood plain management ordinances prior to adoption. Any ordinance that does not receive this approval is not valid and cannot be enforced.

OUTLINE OF PROCEDURES



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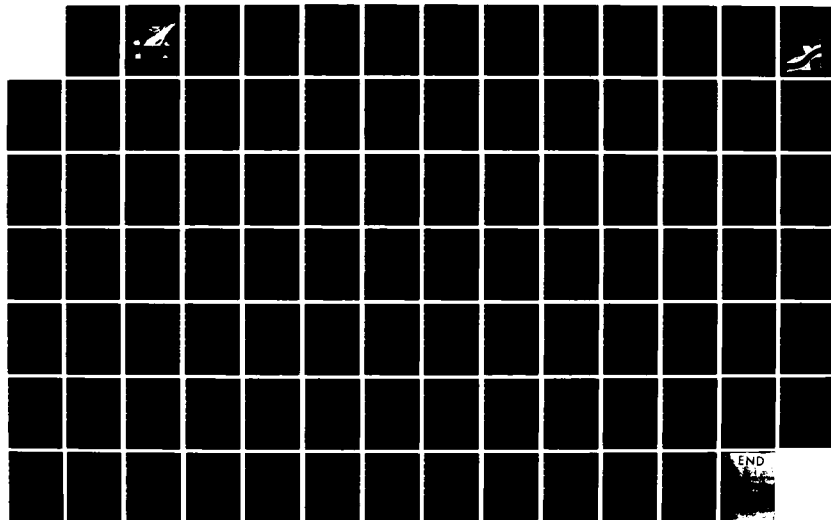
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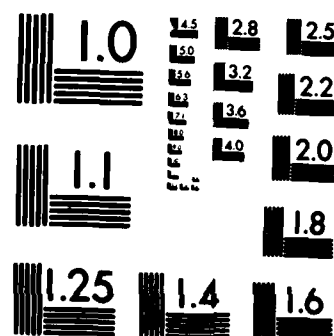
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MICROCOPY RESOLUTION TEST CHART
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Illustrations of the Following Terms Used in this Ordinance:

**"FLOOD PLAIN" "FLOOD FRINGE" "FLOODWAY"
"FLOOD PROTECTION ELEVATION"**

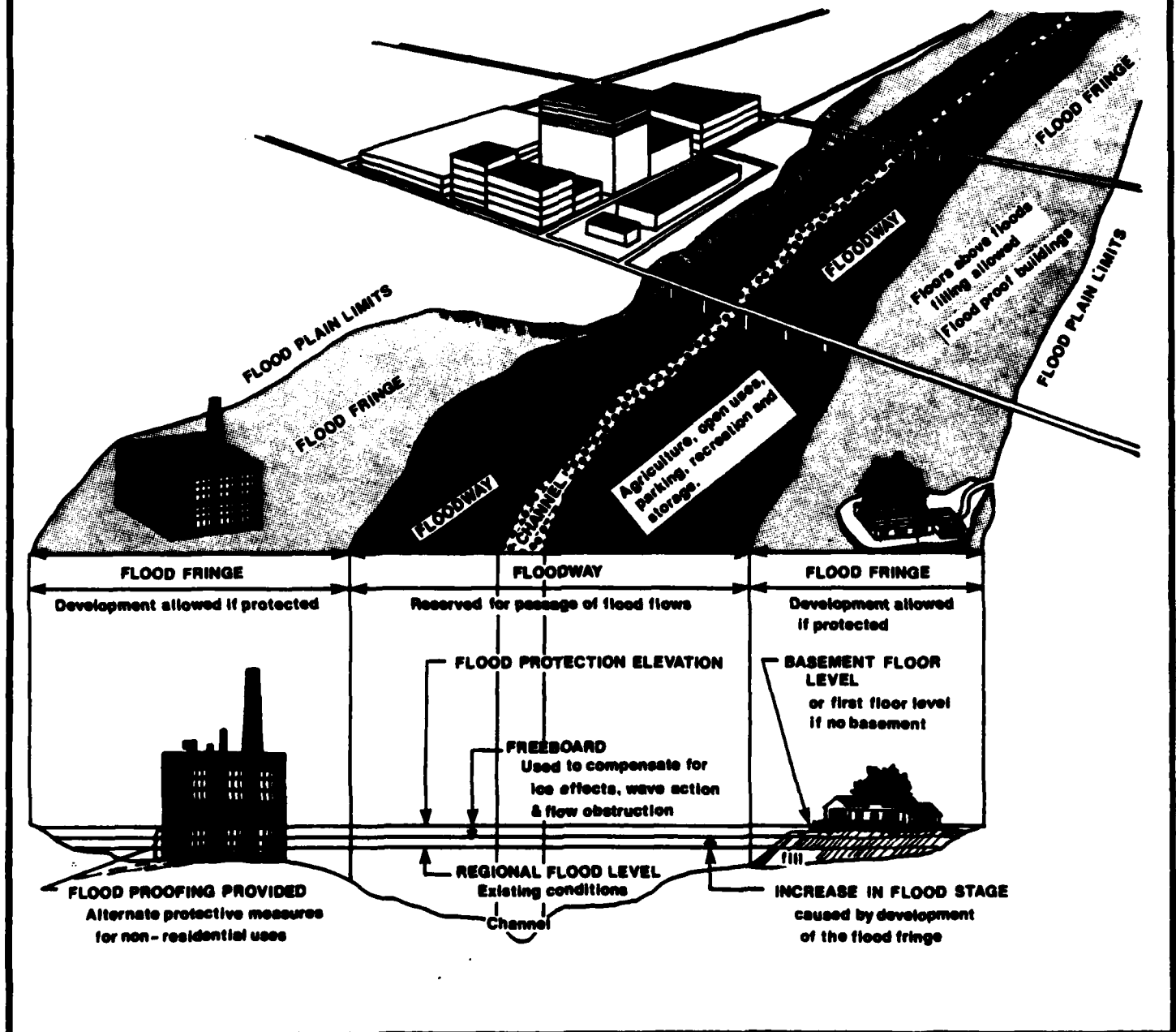


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SAMPLE FLOOD PLAIN MANAGEMENT ORDINANCE

SECTION 1.0 STATUTORY AUTHORIZATION, FINDINGS OF FACT AND PURPOSE

1.1 Statutory Authorization. The Legislature of the State of Minnesota has, in Minnesota Statutes Chapter 104 and _____, (Zoning Enabling Statute) delegated the responsibility to local governmental units to adopt regulations designed to minimize flood losses. Therefore, the _____ (governing body) of _____, Minnesota do ordain as follows: (local unit)

1.2 Findings of Fact

1.21 The flood hazard areas of _____, Minnesota, are (local unit) subject to periodic inundation which results in potential loss of life, loss of property, health and safety hazards, disruption of commerce and governmental services, extraordinary public expenditures for flood protection and relief, and impairment of the tax base, all of which adversely affect the public health, safety, and general welfare.

1.22 Methods Used to Analyze Flood Hazards. This Ordinance is based upon a reasonable method of analyzing flood hazards which is consistent with the standards established by the Minnesota Department of Natural Resources.

1.3 Statement of Purpose. It is the purpose of this Ordinance to promote the public health, safety, and general welfare and to minimize those losses described in Section 1.21 by provisions contained herein.

SECTION 2.0 GENERAL PROVISIONS

- 2.1 Lands to Which Ordinance Applies. This ordinance shall apply to all lands within the jurisdiction of _____ shown on the _____ (local unit) Official Zoning Map as being located within the boundaries of the Floodway, Flood Fringe, or General Flood Plain Districts.
- 2.2 Establishment of Official Zoning Map. The Official Zoning Map together with all materials attached thereto is hereby adopted by reference and declared to be a part of this ordinance. The attached material shall include the Flood Insurance Study for the _____ prepared by the Federal Insurance Administration dated _____ (local unit), and the Flood Boundary and Floodway Maps and Flood Insurance Rate Maps therein. The Official Zoning Map shall be on file in the Office of the _____ (City Clerk/ _____ and the _____ County Auditor) (Zoning Administrator).
- 2.3 Regulatory Flood Protection Elevation. The Regulatory Flood Protection Elevation shall be an elevation no lower than one foot above the elevation of the regional flood plus any increases in flood elevation caused by encroachments on the flood plain that result from designation of a floodway.
- 2.4 Interpretation.
- 2.41 In their interpretation and application, the provisions of this Ordinance shall be held to be minimum requirements and shall be liberally construed in favor of the governing body and shall not be deemed a limitation or repeal of any other powers granted by State Statutes.
- 2.42 The boundaries of the zoning districts shall be determined by scaling distances on the Official Zoning Map. Where interpretation is needed as to the exact location of the boundaries of the district as shown on the Official Zoning Map, as for example where there

appears to be a conflict between a mapped boundary and actual field conditions, the Board of Adjustment shall make the necessary interpretation based on elevations on the regional (100-year) flood profile and other available technical data. Persons contesting the location of the district boundaries shall be given a reasonable opportunity to present their case to the Board and to submit technical evidence.

2.5 Compliance. No structure or land shall hereafter be used and no structure shall be located, extended, converted, or structurally altered without full compliance with the terms of this Ordinance and other applicable regulations which apply to uses within the jurisdiction of this Ordinance.

2.6 Abrogation and Greater Restrictions. It is not intended by this Ordinance to repeal, abrogate, or impair any existing easements, covenants, or deed restrictions. However, where this Ordinance imposes greater restrictions, the provisions of this Ordinance shall prevail. All other ordinances inconsistent with this Ordinance are hereby repealed to the extent of the inconsistency only.

2.7 Warning and Disclaimer of Liability. This Ordinance does not imply that areas outside the flood plain districts or land uses permitted within such districts will be free from flooding or flood damages. This Ordinance shall not create liability on the part of (name of local unit) or any officer or employee thereof for any flood damages that result from reliance on this Ordinance or any administrative decision lawfully made thereunder.

2.8 Severability. If any section, clause, provision, or portion of this Ordinance is adjudged unconstitutional or invalid by a court of competent jurisdiction, the remainder of this Ordinance shall not be affected thereby.

2.9 Definitions. Unless specifically defined below, words or phrases used in this Ordinance shall be interpreted so as to give them the same meaning as they have in common usage and so as to give this Ordinance its most reasonable application.

Accessory Use or Structure - a use or structure on the same lot with, and of a nature customarily incidental and subordinate to, the principal use or structure.

Equal Degree of Encroachment - a method of determining the location of floodway boundaries so that flood plain lands on both sides of a stream are capable of conveying a proportionate share of flood flows.

Flood - a temporary increase in the flow or stage of a stream or in the stage of a lake that results in the inundation of normally dry areas.

Flood Frequency - the average frequency, statistically determined, for which it is expected that a specific flood stage or discharge may be equalled or exceeded.

Flood Fringe - that portion of the flood plain outside of the floodway. Flood fringe is synonymous with the term "floodway fringe" used in the Flood Insurance Study for _____.
(local unit)

Flood Plain - the areas adjoining a watercourse which have been or hereafter may be covered by the regional flood.

Flood-Proofing - a combination of structural provisions, changes, or adjustments to properties and structures subject to flooding, primarily for the reduction or elimination of flood damages.

Floodway - the channel of the watercourse and those portions of the adjoining flood plain which are reasonably required to carry and discharge the regional flood.

Obstruction - any dam, wall, wharf, embankment, levee, dike, pile, abutment, projection, excavation, channel modification, culvert, building, wire, fence, stockpile, refuse, fill, structure, or matter in, along, across, or projecting into any channel, water-course, or regulatory flood plain which may impede, retard, or change the direction of the flow of water, either in itself or by catching or collecting debris carried by such water.

Reach - a hydraulic engineering term to describe a longitudinal segment of a stream or river influenced by a natural or man-made obstruction. In an urban area, the segment of a stream or river between two consecutive bridge crossings would most typically constitute a reach.

Regional Flood - a flood which is representative of large floods known to have occurred generally in Minnesota and reasonably characteristic of what can be expected to occur on an average frequency in the magnitude of the 100-year recurrence interval. Regional flood is synonymous with the term "base flood" used in the Flood Insurance Study.

Structure - anything constructed or erected on the ground or attached to the ground, including, but not limited to, buildings, factories, sheds, detached garages, cabins, mobile homes, and other similar items.

SECTION 3.0 ESTABLISHMENT OF ZONING DISTRICTS

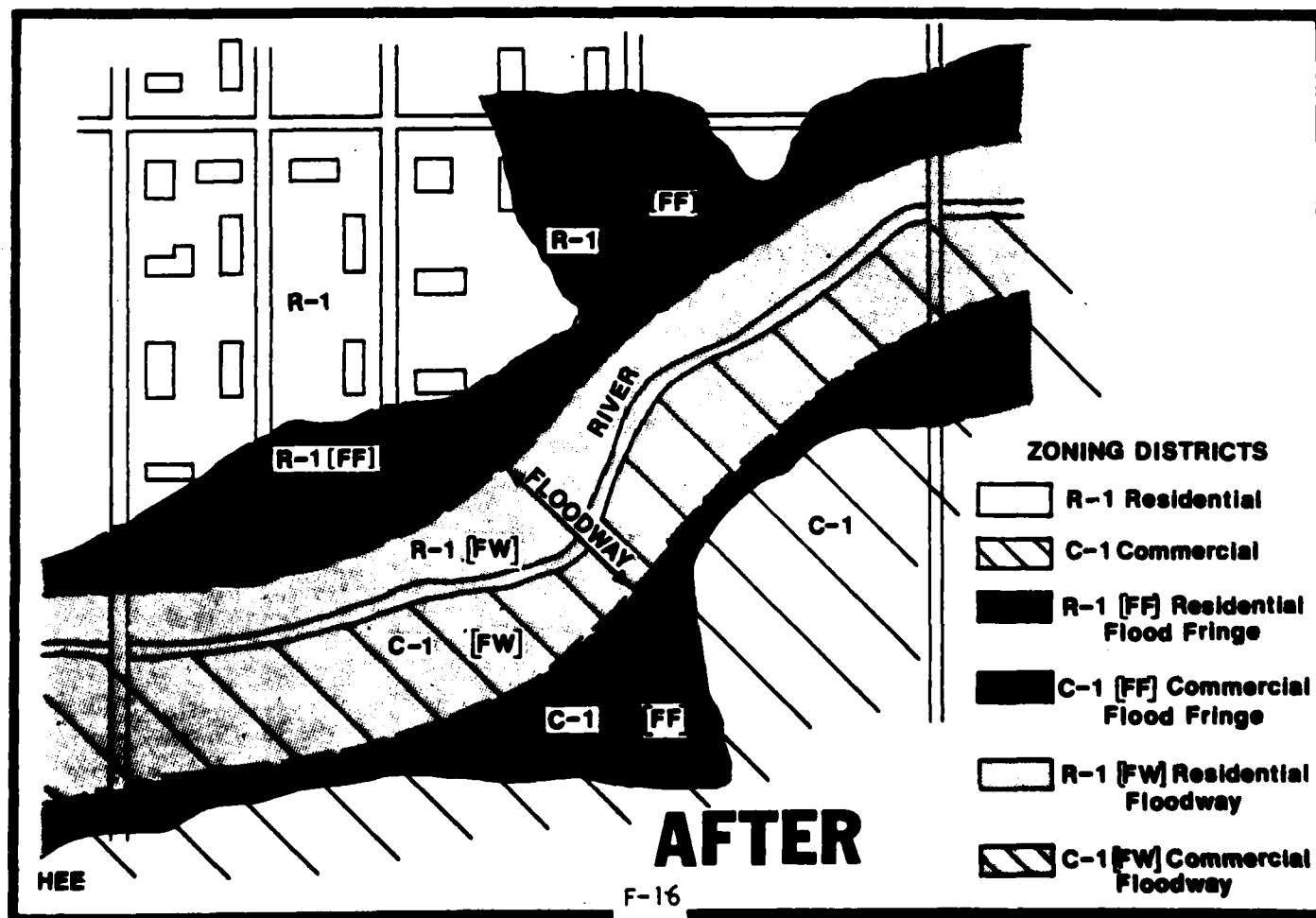
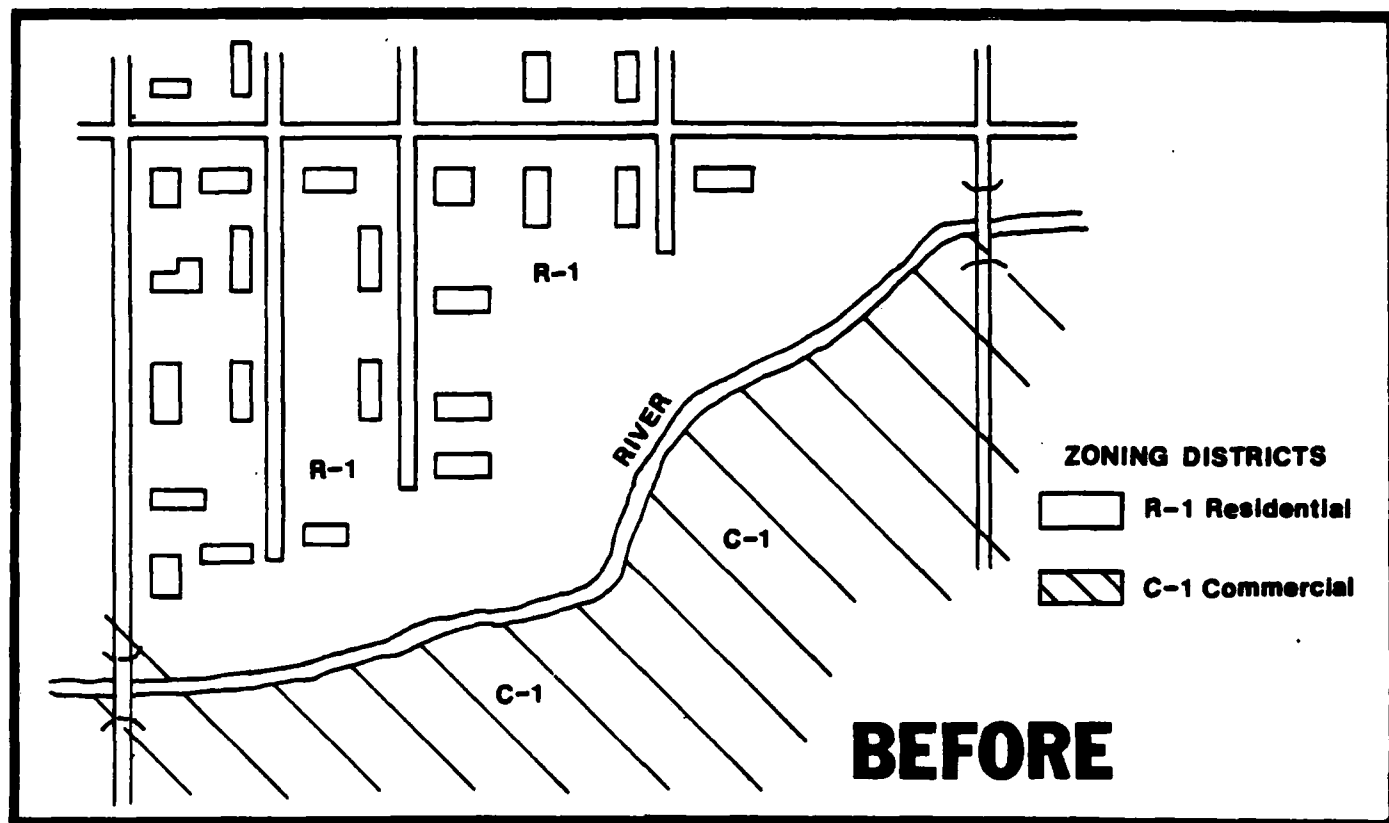
The flood plain areas within the jurisdiction of this ordinance are hereby divided into three Districts: Floodway District (FW), Flood Fringe District (FF), and General Flood Plain District (GFP).

