

7.7

AMENDMENT NO. 98-13 TO ORDINANCE NO. 179  
PEPIN COUNTY CODE OF ORDINANCES  
AN ORDINANCE TO CREATE CHAPTER 28 – GREAT RIVER ROAD PRESERVATION  
ZONING CODE

BE IT ORDAINED BY THE COUNTY BOARD OF SUPERVISORS OF PEPIN COUNTY:

Section 1. Authority and Purpose. This ordinance is enacted under the authority of Section 59.03 Wis. Statutes.

Section 2. That the code of Ordinances of the County of Pepin be amended by adding Chapter 28 as follows:

CHAPTER 28 - GREAT RIVER ROAD PRESERVATION ZONING CODE

*28.01 Statutory Authority, Findings of Fact, Purpose, and Intent*

*28.02 General Provisions*

*28.03 Use Regulations for Areas Within the Jurisdiction of this Chapter*

*28.04 Enforcement and Penalties*

28.01 Statutory Authority, Findings of Fact, Purpose, and Intent

**(1) Statutory Authorization.** This Chapter is adopted under the authorization in Wis. Stat. Ch. 59.

**(2) Finding of Fact.** The Pepin County Board recognizes that uncontrolled use of the lands that surround the Wisconsin Great River Road/National Scenic Byway (State Highway 35) within the County would adversely affect the environment, public health, safety, and property values, and irreparably harm the recreation and tourism economies thereby impairing the tax base of the County.

The Wisconsin Great River Road is defined in Wis. Stat. § 84.107(1). In 1938, a multi-state group, with Wisconsin as a participant, initiated planning for a parkway along the Mississippi River. The Great River Road National Scenic Byway (GRR/NSB) that emerged from this plan follows the Mississippi River for 3,000 miles through ten states, from northern Minnesota to the gulf of Mexico. In Wisconsin, the state Department of Transportation is now the jurisdictional authority over the segment of the GRR/NSB that runs through it. The Mississippi River Parkway Commission (MRPC), as defined by Wisconsin Statute § 14.95, has coordinated efforts on federal, state and local levels to leverage millions of dollars for building and maintaining highway improvements, recreational trails, bikeways, scenic overlooks and tourist information centers, and for preserving and commemorating historic sites. Since the GRR received the prestigious designation as a National Scenic Byway in 2000, approximately \$9.3 million (\$7.4 million in federal dollars, \$1.9 million in state dollars) has been invested to preserve, enhance and promote the GRR/NSB as a national and

state tourism corridor and travel destination. This investment has helped to create thousands of jobs in the tourism economy along the Wisconsin Great River Road/National Scenic Byway. According to figures collected by the Wisconsin Department of Tourism, there were approximately 4,800 tourism-based jobs on or near the Wisconsin GRR/NSB in 2011, generating over \$255 million in visitor spending in that year alone.

"Frac Sand" is hydraulic fracture-grade silica sand used in the exploration, drilling, production and recovery of oil and gas. Silica sand deposits that can be readily accessed and processed into "frac sand" occur in many parts of Western Wisconsin, including Pepin County. Unlike other nonmetallic mining operations, the mining, extraction, storage, processing and transportation of frac sand ("frac sand operations") both in the Towns and Villages of Stockholm and Pepin can adversely affect the environment, health, safety and general welfare of the residents, land owners, and members of the general public who leisurely travel the GRR/NSB, stopping at the many scenic overlooks, historical markers, waysides and picturesque villages to experience the intrinsic features and values unique to this area's rural land and communities. Frac sand operations involve very large numbers of heavy trucks each day transporting industrial silica sand and frac sand to and from mining sites, off site processing facilities, and rail and barge loading facilities. Unlike other nonmetallic mining operations, frac sand operations, because of their size and scope, will have adverse effects on the many resources of the towns and villages, including their groundwater, surface water, landscape, natural beauty and public roads. These resources are the key to the success of farming, recreation and tourism which are currently the prevailing businesses and the economic base of the towns and villages along the GRR/NSB.

