



CITY OF FITCHBURG

Planning Department

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NOTICE PUBLIC HEARING June 17, 2025

PLEASE TAKE NOTICE that the Plan Commission of the City of Fitchburg, Dane County, Wisconsin will hold a public hearing on Tuesday, June 17, 2025 at 6:30 p.m. in the Fitchburg City Hall, 5520 Lacy Road, Fitchburg, WI 53711 on a proposed Ordinance 2025-O-10, an Ordinance To Amend Article X, Floodplain Overlay Zoning, of Chapter 22 Zoning Ordinance. This Ordinance is required to continue the city's participation in the National Flood Insurance Program (NFIP).

Properties whose use may be affected by the proposed amendments include land in the City that is located within the Floodplain Overlay Zoning District.

A copy of the proposed amendments, existing zoning code, and Floodplain maps may be obtained from the Planning Department or <https://www.fitchburgwi.gov/2379/Zoning>

At the above indicated time, all interested persons will be given an opportunity to speak.

May 28, 2025
Date

Deanna Schmidt
Zoning Administrator

For publication in the Wisconsin State Journal legal on Tuesday, June 3, 2025, and Tuesday, June 10, 2025.

ARTICLE X. FLOODPLAIN OVERLAY ZONING

DIVISION 1. GENERALLY

Sec. 22-783. Statutory authorization.

This article is adopted pursuant to the authorization in Wis. Stats. §§ 61.35 and 62.23, and the requirements in Wis. Stats. § 87.30.

(Ord. No. 2010-O-09, § 22.401, 10-12-2010; Ord. No. 2014-O-31, § 1, 8-26-2014)

Sec. 22-784. Findings of fact.

The uncontrolled development and use of the floodplains, rivers and streams, and the pollution of navigable waters of the city would impair the public health, safety, convenience, general welfare and the tax base. The state legislature has delegated responsibility to all municipalities to further the maintenance of safe and healthful conditions; prevent and control water pollution; protect spawning grounds, fish and aquatic life; control building sites, placement of structures and land uses; and preserve shore cover and natural beauty.

(Ord. No. 2010-O-09, § 22.402, 10-12-2010; Ord. No. 2014-O-31, § 1, 8-26-2014)

Sec. 22-785. Purpose.

This subchapter is intended to regulate floodplain development to:

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

(Ord. No. 2010-O-09, § 22.403, 10-12-2010; Ord. No. 2014-O-31, § 1, 8-26-2014)

Sec. 22-786. Title.

This article shall be known as the Floodplain Overlay Zoning for the City of Fitchburg, Wisconsin.
(Ord. No. 2010-O-09, § 22.404, 10-12-2010; Ord. No. 2014-O-31, § 1, 8-26-2014)

Sec. 22-787. Areas to be regulated.

This article regulates all areas that would be covered by the regional flood or base flood as shown on the flood insurance rate map (FIRM) or other maps approved by DNR. Base flood elevations are derived from the flood profiles in the flood insurance study (FIS) and are shown as AE, A1-30, and AH zones on the FIRM. Other regulatory zones are displayed as A and AO zones. Regional flood elevations (RFE) may be derived from other studies. If more than one map or revision is referenced, the most restrictive information shall apply.

(Ord. No. 2010-O-09, § 22.411, 10-12-2010; Ord. No. 2014-O-31, § 1, 8-26-2014)

Sec. 22-788. Official maps and revisions.

- (a) The boundaries of all floodplain districts are designated as A, AE, AH, AO or A1-30 on the maps based on the flood insurance study (FIS) listed below. Any change to the base flood elevations (BFE) or any changes to the boundaries of the floodplain or floodway in the FIS or on the flood insurance rate map (FIRM) must be reviewed and approved by the WIDNR and FEMA through the letter of map change process (see § 22-851, Amendments) before it is effective. No changes to regional flood elevations (RFEs) on non-FEMA maps shall be effective until approved by the WIDNR. These maps and revisions are on file in the office of the city planning department. If more than one map or revision is referenced, the most restrictive information shall apply.
- (b) Official maps, based on the FIS:
Flood insurance rate map (FIRM), panel numbers: 55025C0413G, 55025C0416G, 55025C0417G, 55025C0418G, 55025C0419G, 55025C0438G, 55025C0576G, 55025C0580G, 55025C0601G, 55025C0605G, dated January 2, 2009 and 55025C0584H, 55025C0585H, dated September 17, 2014 with corresponding profiles that are based on the flood insurance study (FIS), Volume number 55025CV001D, 55025CV002D, 55025CV003D, 55025CV004D, dated June 16, 2016. Approved by the DNR and FEMA.
- (c) Official maps, based on other studies: Any maps referenced in this section must be approved by the DNR and be more restrictive than those based on the FIS at this site of the proposed development.

City of Fitchburg Flood Storage District, Panels 10, 20 & 21 of 21. Dated September 17, 2014. Prepared by the WDNR. Approved by the WDNR.

(Ord. No. 2010-O-09, § 22.412, 10-12-2010; Ord. No. 2014-O-31, § 1, 8-26-2014; Ord. No. 2016-O-08, § 1, 3-22-2016)

Sec. 22-789. Establishment of floodplain zoning districts.

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

- (1) The Floodway District (FW), is the channel of a river or stream and those portions of the floodplain adjoining the channel required to carry the regional floodwaters and are contained within AE zones as shown on the FIRM.

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- (2) The Floodfringe District (FF) is that portion of the floodplain between the regional flood limits and the floodway and displayed as AE zones on the FIRM.
 - (3) The General Floodplain District (GFP) is those areas that have been or may be covered by floodwater during the regional flood and does not have a BFE or floodway boundary determined, including A, AH and AO zones on the FIRM.
 - (4) The Flood Storage District (FSD) is that area of the floodplain where storage of floodwaters is calculated to reduce the regional flood discharge.

(Ord. No. 2010-O-09, § 22.413, 10-12-2010; Ord. No. 2014-O-31, § 1, 8-26-2014)

Sec. 22-790. Locating floodplain boundaries.

- (a) Discrepancies between boundaries on the official floodplain zoning map and actual field conditions shall be resolved using the criteria in this section. If a significant difference exists, the map shall be amended according to section 22-851. The zoning administrator can rely on a boundary derived from a profile elevation to grant or deny a land use permit, whether or not a map amendment is required. The zoning administrator shall be responsible for documenting actual pre-development field conditions and the basis upon which the district boundary was determined and for initiating any map amendments required under this section. Disputes between the zoning administrator and the applicant over the district boundary line shall be settled according to the board of appeals as discussed in sections 22-844 and 22-845 and the criteria in this section. Where the flood profiles are based on established base flood elevations from a FIRM, FEMA must approve any map amendment or revision pursuant to section 22-851.
 - (1) If flood profiles exist, the map scale and the profile elevations shall determine the district boundary. The regional or base flood elevations shall govern if there are any discrepancies.
 - (2) Where flood profiles do not exist, the location of the boundary shall be determined by the map scale.

(Ord. No. 2010-O-09, § 22.414, 10-12-2010; Ord. No. 2014-O-31, § 1, 8-26-2014)

Sec. 22-791. Removal of lands from floodplain.

Compliance with the provisions of this article shall not be grounds for removing lands from the floodplain unless it is filled at least two feet above the regional or base flood elevation, the fill is contiguous to lands outside the floodplain and the map is amended pursuant to section 22-851.

(Ord. No. 2010-O-09, § 22.415, 10-12-2010; Ord. No. 2014-O-31, § 1, 8-26-2014)

Sec. 22-792. Compliance; other permits.

Any development or use within the areas regulated by this article shall be in full compliance with the terms of this article, and other applicable local, state, and federal regulations. (See division 2 of this article for the standards applicable to nonconforming uses.) It is the responsibility of the applicant to secure all other necessary permits from appropriate federal, state, and local agencies, including those required by the U.S. Army Corps of Engineers under Section 404 of the Federal Water Pollution Control Act amendments of 1972, 33 USC 1344.

(Ord. No. 2010-O-09, § 22.416, 10-12-2010; Ord. No. 2014-O-31, § 1, 8-26-2014)

Sec. 22-793. Municipalities and state agencies regulated.

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

(Ord. No. 2010-O-09, § 22.417, 10-12-2010; Ord. No. 2014-O-31, § 1, 8-26-2014)

Sec. 22-794. Abrogation and greater restrictions.

- (a) This article supersedes all the provisions of any municipal zoning ordinance enacted under Wis. Stats. § 62.23 or 87.30, which relate to floodplains. A more restrictive ordinance shall continue in full force and effect to the extent of the greater restrictions, but not otherwise.
- (b) This article is not intended to repeal, abrogate or impair any existing deed restrictions, covenants or easements. If this article imposes greater restrictions, the provisions of this article shall prevail.

(Ord. No. 2010-O-09, § 22.418, 10-12-2010; Ord. No. 2014-O-31, § 1, 8-26-2014)

Sec. 22-795. Interpretation.

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

(Ord. No. 2010-O-09, § 22.419, 10-12-2010; Ord. No. 2014-O-31, § 1, 8-26-2014)

Sec. 22-796. Warning and disclaimer of liability.

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

(Ord. No. 2010-O-09, § 22.420, 10-12-2010; Ord. No. 2014-O-31, § 1, 8-26-2014)

Sec. 22-797. Severability.

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

(Ord. No. 2010-O-09, § 22.421, 10-12-2010; Ord. No. 2014-O-31, § 1, 8-26-2014)

Sec. 22-798. Annexed areas for cities and villages.

The Dane County floodplain zoning provisions in effect on the date of annexation shall remain in effect and shall be enforced by the city for all annexed areas until the city adopts and enforces an ordinance which meets the requirements of Wis. Admin. Code ch. NR 116, Wis. Adm. Code and 44 CFR 59-72, National Flood Insurance Program (NFIP). These annexed lands are described on the city's official zoning map. County floodplain zoning provisions are incorporated by reference for the purpose of administering this section and are on file in the office of the city's zoning administrator. All plats or maps of annexation shall show the regional flood elevation and the floodway location.

(Ord. No. 2010-O-09, § 22.422, 10-12-2010; Ord. No. 2014-O-31, § 1, 8-26-2014)

Sec. 22-799. General development standards.

The community shall review all permit applications to determine whether proposed building sites will be reasonably safe from flooding. If a proposed building site is in a flood-prone area, all new construction and substantial improvements shall be designed and anchored to prevent flotation, collapse, or lateral movement of the structure resulting from hydrodynamic and hydrostatic loads; be constructed with flood-resistant materials; be constructed to minimize flood damages and to ensure that utility and mechanical equipment is designed and/or located so as to prevent water from entering or accumulating within the equipment during conditions of flooding.

Subdivisions shall be reviewed for compliance with the above standards. All subdivision proposals (including manufactured home parks) shall include regional flood elevation and floodway data for any development that meets the subdivision definition of this article and all other requirements in section 22-840. Adequate drainage shall be provided to reduce exposure to flood hazards and all public utilities and facilities, such as sewer, gas, electrical, and water systems are located and constructed to minimize or eliminate flood damages.

(Ord. No. 2010-O-09, § 22.423, 10-12-2010; Ord. No. 2014-O-31, § 1, 8-26-2014)

Sec. 22-800. General provisions for all floodplain districts.

(a) Hydraulic and hydrologic analyses.

(1) No floodplain development shall:

- a. Obstruct flow, defined as development which blocks the conveyance of floodwaters by itself or with other development, causing any increase in the regional flood height; or
- b. Cause any increase in the regional flood height due to floodplain storage area lost.

(2) The zoning administrator shall deny permits if it is determined the proposed development will obstruct flow or cause any increase in the regional flood height, based on the officially adopted FIRM or other adopted map, unless the provisions of section 22-851, Amendments, are met.

(b) Watercourse alterations.

(1) No land use permit to alter or relocate a watercourse in a mapped floodplain shall be issued until the local official has notified in writing all adjacent municipalities, the department and FEMA regional offices, and required the applicant to secure all necessary state and federal permits. The standards of subsection (a) of this section must be met and the flood carrying capacity within the altered or relocated watercourse shall be maintained.

(2) As soon as is practicable, but no later than six months after the date of the watercourse alteration or relocation and pursuant to section 22-851, Amendments, the community shall apply for a letter of map

revision (LOMR) from FEMA. Any such alterations must be reviewed and approved by FEMA and the DNR through the LOMC process.

- (c) *State statute chapters regarding development.* Development which requires a permit from the department, under Wis. Stats. chs. 30 and 31, such as docks, piers, wharves, bridges, culverts, dams and navigational aids, may be allowed if the necessary permits are obtained and amendments to the floodplain zoning article are made according to section 22-851, Amendments.
- (d) *Public or private campgrounds.* Public or private campgrounds shall have a low flood damage potential and shall meet the following provisions:
- (1) The campground is approved by the department of health services.
 - (2) A land use permit for the campground is issued by the zoning administrator.
 - (3) The character of the river system and the campground elevation are such that a 72-hour warning of an impending flood can be given to all campground occupants.
 - (4) There is an adequate flood warning procedure for the campground that offers the minimum notice required under this section to all persons in the campground. This procedure shall include a written agreement between the campground owner, the municipal emergency government coordinator and the chief law enforcement official which specifies the flood elevation at which evacuation shall occur, personnel responsible for monitoring flood elevations, types of warning systems to be used and the procedures for notifying at-risk parties, and the methods and personnel responsible for conducting the evacuation.
 - (5) This agreement shall be for no more than one calendar year, at which time the agreement shall be reviewed and updated by the officials identified in subsection (4) of this section to remain in compliance with all applicable regulations, including those of the state department of health services and all other applicable regulations.
 - (6) Only camping units that are fully licensed, if required, and ready for highway use are allowed.
 - (7) The camping units shall not occupy any site in the campground for more than 180 consecutive days, at which time the camping unit must be removed from the floodplain for a minimum of 24 hours.
 - (8) All camping units that remain on site for more than 30 days shall be issued a limited authorization by the campground operator, a written copy of which is kept on file at the campground. Such authorization shall allow placement of a camping unit for a period not to exceed 180 days and shall ensure compliance with all the provisions of this section.
 - (9) The municipality shall monitor the limited authorizations issued by the campground operator to ensure compliance with the terms of this section.
 - (10) All camping units that remain in place for more than 180 consecutive days must meet the applicable requirements in either section 22-801, 22-802, or 22-804 for the floodplain district in which the structure is located.
 - (11) The campground shall have signs clearly posted at all entrances warning of the flood hazard and the procedures for evacuation when a flood warning is issued.
 - (12) All service facilities, including but not limited to refuse collection, electrical service, gas lines, propane tanks, sewage systems and wells shall be properly anchored and placed at or floodproofed to the flood protection elevation.