- 3.1 Floodway District. The Floodway District shall include those areas designated as floodway in the Flood Insurance Study.
- 3.2 Flood Fringe District. The Flood Fringe District shall include those areas designated as floodway fringe in the Flood Insurance Study.
- 3.3 General Flood Plain District. The General Flood Plain District shall include those areas designated as unnumbered A Zones on the Flood Insurance Rate Map.

The boundaries of these districts shall be shown on the Official Zoning Map. Within these districts all uses not allowed as Permitted Uses or permissible as Conditional Uses shall be prohibited.

TYPICAL ZONING MAP

BEFORE AND AFTER ADDITION OF FLOOD REGULATIONS USING A TWO DISTRICT APPROACH



SECTION 4.0 FLOODWAY DISTRICT (FW)

4.1 Permitted Uses. The following uses have a low flood damage potential and do not obstruct flood flows. These uses shall be permitted within the Floodway District to the extent that they are not prohibited by any other ordinance and provided they do not require structures, fill, or storage of materials or equipment. In addition, no use shall adversely affect the capacity of the channels or floodways or any tributary to the main stream or of any drainage ditch, or any other drainage facility or system.

4.11 Agricultural uses such as general farming, pasture, grazing, outdoor plant nurseries, horticulture, truck farming, forestry, sod farming, and wild crop harvesting.

4.12 Industrial-Commercial uses such as loading areas, parking areas, and airport landing strips.

4.13 Private and public recreational uses such as golf courses, tennis courts, driving ranges, archery ranges, picnic grounds, boat launching ramps, swimming areas, parks, wildlife and nature preserves, game farms, fish hatcheries, shooting preserves, target ranges, trap and skeet ranges, hunting and fishing areas, and single or multiple purpose recreational trails.

4.14 Residential uses such as lawns, gardens, parking areas, and play areas.

4.2 Conditional Uses. The following open space uses require accessory structures (temporary or permanent), or fill or storage of materials or equipment. These uses may be permitted in the Floodway District only after the issuance of a Conditional Use Permit as provided in Section 10.4 of this Ordinance. These uses are also subject to the provisions of Section 4.3, which applies to all floodway Conditional Uses.

- 4.21 Structures accessory to open space uses.
- 4.22 Placement of fill.
- 4.23 Extraction of sand, gravel, and other materials.
- 4.24 Marinas, boat rentals, docks, piers, wharves, and water control structures.
- 4.25 Railroads, streets, bridges, utility transmission lines, and pipelines.
- 4.26 Storage yards for equipment, machinery, or materials.
- 4.27 Other uses similar in nature to uses described in Sections 4.1 and 4.2 which are consistent with the provisions set out in Sections 1.3 and 4.0 of this Ordinance.

4.3 Standards for Floodway Conditional Uses

- 4.31 All Uses. No structure (temporary or permanent), fill (including fill for roads and levees), deposit, obstruction, storage of materials, or equipment, or other uses may be allowed as a Conditional Use which, acting alone or in combination with existing or reasonably anticipated future uses, adversely affects the capacity of the floodway or increases flood heights. In addition, all floodway Conditional Uses shall be subject to the standards contained in Section 10.45 and the following standards (Sections 4.32-4.36).

4.32 Fill

- (1) Any fill deposited in the floodway shall be no more than the minimum amount necessary to conduct a Conditional Use listed in Section 4.2. Generally, fill shall be limited to that needed to grade or landscape for that use and shall not in any way obstruct the flow of flood waters.
- (2) Spoil from dredging or sand and gravel operations shall not be deposited in the floodway unless it can be done in accordance with (1) of this Section.
- (3) Fill shall be protected from erosion by vegetative cover.

4.33 Accessory Structures (temporary or permanent) permitted as
Conditional Uses by Section 4.21.

- (1) Accessory structures shall not be designed for human habitation.
- (2) Accessory structures, if permitted, shall be constructed and placed on the building site so as to offer the minimum obstruction to the flow of flood waters.
 - (a) Whenever possible, structures shall be constructed with the longitudinal axis parallel to the direction of flood flow, and,
 - (b) So far as practicable, structures shall be placed approximately on the same flood flow lines as those of adjoining structures.
- (3) Accessory structures shall be flood-proofed in accordance with the State Building Code.

4.34 Storage of Materials and Equipment

- (1) The storage or processing of materials that are, in time of flooding, flammable, explosive, or potentially injurious to human, animal, or plant life is prohibited.
- (2) Storage of other materials or equipment may be allowed if readily removable from the area within the time available after a flood warning.

4.35 Structural Works for Flood Control. Levees, dikes, and floodwalls shall not be constructed within the limits of the Floodway District. Other structural works for flood control such as dams and channel enlargements that will change the course, current, or cross-section of a public water shall be subject to the provisions of Minnesota Statutes _____, Chapter 105.

SECTION 5.0 FLOOD FRINGE DISTRICT (FF)

5.1 Permitted Uses. The following uses shall be permitted uses within the Flood Fringe District to the extent that they are not prohibited by any other ordinance:

5.11 Any use permitted in Section 4.1.

5.12 Accessory structures provided they comply with the provision of Section 4.33 of this ordinance.

5.13 Residences and other structures constructed on fill so that the basement floor or first floor, if there is no basement, is at or above the Regulatory Flood Protection Elevation. The finished fill elevation shall be no lower than one (1) foot below the Regulatory Flood Protection Elevation and shall extend at such elevation at least fifteen (15) feet beyond the limits of any structure or building erected thereon. Fill shall be compacted and the slopes shall be protected by riprap or vegetative covering. Residences constructed on fill shall be subject to the vehicular access requirements in Section 5.31.

No use shall be permitted which will adversely affect the capacity of the channels or floodways of any tributary to the main stream, or of any drainage ditch, or any other drainage facility or system.

5.2 Conditional Uses. Other uses are permitted only upon application to the Zoning Administrator and the issuance of a Conditional Use Permit as provided in Section 10.4 of this Ordinance and subject to the following provisions:

5.21 Residences. Where existing streets, utilities, and small lot sizes preclude the use of fill, other methods of elevating the first floor (including basements) above the Regulatory Flood Protection Elevation may be authorized, provided that the residence is flood-proofed

in accordance with the State Building Code.

5.22 Residential Basements.¹ Residential basements below the flood protection elevation may be authorized if they are flood-proofed to FP-1 classification in accordance with the State Building Code. No floor or portion of a residence below the Regulatory Flood Protection Elevation may be used for human occupancy.

5.23 Non-Residential Structures. Commercial, manufacturing, and industrial structures shall ordinarily be elevated on fill so that their first floor (including basement) is above the Regulatory Flood Protection Elevation but may in special circumstances be flood-proofed in accordance with the State Building Code. Structures that are not elevated to above the Regulatory Flood Protection Elevation shall be flood-proofed to FP-1 or FP-2 classification as defined by the State Building Code. Structures flood-proofed to FP-3 or FP-4 classification shall not be permitted.

5.3 Standards for Flood Fringe Uses

5.31 Residential Uses. Residences that do not have vehicular access at or above an elevation not more than two feet below the Regulatory Flood Protection Elevation shall not be permitted unless granted a variance by the Board of Adjustment. In granting a variance the Board shall specify limitations on the period of use or occupancy of the residence.

5.32 Commercial Uses. Accessory land uses, such as yards, railroad tracks, and parking lots may be at elevations lower than the Regulatory Flood Protection Elevation. However, a permit for such facilities to be

¹Include this provision only if the local unit of government has been granted a waiver by the Federal Insurance Administration that would allow flood-proofed basements.

used by the employees or the general public shall not be granted in the absence of a flood warning system that provides adequate time for evacuation if the area would inundate to a depth greater than two feet or be subject to flood velocities greater than four feet per second upon occurrence of the regional flood.

- 5.33 Manufacturing and Industrial Uses. Measures shall be taken to minimize interference with normal plant operations especially along streams having protracted flood durations. Certain accessory land uses such as yards and parking lots may be at lower elevations subject to requirements set out in Section 5.32 above. In considering permit applications, due consideration shall be given to needs of an industry whose business requires that it be located in flood plain areas.

SECTION 6.0 GENERAL FLOOD PLAIN DISTRICT

- 6.1 Permitted Uses. Permitted uses shall include those uses permitted by Section 4.1 of this Ordinance.
- 6.2 Conditional Uses. All other uses are Conditional Uses and are permitted only upon the issuance of a special permit as provided in Section 10.4. The General Flood Plain District includes the entire flood plain and does not differentiate between those areas that are floodway and those areas that are flood fringe. Because of this the _____
(designated body)
shall determine whether the proposed use is in the floodway or flood fringe using procedures established in Section 10.43. If it is determined that the use lies in the floodway, the provisions of Section 4.0 of this ordinance shall apply. If it is determined that the proposed use lies in the flood fringe, the provisions of Section 5.0 of this ordinance shall apply.

SECTION 7.0 SUBDIVISIONS²

No land shall be subdivided which is held unsuitable by (Governing Body/
Planning Commission/Board of Adjustment for reason of flooding, inadequate drainage, water supply or sewage treatment facilities. All lots within the flood plain districts shall contain a building site at or above the Regulatory Flood Protection Elevation. All subdivisions shall have water and sewage disposal facilities that comply with the provisions of this Ordinance and have road access both to the subdivision and to the individual building sites no lower than two feet below the Regulatory Flood Protection Elevation.

In the General Flood Plain District, applicants shall provide the information required in Section 10.43 of this Ordinance. The (designated body) shall evaluate the subdivision in accordance with procedures established in Section 10.43 and standards contained in Section 10.45 of this Ordinance.

²This Section is not intended as a substitute for a comprehensive city or county subdivision ordinance. It can, however, be used as an interim control until the comprehensive subdivision ordinance can be amended to include necessary flood plain management provisions.

SECTION 8.0 PUBLIC UTILITIES, RAILROADS, ROADS, AND BRIDGES

- 8.1 Public Utilities. All public utilities and facilities such as gas, electrical, sewer, and water supply systems to be located in the flood plain shall be flood-proofed in accordance with the State Building Code or elevated to above the Regulatory Flood Protection Elevation.
- 8.2 Public Transportation Facilities. Railroad tracks, roads, and bridges to be located within the Floodway District shall comply with Sections 4.31 and 4.32 of this Ordinance. Elevation to the Regulatory Flood Protection Elevation shall be provided where failure or interruption of these transportation facilities would result in danger to the public health or safety or where such facilities are essential to the orderly functioning of the area. Minor or auxiliary roads or railroads may be constructed at a lower elevation where failure or interruption of transportation services would not endanger the public health or safety.

SECTION 9.0 MOBILE HOMES AND MOBILE HOME PARKS

9.1 New mobile home parks and expansions to existing mobile home parks shall be subject to the provisions placed on subdivisions by Section 7.0 of this Ordinance.

9.2 Mobile homes in existing mobile home parks that are located in flood plain districts are nonconforming uses and may be replaced only if in compliance with the following conditions:

- (1) The mobile home lies in the Flood Fringe District.
- (2) The mobile home is anchored with tiedowns that comply with requirements of Minnesota Regulations MoH 450.
- (3) The mobile home owner or renter is notified that the mobile home site lies in the flood plain and may be subject to flooding.
- (4) The mobile home park owner develops a flood emergency plan consistent with the time available after a flood warning. The plan shall be filed with and approved by the (Designated Agency).

9.3 Individual mobile homes not located in mobile home parks may be permitted if allowed by other applicable ordinances and if they comply with the provisions of Section 5.13 of this Ordinance.

SECTION 10.0 ADMINISTRATION

10.1 Zoning Administrator. A Zoning Administrator designated by the _____ shall administer and enforce this Ordinance.
(governing body)

If he/she finds a violation of the provisions of this Ordinance he/she shall notify the person responsible for such violation, indicating the nature of the violation, and ordering the action necessary to correct it.

10.2 Use Permit

10.21 Use Permit Required. A Use Permit issued by the Zoning Administrator in conformity with the provisions of this Ordinance shall be secured prior to the erection, addition, or alteration of any building, structure, or portion thereof; prior to the use or change of use of a building, structure, or land; prior to the change or extension of a nonconforming use; and prior to the placement of fill or excavation of materials within the flood plain.

10.22 Application for Use Permit. Application for a Use Permit shall be made in duplicate to the Zoning Administrator on forms furnished by him/her and shall include the following where applicable: plans in duplicate drawn to scale, showing the nature, location, dimensions, and elevations of the lot; existing or proposed structures, fill, or storage of materials; and the location of the foregoing in relation to the stream channel.

10.23 State and Federal Permits. Prior to granting a Use Permit or processing an application for a Conditional Use Permit or Variance, the Zoning Administrator shall determine that the applicant has obtained all necessary State and Federal Permits.

10.24 Certificate of Zoning Compliance for a New, Altered, or Nonconforming Use. It shall be unlawful to use, occupy, or permit

the use or occupancy of any building or premises or part thereof hereafter created, erected, changed, converted, altered, or enlarged in its use or structure until a Certificate of Zoning Compliance shall have been issued by the Zoning Administrator stating that the use of the building or land conforms to the requirements of this Ordinance. Where a nonconforming use or structure is extended or substantially altered, the Certificate of Zoning Compliance shall specifically state the manner in which the nonconforming structure or use differs from the provisions of this Ordinance.

10.25 Construction and Use to be as Provided in Applications, Plans, Permits, and Certificate of Zoning Compliance. Use Permits, Conditional Use Permits, or Certificates of Zoning Compliance issued on the basis of approved plans and applications authorize only the use, arrangement, and construction set forth in such approved plans and applications, and no other use, arrangement, or construction. Any use, arrangement, or construction at variance with that authorized shall be deemed violation of this Ordinance, and punishable as provided by Section 12.0 of this Ordinance. The applicant shall be required to submit certification by a registered professional engineer, registered architect, or registered land surveyor that the finished fill and building elevations were accomplished in compliance with the provisions of this ordinance. Flood-proofing measures shall be certified by a registered professional engineer or registered architect.

10.26 Record of First Floor Elevation. The Zoning Administrator shall maintain a record of the elevation of the first floor (including

basement) of all new structures or additions to existing structures in the flood plain districts. He/She shall also maintain a record of the elevations to which structures or additions to structures are flood-proofed.

10.3 Board of Adjustment. A Board of Adjustment is hereby established.

10.31 Rules. The Board of Adjustment shall adopt rules for the conduct of business and may exercise all of the powers conferred on such Boards by State law.

10.32 Administrative Review. The Board shall hear and decide appeals where it is alleged there is error in any order, requirement, decision, or determination made by an administrative official in the enforcement or administration of this Ordinance.

10.33 Variances. The Board may authorize upon appeal in specific cases such variance from the terms of this Ordinance as will not be contrary to the public interest, where, owing to special conditions, 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. No Variance shall have the effect of allowing in any district uses prohibited in that district, permit a lower degree of flood protection than the Regulatory Flood Protection Elevation for the particular area, or permit standards lower than those required by State law.

10.34 Hearings. Upon filing with the Board of Adjustment of an appeal from a decision of the Zoning Administrator, or an application for a variance, the Board shall fix a reasonable time for a hearing and give due notice to the parties in interest. The Board shall submit by mail to the Commissioner of Natural Re-

sources a copy of the application for proposed Variances sufficiently in advance so that the Commissioner will receive at least ten days notice of the hearing.

10.35 Decisions. The Board shall arrive at a decision on such appeal or Variance within _____ days. In passing upon an appeal the Board may, so long as such action is in conformity with the provisions of this Ordinance, reverse or affirm, wholly or in part, or modify the order, requirement, decision or determination appealed from. It shall make its decision in writing setting forth the findings of fact and the reasons for its decisions. In granting a Variance the Board may prescribe appropriate conditions and safeguards such as those specified in Section 10.47, which are in conformity with the purposes of this Ordinance. Violations of such conditions and safeguards, when made a part of the terms under which the Variance is granted, shall be deemed a violation of this Ordinance punishable under Section 12.0. A copy of all decisions granting Variances shall be forwarded by mail to the Commissioner of Natural Resources within ten (10) days of such action.

10.36 Appeal to the _____ and District Court. Appeals from any decision of the Board may be taken by any person or persons, jointly or severally, aggrieved by any decision of the Board, or any taxpayer, officer, department, board, or bureau of the municipality, to the _____. The decision of the _____ may be appealed to the district court, of this jurisdiction as provided in Minnesota Statutes 462.361.

For use by
Municipality

For use by
Counties

Appeal to the District Court. Appeals from any decision of the Board may be taken by any person or persons, jointly or severally, aggrieved by any decision of the Board, or any taxpayer, officer, department, board or bureaus of the county, to the district court as provided in Minnesota Statutes 394.27.