Frac sand operations in Pepin County that use the Great River Road/National Scenic Byway for hauling of frac sand in excess of fifty truck trips per day will cause irreparable harm to land values and the recreation and tourism economies on or near the GRR/NSB. Competition with heavy frac sand traffic will discourage and in some cases physically deter the public from coming to this part of Pepin County to visit, shop, dine, lodge or enjoy the area's unique opportunities for boating, fishing, and sight-seeing. Many tourism jobs will be lost if hundreds of frac sand trucks each day travel on the roads and highways that go through the towns and villages. Property in the towns and villages will not be as desirable for residential development.

The loss of tourism jobs coupled with a decrease in property values in the towns and villages would reduce the County's overall tax base and State sales tax revenues returned to the County. In 2012 the towns and villages along the Great River Road provided 36.2% of the equalized values for property taxes assessed in the County. This loss of tax base, should it occur, will negatively affect the ability of Pepin County to provide essential government services to residents of the County, and will increase the property tax burden for the City of Durand and other townships in the County.

**(3) Statement of Purpose.** The purpose of the Great River Road/National Scenic Byway Preservation Overlay District is to guide development and land use on and near the Great River Road in Pepin County, consistent with the zoning and licensing ordinances of the

towns and villages, by regulations that will preserve the scenic nature of the GRR/NSB and maintain the jobs in the tourism and recreation industries located there which are dependent upon the many visitors and tourists who travel the Great River Road.

(4) **Title.** This chapter shall be known as and referred to as the "Great River Road Preservation Zoning Code."

## 28.02 General Provisions

(1) **Jurisdiction.** Subject to Town and Village approval as provided in Wis.Stat. § 59.69, the jurisdiction of this ordinance shall apply to all land within the County as follows:

- (a) land west of the center line of the Great River Road/National Scenic Byway to the thread of the Mississippi River; and
- (b) land east of the center line of the Great River Road/National Scenic Byway to and including bluff areas defined in § 19.04 of the Mississippi River Bluffland Zoning Code from Pepin County boundary with Pierce County down river to County Road N; and east of the center line of the GRR/NSB to the junction of County Road N and Back Valley Road and eastward along the section lines (following Sand Road) to the Chippewa River.
- (c) This land described in (a) and (b) above includes the land sections and forties set forth on Exhibit A (attached hereto) entitled "**Great River Road Preservation Area.**"

### (2) **Compliance With Town and Village Licensing and Zoning Ordinances.**

The use of any land (size, shape and placement of lots; use, size, type and location of structures on lots; installation and maintenance of water supply and waste disposal facilities; filling and grading of lands; cutting of woody vegetation and subdivision of lots) shall be in full compliance with the terms and requirements of the applicable licensing and zoning ordinances and regulations of the State of Wisconsin, Pepin County, Town of Stockholm, Town of Pepin, Village of Stockholm, and Village of Pepin, and Chapter 19 (Mississippi River Bluffland Zoning Code) of the Pepin County Code of Ordinances.

(3) **Administration.** The administration of this chapter shall be governed by §§ 19.06-19.10 of the Pepin County Code of Ordinances as amended. § 19.07(2)(c)(1) is amended to read "Impact of the proposed use upon the scenic and recreational use qualities of the Mississippi River and the Great River Road/National Scenic Byway (GRR/NSB), State Highway 35 (amended language underlined.)"

(4) **Regulations Supersede Other County Land Use Regulations.** The regulations contained in this chapter are in addition to regulations which apply to such lands under other applicable town, village, County, State and/or federal land use ordinances, administrative codes or laws. If the regulations of this chapter conflict with other regulations, the most restrictive of the conflicting regulations shall apply.

**(5) Interpretation.** In their interpretation and application, the provisions of this chapter shall be held to be minimum requirements and shall be construed in favor of the County and shall not be deemed a limitation or repeal of any other powers granted by Wisconsin Statutes.