(Ord. No. 2010-O-09, § 22.430, 10-12-2010; Ord. No. 2014-O-31, § 1, 8-26-2014)

Sec. 22-801. FW Floodway District.

- (a) *Applicability.* This section applies to all floodway areas on the floodway zoning maps and those identified pursuant to section 22-804(d).
- (b) *Permitted uses.* The following open space uses are allowed within the Floodway District, and in the floodway areas of the General Floodplain District, provided that they are not prohibited by any other regulations, that the standards contained in subsections (c) and (d) of this section are met, and that all permits or certificates have been issued according to sections 22-840 and 22-841:
 - (1) Agricultural uses, such as farming, outdoor plant nurseries, horticulture, viticulture and wild crop harvesting.
 - (2) Nonstructural industrial and commercial uses, such as loading areas, parking areas and airport landing strips.
 - (3) Nonstructural recreational uses, such as golf courses, tennis courts, archery ranges, picnic grounds, boat ramps, swimming areas, parks, wildlife and nature preserves, game farms, fish hatcheries, shooting, trap and skeet activities, hunting and fishing areas, and hiking and horseback riding trails subject to the fill limitations of section 22-801(c)(4).
 - (4) Uses or structures accessory to open space uses, or classified as historic structures that comply with subsections (c) and (d) of this section.
 - (5) Extraction of sand, gravel or other materials according to subsection (c)(4) of this section.
 - (6) Functionally water-dependent uses, such as docks, piers or wharves, dams, flowage areas, culverts, navigational aids and river crossings of transmission lines, and pipelines that comply with Wis. Stats. chs. 30 and 31.
 - (7) Public utilities, streets and bridges that comply with subsection (c)(3) of this section.
- (c) *Standards for developments in the floodway.*
 - (1) General.
 - a. Any development in the floodway shall comply with section 22-800 and have a low flood damage potential;
 - b. Applicants shall provide the following data to determine the effects of the proposal according to section 22-800(a):
 - 1. A cross-section elevation view of the proposal, perpendicular to the watercourse, showing if the proposed development will obstruct flow; and
 - 2. An analysis calculating the effects of this proposal on regional flood height.
 - c. The zoning administrator shall deny the permit application if the project will cause any increase in the flood elevations upstream or downstream, based on the data submitted for subsection (c)(1)b of this section.
 - (2) Structures. Structures accessory to permanent open space uses, or functionally dependent on a waterfront location may be allowed by permit if the structures comply with the following criteria:
 - a. Not designed for human habitation, does not have a high flood damage potential and is constructed to minimize flood damage;
 - b. Mechanical and utility equipment must be elevated or floodproofed to or above the flood protection elevation;

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- c. Must be anchored to resist flotation, collapse, and lateral movement;
 - d. Shall have a minimum of two openings on different walls having a total net area not less than one square inch for every square foot of enclosed area, and the bottom of all such openings being no higher than one foot above grade. The openings shall be equipped with screens, louvers, or other coverings or devices provided that they permit the automatic entry and exit of floodwaters; and
 - e. It must not obstruct flow of floodwaters or cause any increase in flood levels during the occurrence of the regional flood.
- (3) Public utilities, streets and bridges may be allowed by permit, provided that:
- a. Adequate floodproofing measures are provided to the flood protection elevation; and
 - b. Construction meets the development standards of section 22-800(a).
- (4) Fills or deposition of materials may be allowed by permit, if:
- a. The requirements of section 22-800(a) are met;
 - b. No material is deposited in navigable waters unless a permit is issued by the Department pursuant to Wis. Stats. ch. 30 and a permit pursuant to Section 404 of the Federal Water Pollution Control Act, amendments of 1972, 33 USC 1344 has been issued, if applicable, and all other requirements have been met;
 - c. The fill or other materials will be protected against erosion by riprap, vegetative cover, sheet piling or bulkheading; and
 - d. The fill is not classified as a solid or hazardous material.
- (d) *Prohibited uses.* All uses not listed as permitted uses in subsection (b) of this section are prohibited, including the following uses:
- (1) Habitable structures, structures with high flood damage potential, or those not associated with permanent open-space uses;
 - (2) Storing materials that are buoyant, flammable, explosive, injurious to property, water quality or human, animal, plant, fish or other aquatic life;
 - (3) Uses not in harmony with or detrimental to uses permitted in the adjoining districts;
 - (4) Any private or public sewage systems except portable latrines that are removed prior to flooding, and systems associated with recreational areas and department-approved campgrounds, that meet the applicable provisions of local ordinances and Wis. Admin. Code SPS 383;
 - (5) All wells, whether public or private, which are used to obtain potable water, except those for recreational areas that meet the requirements of local ordinances and Wis. Admin. Code chs. NR 811 and 812;
 - (6) Any solid or hazardous waste disposal sites;
 - (7) Any wastewater treatment ponds or facilities, except those permitted under Wis. Admin. Code § NR 110.15(3)(b); and
 - (8) Any sanitary sewer or water supply lines, except those to service existing or proposed development located outside the floodway, which complies with the regulations for the floodplain area occupied.

(Ord. No. 2010-O-09, § 22.431, 10-12-2010; Ord. No. 2014-O-31, § 1, 8-26-2014)

Sec. 22-802. FF Floodfringe District.

- (a) *Applicability.* This section applies to all floodfringe areas shown on the floodplain zoning maps and those identified pursuant to section 22-804(4).
- (b) *Permitted uses.* Any structure, land use, or development, including accessory structures and uses, is allowed within the Floodfringe District, provided that the standards contained in section 22-800 and subsection (c) of this section are met, that the use is not prohibited by this article or any other ordinance or local, state, or federal regulation and that all permits or certificates required under this article have been secured by the applicant.
- (c) *Standards for development in the floodfringe.* All of the provisions of section 22-800 shall apply in addition to the following requirements according to the use requested. Any existing structure in the floodfringe must meet the requirements of section 22-834.
 - (1) *Residential uses.* Any structure, including a manufactured home, which is to be newly constructed, or moved into the floodfringe, shall meet or exceed the following standards. Any existing structure in the floodfringe must meet the requirements of section 22-834.
 - a. The elevation of the lowest floor shall be at or above the flood protection elevation on fill unless the requirements of 22-802(c)(1)b can be met. The fill shall be one foot or more above the regional flood elevation extending at least 15 feet beyond the limits of the structure.
 - b. The basement or crawlway floor may be placed at the regional flood elevation if it is floodproofed to the flood protection elevation. No permit or variance shall allow any floor, basement or crawlway below the regional flood elevation.
 - c. Contiguous dry land access shall be provided from a structure to land outside of the floodplain, except as provided in subsection (c)(1)d of this section.
 - d. In developments where existing street or sewer line elevations make compliance with subsection (c)(1)c of this section impractical, the municipality may permit new development and substantial improvements where roads are below the regional flood elevation, if:
 - 1. The municipality has written assurance from police, fire and emergency services that rescue and relief will be provided to the structure(s) by wheeled vehicles during a regional flood event; or
 - 2. The municipality has a DNR-approved emergency evacuation plan.
 - (2) *Accessory structures or uses.* Accessory structures shall be constructed on fill with the lowest floor at or above the regional flood elevation.
 - (3) *Commercial uses.* Any commercial structure which is erected, constructed, reconstructed, altered or moved into the floodfringe shall meet the requirements of subsection (c)(1) of this section. Subject to the requirements of subsection (c)(5) of this section, storage yards, surface parking lots and other such uses may be placed at lower elevations if an adequate warning system exists to protect life and property.
 - (4) *Manufacturing and industrial uses.* Any manufacturing or industrial structure which is to be erected, constructed, reconstructed, altered or moved into the floodfringe shall have the lowest floor elevated to or above the flood protection elevation or meet the floodproofing standards in section 22-849. Subject to the requirements of subsection (c)(5) of this section, storage yards, surface parking lots and other such uses may be placed at lower elevations if an adequate warning system exists to protect life and property.

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- (5) *Storage or processing of materials.* Materials that are buoyant, flammable, explosive, or injurious to property, water quality or human, animal, plant, fish or aquatic life, shall be stored at or above the flood protection elevation or floodproofed in compliance with section 22-849. Adequate measures shall be taken to ensure that such materials will not enter the water body during flooding.
- (6) *Public utilities, streets and bridges.* All utilities, streets and bridges shall be designed to be compatible with comprehensive floodplain development plans and:
- a. When failure or interruption of public utilities, streets and bridges would endanger public health or safety or where such facilities are deemed essential to the orderly functioning of the area, construction or repair of such facilities shall only be permitted if they are designed to comply with section 22-849.
 - b. Minor or auxiliary roads or nonessential utilities may be constructed at lower elevations if they are designed to withstand flood forces to the regional flood elevation.
- (7) *Sewage systems, wells, solid waste sites.*
- a. All sewage disposal systems shall be designed to minimize or eliminate infiltration of flood water into the system, pursuant to section 22-849, to the flood protection elevation and meet the provisions of all local ordinances and Wis. Admin. Code SPS 383.
 - b. All wells shall be designed to minimize or eliminate infiltration of flood waters into the system, pursuant to section 22-849, to the flood protection elevation, and shall meet the provisions of Wis. Admin. Code chs. NR 811 and 812.
 - c. Disposal of solid or hazardous waste is prohibited in floodfringe areas.
- (8) *Deposition of materials.* Any deposited material must meet all the provisions of this article.
- (9) *Manufactured homes.*
- a. Owners or operators of all manufactured home parks and subdivisions shall provide adequate surface drainage to minimize flood damage, and prepare, secure approval and file an evacuation plan, indicating vehicular access and escape routes, with local emergency management authorities.
 - b. In existing manufactured home parks, all new homes, replacement homes on existing pads, and substantially improved homes shall:
 1. Have the lowest floor elevated to the flood protection elevation; and
 2. Be anchored so they do not float, collapse or move laterally during a flood.
 - c. Outside of existing manufactured home parks, including new manufactured home parks and all single units outside of existing parks, all new, replacement and substantially improved manufactured homes, shall meet the residential development standards for the floodfringe in subsection (c)(1) of this section.
- (10) *Mobile recreational vehicles.* All mobile recreational vehicles that are on site for 180 consecutive days or more or are not fully licensed and ready for highway use shall meet the elevation and anchoring requirements in section 22-802(a). A mobile recreational vehicle is ready for highway use if it's on its wheels or jacking system, is attached to the site only by quick-disconnect utilities and security devices and has no permanently attached additions.

(Ord. No. 2010-O-09, § 22.432, 10-12-2010; Ord. No. 2014-O-31, § 1, 8-26-2014)

Sec. 22-803. Other floodplain districts.

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

(Ord. No. 2010-O-09, § 22.433, 10-12-2010; Ord. No. 2014-O-31, § 1, 8-26-2014)

Sec. 22-804. GFP General Floodplain District.

- (a) *Applicability.* The provisions for this district shall apply to all floodplains mapped as A, AO or AH zones.
- (b) *Permitted uses.* Pursuant to subsection (d) of this section, it shall be determined whether the proposed use is located within the floodway or floodfringe. Those uses permitted in sections 22-801 for floodways and 22-802 for floodfringe are allowed within the General Floodplain District, provided that the procedures of subsection (d) of this section, sections 22-839, 22-840 and 22-841 are met, and all permits or certificates required have been secured by the applicant.
- (c) *Standards for development.* If the proposed use is located within a floodway, the provisions of section 22-801 shall apply. If the proposed use is located within the floodfringe, the provisions of section 22-802 shall apply. The rest of this article applies to all development.
 - (1) In AO/AH zones the structure's lowest floor must meet one of the conditions listed below whichever is higher:
 - a. At or above the flood protections elevation; or
 - b. Two feet above the highest adjacent grade around the structure; or
 - c. The depth as shown on the FIRM.
 - (2) In AO/AH zones, provide plans showing adequate drainage paths to guide floodwaters around structures.
- (d) *Procedures for determining floodway and floodfringe limits.* Upon receiving an application for development within the general floodplain district, the zoning administrator shall:
 - (1) Require the applicant to submit, at the time of application, two copies of an aerial photograph, or a plan which accurately locates the proposed development with respect to the general floodplain district limits, channel of stream, existing floodplain 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 floodproofing measures; and the flood zone as shown on the FIRM.
 - (2) Require the applicant to furnish any of the following information deemed necessary by the department to evaluate the effects of the proposal upon flood height and flood flows, regional flood elevation and to determine floodway boundaries:
 - a. A hydrologic and hydraulic study as specified in section 22-840(c).
 - b. Plan (surface view) showing: elevations or contours of the ground; pertinent structure, fill or storage elevations; size, location and layout of all proposed and existing structures on the site; location and elevations of streets, water supply, and sanitary facilities; soil types and other pertinent information.
 - c. Specifications for building construction and materials, floodproofing, filling, dredging, channel improvement, storage, water supply and sanitary facilities.

(Ord. No. 2010-O-09, § 22.434, 10-12-2010; Ord. No. 2014-O-31, § 1, 8-26-2014)

Sec. 22-805. Flood Storage District (FSD).

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

- (1) *Applicability.* The provisions of this section apply to all areas within the FSD Flood Storage District, as shown in the official floodplain zoning maps.
- (2) *Permitted uses.* Any use or development which occurs in a flood storage district must meet the applicability requirements in section 22-802(c).
- (3) *Standards for development in flood storage districts.*
 - a. Development in flood storage district shall not cause an increase equal or greater than 0.00 of a foot in the height of the regional flood.
 - b. No development shall be allowed which removes flood storage volume unless an equal volume of storage as defined by the pre-development ground surface and the regional flood elevation shall be provided in the immediate area of the proposed development to compensate for the volume of storage which is lost, (compensatory storage). Excavation below the groundwater table is not considered to provide an equal volume of storage.
 - c. If compensatory storage cannot be provided, the area may not be developed unless the entire area zoned as flood storage district, on this waterway, is rezoned to the floodfringe district. This must include a revision to the floodplain study and map done for the waterway to revert to the higher regional flood discharge calculated without floodplain storage, as per section 22-851, Amendments, of this article.
 - d. No area may be removed from the flood storage district unless it can be shown that the area has been filled to the flood protection elevation and is contiguous to other lands lying outside of the floodplain.

(Ord. No. 2010-O-09, § 22.435, 10-12-2010; Ord. No. 2014-O-31, § 1, 8-26-2014)

Secs. 22-806—22-833. Reserved.