10.4 Conditional Uses⁽¹⁾. The _____
(Governing Body/Planning Commission/Board of Adjustment)
shall hear and decide applications for Conditional Uses permissable under this Ordinance. Applications shall be submitted to the Zoning Administrator who shall forward the application to _____
(Designated Body) for consideration.

10.41 Hearings. Upon filing with the _____ an
(Designated Body)
application for a Conditional Use Permit, the _____
(Designated Body)
shall submit by mail to the Commissioner of Natural Resources a copy of the application for proposed Conditional Uses sufficiently in advance so that the Commissioner will receive at least ten days notice of the hearing.

10.42 Decisions. The _____ shall arrive at a decision
(Designated Body)
on a Conditional Use within _____ days. In granting a Conditional Use Permit the _____ may prescribe
(Designated Body)
appropriate conditions and safeguards, in addition to those specified in Section 10.47, which are in conformity with the purposes of this Ordinance. Violations of such conditions and safeguards, when made a part of the terms under which the Conditional Use Permit is granted, shall be deemed a violation of this Ordinance

(1) Many cities and counties have already established planning commissions as part of a separate ordinance. If a governing body has not done so and wishes to delegate the authority for granting conditional use permits, it should include provisions in their flood plain management ordinance that set up a Planning Commission.

punishable under Section 12.0. A copy of all decisions granting Conditional Use Permits shall be forwarded by mail to the Commissioner of Natural Resources within ten (10) days of such action.

10.43 Procedures for Evaluating Proposed Conditional Uses Within the General Flood Plain District.

- (1) Upon receipt of an application for a Conditional Use Permit for a use within the General Flood Plain District, the applicant shall be required to furnish such of the following information as is deemed necessary by the (Designated Body) for the determination of the Regulatory Flood Protection Elevation and whether the proposed use is within the floodway or flood fringe.
 - (a) A typical valley cross-section showing the channel of the stream, elevation of land areas adjoining each side of the channel, cross-sectional areas to be occupied by the proposed development, and high water information.
 - (b) Plan (surface view) showing elevations or contours of the ground; pertinent structure, fill, or storage elevations; size, location, and spatial arrangement of all proposed and existing structures on the site; location and elevations of streets; photographs showing existing land uses and vegetation upstream and downstream; and soil type.
 - (c) Profile showing the slope of the bottom of the channel or flow line of the stream for at least 500 feet in either direction from the proposed development.
- (2) One copy of the above information shall be transmitted to a designated engineer or other expert person or agency for technical assistance in determining whether the proposed use is in the floodway or flood fringe and to determine the Regulatory Flood Protection Elevation. Procedures consistent with Minnesota Regulations NR 86-87 shall be followed in this expert evaluation. The designated engineer or

expert shall:

- (a) Estimate the peak discharge of the regional flood.
- (b) Calculate the water surface profile of the regional flood based upon a hydraulic analysis of the stream channel and overbank areas.
- (c) Compute the floodway necessary to convey the regional flood without increasing flood stages more than 0.5 feet. An equal degree of encroachment on both sides of the stream within the reach shall be assumed in computing floodway boundaries.

- (3) Based upon the technical evaluation of the designated engineer or expert, the shall determine whether the proposed use is in the floodway or flood fringe and the Regulatory Flood Protection Elevation at the site.

10.44 Procedures to be Followed by the in Passing
(Designated Body)
on Conditional Use Permit Applications Within all Flood Plain
Districts.

- (1) Require the applicant to furnish such of the following information and additional information as deemed necessary by the for determining the suitability of the particular site for the proposed use:
(Designated Body)
 - (a) Plans in triplicate drawn to scale showing the nature, location, dimensions, and elevation of the lot, existing or proposed structures, fill, storage of materials, flood-proofing measures, and the relationship of the above to the location of the stream channel.
 - (b) Specifications for building construction and materials, flood-proofing, filling, dredging, grading, channel improvement, storage of materials, water supply and sanitary facilities.
- (2) Transmit one copy of the information described in subsection (1) to a designated engineer or other expert person or agency for technical assistance, where necessary, in evaluating the proposed project in relation to flood heights and velocities, the seriousness of flood damage to the use, the adequacy of the plans for protection, and other technical matters.
- (3) Based upon the technical evaluation of the designated engineer or expert, the shall determine the specific flood hazard at the site and evaluate the suitability of the proposed use in relation to the flood hazard.
(Designated Body)

10.45 Factors Upon Which the Decision of the _____ Shall
Be Based. In passing upon Conditional Use applications, the
_____ shall consider all relevant factors specified
(Designated Body)
in other sections of this Ordinance, and

- (1) The danger to life and property due to increased flood heights or velocities caused by encroachments.
- (2) The danger that materials may be swept onto other lands or downstream to the injury of others.
- (3) The proposed water supply and sanitation systems and the ability of these systems to prevent disease, contamination, and unsanitary conditions.
- (4) The susceptibility of the proposed facility and its contents to flood damage and the effect of such damage on the individual owner.
- (5) The importance of the services provided by the proposed facility to the community.
- (6) The requirements of the facility for a waterfront location.
- (7) The availability of alternative locations not subject to flooding for the proposed use.
- (8) The compatibility of the proposed use with existing development and development anticipated in the foreseeable future.
- (9) The relationship of the proposed use to the comprehensive plan and flood plain management program for the area.
- (10) The safety of access to the property in times of flood for ordinary and emergency vehicles.
- (11) The expected heights, velocity, duration, rate of rise, and sediment transport of the flood waters expected at the site.
- (12) Such other factors which are relevant to the purposes of this Ordinance.

10.46 Time for Acting on Application. The _____ shall
act on an application in the manner described above within _____
days from receiving the application, except that where additional
information is required pursuant to Sections 10.43 and 10.44 of this
Ordinance. The _____ shall render a written decision
(Designated Body)

within _____ days from the receipt of such additional information.

10.47 Conditions Attached to Conditional Use Permits. Upon consideration of the factors listed above and the purposes of this Ordinance, the _____ may attach such conditions to the (Designated Body) granting of Conditional Use Permits as it deems necessary to fulfill the purposes of this Ordinance. Such conditions may include, but are not limited to, the following:

- (1) Modification of waste disposal and water supply facilities.
- (2) Limitations on period of use, occupancy, and operation.
- (3) Imposition of operational controls, sureties, and deed restrictions.
- (4) Requirements for construction of channel modifications, dikes, levees, and other protective measures.
- (5) Flood-proofing measures, in accordance with the State Building Code. The applicant shall submit a plan or document certified by a registered professional engineer or architect that the flood-proofing measures are consistent with the Regulatory Flood Protection Elevation and associated flood factors for the particular area.

SECTION 11.0 NONCONFORMING USES

11.1 A structure or the use of a structure or premises which was lawful before the passage or amendment of this Ordinance but which is not in conformity with the provisions of this Ordinance may be continued subject to the following conditions:

11.11 No such use shall be expanded, changed, enlarged, or altered in a way which increases its nonconformity.

11.12 No structural alteration or addition to any nonconforming structure over the life of the structure shall exceed 50 percent of its assessed value at the time of its becoming a nonconforming use, unless the entire structure is permanently changed to a conforming use or unless the alteration or addition would substantially reduce potential flood damages for the entire structure.

11.13 Any alteration or addition to a nonconforming use which would result in substantially increasing the flood damage potential of that use shall be flood-proofed in accordance with the State Building Code.

11.14 If any nonconforming use is discontinued for 12 consecutive months, any future use of the building premises shall conform to this Ordinance. The assessor shall notify the Zoning Administrator in writing of instances of nonconforming uses which have been discontinued for a period of 12 months.

11.15 If any nonconforming use is destroyed by any means, including floods, to an extent of 50 percent or more of its assessed value, it shall not be reconstructed except in conformity with the provisions of this Ordinance. However, the _____ (Designated Body) may issue a Conditional Use Permit for reconstruction if the

use is located outside the floodway and, upon reconstruction, is adequately flood-proofed, elevated, or otherwise protected in conformity with Section 10.47.

11.16 Uses or adjuncts thereof which are or become nuisances shall not be entitled to continue as nonconforming uses.

11.17 Nonconforming uses located in the Floodway District shall be eliminated or brought into conformity with the standards contained in this Ordinance within a reasonable period of time as determined by the _____, after a hearing (Designated Body) for each such nonconforming use. The Board shall make its determination upon the basis of the normal useful life of any improvement upon the premises. In addition, the monetary value of any competitive advantage derived by the operation of such nonconforming use, by reason of the limitation on establishment of competing businesses as a result of this Ordinance, shall be considered as a reduction of losses resulting from the requirement of termination of the use under this Ordinance.

11.18 The Zoning Administrator shall prepare a list of those nonconforming uses which have been flood-proofed or otherwise adequately protected in conformity with Section 10.47 of this Ordinance. He shall present such list to the _____ (Designated Body) which may issue a certificate to the owner stating that such uses, as a result of these corrective measures, are in conformity with the provisions of this Ordinance.

SECTION 12.0 PENALTIES FOR VIOLATION

Violation of the provisions of this Ordinance or failure to comply with any of its requirements (including violations of conditions and safeguards established in connection with grants of Variances or Conditional Uses) shall constitute a misdemeanor. Any person who violates this Ordinance or fails to comply with any of its requirements shall upon conviction thereof be fined not more than \$500 or imprisoned for not more than 90 days, or both, and in addition shall pay all costs and expenses involved in the case. Each day such violation continues shall be considered a separate offense.

Nothing herein contained shall prevent the _____ from taking such
(local unit)
other lawful action as is necessary to prevent or remedy any violation.

SECTION 13.0 AMENDMENTS

The flood plain designation on the Official Zoning Map shall not be removed from flood plain areas unless it can be shown that the designation is in error or that the area has been filled to or above the elevation of the regional flood and is contiguous to lands outside the flood plain. Special exceptions to this rule may be permitted by the Commissioner of Natural Resources if he determines that, through other measures, lands are adequately protected for the intended use.

All amendments to this ordinance including amendments to the Official Zoning Map must be submitted to and approved by the Commissioner of Natural Resources prior to adoption. Changes in the Official Zoning Map also require prior approval by the Federal Insurance Administration.

APPENDIX G

60.590 FP FLOOD PLAIN DISTRICT:

60.591 INTENT

The Flood Plain District and its subclassifications, Floodway, Flood Fringe and General Flood Plain Districts, are designed to provide comprehensive flood plain management for the City of Saint Paul in accordance with the policies of Minnesota Statutes, Chapter 104.

The Floodway Maps #46, 47, 48, 49 and 50 adopted by the City Council, Ordinance #16433, the "Flood Insurance Study" for the City of Saint Paul, Minnesota, prepared by The Federal Insurance Administration dated October, 1972, and the "Flood Insurance Rate Map" for the City of Saint Paul, prepared by the Federal Insurance Administration dated February 27, 1976 are hereby adopted by reference and declared to be a part of this ordinance.

60.592 ESTABLISHMENT

The Flood Plain areas within the jurisdiction of this ordinance are hereby divided into three Districts: Floodway District (FW), which shall include those areas designated as floodway in the Flood Insurance Study and on Maps 46-50, Flood Fringe District (FF), which shall include those areas designated as floodway fringe in the Flood Insurance Study, and General Flood Plain District (GFP), which shall include those areas designated as unnumbered A Zones on the Flood Insurance Rate Map.

Within these districts all uses not allowed as Permitted Uses or as Permitted Uses Subject to Special Conditions shall be and are hereby prohibited. Legal nonconforming structures or uses however existing on the effective date of this Ordinance or amendment thereto, will be permitted to continue as provided in Section 62.102 of the Zoning Code.

60.593 COMPLIANCE

- a. No use or occupation of any lands, for any purpose whatsoever, shall hereafter be permitted within the Flood Plain District without full compliance with the terms of this Ordinance and other applicable laws.
- b. No structure, fill, material or object shall hereafter be placed on or removed from lands within the Flood Plain District, and no structures or other object shall hereafter be located, used, constructed, extended, converted, or altered within the District without full compliance with this Ordinance and other applicable laws.
- c. All proposed development, construction, or subdivision proposals on property which is wholly or partially located within the Flood Plain District of the City of Saint Paul shall be submitted to the Planning Commission for review to assure adherence with this Ordinance and other applicable laws.
- d. No mobile home or mobile home park shall hereafter be permitted within the Flood Plain District.

- e. Service facilities, such as electrical and heating equipment, water and sanitary lines, shall be installed at or above the regulatory flood protection elevation for the particular area or adequately flood-proofed.
- f. All requests for building permits for new structures or for additions to existing structures which are wholly or partially located within the Flood Plain District shall include the mean sea level (m.s.l.) elevation of the first floor (including basement) and the elevation to which structures or additions to structures will be flood-proofed.

60.594 DEFINITIONS:

- a. Flood Plain: The areas adjoining a watercourse at or below the water surface elevation associated with the regional flood that have been or hereafter may be covered by the regional flood.
- b. Regional Flood: A flood which is representative of large floods known to have occurred and characteristic of what can be statistically expected to occur on an average frequency of once every 100 years and have water surface elevations equal to those filed with and made a part of the Flood Plain District Zoning Map.
- c. Regulatory Flood Protection Elevation: That elevation not less than one foot above the water surface profile associated with the regional flood plus any increases in flood heights attributable to encroachments on the flood plain.
- d. Flood-proofing: Those methods of construction described in the Uniform State Building Code which when applied to structures or properties will prevent or mitigate damage from floods.
- e. Floodway: The channel of the watercourse and those portions of the adjoining flood plains which have been determined necessary to carry and discharge the regional flood. The floodway has been determined in accordance with Minnesota Statutes, Chapter 104, and Minnesota Regulations NR 85. It is defined as those areas on the river side of the established Floodway District Boundaries as shown on the referenced Flood Plain District Zoning Map.
- f. Flood Fringe: That portion of the flood plain outside of the floodway.
- g. Standard Project Flood: The flood that may be expected from the most severe combination of the meteorological and hydrological conditions that is considered reasonably characteristic of the Saint Paul geographic area, excluding extremely rare combinations. Such floods are intended as practicable expressions of the degree of protection that should be sought in the design of flood control works, the failure of which might be disastrous.
- h. Mobile Home: a structure transportable in one or more sections which is built on a permanent chassis and designed to be used with or without a permanent foundation when connected to the required utilities. It does not include recreational vehicles or travel trailers.

60.595 FW FLOODWAY DISTRICT

60.596 PRINCIPAL USES PERMITTED:

The following uses shall be permitted within the Floodway District to the extent that they are not prohibited by any other provision of the Zoning Ordinance or other ordinances and provided that they have a low flood-damage potential, will not materially obstruct flood flows or increase velocities or stages of the regional flood, and do not require structures, fill, storage of materials or storage of equipment:

- a. Industrial-commercial uses such as open-loading areas, parking areas, interior service roads, airport service roads and airport runways.
- b. Public and private recreational uses such as golf courses, tennis courts, driving ranges, archery ranges, picnic and campgrounds, boat launching and beaching areas or ramps, swimming areas, parks, playgrounds, wildlife and nature preserves, game farms, fish hatcheries and hiking, bicycling, horseback or recreational vehicle areas and trails, and other open space uses.
- c. Accessory residential uses such as lawns, gardens, parking areas, and play areas.

In addition, no permitted use within the Floodway District shall adversely affect the hydraulic capacity of the channel or floodway or any tributary to the main stream or of any ditch or other drainage facility or system and no use shall be permitted which is likely to cause pollution of waters, as defined in Minnesota Statutes, Section 115.01, unless adequate safeguards, approved by the State Pollution Control Agency, are provided.

60.597 PRINCIPAL USES PERMITTED SUBJECT TO SPECIAL CONDITIONS:

The following uses, if not prohibited by any other provision of the Zoning Code, which involve placement or use of temporary or permanent structures, fill, materials or equipment in the Floodway District may be permitted therein upon application and issuance of a Conditional Use Permit by the Planning Commission, subject to the standards contained herein pertaining to Floodway Conditional Uses:

- a. Railroads, highways, streets, alleys, access roads, bridges, sewers, utilities, utility transmission lines and pipe lines.
- b. Marinas, boat rentals, docks, piers, mooring anchors, wharves, water control structures and navigation facilities.
- c. Storage yards or areas for equipment, machinery or bulk materials.
- d. Use or placement of structures accessory to permitted or open space uses.
- e. Placement of fill accessory to permitted uses.

- f. Other uses similar in nature to uses described as Permitted or Conditional Uses which are consistent with the provisions of the statewide standards and criteria for Management of Flood Plain Areas of Minnesota adopted by the Minnesota State Department of Natural Resources and with the City's comprehensive Flood Plain Development plans.

60.598 STANDARDS FOR FLOODWAY CONDITIONAL USES:

a. General Uses

No structure (temporary or permanent), fill (including fill for roads and levees) deposit, obstruction, storage of materials or equipment, or other use may be allowed as a Conditional Use which, acting alone or in combination with existing or anticipated future uses, unduly affects the capacity of the floodway or unduly increases flood heights or velocities. Consideration of the effects of a proposed use shall be based on the reasonable assumption that there will be an equal degree of encroachment extending for a significant reach on both sides of the stream.

b. Fill

Any fill or other material proposed to be deposited in the floodway must be essential to carry out the permitted uses within the floodway and it must not impede the hydraulic capacity of the floodway or unduly increase the velocity of any potential flood. The amount thereof must not exceed that necessary to achieve the intended purpose, and it shall be protected against erosion by rip-rap, vegetation cover, or bulkheading.

c. Structures (Temporary and Permanent).

Structures shall not be designed for human habitation, shall have a low flood-damage potential, and shall conform to the State Building Code and the following provisions:

(1) The structure or structures, if permitted, shall be constructed and placed on the building site so as to offer the minimum obstruction to the flow of flood waters having, whenever possible, the longitudinal axis parallel to the direction of the flood flow, and being, so far as practicable, placed approximately on the same flood flow lines as adjoining structures.

(2) Structures shall be firmly anchored to prevent flotation.

d. Storage of Material and Equipment.