**(6) Severability.** If any portion of this chapter is adjudged unconstitutional or invalid by a court of competent jurisdiction, the remainder of this chapter shall not be affected thereby.

**(7) Definitions.** In addition to the definitions set forth and applicable to the zoning and licensing ordinances and regulations of Pepin County, the Town of Stockholm, the Town of Pepin, the Village of Stockholm, the Village of Pepin and Chapter 19 of the Pepin County Code of Ordinances (the Mississippi River Bluffland Zoning Code), the following definitions also apply to the terms used in this chapter.

- (a) **Great River Road/National Scenic Byway.** The Great River Road/National Scenic Byway means that portion of GRR/NSB on State Highway 35 in Pepin County and the corridor through which it passes.
- (b) **Truck trips.** Trucks with a gross vehicle weight rating, or actual gross weight, in excess of 50,000 pounds traveling on the GRR/NSB in Pepin County.
- (c) **High-impact industrial or commercial operation.** Any business, including frac sand operations, that involves more than fifty truck trips, as defined in (b), above, in any given day.
- (d) **Frac Sand Operation.** Any mining operation, any processing facility, and any transfer and/or loading operation or facility for the transport by truck, rail or barge of industrial silica sand intended for use or sale as hydraulic fracture grade silica sand used in the exploration, drilling, production and recovery of oil and gas.

### **28.03 Use Regulations for Areas Within the Jurisdiction of this Chapter**

#### **(1) Use Restrictions:**

- (a) **Permitted Uses.** All uses permitted by licensing or zoning ordinances or regulations adopted by the Towns and Villages of Stockholm and Pepin, or uses customarily incident of any permitted uses, provided that no such uses generate more than fifty truck trips in any given day.
- (b) **Conditional Uses.** All conditional uses permitted by licensing or zoning ordinances or regulations adopted by the Towns and Villages of Stockholm and Pepin, provided that no such uses generate more than fifty or more truck trips in any given day.

- (c) **Special Prohibitions.** The following special prohibitions are essential to the preservation and protection of the GRR/NSB:
- (i) No use may be established within the Great River Road/National Scenic Byway and areas covered by this Ordinance which is not authorized, permitted or listed as a conditional use in the licensing or zoning ordinances or regulations adopted by the Towns and Villages of Stockholm and Pepin.
  - (ii) No high-impact industrial or commercial operation may be established in the Great River Road/National Scenic Byway and areas covered by this Ordinance.
  - (iii) No frac sand operations may be established in the Great River Road/National Scenic Byway and areas covered by this Ordinance.

**28.04 Enforcement and Penalties**


Any development or any use established after the effective date of this chapter in violation of the provisions of this chapter by any person shall be deemed a violation. The Zoning Administrator or the County Zoning Agency shall refer violations to the District Attorney who shall expeditiously prosecute violations. Any person who violates or refuses to comply with any of the provisions shall be subject to a forfeiture of not less than \$10,000 nor more than \$50,000 per offense, or in the highest amount permitted by law, whichever is less, together with the taxable costs of action. Each day of continued violation shall constitute a separate offense. Every violation of this chapter is a public nuisance and the creation thereof may be enjoined and the maintenance thereof maybe abated by action at suit of the County, the State or any citizen thereof under Wis. Stat. § 87.30(2).

Dated this 19th day of June, 2013

Effective upon publication.

Published: June 27, 2013

**LAW ENFORCEMENT AND ORDINANCE COMMITTEE:**

  
 \_\_\_\_\_  
 James K. Kraft, Chairman

  
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 William Mavity

  
 \_\_\_\_\_  
 N. Mike Murray

  
 \_\_\_\_\_  
 Bill Ingram

State of Wisconsin )  
 County of Pepin )

I, Marcia R. Bauer, Pepin County Clerk, do hereby certify that the foregoing Amendment #98-13 to Ordinance No. 179 creating Chapter 28 is a true and correct copy of the amendment as adopted by the Pepin County Board of Supervisors on June 19, 2013.