DIVISION 2. NONCONFORMING STRUCTURES AND USES

Sec. 22-834. Nonconforming uses—General provisions.

- (a) *Applicability.* If these standards conform with Wis. Stats. § 62.23(7)(h), they shall apply to all modifications or additions to any nonconforming use or structure and to the use of any structure or premises which was lawful before the passage of the ordinance from which this article is derived or any amendment thereto.
- (b) The lawful use of a structure, property, or its accessory use which is not in conformity with the provisions of this article, may be continued, subject to the following conditions:
 - (1) No modifications or additions to a nonconforming use or structure shall be permitted unless they are made in conformity with the provisions of this article. For the purpose of this section, the words "modification" and "addition" shall include, but not be limited to, any alteration, addition, modification, structural repair, rebuilding or replacement of any such existing use, structure or

accessory structure or use. Maintenance is not considered a modification; this includes painting, decorating, paneling and other nonstructural components; and the maintenance, repair or replacement of existing private sewage or water supply systems, or connections to public utilities. Any costs associated with the repair of a damaged structure are not considered maintenance.

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

- (2) If a nonconforming use or the use of a nonconforming structure is discontinued for 12 consecutive months, it is no longer permitted and any future use of the property, and any structure or building thereon, shall conform to the applicable requirements of this article.
- (3) The municipality shall keep a record which lists all nonconforming uses and nonconforming structure, their present equalized assessed value, the cost of all modifications or additions which have been permitted, and the percentage of the structure's total current value of those modifications present.
- (4) No modification or addition to any nonconforming structure or any structure with a nonconforming use, which over the life of the structure would equal or exceed 50 percent of its present equalized assessed value, shall be allowed unless the entire structure is permanently changed to a conforming structure with a conforming use in compliance with the applicable requirements of this article. Contiguous dry land access must be provided for residential and commercial uses in compliance with section 22-802(c). The costs of elevating the lowest floor of a nonconforming building or a building with a nonconforming use to the flood protection elevation are excluded from the 50 percent provisions of this subsection.
- (5) No maintenance to any nonconforming structure or any structure with a nonconforming use, the cost of which would equal or exceed 50% of its present equalized assessed value, shall be allowed unless the entire structure is permanently changed to a conforming structure with a conforming use in compliance with the applicable requirements of this article. Contiguous dry land access must be provided for residential and commercial uses in compliance with section 22-802(c)(1).
- (6) If on a per event basis the total value of the work being done under (4) and (5) above equals or exceeds 50 percent of the present equalized assessed value the work shall not be permitted unless the entire structure is permanently changed to a conforming structure with a conforming use in compliance with the applicable requirements of this article. Contiguous dry land access must be provided for residential and commercial uses in compliance with section 22-802(c)(1).
- (7) Except as provided in subsection (b)(8) of this section, if any nonconforming structure or any structure with a nonconforming use is destroyed or is substantially damaged it cannot be replaced, reconstructed or rebuilt unless the use and structure meet the provisions of this article. For the purpose of this subsection, a structure is considered substantially damaged if the total cost to restore the structure to its pre-damaged condition equals or exceeds 50 percent of the structure's present equalized assessed value.
- (8) For nonconforming buildings that are substantially damaged or destroyed by a nonflood disaster, the repair or reconstruction of any such nonconforming building shall be permitted in order to restore it to the size and use in effect prior to the damage event, provided that the minimum federal code requirements below are met and all required permits have been granted prior to the start of construction.
 - a. Residential structures.
 1. Shall have the lowest floor, including basement, elevated to or above the base flood elevation using fill, pilings, columns, posts or perimeter walls. Perimeter walls must meet the requirements of subsection 22-849(b).

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2. Shall be anchored to prevent flotation, collapse, or lateral movement of the structure resulting from hydrodynamic and hydrostatic loads, including the effects of buoyancy and shall be constructed with methods and materials resistant to flood damage.
 3. Shall be constructed with electrical, heating, ventilation, plumbing and air conditional equipment and other service facilities that are designed and/or elevated so as to prevent water from entering or accumulating within the components during conditions of flooding.
 4. In A zones, obtain, review and utilize any flood data available from a federal, state or other source.
 5. In AO zones with no elevations specified, shall have the lowest floor, including basement, meet the standards in section 22-804(c)(1).
 6. In AO zones, shall have adequate drainage paths around structures on slopes to guide floodwaters around and away from the structure.
- b. Nonresidential structures.
1. Shall meet the requirements of section 22-834(b)(8)a.1, 2, 5, and 6.
 2. Shall either have the lowest floor, including basement, elevated to or above the regional flood elevation; or, together with attendant utility and sanitary facilities, shall meet the standards in section 22-849(a) or (b).
 3. In AO zones with no elevations specified, shall have the lowest floor, including basement, meet the standards in 22-804(c)(1).
- (9) As requests are received for modifications or additions to nonconforming uses or nonconforming structures, a record shall be kept with the city which lists the nonconforming uses and nonconforming structures, their present equalized assessed value, the cost of those additions or modifications which have been permitted and the percentage of the structure's total current value those modifications represent.
- (10) A nonconforming historic structure may be altered if the alteration will not preclude the structure's continued designation as a historic structure, the alteration will comply with section 22-801(c)(1), flood resistant materials are used, and construction practices and floodproofing methods that comply with section 22-849 are used. Repair or rehabilitation of historic structures shall be exempt from the development standards of section 22-834(b)(8)a if it is determined that the proposed repair or rehabilitation will not preclude the structure's continued designation as a historic structure and is the minimum necessary to preserve the historic character and design of the structure.
- (11) Any legal nonconforming use of property which does not involve the use of a structure and which existed at the time of the adoption or subsequent amendment of this article adopted under Wis. Stats. § 62.231 may be continued although such use does not conform with the provisions of this article. However, such nonconforming use may not be extended or increased.
- (12) Uses which are nuisances under common law shall not be permitted to continue as nonconforming uses.

(Ord. No. 2010-O-09, § 22.441, 10-12-2010; Ord. No. 2014-O-31, § 1, 8-26-2014)

Sec. 22-835. Floodway District.

- (a) No modification or addition shall be allowed to any nonconforming structure or any structure with a nonconforming use in the Floodway District, unless such modification or addition:

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- (1) Has been granted a permit or variance which meets all ordinance requirements.
 - (2) Meets the requirements of section 22-834.
 - (3) Shall not increase the obstruction to flood flows or regional flood height.
 - (4) Any addition to the existing structure shall be floodproofed, pursuant to section 22-849, by means other than the use of fill, to the flood protection elevation; and
 - (5) If any part of the foundation below the flood protection elevation is enclosed, the following standards shall apply:
 - a. The enclosed areas shall be designed by a registered architect or engineer to allow for the efficient entry and exit of floodwaters without human intervention. A minimum of two openings must be provided with a minimum net area of at least one square inch for every one square foot of the enclosed area. The lowest part of the opening can be no more than 12 inches above the adjacent grade;
 - b. The parts of the foundation located below the flood protection elevation must be constructed of flood-resistant materials;
 - c. Mechanical and utility equipment must be elevated or floodproofed to or above the flood protection elevation; and
 - d. The use must be limited to parking, building access or limited storage.
- (b) No new on-site sewage disposal system, or addition to an existing on-site sewage disposal system, except where an addition has been ordered by a government agency to correct a hazard to public health, shall be allowed in the Floodway District. Any replacement, repair or maintenance of an existing on-site sewage disposal system in a floodway area shall meet the applicable requirements of all municipal ordinances, section 22-849(c) and Wis. Admin. Code SPS 383.
- (c) No new well or modification to an existing well, used to obtain potable water shall be allowed in the Floodway District. Any replacement, repair or maintenance of an existing well in the Floodway District shall meet the applicable requirements of this article, section 22-849(c) and Wis. Admin. Code chs. NR 811 and NR 812.
- (Ord. No. 2010-O-09, § 22.442, 10-12-2010; Ord. No. 2014-O-31, § 1, 8-26-2014)

Sec. 22-836. Floodfringe District.

- (a) No modification or addition shall be allowed to any nonconforming structure or any structure with a nonconforming use unless such modification or addition has been granted a permit or variance by the city and meets the requirements of section 22-802(c), except where subsection (b) of this section is applicable.
- (b) Where compliance with the provisions of subsection (a) of this section would result in unnecessary hardship, and only where the structure will not be used for human habitation or be associated with a high flood damage potential, the board of appeals, using the procedures established in sections 22-844 and 22-846, may grant a variance from those provisions of subsection (a) of this section for modifications or additions, using the criteria listed below. Modifications or additions which are protected to elevations lower than the flood protection elevation may be permitted if:
 - (1) No floor is allowed below the regional flood elevation for residential or commercial structures;
 - (2) Human lives are not endangered;
 - (3) Public facilities, such as water or sewer, shall not be installed;

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- (4) Flood depths shall not exceed two feet;
 - (5) Flood velocities shall not exceed two feet per second; and
 - (6) The structure shall not be used for storage of materials as described in section 22-802(c)(5).
- (c) All new private sewage disposal systems, or addition to, replacement, repair or maintenance of a private sewage disposal system shall meet all the applicable provisions of all local ordinances, section 22-849(c) and Wis. Admin. Code SPS 383.
- (d) All new wells, or addition to, replacement, repair or maintenance of a well shall meet the applicable provisions of this chapter, section 22-849(c) and Wis. Admin. Code chs. NR 811 and 812.
- (Ord. No. 2010-O-09, § 22.443, 10-12-2010; Ord. No. 2014-O-31, § 1, 8-26-2014)

Sec. 22-837. Flood storage areas.

No modifications or additions shall be allowed to any nonconforming structure in a flood storage area unless the standards outlined in section 22-805(3) are met.

(Ord. No. 2010-O-09, § 22.444, 10-12-2010; Ord. No. 2014-O-31, § 1, 8-26-2014)

Sec. 22-838. Administration.

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

(Ord. No. 2010-O-09, § 22.450, 10-12-2010; Ord. No. 2014-O-31, § 1, 8-26-2014)

Sec. 22-839. Zoning administrator.

- (a) *Duties and powers.* The zoning administrator is authorized to administer this chapter and shall have the following duties and powers:
- (1) Advise applicants of the article provisions, assist in preparing permit applications and appeals, and ensure that the regional flood elevation for the proposed development is shown on all permit applications.
 - (2) Issue permits and inspect properties for compliance with provisions of this article, and issue certificates of compliance where appropriate.
 - (3) Inspect and assess all damaged floodplain structures to determine if substantial damage to the structures has occurred.
 - (4) Keep records of all official actions such as:
 - a. All permits issued; inspections made, and work approved;
 - b. Documentation of certified lowest floor and regional flood elevations for;
 - c. Floodproofing certificates;
 - d. Water surface profiles, floodplain zoning maps and ordinances, nonconforming uses and structures including changes, appeals, variances and amendments;
 - e. All substantial damage assessment reports for floodplain structures; and

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- f. List of nonconforming structures and uses.
- (5) Submit copies of the following items to the department regional office:
- a. Within ten days of the decision, a copy of any decisions on variances, appeals for map or text interpretations, and map or text amendments;
 - b. Copies of case-by-case analyses, and other required information including an annual summary of floodplain zoning actions taken; and
 - c. Copies of substantial damage assessments performed and all related correspondence concerning the assessments.
- (6) Investigate, prepare reports, and report violations of this article to the municipal zoning agency and attorney for prosecution. Copies of the reports shall also be sent to the department regional office.
- (7) Submit copies of amendments and biennial reports to the regional FEMA office.

(Ord. No. 2010-O-09, § 22.451, 10-12-2010; Ord. No. 2014-O-31, § 1, 8-26-2014)

Sec. 22-840. Zoning permits.

- (a) *When required.* Unless another section of this article specifically exempts certain types of development from this requirement, a zoning permit shall be obtained from the zoning administrator before any development, repair, modification or addition to an existing structure, as defined in section 22-853, including any change in the use of an existing building or structure, including sewer and water facilities, is initiated.
- (b) *Application.* An application for a permit shall be made to the zoning administrator upon forms furnished and shall include the following information for the purpose of proper enforcement of these regulations:
- (1) *General information.*
 - a. Name, address, and telephone number of applicant, property owner and contractor.
 - b. Legal description, proposed use and whether it is new construction or a modification.
 - (2) *Site development plan.* The site plan shall be drawn to scale and submitted as a part of the permit application form and shall contain:
 - a. Location, dimensions, area and elevation of the lot;
 - b. Location of the ordinary highwater mark of any abutting navigable waterways;
 - c. Location of any structures with distances measured from the lot lines and center line of all abutting streets or highways;
 - d. Location of any existing or proposed on-site sewage systems or private water supply systems;
 - e. Location and elevation of existing or future access roads;
 - f. Location of floodplain and floodway limits on the property as determined from the official floodplain zoning maps;
 - g. The elevation of the lowest floor of proposed buildings and any fill using the vertical datum from the adopted study, either National Geodetic Vertical Datum (NGVD) or North American Vertical Datum (NAVD);
 - h. Data sufficient to determine the regional flood elevation in NGVD or NAVD at the location of the development and to determine whether or not the requirements of sections 22-800 through 22-803 are met; and

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- i. Data to determine if the proposed development will cause an obstruction to flow or an increase in regional flood height or discharge according to section 22-800(a). This may include any of the information noted in section 22-800(c)(1).
- (c) *Hydraulic and hydrologic studies to analyze development.* All hydraulic and hydrologic studies shall be completed under the direct supervision of a professional engineer registered in the state. The study contractor shall be responsible for the technical adequacy of the study. All studies shall be reviewed and approved by the department.
- (1) *Zone A floodplains.*
- a. *Hydrology.* The appropriate methods shall be based on the standards in ch. NR 116.07(3), Wis. Admin. Code, Hydrologic analysis: Determination of regional flood discharge.
 - b. *Hydraulic modeling.* The regional flood elevation shall be based on the standards in ch. NR 116.07(4), Wis. Admin. Code, Hydraulic analysis: Determination of regional flood elevation, and the following:
 - 1. Determination of the required limits of the hydraulic model shall be based on detailed study information for downstream structures (dam, bridge, culvert) to determine adequate starting WSEL for the study.
 - 2. Channel sections must be surveyed.
 - 3. Minimum four-foot contour data in the overbanks shall be used for the development of cross section overbank and floodplain mapping.
 - 4. A maximum distance of 500 feet between cross sections is allowed in developed areas with additional intermediate cross sections required at transitions in channel bottom slope including a survey of the channel at each location.
 - 5. The most current version of HEC RAS shall be used.
 - 6. A survey of bridge and culvert openings and the top of road is required at each structure.
 - 7. Additional cross sections are required at the downstream and upstream limits of the proposed development and any necessary intermediate locations based on the length of the reach if greater than 500 feet.
 - 8. Standard accepted engineering practices shall be used when assigning parameters for the base model such as flow, Manning's N values, expansion and contraction coefficients or effective flow limits. The base model shall be calibrated to past flooding data such as high water marks to determine the reasonableness of the model results. If no historical data is available, adequate justification shall be provided for any parameters outside standard accepted engineering practices.
 - 9. The model must extend past the upstream limit of the difference in the existing and proposed flood profiles in order to provide a tie-in to existing studies. The height difference between the proposed flood profile and the existing study profiles shall be no more than 0.00 feet.
 - c. *Mapping.* A work map of the reach studied shall be provided, showing all cross section locations, floodway/floodplain limits based on best available topographic data, geographic limits of the proposed development and whether the proposed development is located in the floodway.
 - 1. If the proposed development is located outside of the floodway, then it is determined to have no impact on the regional flood elevation.