The storage or processing of materials that are in time of flooding buoyant, flammable, explosive, or could be injurious to human, animal, or plant life is prohibited unless adequate safeguards approved by the proper federal, state and local agencies are provided.

Storage of other material or equipment may be allowed if not subject to major damage by floods and if firmly anchored to prevent flotation or readily removable from the area within the time available after flood warning.

e. Solid Waste Disposal.

Solid waste disposal sites shall not be permitted nor allowed in an area designated as a Floodway District. This shall include all landfill operations for the disposal of solid waste and all transfer stations used for solid waste disposal.

f. Structural Works for Flood Control.

Structural works for flood control such as dams, levees, dikes and floodwalls shall be allowed only upon issuance of a Conditional Use Permit. In addition, any proposed work in the beds of public waters which will change the course, current, or cross-section of the waters shall be subject to the provisions of Minnesota Statutes, Chapter 105, other applicable laws, and the following provisions:

- (1) The minimum height and design of any dikes, levees, floodwalls, or similar structural works shall be at least three feet above the elevation of the regional flood or standard project flood whichever is greater.
- (2) Modifications and additions to the existing structural works shall assure that the work will not increase the flood-damage potential in the area.

60.600 FF FLOOD FRINGE DISTRICT

60.601 PRINCIPAL USES PERMITTED:

The following uses shall be Permitted Uses within the Flood Fringe District to the extent that they are not prohibited by any other provision of the Zoning Ordinance or other ordinance, and are subject to the standards for Flood Fringe usage contained herein:

- a. Any principal use permitted or conditional use specified in Sections 60.596-.597, excluding herefrom structural works for flood control.
- b. Buildings, structures, and appurtenances that are elevated on fill above the regulatory flood protection elevation.
- c. Public utility facilities, roads, railroad tracks and bridges that conform to the standards for Flood Fringe Uses.

In addition, no permitted use within the Flood Fringe District shall adversely affect the hydraulic capacity of the channel or floodway of any tributary the main stream or of any ditch or other drainage facility or system, and no use shall be permitted or allowed which is likely to cause pollution of waters, as defined in Minnesota Statutes, Section 115.01, unless adequate safeguards, approved by the proper State Agency, are provided.

Detailed plans shall be submitted to the Planning Coordinator for any developments placed on the flood plain landward from dikes, floodwalls, and similar structures. The plans must provide for measures to protect against flooding from internal drainage.

60.602 STANDARDS FOR FLOOD FRINGE USES:

All uses within the Flood Fringe District shall conform to the following standards except as provided in Section 60.850 or as provided by a Conditional Use Permit:

- a. Buildings and accessory structures for residential uses shall be constructed on non-settling fill so that the basement cellar or first floor, if there is no basement or cellar, is above the regulatory flood protection elevation. The finished fill elevation shall be at or above the established regulatory flood protection elevation for the particular area and shall extend at such elevation at least fifteen feet beyond the limits of any structure or building erected thereon.
- b. Buildings or structures for commercial uses shall be constructed on fill so that the cellar, basement or first floor, if there is no cellar or basement, is above the regulatory flood protection elevation.
- c. Buildings, structures and appurtenances used for manufacturing or industrial purposes shall be protected to the regulatory flood protection elevation by either construction on fill so that the cellar, basement or first floor, if there is no basement, or cellar is above the regulatory flood protection elevation, or by utilizing approved flood-proofing construction to protect to the regulatory flood protection elevation. Measures shall be taken to minimize interference with normal plant operations during anticipated periods of flooding.
- d. Land accessory to commercial or industrial uses such as yards, railroad tracks and parking areas which are below the regulatory flood protection elevation shall not be designed, designated or used by the general public if the area is subject to inundation to a depth greater than two feet or subject to flood velocities greater than four feet per second upon the occurrence of the regional flood unless a flood warning system is provided.
- e. Public utility facilities, roads, railroad tracks, and bridges within the flood plain shall be designed to minimize increases in flood elevation and shall be compatible with the City's flood plain development plans. Protection to the regulatory flood protection elevation shall be provided where failure or interruption of these public facilities would result in danger to the public health or safety or where such facilities are essential to the orderly functioning of the area. Where failure or interruption of service would not endanger life or health, a lesser degree of protection may be provided for minor or auxiliary roads, railroads or utilities.
- f. All uses of the Flood Fringe District shall be consistent with the provisions of the statewide standards and criteria for management of Flood Plain Areas of Minnesota adopted by the Minnesota State Department of Natural Resources and with the City's comprehensive Flood Plain Development Plans.

60.603 PRINCIPAL USES PERMITTED SUBJECT TO SPECIAL CONDITIONS:

Uses other than those specified above and not prohibited by the Zoning Ordinance and other ordinances shall be permitted only upon application and issuance of a

Conditional Use Permit by the Planning Commission and subject to the following provisions:

- a. Where existing streets or utilities are at elevations which make compliance with this ordinance impractical or in other special circumstances, the Planning Commission may authorize other techniques for protection of structures. Structures other than residences that ordinarily shall be elevated on fill as provided above may, in special circumstances, be otherwise elevated or protected to a point above the regulatory flood protection elevation.
- b. For public utilities, roads, railroad tracks and bridges where failure or interruption of these public facilities would not result in danger to the public health or safety or where such facilities are not essential to the orderly functioning of the area, a lesser degree of protection may be provided.
- c. Structural works for flood control may be permitted provided that they comply with the Standards for Floodway Conditional Uses set forth in Section 60.598(f) herein.
- d. Waste treatment and waste disposal facilities that conform to the Standards for Flood Fringe Uses may be permitted and shall conform to the following provisions:
 - (1) No new construction, addition, or modification to existing waste facilities shall be permitted within the flood plain unless emergency plans and procedures for action to be taken in the event of flooding are prepared, filed with, and approved by the Minnesota Pollution Control Agency. The emergency plans and procedures must provide for measures to prevent introduction of any pollutant or toxic material into the flood waters.
 - (2) There shall be no disposal of solid waste materials within the flood plain areas except upon issuance of a Conditional Use Permit for sites approved by the Minnesota Pollution Control Agency.

60.604 FLOOD PLAIN CONDITIONAL USE PERMITS:

- a. Conditional Use Permits shall be issued by the Planning Commission; except that the Planning Commission may delegate authority to issue Conditional Use Permits to the Planning Coordinator according to rules which the Commission may prescribe. Such rules will be filed with the Office of the City Clerk. Applications shall be submitted to the Planning Coordinator together with application fee in the amount of \$, established by council resolution. Upon receipt of an application, the Planning Coordinator shall determine whether to require any or all of the following four (4) items of information supplied by the applicant as a prerequisite to the consideration of the application and to determine whether the proposed use is within the Floodway or Flood Fringe.

- (1) Plans in triplicate drawn to scale prepared by and signed by a registered engineer, architect and/or land surveyor as applicable, showing the nature, location, dimensions and elevation of the land; existing surface contours, structures, streets and utilities; proposed surface contours, structures, fill and the location and elevations of proposed streets, water supply, sanitary facilities and other utilities showing the relationship of the above to the channel and to the designated flood plain and floodway district limits.
 - (2) Typical valley cross-sections of areas to be occupied by the proposed development showing the channel of the stream elevation of land areas adjoining each side of the channel, high water information and vegetation and soil types.
 - (3) Plan (surface view) of the proposed development showing the proposed use or uses of the area and structures and providing location, relationships and spatial arrangements of those uses and related structures to pertinent elevations, fill, storage location, utilities and other features.
 - (4) Profile showing the slope of the bottom of the channel and the flow lines of the stream.
- b. Applicable Conditional Use Permits for lands in the designated flood Plain must be obtained prior to application for all other permits required by law and ordinance. Flood Plain Zoning and Conditional Use Permits for flood plain areas are supplementary to other zoning and building permits.
- c. Factors Considered:
- In passing upon Conditional Use Permit applications, the Planning Commission or Planning Coordinator shall consider all relevant factors specified in other sections of this ordinance and,
- (1) The dangers to life and property due to increased flood heights or velocities caused by encroachments.
 - (2) The danger that materials may be swept onto other lands or downstream to the injury of other.
 - (3) The proposed water supply and sanitation systems and the ability of these systems to prevent disease, contamination, and unsanitary conditions.
 - (4) The susceptibility of the proposed facility and its contents to flood damage and the effect of such damage on the individual owner.
 - (5) The importance of the services provided by the proposed facility to the community.
 - (6) The requirements of the facility for a waterfront location.
 - (7) The availability of alternative locations not subject to flooding for the proposed use.

- (8) The compatibility of the proposed use with existing development and development anticipated in the foreseeable future.
 - (9) The relationship of the proposed use to the comprehensive plan and flood plain management program for the area.
 - (10) The safety of access to the property in times of flood for ordinary vehicles.
 - (11) The expected heights, velocity, duration, rate of rise, and sediment transport of the flood waters expected at the site.
 - (12) Such other factors which are relevant to the purposes of this ordinance.
- d. Within sixty (60) days from the date of filing of application for Conditional Use Permit, the Planning Coordinator shall submit the application together with additional information obtained under 60.604(a) herein to the Planning Commission. Unless the authority to issue the Conditional Use Permit has been delegated to the Planning Coordinator, the Commission shall then fix a time for hearing and give the applicant at least ten (10) days written notice thereof. At the hearing the Commission shall hear the report of the Planning Coordinator, and the applicant shall be given reasonable opportunity to be heard.
 - e. Based upon all the reports, recommendations and evidence presented to the Commission, the Commission shall render its written decision within a reasonable time following the hearing, and a copy of such decision shall be mailed to the applicant. In granting a Conditional Use Permit the Commission may prescribe any appropriate conditions and safeguards, which are in conformity with the purposes of this ordinance.
 - f. All decisions by the Planning Commission or Planning Coordinator granting or denying a Conditional Use Permit shall be final subject to appeal to the City Council as outlined in Section 60.605 herein.
 - g. A copy of the application for the proposed Conditional Uses shall be submitted to the Commissioner of Natural Resources sufficiently in advance so that the Commissioner will receive at least ten days notice of the hearing. A copy of all decisions granting Conditional Use Permits shall be forwarded to the Commissioner of Natural Resources within ten (10) days of such action.
 - h. Conditions Imposed:

The Planning Commission or Planning Coordinator may attach such conditions to the granting of Conditional Use Permits as each deems necessary to fulfill the purposes of this ordinance. Such conditions may include, but are not limited to, the following:
 - (1) Modifications of waste disposal and water supply facilities.
 - (2) Limitations on period of use and operation.
 - (3) Imposition of operational controls, sureties, and deed restrictions

- (4) Requirements for construction of channel improvements, modifications, dredging, dikes, levees, and other protective measures.
- (5) Flood-proofing measures shall be designed consistent with state established flood-proofing standards and with the flood protection elevation for the particular area including flood velocities, duration and rate of rise, hydrostatic and hydrodynamic forces, and other factors associated with the regulatory flood. The Commission shall require that the applicant submit a plan or document certified by a registered professional engineer or architect that the flood-proofing measures are consistent with the regulatory flood protection elevation and associated flood factors for the particular area. The flood-proofing measures that may be required include, but are not limited to, the following:
 - A. Anchorage to resist flotation and lateral movement.
 - B. Installation of watertight doors, bulkheads and shutters, or similar methods of construction.
 - C. Reinforcement of walls to resist water pressure.
 - D. Use of paints, membranes, or mortars to reduce seepage of water through walls.
 - E. Addition of mass or weight to structures to resist flotation.
 - F. Installation of pumps to lower water levels in structures.
 - G. Construction of water supply and waste treatment systems to prevent the entrance of flood waters.
 - H. Installation of pumping facilities or comparable practice for subsurface drainage systems for buildings to relieve external foundation wall and basement floor pressures.
 - I. Construction to resist ruptures or collapse caused by water pressure or floating debris.
 - J. Installation of valves or controls on sanitary and storm drain which will permit the drains to be closed to prevent back-up of sewage and storm waters into the buildings or structures. Gravity draining of basements may be eliminated by mechanical devices.
 - K. Location of all electrical equipment, circuits, and installed electrical appliances such that they are not subject to flooding by the regional flood.
 - L. Location of any structural storage facilities for chemicals, explosives, buoyant materials, flammable liquids, or other toxic materials, which could be hazardous to public health, safety, and welfare, above the flood protection elevation or provision of adequate flood-proofing to prevent flotation of or damage to storage containers which could result in the escape of toxic materials into flood waters.

- (6) Specifications for building construction and materials, filling and grading, water supply sanitary facilities, utilities and other work or construction to be submitted to the City Building Department for review and approval prior to any development.

60.700 GENERAL FLOOD PLAIN DISTRICT

60.701 PRINCIPAL USES PERMITTED:

Permitted uses shall include those uses permitted by Section 60.596 of this Ordinance.

60.702 PRINCIPAL USES PERMITTED SUBJECT TO SPECIAL CONDITIONS:

All other uses are Conditional Uses and are permitted only upon the issuance of a special permit as provided in Section 60.604. The General Flood Plain District includes the entire flood plain and does not differentiate between those areas that are floodway and those areas that are flood fringe. Because of this the Planning Coordinator shall determine whether the proposed use in the floodway or flood fringe in accordance with Section 60.604. If it is determined that the use lies in the floodway, the provisions of Section 60.596 of this ordinance shall apply. If it is determined that the proposed use lies in the flood fringe, the provisions of Section 60.600 of this ordinance shall apply.

60.800 APPEAL:

Notwithstanding any other provisions of the Zoning Ordinance, appeals from the decisions of the Planning Commission or Planning Coordinator on flood plain matters may be taken directly to the City Council. Appeals shall be initiated by the filing of a written notice of appeal and a written statement containing the factual basis of the appeal, together with a copy of the decision with the City Clerk within thirty (30) calendar days from the date of issuance of such decision. The Clerk shall report the filing of such notice of appeal at the Council meeting next following said filing, and the Council shall fix a date for hearing. The Clerk shall notify the appellant and the Planning Coordinator of the public hearing date. The Council shall hear all persons and all objections and recommendations relative to the decision, and the Council may grant or deny the application. If the Council should grant a Conditional Use Permit, it may prescribe appropriate conditions and safeguards in conformity with this ordinance. The Council's decision shall be final subject to review of the District Court of Ramsey County in accordance with the provisions of Minnesota Statutes, Section 462.361.

60.850 VARIANCES:

The Board of Zoning Appeals is hereby authorized to recommend variances to the provisions of this flood plain management ordinance where it appears that by reason of exceptional circumstances the strict enforcement of this ordinance would cause undue hardship and strict conformity with the standards would be unreasonable, impractical and not feasible under the circumstances. Variances granted by the Board of Zoning Appeals shall be consistent with the general purposes of the standards contained in this ordinance and state law, and the intent of applicable state and national laws and programs. Although variances may be used to modify permissible methods of flood protection, no variance shall have the effect of allowing in any district uses prohibited in that

district, permit a lower degree of flood protection than the flood protection elevation for the particular area, or permit a lesser degree of flood protection than required by state law. Appeals from the decision of the Board of Zoning Appeals may be taken to the City Council in accordance with Section 64.204 of the Saint Paul Legislative Code.

A copy of the application for a Variance shall be submitted to the Commissioner of Natural Resources sufficiently in advance so that the Commissioner will receive at least ten days notice of the variance hearing. A copy of all decisions granting variances shall be forwarded to the Commissioner of Natural Resources within ten (10) days of such action.

60.900 AMENDMENTS:

The flood plain designations established by this ordinance shall not be removed from flood plain areas unless it can be shown that the designation is in error or that the areas are filled to an elevation at or above the flood protection elevation and are contiguous to other lands lying outside the flood plain district. All amendments shall be made in the manner set forth in Minnesota Statutes, Section 462.357, and shall be submitted to the Commissioner of Natural Resources and the Federal Insurance Administration for their approval prior to adoption by the City Council.

APPENDIX H

OPTIONAL PLAN A

412.572 CONVERSION TO OPTIONAL PLAN "A".

Subdivision 1. **Assumption of Plan A.** Except as otherwise provided by this section, on January 1, 1970, every statutory city operating under the standard plan of government shall assume the Plan A form of government as prescribed by chapter 412 in the same manner as if the change to Optional Plan A form of government had been approved by the voters in the manner prescribed by that chapter.

Subd. 2. **Referendum on petition.** Prior to January 1, 1970, the city council may, and upon petition therefor signed by voters equal in number to at least 15 percent of the electors voting at the last previous city election, shall, submit to the voters at a regular or special election the question of adopting Optional Plan A. Subdivision 1 of this section shall not be effective in any city where such an election is held unless a majority of the votes cast on the question in such an election are in the affirmative. If the majority of votes cast on the question are not in the affirmative, such a city shall remain a standard plan city. The question on assuming Optional Plan A shall be that provided by section 412.551, subdivision 2.

Subd. 3. **Adoption and abandonment of Plan A after January 1, 1970.** Nothing in this section shall prevent an Optional Plan A city from abandoning such plan in the manner provided in section 412.551. Nothing in this section shall prevent any standard plan city from adopting an optional plan after January 1, 1970.

History: 1967 c 289 s 17; 1973 c 123 art 2 s 1 subd 2

412.581 OPTIONAL PLAN "A"; OFFICERS.

In any city operating under Optional Plan A except a city having a larger council under section 412.023, subdivision 4, the council shall be composed of five members consisting, except during the initial period of its operation as provided in section 412.571, of the mayor and four councilmen and, except as provided in that section, the clerk and treasurer or clerk-treasurer shall be appointed by the council for indefinite terms.

History: 1949 c 119 s 74; 1965 c 417 s 11; 1967 c 289 s 13; 1974 c 337 s 11

412.591 OPTIONAL PLAN "A"; DUTIES OF CLERK.

Subdivision 1. The clerk shall perform all the duties imposed on the clerk in cities generally but he shall not be a member of the council, except that when Optional Plan A is first adopted in any city, the incumbent clerk shall continue to be a member of the council until the expiration of his term. The duties of the treasurer if that office exists shall not be affected by adoption of Optional Plan A.