YES: 9 NO: 3 ABSENT: 0

  
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 Marcia R. Bauer, Pepin County Clerk



EXHIBIT A

Great River Road Preservation Area  
Township of Stockholm

T24N-R16W		T23N-R15W			
Section 26	Section 35	Section 1	Section 2	Section 12	Section 35
1 NW 1/4, NE 1/4	NW 1/4, NE 1/4	NW 1/4, NW 1/4	NE 1/4, NE 1/4	NE 1/4, NE 1/4	SW 1/4, SW 1/4
2 NE 1/4, NW 1/4	SW 1/4, NE 1/4	SE 1/4, SE 1/4	NW 1/4, NE 1/4	NW 1/4, NE 1/4	
3 NNW 1/4, NW 1/4	NE 1/4, NW 1/4	SW 1/4, SE 1/4	SE 1/4, NE 1/4	SE 1/4, NE 1/4	
4 SW 1/4, NW 1/4	NW 1/4, NW 1/4	SE 1/4, SW 1/4	SW 1/4, NE 1/4	SW 1/4, NE 1/4	
5 SE 1/4, NW 1/4	SE 1/4, NW 1/4	SW 1/4, SW 1/4	NE 1/4, NW 1/4	NE 1/4, NW 1/4	
6 NE 1/4, SW 1/4	SW 1/4, NW 1/4		SE 1/4, NW 1/4	SE 1/4, NW 1/4	
7 NW 1/4, SW 1/4	NW 1/4, SE 1/4		NE 1/4, SE 1/4		
8 SW 1/4, SW 1/4	SE 1/4, SE 1/4		NNW 1/4, SE 1/4		
9 SE 1/4, SW 1/4	SW 1/4, SE 1/4		SE 1/4, SE 1/4		
10	NE 1/4, SW 1/4		SW 1/4, SE 1/4		
11	NW 1/4, SW 1/4		NE 1/4, SW 1/4		
12	SE 1/4, SW 1/4		SE 1/4, SW 1/4		

**T23N-R15W**

Section 6	Section 7	Section 8	Section 12	Section 17	Section 18	Section 20
1 SE 1/4, SW 1/4	NE 1/4, NW 1/4	SW 1/4, SW 1/4	NE 1/4, NE 1/4	NE 1/4, NW 1/4	NE 1/4, NE 1/4	NE 1/4, NE 1/4
2 SW 1/4, SW 1/4	NW 1/4, NW 1/4		NW 1/4, NE 1/4	NW 1/4, NW 1/4	NW 1/4, NE 1/4	NW 1/4, NE 1/4
3	SE 1/4, NW 1/4		SE 1/4, NE 1/4	SE 1/4, NW 1/4	SW 1/4, NE 1/4	SE 1/4, NE 1/4
4	SW 1/4, NW 1/4		SW 1/4, NE 1/4	SW 1/4, NW 1/4	SE 1/4, NE 1/4	NE 1/4, NW 1/4
5	SE 1/4, SE 1/4		NE 1/4, NW 1/4	NW 1/4, SE 1/4	NE 1/4, SE 1/4	NW 1/4, NW 1/4
6	SW 1/4, SE 1/4		SE 1/4, NW 1/4	SE 1/4, SE 1/4	SE 1/4, SE 1/4	NE 1/4, SE 1/4
7	NE 1/4, SW 1/4		SW 1/4, SE 1/4			SE 1/4, SE 1/4
8	NW 1/4, SW 1/4		NE 1/4, SW 1/4			
9	SE 1/4, SW 1/4		NW 1/4, SW 1/4			
10	SW 1/4, SW 1/4		SE 1/4, SW 1/4			
11			SW 1/4, SW 1/4			