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2. If any part of the proposed development is in the floodway, it must be added to the base model to show the difference between existing and proposed conditions. The study must ensure that all coefficients remain the same as in the existing model, unless adequate justification based on standard accepted engineering practices is provided.

(2) *Zone AE Floodplains.*

- a. *Hydrology.* If the proposed hydrology will change the existing study, the appropriate method to be used shall be based on ch. NR 116.07(3), Wis. Admin. Code, Hydrologic analysis: Determination of regional flood discharge.
- b. *Hydraulic model.* The regional flood elevation shall be based on the standards in ch. NR 116.07(4), Wis. Admin. Code, Hydraulic analysis: Determination of regional flood elevation, and the following:
 1. Duplicate effective model. The effective model shall be reproduced to ensure correct transference of the model data and to allow integration of the revised data to provide a continuous FIS model upstream and downstream of the revised reach. If data from the effective model is available, models shall be generated that duplicate the FIS profiles and the elevations shown in the floodway data table in the FIS report to within 0.1 foot.
 2. Corrected effective model. The corrected effective model shall not include any man-made physical changes since the effective model date, but shall import the model into the most current version of HEC-RAS for department review.
 3. Existing (pre-project conditions) model. The existing model shall be required to support conclusions about the actual impacts of the project associated with the revised (post-project) model or to establish more up-to-date models on which to base the revised (post-project) model.
 4. Revised (post-project conditions) model. The revised (post-project conditions) model shall incorporate the existing model and any proposed changes to the topography caused by the proposed development. This model shall reflect proposed conditions.
 5. All changes to the duplicate effective model and subsequent models must be supported by certified topographic information, bridge plans, construction plans and survey notes.
 6. Changes to the hydraulic models shall be limited to the stream reach for which the revision is being requested. Cross sections upstream and downstream of the revised reach shall be identical to those in the effective model and result in water surface elevations and topwidths computed by the revised models matching those in the effective model upstream and downstream of the revised reach as required. The effective model shall not be truncated.
- c. *Mapping.* Maps and associated engineering data shall be submitted to the department for review which meet the following conditions:
 1. Consistency between the revised hydraulic models, the revised floodplain and floodway delineations, the revised flood profiles, topographic work map, annotated FIRMs and/or flood boundary floodway maps (FBFMs), construction plans, bridge plans.
 2. Certified topographic map of suitable scale, contour interval, and a planimetric map showing the applicable items. If a digital version of the map is available, it may be submitted in order that the FIRM may be more easily revised.
 3. Annotated FIRM panel showing the revised one percent and two-tenths percent annual chance floodplains and floodway boundaries.

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4. If an annotated FIRM and/or FBFM and digital mapping data (GIS or CADD) are used then all supporting documentation or metadata must be included with the data submission along with the Universal Transverse Mercator (UTM) projection and state plan coordinate system in accordance with FEMA mapping specifications.
 5. The revised floodplain boundaries shall tie into the effective floodplain boundaries.
 6. All cross sections from the effective model shall be labeled in accordance with the effective map and a cross section lookup table shall be included to relate to the model input numbering scheme.
 7. Both the current and proposed floodways shall be shown on the map.
 8. The stream centerline, or profile baseline used to measure stream distances in the model shall be visible on the map.
- (d) *Expiration.* All permits issued under the authority of this article shall expire no more than 180 days after issuance. The permit may be extended for a maximum of 180 days for good and sufficient cause.
- (Ord. No. 2010-O-09, § 22.452, 10-12-2010; Ord. No. 2014-O-31, § 1, 8-26-2014)

Sec. 22-841. Certificate of compliance.

- (a) Except where no zoning permit or conditional use permit is required, no land shall be occupied or used, and no building which is hereafter constructed, altered, added to, modified, repaired, rebuilt or replaced shall be occupied, until a certificate of compliance is issued by the zoning administrator subject to the following provisions:
 - (1) The certificate of compliance shall show that the building or premises or part thereof, and the proposed use, conform to the provisions of this article.
 - (2) Application for such certificate shall be concurrent with the application for a permit.
 - (3) If all article provisions are met, the certificate of compliance shall be issued within ten days after written notification that the permitted work is completed.
 - (4) The applicant shall submit a certification signed by a registered professional engineer, architect, or registered land surveyor that the fill, lowest floor elevations, and floodproofing are in compliance with the permit issued. Floodproofing measures also require certification by a registered professional engineer or architect that the requirements of section 22-849 are met.
- (b) 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 adoption of this article, 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 of this article.
- (c) Other permits. Prior to obtaining a floodplain development permit the applicant must secure all necessary permits from federal, state, and local agencies, including, but not limited to, those required by the U.S. Army Corps of Engineers under Section 404 of the Federal Water Pollution Control Act, Amendments of 1972, 33 USC 1344.

(Ord. No. 2010-O-09, § 22.453, 10-12-2010; Ord. No. 2014-O-31, § 1, 8-26-2014)

Sec. 22-842. Plan commission.

- (a) The plan commission shall:

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- (1) Oversee the functions of the office of the zoning administrator; and
 - (2) Review and advise the governing body on all proposed amendments to this article, maps and text.
- (b) The plan commission shall not:
- (1) Grant variances to the terms of the article in place of action by the board of appeals; or
 - (2) Amend the text or zoning maps in place of official action by the common council.
- (Ord. No. 2010-O-09, § 22.454, 10-12-2010; Ord. No. 2014-O-31, § 1, 8-26-2014)

Sec. 22-843. Fees.

The common council shall set fees for the following and include in the annual budget appendix fee schedule.

- (1) Zoning permits.
- (2) Certificates of compliance.
- (3) Board of appeals.
- (4) Re-zonings, including PDDs.
- (5) Conditional use permits.

(Ord. No. 2010-O-09, § 22.455, 10-12-2010; Ord. No. 2014-O-31, § 1, 8-26-2014)

Sec. 22-844. Board of appeals.

The board of appeals, created under Wis. Stats. § 62.23(7)(e) is hereby authorized or shall be appointed to act for the purposes of this article. The board shall exercise the powers conferred by Wisconsin Statutes and adopt rules for the conduct of their business as required by Wis. Stats. § 63.23(7)(e)3. The zoning administrator shall not be the secretary of the board.

- (1) *Powers and duties.* The board of appeals shall:
 - a. *Appeals.* 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 article;
 - b. *Variances.* Hear and decide, upon appeal, a variance from the ordinance standards; and
 - c. *Boundary disputes.* Hear and decide disputes concerning the district boundaries shown on the official floodplain zoning map.
- (2) *Appeals to the board.*
 - a. *Generally.* Appeals to the board of appeals may be taken by any person aggrieved or by an officer, department, board or bureau of the community affected by any order, requirement decision, or determination of the official whose decision is in question. Such appeals shall be taken within 60 days as provided by the rules of the board, by filing with the official whose decision is in question, and with the board of appeals, a notice of appeal specifying the reasons for the appeal. The official whose decision is in question shall transmit to the board all the documents constituting the record concerning the matter appealed.
 - b. *Notice and hearing.* The board of appeals shall fix a reasonable time for a hearing on the appeal or application. Public notice shall be provided by publishing the appropriate notice as required by

state law with the notice specifying the date, time and place of the hearing and the matters to come before the board. Notice shall be mailed to the parties in interest. Written notice shall be given to the department regional office at least ten days prior to hearings. At the public hearing, any party may appear in person or by agent or attorney. The board shall resolve boundary disputes according to section 22-845; decide variance applications according to section 22-846; and/or decide appeals of permit denials according to section 22-848.

- c. *Decision.* A final decision regarding the appeal or variance application shall be made as soon as practical. Copies of all decisions shall be submitted to the department regional office within ten days of the decision. The final disposition of an application to the board of appeals shall be in the form of a written resolution or order signed by the chairman and secretary of the board. Such resolution shall state the specific facts which are the basis of the determination and shall either affirm, reverse, vary or modify the order, requirement, decision or determination appealed, in whole or in part, dismiss the application for lack of jurisdiction or prosecution, or grant the application. Such resolution shall also include the reasons for granting an appeal, describing the hardship demonstrated by the applicant in the case of a variance, clearly stated in the recorded minutes of the board proceedings.

(Ord. No. 2010-O-09, § 22.456, 10-12-2010; Ord. No. 2014-O-31, § 1, 8-26-2014)

Sec. 22-845. Boundary disputes.

- (a) The following procedure shall be used by the board of appeals in hearing disputes concerning the floodplain district boundaries:
- (1) Where a floodplain district boundary is established by approximate or detailed floodplain studies, the regional flood elevations or profiles for the point in question shall be the governing factor in locating the district boundary. If no regional flood elevations or profiles are available to the board, other available evidence may be examined;
 - (2) The person contesting the location of the district boundary shall be given a reasonable opportunity to present arguments and technical evidence to the board of appeals; and
 - (3) Where it is determined that the district boundary is incorrectly mapped, the board should inform the zoning committee or person contesting the location of the boundary to petition the municipality for a map amendment according to section 22-851, Amendments.
- (b) Where the flood profiles are based on established base flood elevations from a FIRM, FEMA must also approve any map amendment pursuant to section 22-851.

(Ord. No. 2010-O-09, § 22.457, 10-12-2010; Ord. No. 2014-O-31, § 1, 8-26-2014)

Sec. 22-846. Variances.

- (a) The board of appeals may, upon appeal, grant a variance from the standards of this article where an applicant convincingly demonstrates that:
- (1) Literal enforcement of the article provisions will cause unnecessary hardship;
 - (2) The hardship is due to adoption of the floodplain article and special conditions unique to the property, and not common to a group of adjacent lots or premises (in such case the zoning ordinance or map must be amended);
 - (3) Such variance is not contrary to the public interest; and

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- (4) Such variance is consistent with the purpose of this article in section 22-785.
- (b) In addition to the criteria in subsection (a) of this section, to qualify for a variance under FEMA regulations, the following criteria must be met:
- (1) The variance shall not cause any increase in the regional flood elevation;
 - (2) Variances can only be granted for lots that are less than one-half acre and are contiguous to existing structures constructed below the RFE; and
 - (3) Variances shall only be granted upon a showing of good and sufficient cause, shall be the minimum relief necessary, shall not cause increased risks to public safety or nuisances, shall not increase costs for rescue and relief efforts and shall not be contrary to the purpose of the article.
- (c) A variance shall not:
- (1) Grant or increase any use of property prohibited in the zoning district;
 - (2) Be granted for a hardship based solely on an economic gain or loss;
 - (3) Be granted for a hardship which is self-created;
 - (4) Damage the rights or property values of other persons in the area;
 - (5) Allow actions without the amendments to this article or maps required in section 22-851, Amendments; and
 - (6) Allow any alteration of an historic structure, including its use, which would preclude its continued designation as an historic structure.
- (d) When a floodplain variance is granted, the board shall notify the applicant in writing that it may increase risks to life and property and flood insurance premiums could increase up to \$25.00 per \$100.00 of coverage. A copy shall be maintained with the variance record.

(Ord. No. 2010-O-09, § 22.458, 10-12-2010; Ord. No. 2014-O-31, § 1, 8-26-2014)

Sec. 22-847. Conditional use permits.

- (a) *Required; pertinent information furnished by applicant necessary to determine proposed use.* Any use listed as a conditional use in this article shall be permitted only after an application has been submitted to the zoning administrator and a conditional use permit has been granted by the plan commission, following the procedures in subsection (c) of this section. To secure information upon which to base its determination, the plan commission may require the applicant to furnish, in addition to the information required for a zoning permit, other pertinent information which is necessary to determine if the proposed use is consistent with the purpose of this article.
- (b) *Conditions.* Upon consideration of the permit application and the standards applicable to the permitted uses in this article, the plan commission shall attach such conditions to a conditional use permit, in addition to those required elsewhere in this article, as are necessary to further the purposes of this article as listed in section 22-785. Such conditions may include specifications for, without limitation because of specific enumeration: type of shore cover; erosion protection measures; increased side yard setbacks; specific sewage disposal and water supply facilities; landscaping and planting screens; period of operation; operational control; sureties; deed restrictions; location of piers, docks, parking areas and signs; and type construction.
- (c) *Hearing applications for conditional use permits.*

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- (1) *Notice and hearing.* The plan commission shall fix a reasonable time for a hearing on the appeal or application. The plan commission shall give public notice by publishing a class 1 notice under Wis. Stats. ch. 985 specifying the date, time and place of the hearing and the matters to come before the board. Notice shall be mailed to the parties in interest. Written notice shall be given to the southern district office of the department at least ten days prior to hearings on proposed conditional uses. At the public hearing, any party may appear in person or by agent or attorney.
 - (2) *Decision.* A decision regarding the appeal or application shall be made as soon as practical. Copies of all decisions on conditional uses shall be submitted to the appropriate district office of the department within ten days after they are granted or denied. The final disposition of an application to the plan commission shall be in the form of a written resolution or order signed by the chairman and secretary of the commission. Such resolution shall state the specific facts which are the basis of the determination and shall either affirm, reverse, vary or modify the order, requirement, decision or determination appealed, in whole or in part, dismiss the application for lack of jurisdiction or prosecution, or grant the application.

(Ord. No. 2010-O-09, § 22.459, 10-12-2010; Ord. No. 2014-O-31, § 1, 8-26-2014)

Sec. 22-848. To review appeals of permit denials.