Subd. 2. Cities operating under Optional Plan A may, by an ordinance effective after the expiration of the term of the incumbent treasurer at the date of adoption of Optional Plan A, combine the offices of clerk and treasurer in the office of clerk-treasurer and thereafter the duties of the treasurer as prescribed by this chapter shall be performed by the clerk-treasurer. The offices of clerk and treasurer may be re-established by ordinance. If the offices of clerk and treasurer are combined as provided by this section, the council shall provide for an annual audit of the city's financial affairs by the state auditor or a public accountant in accordance with minimum procedures prescribed by the state auditor.

History: 1949 c 119 s 75; 1961 c 230 s 4; 1965 c 417 s 12; 1973 c 123 art 2 s 1 subd 2; 1973 c 492 s 14

OPTIONAL PLAN B

412.601 APPLICATIONS OF SECTIONS 412.601 TO 412.751.

Sections 412.601 to 412.751 shall apply only to statutory cities operating under Optional Plan B.

History: 1949 c 119 s 76; 1973 c 123 art 2 s 1 subd 2

412.611 COUNCIL-MANAGER PLAN.

The form of government provided in Optional Plan B shall be known as the council-manager plan. The council shall exercise the legislative power of the city and determine all matters of policy. The city manager shall be the head of the administrative branch of the government and shall be responsible to the council for the proper administration of all affairs relating to the city.

History: 1949 c 119 s 77; 1973 c 123 art 2 s 1 subd 2

412.621 BOARDS AND COMMISSIONS.

Subdivision 1. Limitation as to creation of boards; powers of council. In any such city there shall be no board of health, library board, park board, public utilities commission, or any other administrative board or commission, except for the administration of a function jointly with another political subdivision. The council shall itself be and perform the duties and exercise the powers of the board of health and shall govern and administer the library, parks, and utilities as fully as other municipal functions for the administration of which no independent boards are authorized by statute for cities generally. The council may, however, create boards or commissions to advise the council with respect to any municipal function or activity or to investigate any subject of interest to the city.

Subd. 2. City manager to succeed boards; civil service commission excepted. Any such boards and commissions in existence in any city when Optional Plan B is adopted shall continue to operate in all respects as formerly until the qualification of the first city manager, at which time they shall cease to exist and their powers shall be vested in the city council. Any existing civil service commission shall not be affected by the change. After abandonment of the plan in any such city and the establishment of the standard plan or Optional Plan A, any board or commission authorized by statute in cities generally may be established in the same manner as in other cities.

History: 1949 c 119 s 78; 1973 c 123 art 2 s 1 subd 2

412.631 COMPOSITION OF COUNCIL.

In any city operating under Optional Plan B, the council shall, except as provided in sections 412.023, subdivision 4, and 412.571, be composed of a mayor and four councilmen.

History: 1949 c 119 s 79; 1967 c 289 s 14; 1974 c 337 s 12

412.641 MANAGER.

Subdivision 1. The city manager shall be chosen by the council solely on the basis of his training, experience, and administrative qualifications and need not be a resident of the city at the time of his appointment. The manager shall be appointed for an indefinite period and he may be removed by the council at any time, but after he has served as manager for one year he may demand written charges and a public hearing on the charges before the council prior to the date when his final removal takes effect. Pending such hearing and removal the council may suspend him from office. The council may designate some properly qualified person to perform the duties of the manager during his absence or disability.

Subd. 2. As soon as practicable after the adoption of Optional Plan B in any city, the council shall appoint the first manager under subdivision 1.

History: 1949 c 119 s 80; 1973 c 123 art 2 s 1 subd 2

412.651 STATUTORY CITY MANAGER; POWERS AND DUTIES.

Subdivision 1. Generally. The city manager shall have the powers and duties set forth in the following subdivisions.

Subd. 2. Enforcement. He shall see that statutes relating to the city and the laws, ordinances and resolutions of the city are enforced.

Subd. 3. **Appointment of personnel upon council approval.** He shall appoint upon the basis of merit and fitness and subject to any applicable civil service provisions and, except as herein provided, remove the clerk, all heads of departments, and all subordinate officers and employees; but the appointment and removal of the attorney shall be subject to the approval of the council.

Subd. 4. **Control.** He shall exercise control over all departments and divisions of the administration created under Optional Plan B or which may be created by the council.

Subd. 5. **Attendance at council meetings.** He shall attend all meetings of the council with the right to take part in the discussions but not to vote; but the council may in its discretion exclude him from any meetings at which his removal is considered.

Subd. 6. **Recommend ordinances and resolutions.** He shall recommend to the council for adoption such measures as he may deem necessary for the welfare of the people and the efficient administration of the affairs of the city.

Subd. 7. **Advise; annual budget.** He shall keep the council fully advised as to the financial condition and needs of the city and he shall prepare and submit to the council the annual budget.

Subd. 8. **Code of administrative procedure.** He shall, when directed to do so by the council, prepare and submit to the council for adoption an administrative code incorporating the details of administrative procedure, and from time to time he shall suggest amendments to such code.

Subd. 9. **Additional duties.** He shall perform such other duties as may be prescribed by the statutes relating to Optional Plan B cities or required of him by ordinance or resolutions adopted by the council.

History: 1949 c 119 s 81; 1973 c 123 art 2 s 1 subd 2

412.661 LIMITATION OF POWERS OF MEMBERS OF COUNCIL.

Neither the council nor any of its members shall dictate the appointment of any person to office or employment by the manager, or in any manner interfere with the manager or prevent him from exercising his own judgment in the appointment of officers and employees in the administrative service; but this shall not be construed to prohibit the council from passing ordinances for establishing a merit system governing city employment. Except for the purpose of inquiry, the council and its members shall deal with and control the administrative service solely through the manager, and neither the council nor any of its members shall give orders to any subordinate of the manager, either publicly or privately.

History: 1949 c 119 s 82; 1973 c 123 art 2 s 1 subd 2

412.671 CREATION OF DEPARTMENTS; DIVISIONS AND BUREAUS.

The council may create such departments, divisions, and bureaus for the administration of the affairs of the city as may seem necessary, and from time to time may alter their powers and organization. It may, in conjunction with the manager, prepare a complete administrative code for the city and enact it in the form of an ordinance, which may be amended from time to time by ordinance.

History: 1949 c 119 s 83; 1973 c 123 art 2 s 1 subd 2

412.681 CLERK AND TREASURER SUBORDINATE TO MANAGER; OFFICES COMBINED OR ABOLISHED.

There shall be a clerk, a treasurer, and such other officers subordinate to the manager as the council may create by ordinance. The clerk shall be subject to the direction of the manager and shall have such duties in connection with the keeping of the public records, the custody and disbursement of the public funds, and the general administration of the city's affairs as shall be ordained by the council. He may be designated to act as secretary of the council. The treasurer shall have the powers and perform the duties imposed upon treasurers under the laws relating to cities generally. The council may by ordinance abolish offices which have been created by ordinance and it may combine the duties of various offices as it may deem fit. The council may provide for the performance by the manager of the duties of any officer except the treasurer.

History: 1949 c 119 s 84; 1955 c 867 s 6; 1973 c 123 art 2 s 1 subd 2

412.691 MANAGER THE CHIEF PURCHASING AGENT; LIMITATION; AUDIT AND APPROVAL.

The manager shall be the chief purchasing agent of the city. All purchases for the city and all contracts shall be made or let by the manager when the amount of the purchase or contract does not exceed \$1,000; but all claims resulting therefrom shall be audited and approved by the council as provided in section 412.271. All other purchases shall be made and all other contracts let by the council after the recommendation of the manager has first been obtained. All contracts, bonds and instruments of every kind to which the city is a party shall be signed by the mayor and the manager on behalf of the city and shall be executed in the name of the city.

History: 1949 c 119 s 85; 1959 c 526 s 1; 1973 c 123 art 2 s 1 subd 2

412.701 BUDGETING.

The manager shall prepare the estimates for the annual budget. The budget shall be by funds and shall include all the funds of the city, except the funds made up of proceeds of bond issues, utility funds, and special assessment funds, and may include any of such funds at the discretion of the council. The estimates of expenditures for each fund budgeted shall be arranged for each department or division of the city under the following heads:

(1) ordinary expenses (for operation, maintenance, and repairs); (2) payment of principal and interest on bonds and other fixed charges; (3) capital outlays (for new construction, new equipment, and all improvements of a lasting character). Ordinary expenses shall be sub-divided into: (a) salaries and wages, with a list of all salaried offices and positions, including the salary allowance and the number of persons holding each; (b) other expenses, with sufficient detail to be readily understood. All increases and decreases shall be clearly shown. In parallel columns shall be added the amounts granted and the amounts expended under similar heads for the past two completed fiscal years and the current fiscal year, actual to date and estimated for the balance of the year. In addition to the estimates of expenditures, the budget shall include for each budgeted fund a statement of the revenues which have accrued for the past two completed fiscal years with the amount collected and the uncollected balances together with the same information, based in so far as necessary on estimates, for the current fiscal year, and an estimate of the revenues for the ensuing fiscal year. The statement of revenues for each year shall specify the following items: sums derived from (a) taxation, (b) fees, (c) fines, (d) interest, (e) miscellaneous, not included in the foregoing, (f) sales and rentals, (g) earnings of public utilities and other public service enterprises, (h) special assessments, and (i) sales of bonds and other obligations. Such estimates shall be printed or typewritten and there shall be sufficient copies for each member of the council, for the manager, for the clerk, and three, at least, to be posted in public places in the city. The estimates shall be submitted to the council at its first regular monthly meeting in September and shall be made public. The manager may submit the estimates such explanatory statement or statements as he may deem necessary, and during the first three years of operation under Optional Plan B he shall be authorized to interpret the requirements of this section as requiring only such comparisons of the city's finances with those of the previous government of the city as may be feasible and pertinent.

History: 1949 c 119 s 86; 1973 c 123 art 2 s 1 subd 2

412.711 CONSIDERATION OF BUDGET; TAX LEVY.

The budget shall be the principal item of business at the first regular monthly meeting of the council in September and the council shall hold adjourned meetings from time to time until all the estimates have been considered. The meetings shall be so conducted as to give interested citizens a reasonable opportunity to be heard. The budget estimates shall be read in full and the manager shall explain the various items thereof as fully as may be deemed necessary by the council. The annual budget finally agreed upon shall set forth in detail the complete financial plan of the city for the ensuing fiscal year for the funds budgeted and shall be signed by the majority of the council when adopted.

It shall indicate the sums to be raised and from what sources and the sums to be spent and for what purposes according to the plan indicated in section 412.701. The total sum appropriated shall be less than the total estimated revenue by a safe margin. The council shall adopt the budget not later than the first day of October by a resolution which shall set forth the total for each budgeted fund and each department with such segregation as to objects and purposes of expenditures as the council deems necessary for purposes of budget control. The council shall also adopt a resolution levying whatever taxes it considers necessary within statutory limits for the ensuing year for each fund. The tax levy resolution shall be certified to the county auditor in accordance with law not later than October 10. At the beginning of the fiscal year, the sums fixed in the budget resolution shall be and become appropriated for the several purposes named in the budget resolution and no other.

History: 1949 c 119 s 87; 1953 c 735 s 8; 1973 c 123 art 2 s 1 subd 2

412.721 BUDGET PROVISIONS, ENFORCEMENT; BUDGET ALLOWANCE. PENALTY FOR EXCEEDING.

It shall be the duty of the manager to enforce strictly the provisions of the budget. He shall not approve any order upon the treasurer for any expenditure unless an appropriation has been made in the budget resolution, nor for any expenditure covered by the budget resolution unless there is a sufficient unexpended balance left after deducting the total past expenditures and the sum of all outstanding orders and incumbrances. No officer or employee of the city shall place any order or make any purchase except for a purpose and to the amount authorized in the budget resolution. Any obligation incurred by any person in the employ of the city for any purpose not authorized in the budget resolution or for any amount in excess of the amount therein authorized shall be a personal obligation upon the person incurring the expenditure.

History: 1949 c 119 s 88; 1953 c 735 s 9; 1973 c 123 art 2 s 1 subd 2

412.731 MODIFICATION OF BUDGET.

After the budget resolution has been adopted the council shall have no power to increase the amounts fixed in the budget resolution, by the insertion of new items or otherwise, beyond the estimated revenues unless the actual receipts exceed the estimates and then not beyond the actual receipts. The council may at any time by resolution approved by a four-fifths vote of all the members of the council reduce the sums appropriated for any purpose by the budget resolution or authorize the transfer of sums from unencumbered balances of appropriations in the budget resolution to other purposes.

History: 1949 c 119 s 89; 1953 c 735 s 10; 1974 c 337 s 13

412.741 REGULATIONS RELATING TO DISBURSEMENT OF FUNDS.

The provisions of section 412.271 shall apply to cities operating under Optional Plan B except that orders shall be signed by the mayor and manager and no order shall be marked not paid for want of funds and except as otherwise provided in this section. Every resolution or motion authorizing a disbursement and every order shall specify the purpose for which the disbursement is made and indicate the fund from which it is to be paid. No order shall be issued until there is money to the credit of the fund from which it is to be paid sufficient to pay the order together with all then outstanding encumbrances upon the fund. The manager shall specify on each contract requiring the payment of money by the city the particular fund out of which the same is to be paid, and shall cause a suitable notation to that effect to be made on each such contract. The council may by ordinance make further regulations for the safekeeping and disbursement of the funds of the city.

History: 1949 c 119 s 90; 1973 c 123 art 2 s 1 subd 2

412.751 EMERGENCY DEBT CERTIFICATES.

If in any year the receipts from taxes or other sources should from some unforeseen cause become insufficient for the ordinary expenses of the city or if any calamity or any other public emergency should subject the city to the necessity of making extraordinary expenditures, the council may authorize the sale by the city treasurer of emergency debt certificates to run not to exceed two years and to bear interest at not more than seven percent per year. A tax sufficient to redeem all such certificates at maturity shall be levied as part of the budget for the following year. The authorization of an issue of such emergency debt certificates shall be given by an ordinance approved by all the members of the council.

History: 1949 c 119 s 91; 1974 c 337 s 14

APPENDIX I

APPENDIX I

BOARD OF APPEALS' AND ADJUSTMENTS' POWER OVER MAPS

Subd. 4. **Appeals.** If a permit for a building in such location is denied, the board of appeals and adjustments shall have the power, upon appeal filed with it by the owner of the land, to grant a permit for building in such location in any case in which the board finds, upon the evidence and the arguments presented to it, (a) that the entire property of the appellant of which such area identified for public purposes forms a part cannot yield a reasonable return to the owner unless such a permit is granted, and (b) that balancing the interest of the municipality in preserving the integrity of the official map and of the comprehensive municipal plan and the interest of the owner of the property in the use of his property and in the benefits of ownership, the grant of such permit is required by considerations of justice and equity. In addition to the notice of hearing required by section 462.354, subdivision 2, a notice shall be published in the official newspaper once at least ten days before the day of the hearing. If the board of appeals and adjustments authorizes the issuance of a permit the governing body or other board or commission having jurisdiction shall have six months from the date of the decision of the board to institute proceedings to acquire such land or interest therein, and if no such proceedings are started within that time, the officer responsible for issuing building permits shall issue the permit if the application otherwise conforms to local ordinances. The board shall specify the exact location, ground area, height and other details as to the extent and character of the building for which the permit is granted.

APPENDIX J

PROVISIONS FOR APPEALS TO HIGHER AUTHORITIES

462.36 CERTIFIED COPIES FILED WITH COUNTY RECORDER.

Subdivision 1. **Required documents.** A certified copy of every ordinance, resolution, map, or regulation adopted under the provisions of sections 462.358 and 462.359 and amendments thereto shall be filed with the county recorder of the county or counties in which the municipality adopting it is located. Ordinances, resolutions, maps or regulations filed with the county recorder pursuant to this subdivision do not constitute encumbrances on real property.

Subd. 2. **Filing with contiguous planning authorities.** A copy of a comprehensive plan adopted by a planning agency under the provisions of sections 462.351 to 462.364 shall be filed with the governing body of each contiguous municipality and with the regional planning agency, if any, established to serve the area in which the municipality is located.

Subd. 3. **Plat approval; filing.** Copies of resolutions approving subdivision plats of land within a municipality, but contiguous to another municipality shall be filed with the governing body of the contiguous municipality. Copies of resolutions approving subdivision plats of land outside a municipality but subject to its subdivision regulations shall be filed with the clerk of the town in which the land is situated.

462.361 JUDICIAL REVIEW.

Subdivision 1. **Review of action.** Any person aggrieved by an ordinance, rule, regulation, decision or order of a governing body or board of adjustments and appeals acting pursuant to sections 462.351 to 462.364 may have such ordinance, rule, regulation, decision or order, reviewed by an appropriate remedy in the district court, subject to the provisions of this section.

Subd. 2. **Exhaustion of remedies.** In actions brought under this section, a municipality may raise as a defense the fact that the complaining party has not attempted to remedy his grievance by use of procedures available to him for that purpose under ordinance or charter, or under sections 462.351 to 462.364. If the court finds that such remedies have not been exhausted, it shall require the complaining party to pursue those remedies unless it finds that the use of such remedies would serve no useful purpose under the circumstances of the case.

History: 1965 c 670 s 11

APPENDIX K

AUTHORITY FOR ZONING

462.357 PROCEDURE FOR PLAN EFFECTUATION; ZONING.

Subdivision 1. **Authority for zoning.** For the purpose of promoting the public health, safety, morals and general welfare, a municipality may by ordinance regulate the location, height, bulk, number of stories, size of buildings and other structures, the percentage of lot which may be occupied, the size of yards and other open spaces, the density and distribution of population, the uses of buildings and structures for trade, industry, residence, recreation, public activities, or other purposes, and the uses of land for trade, industry, residence, recreation, agriculture, forestry, soil conservation, water supply conservation, conservation of shorelands, as defined in section 105.485, access to direct sunlight for solar energy systems as defined in section 116H.02, flood control or other purposes, and may establish standards and procedures regulating such uses. No regulation may prohibit earth sheltered construction as defined in section 116H.02, subdivision 3, that complies with all other zoning ordinances promulgated pursuant to this section. The regulations may divide the municipality into districts or zones of suitable numbers, shape and area. The regulations shall be uniform for each class or kind of buildings, structures or land and for each class or kind of use throughout such district, but the regulations in one district may differ from those in other districts. The ordinance embodying these regulations shall be known as the zoning ordinance and shall consist of text and maps. A city may by ordinance extend the application of its zoning regulations to unincorporated territory located within two miles of its limits in any direction, but not in a county or town which has adopted zoning regulations; provided that where two or more noncontiguous municipalities have boundaries less than four miles apart, each is authorized to control the zoning of land on its side of a line equidistant between the two noncontiguous municipalities unless a town or county in the affected area has adopted zoning regulations. Any city may thereafter enforce such regulations in the area to the same extent as if such property were situated within its corporate limits, until the county or town board adopts a comprehensive zoning regulation which includes the area.

APPENDIX L

TOWN ZONING AUTHORITY

366.13 ZONING DISTRICTS.

For any or all of these purposes the board of supervisors of any such town where a majority of the legal voters voting thereon have voted "Yes" at such an election, may divide the portions of the town into districts or zones of such number, shape, and area as may be deemed best suited to carry out the purposes of sections 366.10 to 366.18, and within such districts or zones it may regulate and restrict the location, height, bulk, number of stories, size of buildings and other structures, the location of roads and schools, the percentage of lot which may be occupied, the sizes of yards and other open spaces, the density and distribution of population, the uses of buildings and structures for trade, industry, residence, recreation, public activities, or other purposes, and the uses of land for trade, industry, residence, recreation, agriculture, forestry, soil conservation, water supply conservation, or other purposes. All such regulations shall be uniform for each class and kind of buildings and for the use of land throughout each district, but the regulations in one district may differ from those in other districts.

No such board of supervisors may make any regulation prohibiting the erection, establishment, alteration, enlargement, use, occupancy or maintenance of any landing area or airport as defined by the act of Congress known as the Civil Aeronautics Act of 1938, owned by any municipality, political subdivision, or public corporation created in and for any two or more municipalities, the operation and use of which has been approved by the department of transportation or by the Civil Aeronautics Board of the United States, nor shall any permit under the provisions of sections 366.10 to 366.18 be required for any such erection, establishment, alteration, enlargement, use, occupancy or maintenance. Any regulations heretofore made by any board of supervisors prohibiting such erection, establishment, alteration, enlargement, use, occupancy or maintenance of airports are hereby abrogated and annulled.

Before adopting any division or regulation under this section the board shall hold a public hearing on the matter with notice in the manner provided in section 366.15.

History: 1939 c 187 s 4; 1943 c 494 s 2; 1976 c 166 s 7; 1980 c 416 s 4

APPENDIX M

REQUIRED CONTENTS OF COMPREHENSIVE PLANS

473.859 COMPREHENSIVE PLAN CONTENT.

Subdivision 1. **Contents.** The comprehensive plan shall contain objectives, policies, standards and programs to guide public and private land use, development, redevelopment and preservation for all lands and waters within the jurisdiction of the local governmental unit through 1990 and may extend through any year thereafter which is evenly divisible by five. Each plan shall specify expected industrial and commercial development, planned population distribution, and local public facility capacities upon which the plan is based. Each plan shall contain a discussion of the use of the public facilities specified in the metropolitan system statement and the effect of the plan on adjacent local governmental units and affected school districts. Existing plans and official controls may be used in whole or in part following modification, as necessary, to satisfy the requirements of Laws 1976, Chapter 127, Sections 1 to 23. The comprehensive plan may contain any additional matter which may be included in a comprehensive plan of the local governmental unit pursuant to the applicable planning statute.

Subd. 2. **Land use plan.** A land use plan shall designate the existing and proposed location, intensity and extent of use of land and water for agricultural, residential, commercial, industrial and other public and private purposes, or any combination of such purposes. A land use plan shall contain a protection element, as appropriate, for historic sites and the matters listed in section 473.204, and an element for protection and development of access to direct sunlight for solar energy systems. A land use plan shall also include a housing element containing standards, plans and programs for providing adequate housing opportunities to meet existing and projected local and regional housing needs, including but not limited to the use of official controls and land use planning to promote the availability of land for the development of low and moderate income housing.

Subd. 3. **Public facilities plan.** A public facilities plan shall describe the character, location, timing, sequence, function, use and capacity of existing and future public facilities of the local governmental unit. A public facilities plan must be in at least such detail as may be necessary to establish existing or potential effects on or departures from metropolitan system plans and to protect metropolitan system plans. A public facilities plan shall contain at least the following parts:

(a) A transportation plan describing, designating and scheduling the location, extent, function and capacity of existing and proposed local public and private transportation services and facilities;

(b) A sewer policy plan describing, designating and scheduling the areas to be sewered by the public system, the existing and planned capacities of the public system, the standards and conditions under which the installation of private sewer systems will be permitted, and to the extent practicable, the areas not suitable for public or private systems because of public health, safety and welfare considerations;

(c) A parks and open space plan describing, designating and scheduling the existing and proposed parks and recreation open spaces within the jurisdiction.

Subd. 4. **Implementation program.** An implementation program shall describe public programs, fiscal devices and other specific actions to be undertaken in stated sequence to implement the comprehensive plan and ensure conformity with metropolitan system plans. An implementation program must be in at least such detail as may be necessary to establish existing or potential effects on or departures from metropolitan system plans and to protect metropolitan system plans. An implementation program shall contain at least the following parts:

(a) A description of official controls, addressing at least the matters of zoning, subdivision, and private sewer systems, and a schedule for the preparation, adoption, and administration of such controls.

(b) A capital improvement program for transportation, sewers, parks and open space facilities.

(c) A housing implementation program, including official controls to implement the housing element of the land use plan, which will provide sufficient existing and new housing to meet the local unit's share of the metropolitan area need for low and moderate income housing.

Subd. 5. **Urbanization areas.** The comprehensive plans may designate, when appropriate, five year urbanization areas and shall specify in the capital improvement program the timing and sequence of major local public facilities and in the implementation program official controls which will ensure that urbanization occurs only in urbanization areas and in accordance with the plan.

History: 1976 c 127 s 9; 1977 c 347 s 68; 1978 c 786 s 20

APPENDIX N

PLANNING ASSISTANCE FUNDS

473.867 PLANNING ASSISTANCE; GRANTS; LOANS.

Subdivision 1. The council shall prepare and provide advisory materials, model plan provisions and official controls, and on the request of a local governmental unit may provide assistance, to accomplish the purposes of Laws 1976, Chapter 127, Sections 1 to 23. The council may also provide specific technical and legal assistance in connection with the preparation, adoption and defense of plans, programs, and controls.

Subd. 2. The council shall establish a planning assistance fund as a separate bookkeeping account in its general fund for the purpose of making grants and loans to local governmental units under this section. The council shall adopt uniform procedures for the award, disbursement and repayment of grants and loans.

Subd. 3. Local governmental units may apply, contract for and receive loans and grants as provided herein, and the provisions of chapter 475 shall not apply to loans made pursuant hereto. Applications for grants and loans shall be submitted to the council describing the activities for which the grant or loan funds will be used; the persons which the grantee or borrower plans to use in performing the grant contract; services and activities which will be paid for by funds of the grantee or borrower; the grantee or borrower's need and ability to pay for the contract services; and other information as the council may reasonably request. Grants and loans shall be made subject to contracts between the council and the recipient specifying the use and disbursement of the funds and, for loans, the terms and conditions of repayment, and other appropriate matters. In making grants and loans, the council shall base its decisions on the recipient's demonstrated need and available financial resources.

Subd. 4. Grants shall not exceed 75 percent of the total costs and expenses of the project, service or activity for which a grant is awarded.

Subd. 5. Loans made by the council shall be payable on such terms and conditions as the council determines appropriate, provided that no loan shall carry an interest rate nor be for a term in excess of five years. Funds received in payment of loans shall be credited to the planning assistance fund and shall be used for additional loans or grants under this section.

History: 1976 c 127 s 18; 1977 c 347 s 68

APPENDIX O

MEMBERSHIP OF ENVIRONMENTAL QUALITY BOARD

Subd. 2. The board shall include as permanent members the director of the state planning agency, the director of the pollution control agency, the commissioner of natural resources, the commissioner of agriculture, the commissioner of health, the commissioner of transportation, the director of the Minnesota energy agency, a representative of the governor's office designated by the governor, the chairman of the citizens advisory committee, and three other members of the citizens advisory committee as designated by the governor. The names of the four members of the citizens advisory committee designated to serve on the board shall be submitted to the senate for its advice and consent. Upon the expiration of the citizens advisory committee the governor shall appoint four members from the general public to the board, subject to the advice and consent of the senate.

APPENDIX P

PERMIT APPLICATION PROCEDURE

116C.26 APPLICATION PROCEDURE.

Subdivision 1. A person proposing a project which may require more than one permit may, prior to the initial construction of the project or prior to the initial operation of the project if construction of the project required no state permits, submit a master application to the coordination unit requesting the issuance of all state permits necessary for construction and operation of the project. The master application shall be on a form furnished by the coordination unit and shall contain precise information as to the location of the project, and shall describe the nature of the project including any contemplated discharges of wastes therefrom and any uses of, or interferences with, natural resources. No master application shall be accepted for processing by the coordination unit pursuant to sections 116C.22 to 116C.34, unless it is accompanied by the certifications issued not more than 120 days prior to the date of the master application as required by section 116C.31. No master application shall be accepted for processing by the coordination unit pursuant to sections 116C.22 to 116C.34, unless it is accompanied by a certification from the board that either an environmental impact statement concerning the project has been completed or that an environmental impact statement is not required concerning the project.

Subd. 2. Upon receipt of a completed master application, the coordination unit shall immediately notify in writing each agency having a possible interest in the master application arising from requirements pertaining to a permit program under its jurisdiction. The notification from the coordination unit shall be accompanied by a copy of the master application together with the date by which the agency shall respond to the notice. Each notified agency shall respond in writing to the coordination unit within the specified date, not exceeding 20 days from receipt, as determined by the coordination unit, advising whether the agency does or does not have an interest in the master application. If an agency timely responds that it has an interest in the master application, the response shall include information concerning the specific permit programs under its jurisdiction which are pertinent to the project described in the master application. The agency response shall also advise the coordination unit whether a public hearing concerning the master application as provided in section 116C.28 would or would not be required or of value considering the overall public interest.

Subd. 3. Each notified agency which responds within the specified date that it does not have an interest in the master application or which does not respond as required by subdivision 2 within the specified date, shall not subsequently require a permit of the applicant for the project described in the master application; provided the bar to requiring a permit subsequently shall not be applicable if:

- (a) The master application provided to the notified agency contained false, misleading, or deceptive information, or lacked information, which would reasonably lead an agency to misjudge its interest in a master application; or
- (b) Subsequent laws or rules require additional permits; or
- (c) Unusual circumstances prevented the agency from notifying the coordination unit and the agency can establish that failure to require a permit would result in substantial harm to the public health or welfare, in which case the board may order that the permit be required.

Subd. 4. The coordination unit shall submit application forms concerning the permit programs identified in the affirmative responses under subdivision 2 to the applicant with a direction to complete and return them to the coordination unit within 90 days.

Subd. 5. Within ten days of receipt of the full set of completed application forms by the coordination unit, each application shall be transmitted to the appropriate agency for the performance of its responsibilities of decision making in accordance with the procedures of sections 116C.22 to 116C.33.

Subd. 6. If an agency has a procedure for setting priorities in issuing a permit according to the date of the application for the permit, the date used shall be the date upon which a master application is received by the coordination unit.

History: 1975 c 271 s 6; 1976 c 303 s 5

116C.27 NOTICE.

Subdivision 1. The coordination unit immediately after transmittal of the completed applications to the appropriate agency shall cause a notice to be published at the applicant's expense once each week on the same day of the week for three consecutive weeks in a newspaper of general circulation within each county in which the project is proposed to be constructed or operated. The notice shall describe the nature of the master application including, with reasonable specificity, the project proposed, its location, the various permits applied

for, and the agency having jurisdiction over each permit. Except as provided in subdivision 2, the notice shall also state the time and place of the public hearing, to be held not less than 20 days after the date of last publication of the notice. It shall further state that a copy of the master application and a copy of all permit applications for the project are available for public inspection in the office of the county auditor of each county in which the project is proposed to be constructed or operated, as well as in other locations which the coordination unit may designate.

Subd. 2. If the responses to the master application received by the coordination unit from the state agencies unanimously state the position that a public hearing in relation to a master application would not be of value in consideration of the overall public interest and are not required by any other law or rule, the provisions of subdivision 1 pertaining to the time and place of a public hearing shall not be included in the notice. In place thereof the notice shall state that members of the public may present relevant views and supporting materials in writing to the coordination unit concerning any of the permits applied for within 30 days after the last date of publication of the notice in a newspaper.

History: 1976 c 303 s 6

116C.28 PUBLIC HEARING.

Subdivision 1. When one or more agencies notifies the coordination unit that a public hearing is required or appropriate on matters relating to the project described in the master application, the coordination unit shall set the time and place for a hearing in which each of the affected agencies shall participate. The hearing shall be held pursuant to the contested case provisions of chapter 15 and section 116C.27.

Subd. 2. Each participating state agency shall be represented at the public hearing by its chief administrative officer or his designee. The representative of any state agency within whose jurisdiction a specific application lies shall participate in the portion of the hearing pertaining to submission of information, views, and supporting materials which are relevant to its application. The hearing examiner may, when appropriate, continue a hearing from time to time and place to place. The hearing shall be recorded in any manner suitable for transcription pursuant to chapter 15.

Subd. 3. Within 60 days of receipt of the hearing examiner's report, each state agency which is a party to the hearing shall forward its final decision on permit applications within its jurisdiction to the coordination unit, provided that this date may be extended by the chairman of the board for reasonable cause. Every final decision shall set forth the basis for the decision together with a final order denying the permit or granting the permit including the specifying of any conditions under which the permit is issued.

Subd. 4. If notice has been published pursuant to section 116C.27, subdivision 2, and no public hearing is conducted, the coordination unit shall, not less than 30 days after the last notice publication in the newspaper, submit a copy of all views and supporting material received by it to each agency having jurisdiction concerning any permit application described in the notice. Concurrently therewith, the coordination unit shall notify each state agency, in writing, of the date not to exceed 60 days by which final decisions on applications shall be forwarded to the coordination unit; provided that this date may be extended by the chairman of the board for reasonable cause. Each final decision shall set forth the information required by subdivision 3.

Subd. 5. As soon as all final decisions are received by the coordination unit from the various participating state agencies, the coordination unit shall immediately incorporate them, without modification, into one document and shall transmit the document to the applicant either personally or by certified mail.

History: 1975 c 271 s 6; 1976 c 303 s 7; 1978 c 67 s 60

116C.29 WITHDRAWAL OF AGENCY PARTICIPATION.

After an agency has responded that it has an interest in the master application, it may withdraw from further participation in the processing of that master application at any time by written notification to the coordination unit, if it subsequently appears to the agency that it has no permit programs under its jurisdiction which are applicable to the project.

History: 1976 c 303 s 8

116C.30 APPLICATION.

Subdivision 1. A person aggrieved by a final decision of an agency in granting or denying a permit shall seek redress directly and individually from that agency in the manner provided by chapter 15, or any other statute authorizing either judicial or administrative review of an agency decision.

Subd. 2. Each state agency having jurisdiction to approve or deny an application for a permit shall have continuing power as vested in it prior to February 15, 1977, to make such determinations. Nothing in sections 116C.22 to 116C.34 shall lessen or reduce such powers, and such sections shall modify only the procedures to be followed in the carrying out of such powers.

Subd. 3. A state agency may in the performance of its responsibilities of decision making under sections 116C.22 to 116C.33, request or receive additional information from an applicant.

Subd. 4. Fee schedules authorized by statute for an application or permit shall continue to be applicable even though the application or permit is processed under the provisions set forth in sections 116C.22 to 116C.33. The coordination unit shall not charge the applicant or participating agencies a fee for its services.

Subd. 5. Sections 116C.22 to 116C.33 shall have no applicability to an application for a permit renewal, amendment, extension, or other similar document required subsequent to the completion of decisions and proceedings under sections 116C.27 to 116C.29, or to a replacement thereof or to a quasi-judicial or judicial proceeding held pursuant to an order of remand or similar order by a court in relation to a final decision of a state agency.

Subd. 6. Nothing in sections 116C.22 to 116C.34 shall modify in any manner whatsoever the applicability or inapplicability of any land use regulation statute or local zoning ordinance to the lands of any state agency.

History: 1976 c 303 s 9

116C.31 LOCAL CERTIFICATION.

Subdivision 1. No master application shall be processed pursuant to sections 116C.22 to 116C.33 unless it is accompanied by a certification issued not more than 120 days prior to the date the master application is first received by the coordination unit, from the local governmental units in whose jurisdiction the proposed project is located, certifying that the project is in compliance with all zoning ordinances, subdivision regulations, and environmental regulations administered by the local governmental unit and certifying that the preparation of any environmental impact statement which the local governmental unit is authorized to require pursuant to local ordinance, state statute, or board rule, has been completed or deemed not necessary. If the local governmental unit has required any environmental impact statement concerning the project, a copy of the completed environmental impact statement shall be attached to the local governmental unit's certification. If the local governmental unit has no zoning ordinances, subdivision regulations, or environmental regulations, the certification from the local governmental unit shall so state. A local governmental unit may accept applications for certifications as provided in this section and shall rule upon the same expeditiously to insure that the purposes of sections 116C.22 to 116C.33 are accomplished fully. After issuing a certification for the purposes of this section, no local government shall rescind it even though the local government may have changed its zoning ordinances, subdivision regulations, or environmental regulations. A change of zoning ordinances, subdivision regulations, or environmental regulations shall not invalidate a previously given certification for the purpose of securing a state permit under sections 116C.22 to 116C.33. Upon certification, the local government may change such zoning ordinances, subdivision regulations, or environmental regulations, but not so as to affect the proposed project until the procedures of sections 116C.22 to 116C.33, including any administrative or judicial reviews, are completed.

Subd. 2. A ruling by a local governmental unit denying an application for certification shall not be appealable under sections 116C.22 to 116C.34. The denial of an application for certification by a local governmental unit shall not preclude the applicant from filing a permit application under any other available statute or procedure.