- (a) The board of appeals shall review all data constituting the basis for the appeal of permit denial. This data may include:
 - (1) Permit application data listed in section 22-840;
 - (2) Floodway/floodfringe determination data in section 22-804(d);
 - (3) Data listed in section 22-801(c)(1)b where the applicant has not submitted this information to the zoning administrator; and
 - (4) Other data submitted with the application, or submitted to the board with the appeal.
- (b) For appeals of all denied permits the board shall:
 - (1) Follow the procedures of section 22-844;
 - (2) Consider zoning agency recommendations; and
 - (3) Either uphold the denial or grant the appeal.
- (c) For appeals concerning increases in regional flood elevation the board shall:
 - (1) Uphold the denial where the board agrees with the data showing an increase in flood elevation. Increases may only be allowed after amending the flood profile and map and all appropriate legal arrangements are made with all adversely affected property owners as per the requirements of section 22-851, Amendments.
 - (2) Grant the appeal where the board agrees that the data properly demonstrates that the project does not cause an increase provided no other reasons for denial exist.

(Ord. No. 2010-O-09, § 22.460, 10-12-2010; Ord. No. 2014-O-31, § 1, 8-26-2014)

Sec. 22-849. Floodproofing standards for nonconforming structures or uses.

- (a) No permit or variance shall be issued for a non-residential structure designed to be watertight below the regional flood elevation until the applicant submits a plan certified by a registered professional engineer or

architect that the floodproofing measures will protect the structure or development to the flood protection elevation and submits a FEMA floodproofing certificate.

- (b) For a structure designed to allow the entry of floodwaters, no permit or variance shall be issued until the applicant submits a plan either:
 - (1) Certified by registered professional engineer or architect; or
 - (2) Meets or exceeds the following standards:
 - a. A minimum of two openings having a total net area of not less than one square inch for every square foot of enclosed area subject to flooding;
 - b. The bottom of all openings shall be no higher than one foot above grade; and
 - c. Openings may be equipped with screens, louvers, valves, or other coverings or devices provided that they permit the automatic entry and exist of floodwaters.
- (c) Floodproofing measures shall be designed, as appropriate, to:
 - (1) Withstand flood pressures, depths, velocities, uplift and impact forces, and other regional flood factors;
 - (2) Protect structures to the flood protection elevation;
 - (3) Anchor structures to foundations to resist flotation and lateral movement;
 - (4) Minimize or eliminate infiltration of flood waters; and
 - (5) Minimize or eliminate discharges into flood waters.

(Ord. No. 2010-O-09, § 22.461, 10-12-2010; Ord. No. 2014-O-31, § 1, 8-26-2014)

Sec. 22-850. Public information.

- (a) Place marks on bridges or buildings or other markers may be set to show the depth of inundation during the regional flood at appropriate locations within the floodplain.
- (b) All maps, engineering data and regulations shall be available be widely distributed.
- (c) Real estate transfers should show what floodplain district any real property is in.

(Ord. No. 2010-O-09, § 22.462, 10-12-2010; Ord. No. 2014-O-31, § 1, 8-26-2014)

Sec. 22-851. Amendments.

Obstructions or increases may only be permitted if amendments are made to this article, the official floodplain zoning maps, floodway lines and water surface profiles, in accordance with subsection (1) of this section.

In AE zones with a mapped floodway, no obstructions or increases shall be permitted unless the applicant receives a conditional letter of map revision from FEMA and amendments are made to this article, the official floodplain zoning maps, floodway lines and water surface profiles, in accordance with subsection (a) of this section. Any such alterations must be reviewed and approved by FEMA and the DNR.

In A zones increases equal to or greater than 1.0 foot may only be permitted if the applicant receives a conditional letter of map revision from FEMA and amendments are made to this article, the official floodplain maps, floodway lines, and water surface profiles, in accordance with subsection (1) of this section.

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- (1) *Generally.* When amendments are required, the procedures in section 22-851 shall apply. Official amendments are required for any changes in the official floodway lines, water surface profiles, floodplain zoning maps or text of the floodplain overlay zoning article. Article amendments may also be made upon petition of any interested party according to the provisions of Wis. Stats. § 62.23. Such petitions shall include all necessary data required by sections 22-804(d) and 22-840. The governing body may change or supplement the floodplain zoning district boundaries and this article in the manner outlines in subsection (2) of this section. Actions which require an amendment to the article and/or submittal of a letter of map change (LOMC) include, but are not limited to, the following:
- a. Any fill or floodway encroachment that obstructs flow causing any increase in the regional flood height;
 - b. Any change to the floodplain boundaries and/or watercourse alterations on the FIRM;
 - c. Any changes to any other officially adopted floodplain maps listed in 22-788(c);
 - d. Any floodplain fill which raises the elevation of the filled area to a height at or above the flood protection elevation and is contiguous to land lying outside the floodplain;
 - e. Correction of discrepancies between the water surface profiles and floodplain maps;
 - f. Any upgrade to a floodplain zoning subchapter text required by Wis. Admin. Code § NR 116.05 or otherwise required by law, or for changes by the city; and
 - g. All channel relocations and changes to the maps to alter floodway lines or to remove an area from the floodway or the floodfringe that is based on a base flood elevation from a FIRM requires prior approval by FEMA.
- (2) *Procedures.* Article amendments may be made upon petition of any party according to the provisions of Wis. Stats. § 62.23. The petitions shall include all data required by sections 22-840 and 22-804(d). The land use permit shall not be issued until a letter of map revision is issued by FEMA for the proposed changes.
- a. The proposed amendment shall be referred to the plan commission for a public hearing and recommendation to the common council. The amendment and notice of public hearing shall be submitted to the department regional office for review prior to the hearing. The amendment procedure shall comply with the provisions of Wis. Stats. § 62.23.
 - b. No amendments shall become effective until reviewed and approved by the department of natural resources.
 - c. All persons petitioning for a map amendment that obstructs flow causing any increase in the regional flood height, shall obtain flooding easements, or other appropriate legal arrangements from all adversely affected property owners and notify local units of government before the amendment can be approved by the common council.

(Ord. No. 2010-O-09, § 22.463, 10-12-2010; Ord. No. 2014-O-31, § 1, 8-26-2014)

Sec. 22-852. Enforcement and penalties.

Any violation of the provisions of this article by any person shall be unlawful and shall be referred to the municipal attorney who shall expeditiously prosecute all such violators. See forfeiture/bond/deposit schedule for penalties for any person, firm, association, or corporation who violates or refuses to comply with any of the provisions of this article. Each day of continued violation shall constitute a separate offence. Every violation of this article is a public nuisance and the creation thereof may be enjoined and the maintenance thereof may be abated

by action at suit of the municipality, the state, or any citizen thereof pursuant to Wis. Stats. § 87.30.
Fines/penalties in the floodplain are limited to no more than \$50.00/day/violation under Wis. Stats. § 87.30.
(Ord. No. 2010-O-09, § 22.464, 10-12-2010; Ord. No. 2014-O-31, § 1, 8-26-2014)

Sec. 22-853. Definitions.

The following words, terms and phrases, when used in this article, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning. Unless specifically defined, words and phrases in this article shall have their common law meaning and shall be applied in accordance with their common usage. Words used in the present tense include the future, the singular number includes the plural and the plural number includes the singular. The term "may" is permissive; the term "shall" is mandatory and is not discretionary.

A zones means those areas shown on the official floodplain zoning map which would be inundated by the regional flood. These areas may be numbered or unnumbered A zones. The A zones may or may not be reflective of flood profiles, depending on the availability of data for a given area.

AH zone. See "Area of shallow flooding."

AO zone. See "Area of shallow flooding."

Accessory structure or use means a facility, structure, building or use which is accessory or incidental to the principal use of a property, structure or building.

Alteration means an enhancement, upgrading or substantial change or modifications other than an addition or repair to a dwelling or to electrical, plumbing, heating, ventilating, air conditioning and other systems within a structure.

Area of shallow flooding means a designated AO, AH, AR/AO, AR/AH, or VO zone on a community's flood insurance rate map (FIRM) with a one percent or greater annual chance of flooding to an average depth of one to three feet where a clearly defined channel does not exist, where the path of flooding is unpredictable, and where velocity flood may be evident. Such flooding is characterized by ponding or sheet flow.

Base flood means the flood having a one percent chance of being equaled or exceeded in any given year, as published by FEMA as part of a FIS and depicted on a FIRM.

Basement means any enclosed area of a building having its floor subgrade, i.e., below ground level, on all sides.

Building. See "Structure."

Bulkhead line means a geographic line along a reach of navigable water that has been adopted by a municipal ordinance and approved by the department pursuant to Wis. Stats. § 30.11, and which allows specified filling between the bulkhead line and the original ordinary highwater mark, except where such filling is prohibited by the floodway provisions of this article.

Campground means any parcel of land which is designed, maintained, intended or used for the purpose of providing sites for nonpermanent overnight use by four or more camping units, or which is advertised or represented as a camping area.

Camping unit means any portable device, no more than 400 square feet in area, used as a temporary shelter, including but not limited to a camping trailer, motor home, bus, van, pick-up truck, or tent that is fully licensed, if required, and ready for highway use.

Certificate of compliance means a certification that construction and the use of land or a building, the elevation of fill or the lowest floor of a structure is in compliance with all of the provisions of this article.

Channel means a natural or artificial watercourse with definite bed and banks to confine and conduct normal flow of water.

Crawlways or crawl space means an enclosed area below the first usable floor of a building, generally less than five feet in height, used for access to plumbing and electrical utilities.

Deck means an unenclosed exterior structure that has no roof or sides, but has a permeable floor which allows the infiltration of precipitation.

Department means the Wisconsin Department of Natural Resources.

Development means any artificial change to improved or unimproved real estate, including, but not limited to, the construction of buildings, structures or accessory structures; the construction of additions or alterations to buildings, structures or accessory structures, the repair of any damaged structure or the improvement or renovation of any structure, regardless of percentage of damage or improvement; the placement of buildings or structures; subdivision layout and site preparation; mining, dredging, filling grading, paving, excavation or drilling operations; the storage, deposition or extraction of materials or equipment; and the installation, repair or removal of public or private sewage disposal systems or water supply facilities.

Dry land access means a vehicular access route which is above the regional flood elevation and which connects land located in the floodplain to land outside the floodplain, such as a road with its surface above regional flood elevation and wide enough for wheeled rescue and relief vehicles.

Encroachment means any fill, structure, equipment, use or development in the floodway.

Federal Emergency Management Agency (FEMA) means the federal agency that administers the National Flood Insurance Program.

Flood or flooding means a general and temporary condition of partial or complete inundation of normally dry land areas caused by one of the following conditions: the overflow or rise of inland waters; the rapid accumulation or runoff of surface waters from any source; the inundation caused by waves or currents of water exceeding anticipated cyclical levels along the shore of Lake Michigan or Lake Superior; or the sudden increase caused by an unusually high water level in a natural body of water, accompanied by a severe storm, or by an unanticipated force of nature, such as a seiche, or by some similarly unusual event.

Flood frequency means the probability of a flood occurrence which is determined from statistical analyses. The frequency of a particular flood event is usually expressed as occurring, on the average, once in a specified number of years or as a percent chance of occurring in any given year.

Flood hazard boundary map means a map designating approximate flood hazard areas. Flood hazard areas are designated as unnumbered A zones and do not contain floodway lines or regional flood elevations. This map forms the basis for both the regulatory and insurance aspects of the National Flood Insurance Program (NFIP) until superseded by a flood insurance study and a flood insurance rate map.

Flood insurance rate map (FIRM) means a map of a community on which the Federal Insurance Administration has delineated both the floodplain and the risk premium zones applicable to the community. This map can only be amended by the Federal Emergency Management Agency.

Flood insurance study means a technical engineering examination, evaluation, and determination of the local flood hazard areas. It provides maps designating those areas affected by the regional flood and provides both flood insurance rate zones and base flood elevations and may provide floodway lines. The flood hazard areas are designated as numbered and unnumbered A zones. Flood insurance rate maps, that accompany the flood insurance study, for the basis for both the regulatory and the insurance aspects of the National Flood Insurance Program.

Flood profile means a graph or a longitudinal profile line showing the relationship of the water surface elevation of a flood event to locations of land surface elevations along a stream or river.

Flood protection elevation means an elevation of two feet of freeboard above the water surface profile elevation designated for the regional flood. Also see "freeboard."

Flood storage means those floodplain areas where storage of floodwaters has been taken into account during analysis in reducing the regional flood discharge.

Floodfringe means the portion of the floodplain outside of the floodway which is covered by floodwaters during the regional flood and associated with standing water rather than flowing water.

Floodplain means land which has been or may be covered by floodwater during the regional flood. It includes the floodway and the floodfringe, and may include other designated floodplain areas for regulatory purposes.

Floodplain island means a natural geologic land formation within the floodplain that is surrounded, but not covered, by floodwater during the regional flood.

Floodplain management means policy and procedures to ensure wise use of floodplains, including mapping and engineering, mitigation, education, and administration and enforcement of floodplain regulations.

Floodproofing means any combination of structural provisions, changes or adjustments to properties and structures, water and sanitary facilities and contents of buildings subject to flooding for the purpose of reducing or eliminating flood damage.

Floodway means the channel of a river or stream and those portions of the floodplain adjoining the channel required to carry the regional flood discharge.

Freeboard means a safety factor expressed in terms of a specified number of feet above a calculated flood level. Freeboard compensates for any factors that cause flood heights greater than those calculated, including ice jams, debris accumulation, wave action, obstruction of bridge openings and floodways, the effects of watershed urbanization, loss of flood storage areas due to development and aggregation of the river or stream bed.

Habitable structure means any structure, or portion thereof used or designed for human habitation.

Hearing notice means publication or posting meeting the requirements of Wis. Stats. ch. 985. For appeals, a class 1 notice, published once at least one week (seven days) before the hearing, is required. For all zoning ordinances and amendments, a class 2 notice, published twice, once each week consecutively, the last at least a week (seven days) before the hearing. Local ordinances or bylaws may require additional notice, exceeding these minimums.

High flood damage potential means damage that could result from flooding that includes any danger to life or health or any significant economic loss to a structure or building and its contents.

Highest adjacent grade means the highest natural elevation of the ground surface prior to construction next to the proposed walls of a structure.

Historic structure means any structure that is:

- (1) Listed individually in the National Register of Historic Places or preliminarily determined by the secretary of the interior as meeting the requirements for individual listing on the National Register.
- (2) Certified or preliminarily determined by the secretary of the interior as contributing to the historical significance of a registered historic district or a district preliminarily determined by the secretary to qualify as a registered historic district.
- (3) Individually listed on a state inventory of historic places in states with historic preservation programs which have been approved by the secretary of the interior.
- (4) Individually listed on a local inventory of historic places in communities with historic preservation programs that have been certified either by an approved state program, as determined by the secretary of the interior, or by the secretary of the interior in states without approved programs.