History: 1975 c 271 s 6; 1976 c 303 s 10

APPENDIX Q

PERMITS FOR APPROPRIATION AND USE OF WATER

105.41 APPROPRIATION AND USE OF WATERS.

Subdivision 1. It shall be unlawful for the state, any person, partnership, or association, private or public corporation, county, municipality, or other political subdivision of the state to appropriate or use any waters of the state, surface or underground, without the written permit of the commissioner. Nothing in this section shall be construed to apply to the use of water for domestic purposes serving less than 25 persons. The commissioner shall establish a statewide training program to provide training in the conduct of pumping tests and data acquisition programs.

Subd. 1a. The commissioner shall submit to the legislature by January 1, 1975, for its approval, proposed rules governing the allocation of waters among potential water users. These rules shall be based on the following priorities for appropriation and use of water:

First priority. Domestic water supply, excluding industrial and commercial uses of municipal water supply.

Second priority. Any use of water that involves consumption of less than 10,000 gallons of water per day. For purposes of this section "consumption" shall mean water withdrawn from a supply which is lost for immediate further use in the area.

Third priority. Agricultural irrigation, involving consumption in excess of 10,000 gallons per day, and processing of agricultural products.

Fourth priority. Power production, involving consumption in excess of 10,000 gallons per day.

Fifth priority. Other uses, involving consumption in excess of 10,000 gallons per day.

Appropriation and use of surface water from streams during periods of flood flows and high water levels shall be encouraged subject to consideration of the purposes for use, quantities to be used, and the number of persons appropriating water.

Appropriation and use of surface water from lakes of less than 500 acres in surface area shall be discouraged.

Diversions of water from the state for use in other states or regions of the United States or Canada shall be discouraged, subject to the jurisdiction of the United States government.

No permit shall be issued under this section unless it is consistent with state, regional, and local water and related land resources management plans, provided that regional and local plans are consistent with statewide plans. The commissioner shall not modify or restrict the amount of appropriation from a groundwater source authorized in a permit issued pursuant to section 105.44, subdivision 8, between May 1 and October 1 of any year, unless the commissioner determines the authorized amount of appropriation endangers any domestic water supply.

Subd. 1b. No permit shall be required for the appropriation and use of less than a minimum amount to be established by the commissioner by regulation. Permits for more than the minimum amount but less than an intermediate amount to be specified by the commissioner by regulation shall be processed and approved at the municipal, county, or regional level based on regulations to be established by the commissioner by January 1, 1977. The regulations shall include provisions for reporting to the commissioner the amounts of water appropriated pursuant to local permits.

Subd. 2. It shall be unlawful for the owner of any installation for appropriating or using surface or underground water to increase the pumping capacity or make any major modification in such installation without the written permit of the commissioner previously obtained upon written application therefor to the commissioner.

The owner or person in charge of every installation for appropriating or using surface or underground water, whether or not under permit, shall file with the commissioner at such time as the commissioner determines necessary to the statewide water information system, a statement of the location thereof, its capacity, the purpose or purposes for which it is used, and such additional information that the commissioner may require, on forms provided by the commissioner.

Subd. 3. The commissioner may examine any installation which appropriates or uses surface or underground water, and the owner of such installation shall supply such information concerning such installation as the commissioner may require.

Subd. 4. It shall be unlawful for the state, any person, partnership, or association, private or public corporation, county, municipality, or other political subdivision of the state to appropriate or use any waters of the state, surface or underground, without measuring and keeping a record of the quantity of water used or appropriated as herein provided. Each installation for appropriating or using water shall be equipped with a device or employ a method to measure the quantity of water appropriated with reasonable accuracy. The commissioner's determination of the method to be used for measuring water quantity shall be based upon the quantity of water appropriated or used, the source of water, the method of appropriating or using water, and any other facts supplied to the commissioner.

Subd. 5. Records of the amount of water appropriated or used shall be recorded for each such installation and such readings and the total amount of water appropriated shall be reported annually to the commissioner of natural resources on or before February 15 of the following year upon forms to be supplied by the commissioner.

For the purpose of improving the state's water use data collection and dissemination system, there is established an annual water appropriation processing fee of \$5 for each water appropriation permit in force at any time during the year. The fee is payable regardless of the amount of water appropriated during the year. The fee shall be paid at the time of making the annual report required by this section. Failure to pay the fee is sufficient cause for revoking a permit. No fee may be imposed on any state agency, as defined in section 16.011, or federal governmental agency holding a water appropriation permit.

Subd. 6. Any appropriation or use permit may be transferred if the permittee conveys the real property where the source of water is located to the subsequent owner of the real property. The subsequent owner shall notify the commissioner of natural resources immediately after an appropriation or use permit is transferred pursuant to this section.

History: 1947 c. 142 s. 5; 1959 c. 486 s. 1; 1965 c. 792 s. 1; 1969 c. 1129 art. 1 s. 1; 1973 c. 211 s. 2; 1973 c. 315 s. 6; 1974 c. 558 s. 2, 3; 1975 c. 105 s. 1; 1977 c. 446 s. 2; 1978 c. 505 s. 2.

APPENDIX R

FLOOD PLAIN MANAGEMENT ACT

104.01 TITLE; LEGISLATIVE FINDINGS; POLICY AND PURPOSE.

Subdivision 1. Sections 104.01 to 104.07 may be cited as the flood plain management act.

Subd. 2. The legislature finds and declares that: (a) A large portion of the state's land resources is subject to recurrent flooding by overflow of streams and other watercourses causing loss of life and property, disruption of commerce and governmental services, unsanitary conditions, and interruption of transportation and communications, all of which are detrimental to the health, safety, welfare, and property of the occupants of flooded lands and the people of this state; and (b) The public interest necessitates sound land use development as land is a limited and irreplaceable resource, and the flood plains of this state are a land resource to be developed in a manner which will result in minimum loss of life and threat to health, and reduction of private and public economic loss caused by flooding.

Subd. 3. It is the policy of this state and the purpose of sections 104.01 to 104.07 to reduce flood damages through flood plain management, stressing non-structural measures such as flood plain zoning and flood proofing, and flood warning practices. It is the policy of this state and the purpose of sections 104.01 to 104.07 not to prohibit but to guide development of the flood plains of this state consistent with the enumerated legislative findings to provide state coordination and assistance to local governmental units in flood plain management, to encourage local governmental units to adopt, enforce and administer sound flood plain management ordinances, and to provide the commissioner of natural resources with authority necessary to carry out a flood plain management program for the state and to coordinate federal, state, and local flood plain management activities in this state.

Subd. 4. In furtherance of the policy stated in subdivision 3, the legislature further declares that flood plain management ordinances are to be given primary consideration in the reduction of flood damage in Minnesota and that alternative methods for reducing flood damage may not be carried out before adoption of flood plain management ordinances by local governmental units. Structural projects which have the purpose of controlling floods are to be considered only as elements of a flood plain management program.

History: 1969 c 590 s 1; 1969 c 1129 art 10 s 2; 1973 c 551 s 1; 1973 c 412 s 10

104.02 DEFINITIONS.

Subdivision 1. For the purposes of sections 104.01 to 104.07 the terms defined in this section have the meanings given them.

Subd. 2. "Regional flood" means a flood which is representative of large floods known to have occurred generally in Minnesota and reasonably characteristic of what can be expected to occur on an average frequency in the magnitude of the 100 year recurrence interval.

Subd. 3. "Flood plain" means the areas adjoining a watercourse which has been or hereafter may be covered by the regional flood.

Subd. 4. "Floodway" means the channel of the watercourse and those portions of the adjoining flood plains which are reasonably required to carry and discharge the regional flood.

Subd. 5. "Flood fringe" means that portion of the flood plain outside of the floodway.

Subd. 6. "Local governmental unit" means a county or city.

Subd. 7. "Commissioner" means the commissioner of natural resources.

History: 1969 c 590 s 2; 1969 c 1129 art 3 s 1; 1973 c 123 art 5 s 7

104.03 FLOOD PLAINS; COMMISSIONER'S DUTIES; USES OF FLOOD PLAINS.

Subdivision 1. The commissioner shall (a) collect and distribute information relating to flooding and flood plain management; (b) coordinate local, state, and federal flood plain management activities to the greatest extent possible, and to this end shall encourage the United States army corps of engineers and the United States soil conservation service to make their flood control planning data available to local governmental units for planning purposes, in order to allow adequate local participation in the planning process and in the selection of desirable alternatives; (c) assist local governmental units in their flood plain management activities within the limits of available appropriations and personnel in cooperation with the office of local and urban affairs and the state planning officer; (d) do all other things, within his lawful authority, which are necessary or desirable to manage the flood plains for beneficial uses compatible with the preservation of the capacity of the flood plain to carry and discharge the regional flood. In cooperation with local governmental units, the commissioner shall conduct, whenever possible, periodic inspections to determine the effectiveness of local flood plain management programs, including an evaluation of the enforcement of and compliance with local flood plain management ordinances.

Subd. 2. In places where the flood plain has been delineated by ordinance in the manner required by sections 104.01 to 104.07, no major alteration to a structure in existence on the effective date of the ordinance, and no new fill, structure, deposit, or other flood plain use that is unreasonably hazardous to the public or that unduly restricts the capacity of the flood plain to carry and discharge the regional flood shall be permitted after the effective date of the ordinance delineating the flood plains. As used in this subdivision, major alterations of existing structures shall not include repair or maintenance and shall not include repairs, maintenance or alterations to structures made pursuant to the authority of any other authorized agency of the state or federal government and provided further that this subdivision shall not apply to alterations, repair or maintenance reasonably done under emergency circumstances to preserve or protect life or property. This subdivision applies to alterations to existing structures and to new fill, structures, deposits, or other flood plain uses by the state and its agencies.

Subd. 3. When emergency flood protection measures are constructed, the affected local governmental unit shall submit to the commissioner a plan outlining their use as a part of a future comprehensive flood emergency program. The plan shall be submitted within the following time limits: As to those measures constructed before May 20, 1973, the plan shall be submitted within 120 days after May 20, 1973; as to those measures constructed on or after May 20, 1973, within 120 days after construction. The commissioner shall review the plan and, in so doing, shall consult with the state office of civil defense and other state and federal agencies as appropriate. Following his review, the commissioner shall accept, require modification, or reject the plan. If required modifications are not made, or if the plan is rejected, the commissioner shall order the removal of the emergency protection measures.

History: 1969 c 590 s 3; 1973 c 351 s 2,3

104.04 FLOOD PLAIN MANAGEMENT ORDINANCES.

Subdivision 1. In accordance with the provisions of sections 104.01 to 104.07, the rules and regulations which the commissioner may promulgate pursuant to sections 104.01 to 104.07, and applicable laws authorizing local governmental units to adopt flood plain management ordinances, local governmental units shall adopt, administer, and enforce flood plain management ordinances, which shall include but not be limited to the delineation of flood plains and floodways, the preservation of the capacity of the flood plain to carry and discharge regional floods, the minimization of flood hazards, and the regulation of the use of land in the flood plain. The ordinances shall be based on adequate technical data and competent engineering advice and shall be consistent with local and regional comprehensive planning.

Subd. 2. No later than June 30, 1970, every local governmental unit shall submit a letter of intent to comply with sections 104.01 to 104.07, on a form provided by the commissioner including any existing flood plain management ordinances, to the commissioner for his review. The letter of intent shall list the watercourses within the boundaries of the local governmental unit in the order of the degree of flood damage potential associated with each watercourse and shall include a description of the type of information that is available for each, such as high watermarks and topographic maps.

Subd. 3. When the commissioner determines that sufficient technical information is available for the delineation of flood plains and floodways on a watercourse, he shall notify affected local governmental units that this technical information is available. Within six months after receiving this notice, each local governmental unit shall prepare or amend its flood plain management ordinance in conformance with the provisions of sections 104.01 to 104.07, and shall submit the ordinance to the commissioner for his review and approval before adoption. The commissioner shall approve or disapprove the proposed ordinance within 120 days after receiving it. If the commissioner disapproves the proposed ordinance he shall return it to the local governmental unit with a written statement of his reasons for disapproval. Within 90 days thereafter, the local governmental unit shall resubmit an amended proposed ordinance for his further review and approval before adoption. The local governmental unit shall adopt a flood plain management ordinance within 90 days after approval by the commissioner. A flood plain management ordinance adopted by a local governmental unit after June 30, 1970, is invalid unless it is approved by the commissioner. A local governmental unit may adopt a flood plain management ordinance in the absence of notification by the commissioner that the required technical data is available, provided that any such ordinance is submitted to the commissioner prior to its adoption for his approval. Nothing in sections 104.01 to 104.07 limits the power of a local governmental unit or town to adopt or continue in force a flood plain management ordinance which is more restrictive than that which may be required pursuant to sections 104.01 to 104.07.

Subd. 4. Flood plain management ordinances may be amended by a local governmental unit upon the approval of the commissioner.

Subd. 5. If a local governmental unit fails to adopt a flood plain management ordinance within the time allowed, the commissioner shall adapt an ordinance, which meets the minimum standards established pursuant to section 104.05, to the local governmental unit. The commissioner shall hold at least one public hearing on the proposed ordinance in the manner provided in sections 394.26 or 462.357, as applicable, after giving notice as provided in sections 394.26 or 462.357. The ordinance shall be effective for the local governmental unit on the date and in accordance with such regulations relating to compliance as the commissioner shall prescribe. The ordinance shall be enforced as provided in sections 394.37 or 462.362, as applicable. The penalties provided in sections 394.37 or 462.362 apply to violations of the ordinance so adopted by the commissioner.

Subd. 6. The cost incurred by the commissioner in adapting a flood plain management ordinance to the local governmental unit pursuant to subdivision 5 shall be paid by the local governmental unit upon submission to the local governmental unit of an itemized statement of these costs by the commissioner. If the local governmental unit fails to pay these costs within 90 days after the commissioner's statement is received, the commissioner shall file a copy of the statement of these costs with the county auditor within which the local governmental unit lies for collection by special tax levy. The county auditor, upon receiving a statement from the commissioner, shall include the amount of the state's claim in the tax levy for general revenue purposes of the local governmental unit. Upon completion of the tax settlement following this levy, the county treasurer shall remit the amount due to the state to the commissioner for deposit in the state treasury.

History: 1969 c 590 s 4; 1973 c 351 s 4-6

104.05 RULES.

In the manner provided by chapter 15, the commissioner shall promulgate rules necessary to carry out the purposes of sections 104.01 to 104.07, including but not limited to the following: (a) criteria for determining the flood plain uses which may be permitted without creating an unreasonable public hazard or unduly restricting the capacity of the flood plain to carry and discharge the regional flood; (b) variance procedures; (c) the establishment of criteria for alternative or supplemental flood plain management measures such as flood proofing, subdivision regulations, building codes, sanitary regulations, and flood warning systems. Notwithstanding the provisions of any rules promulgated pursuant to this section establishing a flood protection level higher than the elevation of the regional flood, a local governmental unit may elect to adopt and enforce a flood protection level at the elevation of the regional flood in its flood plain ordinance.

History: 1969 c 590 s 5; 1979 c 253 s 1

104.06 NECESSARY USE.

The commissioner in promulgating guidelines pursuant to section 104.05 and local governmental units in preparing flood plain management ordinances shall give due consideration to the needs of an industry whose business requires that it be located within a flood plain.

History: 1969 c 590 s 6

104.07 ENFORCEMENT AND PENALTIES.

Every structure, fill, deposit, or other flood plain use placed or maintained in the flood plain in violation of a flood plain management ordinance adopted under or in compliance with the provisions of sections 104.01 to 104.07 is a public nuisance and the creation thereof may be enjoined and the maintenance thereof abated by an action brought by the commissioner of natural resources or a local governmental unit. A person who violates any of the provisions of sections 104.01 to 104.07 is guilty of a misdemeanor. Each day during which such violation exists is a separate offense.

History: 1969 c 590 s 7; 1969 c 1129 art 3 s 1

APPENDIX S

**104.25 LOWER ST. CROIX WILD AND SCENIC RIVERS ACT OF 1972;
STATE RECOGNITION AND IMPLEMENTATION.**

Subdivision 1. Findings; purpose. The lower St. Croix river, between the dam near Taylors Falls and its confluence with the Mississippi river, constitutes a relatively undeveloped scenic and recreational asset lying close to the largest densely populated area of Minnesota. The preservation of this unique scenic and recreational asset is in the public interest and will benefit the health and welfare of the citizens of Minnesota. The state of Minnesota therefore recognizes and concurs in the inclusion of the lower St. Croix river into the federal wild and scenic rivers system by the Lower St. Croix River Act of the 92nd Congress, Public Law 92-560. The authorizations of this act of the state of Minnesota are necessary to the preservation and administration of the lower St. Croix river as a wild and scenic river, particularly in relation to those portions of the river which are to be jointly preserved and administered as a wild and scenic river by the states of Minnesota and Wisconsin.

Subd. 2. Comprehensive master plan. The commissioner of natural resources shall join with the secretary of the department of the interior and the appropriate agency of the state of Wisconsin in the preparation of the comprehensive master plan relating to boundaries, classification, and development required by section 3 of the Lower St. Croix River Act of 1972, and by section 3(b) of the Wild and Scenic Rivers Act, Public Law 90-542.

The commissioner shall make the proposed comprehensive master plan available to affected local governmental bodies, shoreland owners, conservation and outdoor recreation groups, and the general public. Not less than 30 days after making such information available, the commissioner shall conduct a public hearing on the proposed comprehensive master plan in the county seat of each county which contains a portion of the area covered by the comprehensive master plan, in the manner provided in chapter 15.

Subd. 3. Powers and duties of commissioner of natural resources; municipal zoning. After the comprehensive master plan has been adopted and is in effect, the commissioner has the powers and duties necessary to the following: (a) The acquisition, by the commissioner of administration for the commissioner of natural resources, of lands, scenic easements or other interests in land by gift, purchase, or other lawful means, and he may acquire also by eminent domain the scenic easements interest in land. The acquisitions are those which are proposed for acquisition by the state of Minnesota by the comprehensive master plan; (b) the promulgation of rules and regulations in the manner provided in chapter 15, which will establish guidelines and specify standards for local zoning ordinances applicable to the area within the boundaries established pursuant to subdivision 2. The guidelines and standards shall be consistent with the purposes of this act, the federal Wild and Scenic Rivers Act, and the federal Lower St. Croix River Act of 1972. The standards specified in the guidelines shall include but not be limited to the following: (1) The prohibition of new residential, commercial, or industrial uses other than those which are consistent with the above mentioned acts, and (2) the protection of riverway lands by means of acreage, frontage, and setback requirements on development. Cities, counties and towns lying within the areas affected by the guidelines are empowered to and shall adopt zoning ordinances complying with the guidelines and standards promulgated by the commissioner within the time schedule prescribed by the commissioner; (c) the administration, in cooperation with appropriate federal authorities and authorities of the state of Wisconsin, of state lands and waters in conformance with this act, the federal Wild and Scenic Rivers Act, and the federal Lower St. Croix River Act of 1972.