Increase in regional flood height means a calculated upward rise in the regional flood elevation, greater than 0.00 foot, based on a comparison of existing conditions and proposed conditions which is directly attributable to development in the floodplain but not attributable to manipulation of mathematical variables such as roughness factors, expansion and contraction coefficients and discharge.

Land use means any nonstructural use made of unimproved or improved real estate. Also see "Development."

Lowest adjacent grade means the elevation of the lowest ground surface that touches any of the exterior walls of a building.

Lowest floor means the lowest floor of the lowest enclosed area (including basement). An unfinished or flood resistant enclosure, usable solely for parking of vehicles, building access or storage in an area other than a basement area is not considered a building's lowest floor; provided that such enclosure is not built so as to render the structure in violation of the applicable non-elevation design requirements of 44 CFR 60.3.

Maintenance means the act or process of restoring to original soundness, including redecorating, refinishing, non structural repairs, or the replacement of existing fixtures, systems or equipment with equivalent fixtures, systems or structures.

Manufactured home means a structure transportable in one or more sections, which is built on a permanent chassis and is designed to be used with or without a permanent foundation when connected to required utilities. The term "manufactured home" includes a mobile home but does not include a "mobile recreational vehicle."

Mobile/manufactured home park or subdivision means a parcel (or contiguous parcels) of land, divided into two or more manufactured home lots for rent or sale.

Mobile/manufactured home park or subdivision, existing means a parcel of land divided into two or more manufactured home lots for rent or sale, on which the construction of facilities for servicing the lots is completed before the effective date of this article. At a minimum, this would include the installation of utilities, the construction of streets and either final site grading or the pouring of concrete pads.

Mobile/manufactured home park, expansion to existing means the preparation of additional sites by the construction of facilities for servicing the lots on which the manufactured homes are to be affixed. This includes installation of utilities, construction of streets and either final site grading, or the pouring of concrete pads.

Mobile recreational vehicle means a vehicle which is built on a single chassis, 400 square feet or less when measured at the largest horizontal projection, designed to be self-propelled, carried or permanently towable by a licensed, light-duty vehicle, is licensed for highway use if registration is required and is designed primarily not for use as permanent dwelling, but as temporary living quarters for recreational, camping, travel or seasonal use. Manufactured homes that are towed or carried onto a parcel of land, but do not remain capable of being towed or carried, including park model homes, do not fall within the definition of "mobile recreational vehicles."

Model, corrected effective means a hydraulic engineering model that corrects any errors that occur in the duplicate effective model, adds any additional cross sections to the duplicate effective model, or incorporates more detailed topographic information than that used in the current effective model.

Model, duplicate effective means a copy of the hydraulic analysis used in the effective FIS and referred to as the effective model.

Model, effective means the hydraulic engineering model that was used to produce the current effective flood insurance study.

Model, existing (pre-project) means a modification of the duplicate effective model or corrected effective model to reflect any man-made modifications that have occurred within the floodplain since the date of the effective model but prior to the construction of the project for which the revision is being requested. If no

modification has occurred since the date of the effective model, then this model would be identical to the corrected effective model or duplicate effective model.

Model, revised (post-project) means a modification of the existing or pre-project conditions model, duplicate effective model or corrected effective model to reflect revised or post-project conditions.

Municipality or municipal means the county, city or village governmental units enacting, administering and enforcing this zoning ordinance.

NAVD or North American Vertical Datum means elevations referenced to mean sea level datum, 1988 adjustment.

New construction means, for floodplain management purposes, structures for which the start of construction commenced on or after the effective date of floodplain zoning regulations adopted by this community and includes any subsequent improvements to such structures. For the purpose of determining flood insurance rates, it includes any structures for which the "start of construction" commenced on or after the effective date of an initial FIRM or after December 31, 1974, whichever is later, and includes any subsequent improvements to such structures.

NGVD or National Geodetic Vertical Datum means elevations referenced to mean sea level datum, 1929 adjustment.

Nonconforming structure means an existing lawful structure or building which is not in conformity with the dimensional or structural requirements of this article for the area of the floodplain which it occupies. For example, an existing residential structure in the floodfringe district is a conforming use. However, if the first floor is lower than the flood protection elevation, the structure is nonconforming.

Nonconforming use means an existing lawful use or accessory use of a structure or building which is not in conformity with the provisions of this article for the area of the floodplain which it occupies, such as a residence in the floodway.

Obstruction to flow means any development which blocks the conveyance of floodwaters such that this development alone or together with any future development will cause an increase in regional flood height.

Official floodplain zoning map means that map, adopted and made part of this chapter, as described in section 22-788, which has been approved by the department and FEMA.

Open space use means those uses having a relatively low flood damage potential and not involving structures.

Ordinary highwater mark means the point on the bank or shore up to which the presence and action of surface water is so continuous as to leave a distinctive mark such as by erosion, destruction or prevention of terrestrial vegetation, predominance of aquatic vegetation, or other easily recognized characteristic.

Person means an individual, or group of individuals, corporation, partnership, association, municipality or state agency.

Private sewage system means a sewage treatment and disposal system serving one structure with a septic tank and soil absorption field located on the same parcel as the structure. It also means an alternative sewage system approved by the department of safety and professional services, including a substitute for the septic tank or soil absorption field, a holding tank, a system serving more than one structure or a system located on a different parcel than the structure.

Public utilities means those utilities using underground or overhead transmission lines such as electric, telephone and telegraph, and distribution and collection systems such as water, sanitary sewer and storm sewer.

Reasonably safe from flooding means base floodwaters will not inundate the land or damage structures to be removed from the floodplain and that any subsurface waters related to the base flood will not damage existing or proposed buildings.

Regional flood means a flood determined to be representative of large floods known to have occurred in the state. A regional flood is a flood with a one percent chance of being equaled or exceeded in any given year, and if depicted on the FIRM, the RFE is equivalent to the BFE.

Start of construction means the date the building permit was issued, provided the actual start of construction, repair, reconstruction, rehabilitation, addition, placement, or other improvement was within 180 days of the permit date. The actual start means either the first placement of permanent construction on a site, such as the pouring of slab or footings, the installation of piles, the construction of columns, or any work beyond initial excavation, or the placement of a manufactured home on a foundation. Permanent construction does not include land preparation, such as clearing, grading and filling, nor does it include the installation of streets and/or walkways, nor does it include excavation for a basement, footings, piers or foundation or the erection of temporary forms, nor does it include the installation on the property of accessory buildings, such as garages or sheds not occupied as dwelling units or not part of the main structure. For an alteration, the actual start of construction means the first alteration of any wall, ceiling, floor or other structural part of a building, whether or not that alteration affects the external dimensions of the building.

Structure means any manmade object with form, shape and utility, either permanently or temporarily attached to, placed upon or set into the ground, stream bed or lake bed, including, but not limited to, roofed and walled buildings, gas or liquid storage tanks, bridges, dams and culverts.

Subdivision has the meaning given in Wis. Stats. § 236.02(12) defined as a division of a lot, parcel or tract of land by the owner thereof or the owner's agent for the purpose of sale or of building development, where the act of division creates five or more parcels or building sites of 1½ acres each or less in areas; or five or more parcels or building sites of 1½ acres each or less in area are created by successive divisions within a period of five years.

Substantial damage means damage of any origin sustained by a structure, whereby the cost of restoring the structure to its pre-damaged condition would equal or exceed 50 percent of the equalized assessed value of the structure before the damage occurred.

Substantial improvement means any repair, reconstruction, rehabilitation, addition or improvement of a building or structure, the cost of which equals or exceeds 50 percent of the equalized assessed value of the structure before the improvement or repair is started. If the structure has sustained substantial damage, any repairs are considered substantial improvements regardless of the work performed. The term does not, however, include either any project for the improvement of a building required to correct existing health, sanitary or safety code violations identified by the building official and that are the minimum necessary to assure safe living conditions; or any alteration of a historic structure provided that the alteration will not preclude the structure's continued designation as a historic structure.

Unnecessary hardship means where special conditions affecting a particular property which were not self-created have made strict conformity with restrictions governing areas, setbacks, frontage, height or density unnecessarily burdensome or unreasonable in light of the purposes of this article.

Variance means an authorization by the board of adjustment or appeals for the construction or maintenance of a building or structure in a manner which is inconsistent with dimensional standards (not uses) contained in the floodplain zoning ordinance.

Violation means the failure of a structure or other development to be fully compliant with the floodplain zoning ordinance. A structure or other development without required permits, lowest floor elevation documentation, floodproofing certificates or required floodway encroachment calculations is presumed to be in violation until such time as that documentation is provided.

Water surface profile means a graphical representation showing the elevation of the water surface of a watercourse for each position along a reach of river or stream at a certain flood flow. A water surface profile of the regional flood is used in regulating floodplain areas.

Watershed means the entire region contributing runoff or surface water to a watercourse or body of water.

Well means an excavation opening in the ground made by digging, boring, drilling, driving or other methods, to obtain groundwater regardless of its intended use.

(Ord. No. 2010-O-09, § 22.470, 10-12-2010; Ord. No. 2014-O-31, § 1, 8-26-2014)

ARTICLE X. FLOODPLAIN OVERLAY ZONING

DIVISION 1. GENERALLY

Sec. 22-783. Statutory authorization.

This article is adopted pursuant to the authorization in Wis. Stats. §§ 61.35 and 62.23, and the requirements in Wis. Stats. § 87.30.

(Ord. No. 2010-O-09, § 22.401, 10-12-2010; Ord. No. 2014-O-31, § 1, 8-26-2014)

Sec. 22-784. Findings of fact.

The uncontrolled development and use of the floodplains, rivers and streams, and the pollution of navigable waters of the city would impair the public health, safety, convenience, general welfare and the tax base. The state legislature has delegated responsibility to all municipalities to further the maintenance of safe and healthful conditions; prevent and control water pollution; protect spawning grounds, fish and aquatic life; control building sites, placement of structures and land uses; and preserve shore cover and natural beauty.

(Ord. No. 2010-O-09, § 22.402, 10-12-2010; Ord. No. 2014-O-31, § 1, 8-26-2014)

Sec. 22-785. Purpose.

This subchapter is intended to regulate floodplain development to:

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

(Ord. No. 2010-O-09, § 22.403, 10-12-2010; Ord. No. 2014-O-31, § 1, 8-26-2014)

Sec. 22-786. Title.

This article shall be known as the Floodplain Overlay Zoning for the City of Fitchburg, Wisconsin.

(Ord. No. 2010-O-09, § 22.404, 10-12-2010; Ord. No. 2014-O-31, § 1, 8-26-2014)

Sec. 22-787. Areas to be regulated.

This article regulates all areas of special flood hazard identified as zones A, AO, AH, A1-30, AE that would be covered by the regional flood or base flood as shown on the Flood Insurance Rate Map (FIRM) or other maps approved by DNR. Additional areas identified on maps approved by the Department of Natural Resources (DNR) and local community may also be regulated under the provisions of the article, where applicable. Base flood elevations are derived from the flood profiles in the flood insurance study (FIS) and are shown as AE, A1-30, and AH zones on the FIRM. Other regulatory zones are displayed as A and AO zones. Regional flood elevations (RFE) may be derived from other studies. If more than one map or revision is referenced, the most restrictive information shall apply.

(Ord. No. 2010-O-09, § 22.411, 10-12-2010; Ord. No. 2014-O-31, § 1, 8-26-2014)

Sec. 22-788. Official maps and revisions.

- (a) Special Flood Hazard Areas (SFHA) The boundaries of all floodplain districts are designated as A, AE, AH, AO or A1-30 on the Flood Insurance Rate Maps based on flood hazard analyses summarized in the Flood Insurance Study the flood insurance study (FIS) listed below. Additional flood hazard areas subject to regulation under this article are identified on maps based on studies approved by the DNR and listed below. Any change to the base flood elevations (BFE) or any changes to the boundaries of the floodplain or floodway in the FIS or on the flood insurance rate map (FIRM) must be reviewed and approved by the WDNR and FEMA through the letter of map change process (see § 22-851, Amendments) before it is effective. No changes to regional flood elevations (RFEs) on non-FEMA maps shall be effective until approved by the WDNR. These maps and revisions are on file in the office of the city planning department of the City of Fitchburg. If more than one map or revision is referenced, the most restrictive information shall apply.
- (b) Official maps, based on the FIS:
Flood insurance rate map (FIRM), panel numbers: 55025C0413G, 55025C0415G, 55025C0416G, 55025C0417G, 55025C0418G, 55025C0419G, 55025C0438G, 55025C0576G, 55025C0580G, 55025C0601G, 55025C0605G, dated January 2, 2009 and 55025C0584H, 55025C0585H, dated September 17, 2014 with corresponding profiles that are based on the flood insurance study (FIS); Volume number 55025CV001D, 55025CV002D, 55025CV003D, 55025CV004D, dated June 16, 2016 Flood Insurance rate maps (FIRM) panel numbers 55025C0413G, 55025C0415G, 55025C0416G, 55025C0417G, 55025C0418G, 55025C0419G, 55025C0438G, 55025C0576G, 55025C0580G dated 01/02/2009. Flood Insurance Rate Map (FIRM) panel numbers 55025C0584H and 55025C0585H dated 09/17/2014. Flood Insurance Rate Map (FIRM) panel numbers 55025C0601G and 55025C0605G dated 01/02/2009. Flood insurance study (FIS) for Dane County dated 04/09/2025. Approved by the DNR and FEMA.
- (c) Official maps, based on other studies: Any maps referenced in this section must be approved by the DNR and be more restrictive than those based on the FIS at this site of the proposed development.
Dane County and Incorporated Areas Flood Storage Districts, Panels 25 and 26 effective 04/09/2025. City of Fitchburg Flood Storage District, Panels 10, 20 & 21 of 21. Dated September 17, 2014. Prepared by the WDNR. Approved by the WDNR.

(Ord. No. 2010-O-09, § 22.412, 10-12-2010; Ord. No. 2014-O-31, § 1, 8-26-2014; Ord. No. 2016-O-08, § 1, 3-22-2016)

Sec. 22-789. Establishment of floodplain zoning districts.