History: 1973 c 123 art 5 s 7; 1973 c 246 s 1

APPENDIX T

104.31 WILD AND SCENIC RIVERS ACT.

Sections 104.31 to 104.40 may be cited as the "Minnesota wild and scenic rivers act."

History: 1973 c 271 s 1

104.32 POLICY.

The legislature finds that certain of Minnesota's rivers and their adjacent lands possess outstanding scenic, recreational, natural, historical, scientific and similar values. Because it is in the interest of present and future generations to retain these values, it is hereby declared to be a policy of Minnesota and an authorized public purpose to preserve and protect these rivers.

History: 1973 c 271 s 2

104.33 SYSTEM; CRITERIA FOR INCLUSION.

Subdivision 1. The whole or a segment of any river and its adjacent lands in this state that possesses outstanding scenic, recreational, natural, historical, scientific, or similar values shall be eligible for inclusion within the Minnesota wild and scenic rivers system. "River" means a flowing body of water such as a stream or a segment or tributary thereof, and may include lakes through which the river or stream flows.

Subd. 2. Rivers or segments thereof included within the system shall be classified as wild, scenic, or recreational.

(a) "Wild" rivers are those rivers that exist in a free-flowing state, with excellent water quality, and with adjacent lands that are essentially primitive. "Free-flowing" means existing in natural condition without significant artificial modification such as impoundment, diversion, or straightening. The existence, however, of low dams, diversion works or other minor structures at the time any river is proposed for inclusion shall not automatically bar its inclusion as a wild, scenic, or recreational river.

(b) "Scenic" rivers are those rivers that exist in a free-flowing state and with adjacent lands that are largely undeveloped.

(c) "Recreational" rivers are those rivers that may have undergone some impoundment or diversion in the past and may have adjacent lands that are considerably developed, but that are still capable of being managed so as to further the purposes of sections 104.31 to 104.40.

History: 1973 c 271 s 3

104.34 COMMISSIONER'S DUTIES.

Subdivision 1. The commissioner of natural resources shall be responsible for administering the wild and scenic rivers system and his duties shall include but not be limited to conducting studies, developing criteria for classification and designation of rivers, designating rivers for inclusion within the system, and management of the components of the system including promulgation of regulations with respect thereto.

Subd. 2. The commissioner shall promulgate, in the manner provided in chapter 15, statewide minimum standards and criteria for the preservation and protection of shorelands within the boundaries of wild, scenic, and recreational rivers. Such standards and criteria (a) may include but need not be limited to the matters covered in the commissioner's standards and criteria for shoreland areas, as set out in section 105.485, except that the distance limitations contained in section 105.485 do not apply to standards and criteria for wild, scenic, and recreational rivers; (b) shall further the purposes of sections 104.31 to 104.40 and of the classifications of rivers established hereunder; and (c) shall apply to the same local governments as are or may hereafter be specified in section 105.485.

History: 1973 c 271 s 4

104.35 MANAGEMENT PLANS; HEARING; ESTABLISHMENT.

Subdivision 1. For each river proposed to be included in the wild and scenic rivers system, the commissioner shall prepare a management plan, with no unreasonable restrictions upon compatible, pre-existing, economic uses of particular tracts of land to preserve and enhance the values that cause the river to be proposed for inclusion in the system. The plan shall give primary emphasis to the area's scenic, recreational, natural, historical, scientific and similar values. The plan shall set forth the proposed classification of the river and segments thereof, and the boundaries of the area along the river to be included within the system. The boundaries shall include not more than 320 acres per mile on both sides of the river. The plan shall include proposed regulations governing the use of public lands and waters within the area, which may differ from any such statewide regulations to the extent necessary to take account of the particular attributes of the area. The plan may include proposed standards and criteria adopted pursuant to section 104.34 for local land use controls that differ from the statewide standards and criteria to the extent necessary to take account of the particular attributes of the area.

Subd. 2. Rivers or segments thereof included within the system shall be classified as wild, scenic, or recreational.

(a) "Wild" rivers are those rivers that exist in a free-flowing state, with excellent water quality, and with adjacent lands that are essentially primitive. "Free-flowing" means existing in natural condition without significant artificial modification such as impoundment, diversion, or straightening. The existence, however, of low dams, diversion works or other minor structures at the time any river is proposed for inclusion shall not automatically bar its inclusion as a wild, scenic, or recreational river.

(b) "Scenic" rivers are those rivers that exist in a free-flowing state and with adjacent lands that are largely undeveloped.

(c) "Recreational" rivers are those rivers that may have undergone some impoundment or diversion in the past and may have adjacent lands that are considerably developed, but that are still capable of being managed so as to further the purposes of sections 104.31 to 104.40.

History: 1973 c 271 s 3

104.34 COMMISSIONER'S DUTIES.

Subdivision 1. The commissioner of natural resources shall be responsible for administering the wild and scenic rivers system and his duties shall include but not be limited to conducting studies, developing criteria for classification and designation of rivers, designating rivers for inclusion within the system, and management of the components of the system including promulgation of regulations with respect thereto.

Subd. 2. The commissioner shall promulgate, in the manner provided in chapter 15, statewide minimum standards and criteria for the preservation and protection of shorelands within the boundaries of wild, scenic, and recreational rivers. Such standards and criteria (a) may include but need not be limited to the matters covered in the commissioner's standards and criteria for shoreland areas, as set out in section 105.485, except that the distance limitations contained in section 105.485 do not apply to standards and criteria for wild, scenic, and recreational rivers; (b) shall further the purposes of sections 104.31 to 104.40 and of the classifications of rivers established hereunder; and (c) shall apply to the same local governments as are or may hereafter be specified in section 105.485.

History: 1973 c 271 s 4

104.35 MANAGEMENT PLANS; HEARING; ESTABLISHMENT.

Subdivision 1. For each river proposed to be included in the wild and scenic rivers system, the commissioner shall prepare a management plan, with no unreasonable restrictions upon compatible, pre-existing, economic uses of particular tracts of land to preserve and enhance the values that cause the river to be proposed for inclusion in the system. The plan shall give primary emphasis to the area's scenic, recreational, natural, historical, scientific and similar values. The plan shall set forth the proposed classification of the river and segments thereof, and the boundaries of the area along the river to be included within the system. The boundaries shall include not more than 320 acres per mile on both sides of the river. The plan shall include proposed regulations governing the use of public lands and waters within the area, which may differ from any such statewide regulations to the extent necessary to take account of the particular attributes of the area. The plan may include proposed standards and criteria adopted pursuant to section 104.34 for local land use controls that differ from the statewide standards and criteria to the extent necessary to take account of the particular attributes of the area.

Subd. 2. The commissioner shall make the proposed management plan available to affected local governmental bodies, shoreland owners, conservation and outdoor recreation groups, the director of the state planning agency, the governor, and the general public. The director of the state planning agency and the governor shall review the proposed management plan pursuant to the criteria specified in section 86A.09, subdivision 3, and submit any written comments to the commissioner within 60 days after receipt of the proposed management plan. Not less than 60 days after making such information available, the commissioner shall conduct a public hearing on the proposed management plan in the county seat of each county which contains a portion of the designated area, in the manner provided in chapter 15.

Subd. 3. Upon receipt of the hearing examiner's report, the commissioner shall immediately forward the proposed management plan and the hearing examiner's report to the state planning agency for review pursuant to section 86A.09, subdivision 3, except that the review by the state planning agency shall be completed or be deemed completed within 30 days after receiving the hearing examiner's report and the review by the governor shall be completed or be deemed completed within 15 days after receipt. Within 60 days after receipt of the hearing examiner's report, the commissioner shall decide whether to designate by order the river or segment thereof as a wild, scenic, or recreational river and, if so designated, shall adopt a management plan to govern the area. The commissioner shall notify and inform public agencies and private landowners of the plan and its purposes so as to encourage their cooperation in the management and use of their land in a manner consistent with the plan and its purposes.

Subd. 4. The legislature may at any time designate additional rivers to be included within the system, delete rivers previously included in the system, or change the classification of rivers theretofore classified by the commissioner.

History: 1973 c 271 s 5; 1975 c 353 s 21; 1978 c 535 s 1, 2

104.36 LOCAL LAND USE ORDINANCES.

Subdivision 1. Within six months after establishment of a wild, scenic, or recreational river area, each local government containing any portion thereof shall adopt or amend its local ordinances and land use district maps to the extent necessary to comply with the standards and criteria of the commissioner and the management plan. If a local government fails to adopt adequate ordinances, maps, or amendments thereto within six months, the commissioner shall adopt such ordinances, maps, or amendments in the manner and with the effect specified in section 105.485, subdivisions 4 and 5.

Subd. 2. The commissioner shall assist local governments in the preparation, implementation and enforcement of the ordinances required herein, within the limits of available appropriations and personnel.

History: 1973 c 271 s 6

104.37 ACQUISITION OF INTERESTS IN LAND; DEVELOPMENT.

Subdivision 1. To further the purposes of sections 104.31 to 104.40, the commissioner of natural resources may acquire the title, scenic easements or other interests in land, by purchase, grant, gift, devise, exchange, lease, or other lawful means. "Scenic easement" means an interest in land, less than the fee title, which limits the use of such land for the purpose of protecting the scenic, recreational, or natural characteristics of a wild, scenic or recreational river area. Unless otherwise expressly and specifically provided by the parties, such easement shall be (a) perpetually held for the benefit of the people of Minnesota; (b) specifically enforceable by its holder or any beneficiary; and (c) binding upon the holder of the servient estate, his heirs, successors and assigns. Unless specifically provided by the parties, no such easement shall give the holder or any beneficiary the right to enter on the land except for enforcement of the easement.

Subd. 2. The commissioner of natural resources may designate and develop appropriate areas of public land along wild, scenic, and recreational rivers as water waysides for facilities compatible with the class of river, including, as appropriate, primitive campsites, picnic sites, portages, water access sites, sanitation facilities, and interpretive display.

Subd. 3. The commissioner of natural resources may mark canoe and boating routes along a wild, scenic, or recreational river, consistent with the classification and characteristics of the river, including points of interest, portages, campsites, dams, rapids, waterfalls, whirlpools, and other hazards to navigation. Canoe routes, boating routes, campsites, and portages marked under this subdivision shall not be subject to the provisions of section 160.06.

Subd. 4. The commissioner of natural resources may designate all or a portion of a state wild, scenic, or recreational river that possesses the necessary qualifications as a state trout stream, and make habitat improvement as may be necessary, desirable, and consistent with the classification of the river.

History: 1973 c 271 s 7; 1975 c 353 s 22, 1980 c 458 s 15

104.38 RESPONSIBILITIES OF OTHER GOVERNMENTAL UNITS.

All state, local and special governmental units, councils, commissions, boards, districts, agencies, departments and other authorities shall exercise their powers so as to further the purposes of sections 104.31 to 104.40 and management plans adopted by the commissioner hereunder. Land owned by the state, its agencies and subdivisions shall be administered in accordance with the management plan, and no land owned by such governmental bodies within the designated boundaries of a wild, scenic or recreational river area shall be transferred to any other person or entity if such transfer would be inconsistent with such plan.

History: 1973 c 271 s 8

104.39 FEDERAL-STATE RELATIONS.

Nothing in sections 104.31 to 104.40 shall preclude a river in the Minnesota wild and scenic rivers system from becoming a part of the federal wild and scenic rivers system as established in the Wild and Scenic Rivers Act, Public Law 90-542; 16 United States Code Section 1271 et seq., as amended. The commissioner is authorized to seek, alone or in conjunction with other governmental authorities, financial and technical assistance from the federal government and to enter into written cooperative agreements for the joint administration of a Minnesota river in the federal wild and scenic rivers system.

History: 1973 c 271 s 9

104.40 CONFLICT WITH OTHER LAWS.

Each river in the wild and scenic rivers system shall be subject to the provisions of sections 104.31 to 104.40, provided that in case of conflict with some other law of this state the more protective provision shall apply.

History: 1973 c 271 s 10

APPENDIX U

SHORELAND DEVELOPMENT REGULATION PROVISIONS

105.485 REGULATION OF SHORELAND DEVELOPMENT.

Subd. 3. **Commissioner's duties.** Before April 1, 1974, the commissioner of natural resources shall promulgate, in the manner provided in chapter 15, model standards and criteria, other than a model ordinance, for the subdivision, use, and development of shoreland in municipalities, which standards and criteria shall include but not be limited to those listed below in regard to unincorporated areas. Before July 1, 1970, the commissioner of natural resources shall promulgate, in the manner provided in chapter 15, model standards and criteria for the subdivision, use, and development of shoreland in unincorporated areas, including but not limited to the following: (a) The area of a lot and length of water frontage suitable for a building site; (b) the placement of structures in relation to shorelines and roads; (c) the placement and construction of sanitary and waste disposal facilities; (d) designation of types of land uses; (e) changes in bottom contours of adjacent public waters; (f) preservation of natural shorelands through the restriction of land uses; (g) variances from the minimum standards and criteria; and (h) a model ordinance. The following agencies shall provide such information and advice as may be necessary to the preparation of the rules and regulations, or amendments thereto: The state departments of agriculture, economic development, and health; the state planning agency; the pollution control agency; the state soil and water conservation board; and the Minnesota historical society. In addition to other requirements of chapter 15, the model standards and ordinance promulgated pursuant to this section, or amendments thereto, shall not be filed with the secretary of state unless approved by the state commissioner of health and the director of the pollution control agency.

Subd. 4. **Failure of county to act; commissioner's duties; enforcement.** If a county fails to adopt a shoreland conservation ordinance by July 1, 1972, or if the commissioner of natural resources, at any time after July 1, 1972, after notice and hearing as provided in section 105.44, finds that a county has adopted a shoreland conservation ordinance which fails to meet the minimum standards established pursuant to this section, the commissioner shall adapt the model ordinance to the county. The commissioner shall hold at least one public hearing on the proposed ordinance in the manner provided in section 394.26, after giving notice as provided in section 394.26. This ordinance is effective for the county on the date and in accordance with such regulations relating to compliance as the commissioner shall prescribe. The ordinance shall be enforced as provided in section 394.37. The penalties provided in section 394.37, apply to violations of the ordinance so adapted by the commissioner.

Subd. 5. **Costs.** The cost incurred by the commissioner in adapting the model ordinance to the county pursuant to subdivision 4 shall be paid by the county upon the submission to the county of an itemized statement of these costs by the commissioner. If the county fails to pay these costs within 90 days after the commissioner's statement is received, the commissioner may file a copy of the statement of these costs with the county auditor of the county for collection by special tax levy. The county auditor, upon receiving a statement from the commissioner, shall include the amount of the state's claim in the tax levy for general revenue purposes of the county. This additional tax shall be levied in excess of any limitation as to rate or amount, but shall not cause the amount of other taxes which are subject to any limitation to be reduced in any amount whatsoever. Upon completion of the tax settlement following this levy, the county treasurer shall remit the amount due to the state to the commissioner for deposit in the state treasury.

Subd. 6. **Municipal shoreland management.** Before April 1, 1974, each municipality having shoreland within its corporate limits shall submit to the commissioner, for his review, any ordinances, rules, or regulations affecting the use and development of its shorelands. The commissioner shall review the ordinances, rules, or regulations and determine whether they are in substantial compliance with municipal shoreland management standards and criteria promulgated pursuant to subdivision 3. In making his review the commissioner also shall consider any feature unique to the municipal shoreland in question, including but not limited to the characteristics of the waters which may be affected by development, storm sewer facilities, and sanitary and waste disposal facilities in existence at the time of the commissioner's review. If the commissioner determines that the ordinances, rules, or regulations of a municipality do not substantially comply with the state standards and criteria for municipal shoreland management, he shall so notify the municipality and shall indicate to the municipality the changes which are necessary to bring the ordinances, rules, or regulations into substantial compliance with state standards and criteria. Within one year after receiving this notice from the commissioner, the municipality shall make the changes necessary to bring the ordinances, rules, or regulations into substantial compliance with state standards and criteria. If a municipality has no ordinance, rule, or regulation affecting the use and development of shoreland on April 1, 1974, it shall adopt such an ordinance, rule, or regulation complying with state standards and criteria for municipal shoreland management, before July 1, 1975. If (a) a municipality has no ordinance, rule, or regulation affecting the use and development of shoreland on April 1, 1974, and fails to adopt such an ordinance by July 1, 1975, or if (b) the corporate boundaries of the municipality are expanded to include shorelands not previously included within the municipal boundaries and the municipality fails to adopt such an ordinance within one year after including the shorelands within its municipal boundaries, or if (c) the commissioner determines that a municipal shoreland management ordinance does not substantially comply with the state standards and criteria for municipal shoreland management and that the municipality has failed to make the necessary changes within one year after receiving notice of noncompliance, the commissioner may adopt an ordinance, rules, or regulations for the municipality in the following manner. The commissioner shall hold at least one public hearing on the proposed ordinance, rules, or regulations in the manner provided in section 462.357, after giving notice as provided in section 462.357. The ordinance, rules, or regulations are effective for the municipality on the date and in accordance with such regulations relating to compliance as the commissioner shall prescribe. The ordinance shall be enforced as provided in section 462.362. The penalties provided in section 462.362 apply to violations of the ordinances, rules, or regulations adopted for the municipality by the commissioner. The costs incurred by the commissioner in adopting the ordinances, rules, or regulations for the municipality shall be paid by the municipality and collected from the municipality in the same manner as such costs are paid by a county and collected from a county pursuant to subdivision 5; and any tax levied to pay the costs shall be levied in excess of any limitation as to rate or amount, but shall not cause the amount of other taxes which are subject to any limitation to be reduced in any amount whatsoever.

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