The flood hazard areas regulated by this ordinance are divided into districts as follows:

- (1) The Floodway District (FW), is the channel of a river or stream and those portions of the floodplain adjoining the channel required to carry the regional floodwaters, within AE Zones as shown on the FIRM, or within A Zones shown on the FIRM when determined according to section 22-803(e) of this article
- (2) The Floodfringe District (FF) is that portion of a riverine special flood hazard area outside the floodway within AE Zones on the FIRM, or, when floodway limits have been determined according to section 22-803(e) of this article within A Zones shown on the FIRM.
- (3) The General Floodplain District (GFP) is those riverine areas that may be covered by floodwater during the regional flood in which a floodway boundary has not been delineated on the FIRM and also includes shallow flooding areas identified as AH and AO zones on the FIRM.
- (4) The Flood Storage District (FSD) is that area of the floodplain where storage of floodwaters is calculated to reduce the regional flood discharge.

~~The floodplain areas are divided into four districts as follows:~~

- ~~(1) The Floodway District (FW), is the channel of a river or stream and those portions of the floodplain adjoining the channel required to carry the regional floodwaters, and are contained within AE zones as shown on the FIRM.~~
- ~~(2) The Floodfringe District (FF) is that portion of the floodplain between the regional flood limits and the floodway and displayed as AE zones on the FIRM.~~
- ~~(3) The General Floodplain District (GFP) is those areas that have been or may be covered by floodwater during the regional flood and does not have a BFE or floodway boundary determined, including A, AH and AO zones on the FIRM.~~
- ~~(4) The Flood Storage District (FSD) is that area of the floodplain where storage of floodwaters is calculated to reduce the regional flood discharge.~~

(Ord. No. 2010-O-09, § 22.413, 10-12-2010; Ord. No. 2014-O-31, § 1, 8-26-2014)

Sec. 22-790. Locating floodplain boundaries.

- (a) Discrepancies between the exterior boundaries of zones A1-30, AE, AH, or A on the official floodplain zoning map and actual field conditions may ~~shall~~ be resolved using the criteria in this section in (1) and (2) below. If a significant difference exists, the map shall be amended according to section 22-851 of this article. The zoning administrator can rely on a boundary derived from a profile elevation to grant or deny a land use permit, whether or not a map amendment is required. The zoning administrator shall be responsible for documenting actual pre-development field conditions and the basis upon which the district boundary was determined ~~and for initiating any map amendments required under this section~~. Disputes between the zoning administrator and the applicant over the district boundary line shall be settled according to section 22-846 and the criteria in (1) and (2) below. ~~the board of appeals as discussed in sections 22-844 and 22-845 and the criteria in this section~~. Where the flood profiles are based on established base flood elevations from a FIRM, FEMA must approve any map amendment or revision pursuant to section 22-851 of this article.

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- (1) If flood profiles exist, the map scale and the profile elevations shall determine the district boundary. The regional or base flood elevations shall govern if there are any discrepancies.
 - (2) Where flood profiles do not exist for projects, including any boundary of zone A or AO, the location of the boundary shall be determined by the map scale.

(Ord. No. 2010-O-09, § 22.414, 10-12-2010; Ord. No. 2014-O-31, § 1, 8-26-2014)

Sec. 22-791. Removal of lands from floodplain.

- (a) Compliance with the provisions of this article shall not be grounds for removing lands from the floodplain unless it is filled at least two feet above the regional or base flood elevation, the fill is contiguous to lands outside the floodplain and the map is amended pursuant to section 22-851 of this article.
- (b) The delineation of any of the Floodplain Districts may be revised by the community where natural or man-made changes have occurred and/or where more detailed studies have been conducted. However, prior to any such change, approval must be obtained from the Wisconsin Department of Natural Resources and Federal Emergency Management Agency. A completed Letter of Map Revision is a record of this approval. The zoning administrator shall not sign a community acknowledgement form unless all criteria set forth in the following paragraphs are met:
 - (1) The land and/or land around the structure must be filled at least two feet above the regional or base flood elevation;
 - (2) The fill must be contiguous to land outside the floodplain; Applicant shall obtain floodplain development permit before applying for a LOMR or LOMR-F;
- (c) Removal of lands from the floodplain may also occur by operation of Wis. Stat. § 87.30(1)(e) if a property owner has obtained a letter of map amendment from the federal emergency management agency under 44 C.F.R. 70.

(Ord. No. 2010-O-09, § 22.415, 10-12-2010; Ord. No. 2014-O-31, § 1, 8-26-2014)

Sec. 22-792. Compliance; other permits.

- (a) No structure or use within area regulated by this ordinance shall hereafter be located, erected, constructed, reconstructed, repaired, extended, converted, enlarged, or altered without full compliance with the terms of these regulations and all other applicable federal, state, and local regulations that apply to uses within the jurisdiction of these regulations. ~~Any development or use within the areas regulated by this article shall be in full compliance with the terms of this article, and other applicable local, state, and federal regulations.~~ (See division 2 of this article for the standards applicable to nonconforming uses.)
- (b) Failure to obtain a floodplain development permit shall be a violation of these regulations and shall be punishable in accordance with section 22-852.
- (c) Floodplain development permits issued on the basis of plans and applications approved by the Zoning Administrator authorize only the use, and arrangement, set forth in such plans and applications, or amendments thereto if approved by the Zoning Administrator. Use, arrangement, or construction contrary to that authorized shall be deemed in violations of these regulations and punishable in accordance with section 22-852.
- (d) It is the responsibility of the applicant to secure all other necessary permits from appropriate federal, state, and local agencies, including those required by the U.S. Army Corps of Engineers under Section 404 of the Federal Water Pollution Control Act amendments of 1972, 33 USC 1344.

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(Ord. No. 2010-O-09, § 22.416, 10-12-2010; Ord. No. 2014-O-31, § 1, 8-26-2014)

Sec. 22-793. Municipalities and state agencies regulated.

Unless specifically exempted by law, all cities, villages, towns, and counties are required to comply with this article and obtain all necessary permits. State agencies are required to comply if Wis. Stats. § 13.48(13) applies. The construction, reconstruction, maintenance and repair of state highways and bridges by the ~~state~~ Wisconsin Department of Transportation is exempt when Wis. Stats. § 30.2022 applies. Although exempt from a local zoning permit and permit fees, WisDOT must provide sufficient project documentation and analysis to ensure that the community is in compliance with federal, state, and local floodplain standards. If a local transportation project is located within a Zone A floodplain and is not a WisDOT project under Wis. Stats. § 30.2022, then the road project design documents (including appropriate detailed plans and profiles) may be sufficient to meet the requirements for issuance of a local floodplain permit if the following apply: The applicant provides documentation to the Zoning Administrator that the proposed project is a culvert replacement or bridge replacement under 20-foot span at the same location, the project is exempt from DNR permit under Wis. Stats. § 30.123(6)(d), the capacity is not decreased, the top road grade is not raised, and no floodway data is available from federal, state, or other source. If floodway data is available in the impacted area from a federal, state, or other source that existing data must be utilized by the applicant in the analysis of the project site.

(Ord. No. 2010-O-09, § 22.417, 10-12-2010; Ord. No. 2014-O-31, § 1, 8-26-2014)

Sec. 22-794. Abrogation and greater restrictions.

- (a) This article supersedes all the provisions of any municipal zoning ordinance enacted under Wis. Stats. § 62.23 or 87.30, which relate to floodplains. A more restrictive ordinance shall continue in full force and effect to the extent of the greater restrictions, but not otherwise.
- (b) This article is not intended to repeal, abrogate or impair any existing deed restrictions, covenants or easements. If this article imposes greater restrictions, the provisions of this article shall prevail.

(Ord. No. 2010-O-09, § 22.418, 10-12-2010; Ord. No. 2014-O-31, § 1, 8-26-2014)

Sec. 22-795. Interpretation.

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

(Ord. No. 2010-O-09, § 22.419, 10-12-2010; Ord. No. 2014-O-31, § 1, 8-26-2014)

Sec. 22-796. Warning and disclaimer of liability.

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

(Ord. No. 2010-O-09, § 22.420, 10-12-2010; Ord. No. 2014-O-31, § 1, 8-26-2014)

Sec. 22-797. Severability.

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

(Ord. No. 2010-O-09, § 22.421, 10-12-2010; Ord. No. 2014-O-31, § 1, 8-26-2014)

Sec. 22-798. Annexed areas for cities and villages.

The Dane County floodplain zoning provisions in effect on the date of annexation shall remain in effect and shall be enforced by the city for all annexed areas until the city adopts and enforces an ordinance which meets the requirements of Wis. Admin. Code ch. NR 116, ~~Wis. Adm. Code~~ and 44 CFR 59-72, National Flood Insurance Program (NFIP). These annexed lands are described on the city's official zoning map. County floodplain zoning provisions are incorporated by reference for the purpose of administering this section and are on file in the office of the city's zoning administrator. All plats or maps of annexation shall show the regional flood elevation and the floodway location.

(Ord. No. 2010-O-09, § 22.422, 10-12-2010; Ord. No. 2014-O-31, § 1, 8-26-2014)

Sec. 22-799. General development standards.

The community shall review all permit applications to determine whether proposed building sites will be reasonably safe from flooding and assure that all necessary permits have been received from those governmental agencies whose approval is required by federal or state law.

(a) If a proposed building site is in a flood-prone area, all new construction and substantial improvements shall:

- (1) be designed and anchored to prevent flotation, collapse, or lateral movement of the structure resulting from hydrodynamic and hydrostatic loads, including the effects of buoyancy;
- (2) be constructed with flood-resistant materials;
- (3) be constructed by methods and practices to minimize flood damages; and
- (4) be constructed to ensure that utility and mechanical equipment is elevated to or above the flood protection elevation. ~~designed and/or located so as to prevent water from entering or accumulating within the equipment during conditions of flooding.~~

(b) If a subdivision or other proposed new development is in a flood-prone area, the community shall assure that: ~~Subdivisions shall be reviewed for compliance with the above standards.~~

- (1) such a proposed subdivision or other proposed new development is consistent with the need to minimize flood damage within the flood-prone area;
- (2) public utilities and facilities such as sewer, gas, electrical, and water systems are located and constructed to minimize or eliminate flood damage; and
- (3) adequate drainage is provided to reduce exposure to flood hazards.

All subdivision proposals (including manufactured home parks) shall include regional flood elevation and floodway data for any development that meets the subdivision definition of this article and all other requirements in section 22-840. Adequate drainage shall be provided to reduce exposure to flood hazards and all public utilities and facilities, such as sewer, gas, electrical, and water systems are located and constructed to minimize or eliminate flood damages.

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(Ord. No. 2010-O-09, § 22.423, 10-12-2010; Ord. No. 2014-O-31, § 1, 8-26-2014)

Sec. 22-800. General provisions for all floodplain districts.

- (a) *Hydraulic and hydrologic analyses.*
 - (1) No floodplain development shall:
 - a. Obstruct flow, defined as development which blocks the conveyance of floodwaters by itself or with other development, causing any increase in the regional flood height; or
 - b. Cause any increase in the regional flood height due to floodplain storage area lost.
 - (2) The zoning administrator shall deny permits if it is determined the proposed development will obstruct flow or cause any increase in the regional flood height, based on the officially adopted FIRM or other adopted map, unless the provisions of section 22-851, Amendments, are met.
- (b) *Watercourse alterations.*
 - (1) No land use permit to alter or relocate a watercourse in a mapped floodplain shall be issued until the local official has notified in writing all adjacent municipalities, the department and FEMA regional offices, and required the applicant to secure all necessary state and federal permits. The standards of subsection (a) of this section must be met and the flood carrying capacity within the altered or relocated watercourse shall be maintained.
 - (2) As soon as is practicable, but no later than six months after the date of the watercourse alteration or relocation and pursuant to section 22-851, Amendments, the community shall apply for a letter of map revision (LOMR) from FEMA. Any such alterations must be reviewed and approved by FEMA and the DNR through the LOMC process.
- (c) *State statute chapters regarding development.* Development which requires a permit from the department, under Wis. Stats. chs. 30 and 31, such as docks, piers, wharves, bridges, culverts, dams and navigational aids, may be allowed if the necessary permits are obtained and amendments to the floodplain zoning article are made according to section 22-851, Amendments.
- (d) *Public or private campgrounds.* Public or private campgrounds shall have a low flood damage potential and shall meet the following provisions:
 - (1) The campground is approved by the ~~department of health services~~ Department of Agriculture, Trade and Consumer Protection;-
 - (2) A land use permit for the campground is issued by the zoning administrator;-
 - (3) The character of the river system and the campground elevation are such that a 72-hour warning of an impending flood can be given to all campground occupants;-
 - (4) There is an adequate flood warning procedure for the campground that offers the minimum notice required under this section to all persons in the campground. This procedure shall include a written agreement between the campground owner, the floodplain zoning agency or zoning administrator, the municipal emergency government coordinator and the chief law enforcement official which specifies the flood elevation at which evacuation shall occur, personnel responsible for monitoring flood elevations, types of warning systems to be used and the procedures for notifying at-risk parties, and the methods and personnel responsible for conducting the evacuation;-
 - (5) This agreement shall be for no more than one calendar year, at which time the agreement shall be reviewed and updated by the officials identified in subsection (4) of this section to remain in

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compliance with all applicable regulations, including those of the state Department of Agriculture, Trade and Consumer Protection ~~department of health services~~ and all other applicable regulations;

- (6) All mobile recreational vehicles placed on the site must meet one of the following:
- a. be ~~Only camping units that are~~ fully licensed, if required, and ready for highway use; ~~or are allowed.~~
 - ~~(7) The camping units shall~~ b. not occupy any site in the campground for more than 180 consecutive days, at which time the ~~camping unit~~ mobile recreational vehicle must be removed from the floodplain for a minimum of 24 hours; ~~or~~
 - c. Meet the requirements in either sections 22-801, 22-802, and 22-803 for the floodplain district in which the structure is located;
- A mobile recreational vehicle, defined in this section, is ready for highway use if it is on its wheel or jacking system, is attached to the site only by quick-disconnect utilities and security devices and has no permanently attached additions.
- ~~(87)~~ All ~~camping units~~ mobile recreational vehicles that remain on site for more than 30 days shall be issued a limited authorization by the campground operator, a written copy of which is kept on file at the campground. Such authorization shall allow placement of a ~~camping unit~~ mobile recreational vehicle consistent with section 22-800(d)(6) ~~for a period not to exceed 180 days~~ and shall ensure compliance with all the provisions of this section.
- ~~(98)~~ The municipality shall monitor the limited authorizations issued by the campground operator to ensure compliance with the terms of this section.
- ~~(10) All camping units that remain in place for more than 180 consecutive days must meet the applicable requirements in either section 22-801, 22-802, or 22-804 for the floodplain district in which the structure is located.~~
- ~~(119)~~ The campground shall have signs clearly posted at all entrances warning of the flood hazard and the procedures for evacuation when a flood warning is issued.
- ~~(1210)~~ All service facilities, including but not limited to refuse collection, electrical service, gas lines, propane tanks, sewage systems and wells shall be properly anchored and placed at or floodproofed to the flood protection elevation.
- (11) Standards for structures in a campground:
- a. All structures must comply with section 22-800(d) or meet the applicable requirements in sections 22-801, 22-802, and 22-803 for the floodplain district in which the structures is located;
 - b. Deck/landing – a portable landing may be allowed for mobile recreational unit for each entry provided that the landing is not permanently attached to the ground or mobile recreational unit, is no more than 200 square feet in size, shall be portable, contain no walls or roof, and can be removed from the campground by a truck and/or trailer. Sections of such portable landings may be placed together to form a single deck not greater than 200 square feet at one entry point. Provisions for the removal of these temporary landings during flood events must be addressed within the written agreement with municipality compliant with section 22-800(d)(4). Any such deck/landing structure may be constructed at elevations lower than the flood protection elevation but must not obstruct flow of flood waters or cause any increase in flood levels during the occurrence of the regional flood.
 - c. Decks/patios that are constructed completely at grade may be allowed but must also comply with applicable shoreland zoning standards.

d. Camping equipment and appurtenant equipment in the campground may be allowed provided that the equipment is not permanently attached to the ground or mobile recreational vehicle, is not used as a habitable structures, and must not obstruct flow of flood waters or cause any increase in flood levels during the occurrence of the regional flood. Provisions for the removal of this equipment during flooding events shall be addressed within the written agreement with the municipality compliant with section 22-800(d)(4).

e. Once a flood warning in the written agreement has been issued for the campground, the campground owner or the designated operator shall ensure that all persons, mobile recreational vehicles, decks, camping equipment and appurtenant equipment in the campground shall be evacuated within the timelines specified within the written agreement with the municipality compliant with section 22-800(d)(4).

(12) A zoning use permit shall be obtained as a provided under section 22-840 before any development; repair, modification, or addition to an existing structure; or change in the use of building or structure, including sewer and water facilities, may be initiated.

(Ord. No. 2010-O-09, § 22.430, 10-12-2010; Ord. No. 2014-O-31, § 1, 8-26-2014)

Sec. 22-801. FW Floodway District.

(a) *Applicability.* This section applies to all floodway areas on the ~~floodplain~~ zoning maps and those identified pursuant to section 22-803(e).

(b) *Permitted uses.* The following open space uses are allowed within the Floodway District, and in the floodway areas of the General Floodplain District, provided that they are not prohibited by any other regulations, that the standards contained in subsections (c) and (d) of this section are met, and that all permits or certificates have been issued according to sections 22-840 and 22-841:

- (1) Agricultural uses, such as farming, outdoor plant nurseries, horticulture, viticulture and wild crop harvesting.
- (2) Nonstructural industrial and commercial uses, such as loading areas, parking areas and airport landing strips.
- (3) Nonstructural recreational uses, such as golf courses, tennis courts, archery ranges, picnic grounds, boat ramps, swimming areas, parks, wildlife and nature preserves, game farms, fish hatcheries, shooting, trap and skeet activities, hunting and fishing areas, and hiking and horseback riding trails subject to the fill limitations of section 22-801(c)(4).
- (4) Uses or structures accessory to open space uses, or classified as historic structures that comply with subsections (c) and (d) of this section.
- (5) Extraction of sand, gravel or other materials according to subsection (c)(4) of this section.
- (6) Functionally water-dependent uses, such as docks, piers or wharves, dams, flowage areas, culverts, navigational aids and river crossings of transmission lines, and pipelines that comply with Wis. Stats. chs. 30 and 31.
- (7) Public utilities, streets and bridges that comply with subsection (c)(3) of this section.
- (8) Portable latrines that are removed prior to flooding and systems associated with recreational areas and Department-approved campgrounds that meet the applicable provisions of local ordinances and Wis. Adm. Code ch. SPS 383.
- (9) Public or private wells used to obtain potable water for recreational areas that meet the requirements of local ordinances and Wis. Adm. Code chs. NR 811 and NR 812.

(10) Wastewater treatment ponds or facilities permitted under Wis. Adm. Code s. NR 110.15(3)(b).

(11) Sanitary sewer or water supply lines to service existing or proposed development located outside the floodway that complies with the regulations for the floodplain area occupied.

(c) *Standards for developments in the floodway.*

(1) General.

a. Any development in the floodway shall comply with section 22-800 and have a low flood damage potential;

b. Applicants shall provide an analysis calculating ~~the following data to determine~~ the effects of the proposal on the regional flood height to determine the effects of the proposal according to sections 22-800(a) and 22.840. ~~The analysis must be completed by a registered professional engineer in the state of Wisconsin.~~

~~1. A cross-section elevation view of the proposal, perpendicular to the watercourse, showing if the proposed development will obstruct flow; and~~

~~2. An analysis calculating the effects of this proposal on regional flood height.~~

~~c. The zoning administrator shall deny the permit application if the project will cause any increase in the flood elevations upstream or downstream, based on the data submitted for subsection (e)(1)b of this section.~~

c. Any encroachment in the regulatory floodway is prohibited unless the data submitted for sub-section (c)(1)b. above demonstrates that the encroachment will cause no increase in flood elevations in flood events up to the base flood at any location or removes the encroached area from the regulatory floodway as provided in section 22-791.

(2) Structures. Structures accessory to permanent open space uses, including utility and sanitary facilities, or functionally dependent on a waterfront location may be allowed by permit if the structures comply with the following criteria:

a. Not designed for human habitation, does not have a high flood damage potential and is constructed to minimize flood damage;

b. Shall either have the lowest floor elevated to or above the flood protection elevation or shall meet all the following standards:

1. Have the lowest floor elevated to or above the regional flood elevation and be dry floodproofed so that the structure is watertight with walls substantially impermeable to the passage of water and completely dry to the flood protection elevation without human intervention during flooding;

2. Have structural components capable of meeting all provisions of section 22-801(c)(2)g. below; and

3. Be certified by a registered professional engineer or architect, through the use of a Federal Emergency Management Agency Floodproofing Certificate, that the design and methods of construction are in accordance with 22-801(c)(2)g. below.

c. Mechanical and utility equipment must be elevated ~~or floodproofed~~ to or above the flood protection elevation;

~~ed.~~ Must be anchored to resist flotation, collapse, and lateral movement; and

~~d. Shall have a minimum of two openings on different walls having a total net area not less than one square inch for every square foot of enclosed area, and the bottom of all such openings being no~~

~~higher than one foot above grade. The openings shall be equipped with screens, louvers, or other coverings or devices provided that they permit the automatic entry and exit of floodwaters; and~~

- e. It must not obstruct flow of floodwaters or cause any increase in flood levels during the occurrence of the regional flood.
 - f. For a structure designed to allow the automatic entry of floodwaters below the Regional Flood Elevation, the applicant shall submit a plan that meets section 22-801(2)a. through 22-801(2)e. and meets or exceeds the following standards:
 - 1. The lowest floor must be elevated to or above the regional flood elevation;
 - 2. a minimum of two openings having a total net area of not less than one square inch for every square foot of enclosed area subject to flooding;
 - 3. the bottom of all openings shall be no higher than one foot above the lowest adjacent grade; openings may be equipped with screens, louvers, valves, or other coverings or devices provided that they permit the automatic entry and exit of floodwaters, otherwise must remain open; and
 - 4. The use must be limited to parking, building access or limited storage.
 - g. Certification: Whenever floodproofing measures are required, a registered professional engineer or architect shall certify that the following floodproofing measures will be utilized, where appropriate, and are adequate to withstand the flood depths, pressures, velocities, impact and uplift forces and other factors associated with the regional flood:
 - 1. Reinforcement of floors and walls to resist rupture, collapse, or lateral movement caused by water pressures or debris buildup;
 - 2. Construction of wells, water supply systems and waste treatment systems so as to prevent the entrance of flood waters in such systems and must be in accordance with provisions in sections 22-801(d)(4) and 22-801(d)(5)
 - 3. Subsurface drainage systems to relieve external pressures on foundation walls and basement floors;
 - 4. Cutoff valves on sewer lines or the elimination of gravity flow basement drains; and
 - 5. Placement of utilities to or above the flood protection elevation.
- (3) Public utilities, streets and bridges may be allowed by permit, provided that:
- a. Adequate floodproofing measures are provided to the flood protection elevation; and
 - b. Construction meets the development standards of section 22-800(a).
- (4) Fills or deposition of materials may be allowed by permit, if:
- a. The requirements of section 22-800(a) are met;
 - b. No material is deposited in navigable waters unless a permit is issued by the Department pursuant to Wis. Stats. ch. 30 and a permit pursuant to Section 404 of the Federal Water Pollution Control Act, amendments of 1972, 33 USC 1344 has been issued, if applicable, and all other requirements have been met;
 - c. The fill or other materials will be protected against erosion by riprap, vegetative cover, sheet piling or bulkheading; and
 - d. The fill is not classified as a solid or hazardous material.

(d) *Prohibited uses.* All uses not listed as permitted uses in subsection (b) of this section are prohibited, including the following uses:

- (1) Habitable structures, structures with high flood damage potential, or those not associated with permanent open-space uses;
- (2) Storing materials that are buoyant, flammable, explosive, injurious to property, water quality or human, animal, plant, fish or other aquatic life;
- (3) Uses not in harmony with or detrimental to uses permitted in the adjoining districts;
- (4) Any private or public sewage systems except portable latrines that are removed prior to flooding, and systems associated with recreational areas and department-approved campgrounds, that meet the applicable provisions of local ordinances and Wis. Admin. Code SPS 383;
- (5) All wells, whether public or private, which are used to obtain potable water, except those for recreational areas that meet the requirements of local ordinances and Wis. Admin. Code chs. NR 811 and 812;
- (6) Any solid or hazardous waste disposal sites;
- (7) Any wastewater treatment ponds or facilities, except those permitted under Wis. Admin. Code § NR 110.15(3)(b); and
- (8) Any sanitary sewer or water supply lines, except those to service existing or proposed development located outside the floodway, which complies with the regulations for the floodplain area occupied.

(Ord. No. 2010-O-09, § 22.431, 10-12-2010; Ord. No. 2014-O-31, § 1, 8-26-2014)

Sec. 22-802. FF Floodfringe District.

- (a) *Applicability.* This section applies to all floodfringe areas shown on the floodplain zoning maps and those identified pursuant to section 22-803(e)(4).
- (b) *Permitted uses.* Any structure, land use, or development, including accessory structures and uses, is allowed within the Floodfringe District, provided that the standards contained in ~~section 22-800 and~~ subsection (c) of this section are met, that the use is not prohibited by this article or any other ordinance or local, state, or federal regulation and that all permits or certificates required under this article have been secured by the applicant.
- (c) *Standards for development in the floodfringe.* All of the provisions of section 22-800 shall apply in addition to the following requirements according to the use requested. Any existing structure in the floodfringe must meet the requirements of section 22-834.
 - (1) *Residential uses.* Any structure, including a manufactured home, which is to be newly constructed, or moved into the floodfringe, shall meet or exceed the following standards. Any existing structure in the floodfringe must meet the requirements of section 22-834.
 - a. All new construction, including placement of manufactured homes, and substantial improvement of residential structures, shall have the lowest floor elevated to or above the flood protection elevation on fill. The fill around the structures shall be one foot or more above the regional flood elevation extending at least 15 feet beyond the limits of the structure. No area may be removed from the floodfringe district unless it can be show to meet section 22-791. ~~The elevation of the lowest floor shall be at or above the flood protection elevation on fill unless the requirements of 22-802(c)(1)b can be met. The fill shall be one foot or more above the regional flood elevation extending at least 15 feet beyond the limits of the structure.~~

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- b. Notwithstanding section 22-802(c)(1), a basement or crawlspace floor may be placed at the regional flood elevation if the basement or crawlspace is designed to make all portions of the structure below the flood protection elevation watertight with walls substantially impermeable to the passage of water and with structural components having the capability of resisting hydrostatic and hydrodynamic loads and effects of buoyancy. No floor of any kind is allowed below the regional flood elevation. ~~The basement or crawlway floor may be placed at the regional flood elevation if it is floodproofed to the flood protection elevation. No permit or variance shall allow any floor, basement or crawlway below the regional flood elevation.~~
- c. Contiguous dry land access shall be provided from a structure to land outside of the floodplain, except as provided in subsection (c)(1)d of this section.
- d. In developments where existing street or sewer line elevations make compliance with subsection (c)(1)c of this section impractical, the municipality may permit new development and substantial improvements where roads are below the regional flood elevation, if:
1. The municipality has written assurance from police, fire and emergency services that rescue and relief will be provided to the structure(s) by wheeled vehicles during a regional flood event; or
 2. The municipality has a DNR-approved emergency evacuation plan that follows acceptable hazard mitigation planning guidelines.
- (2) *Accessory structures or uses.* In addition to section 22-800, new construction and substantial improvements of Accessory structures shall be constructed on fill with the lowest floor at or above the regional flood elevation.
- (3) *Commercial uses.* In addition to section 22-800, aAny commercial structure which is erected, constructed, reconstructed, altered or moved into the floodfringe shall meet the requirements of subsection (c)(1) of this section. Subject to the requirements of subsection (c)(5) of this section, storage yards, surface parking lots and other such uses may be placed at lower elevations if an adequate warning system exists to protect life and property.
- (4) *Manufacturing and industrial uses.* In addition to section 22-800, aAny manufacturing or industrial structure which is to be erected, constructed, reconstructed, altered or moved into the floodfringe shall have the lowest floor elevated to or above the flood protection elevation or meet the floodproofing standards in section 22-849. Subject to the requirements of subsection (c)(5) of this section, storage yards, surface parking lots and other such uses may be placed at lower elevations if an adequate warning system exists to protect life and property.
- (5) *Storage or processing of materials.* Materials that are buoyant, flammable, explosive, or injurious to property, water quality or human, animal, plant, fish or aquatic life, shall be stored at or above the flood protection elevation or floodproofed in compliance with section 22-849. Adequate measures shall be taken to ensure that such materials will not enter the water body during flooding.
- (6) *Public utilities, streets and bridges.* All utilities, streets and bridges shall be designed to be compatible with comprehensive floodplain development plans and:
- a. When failure or interruption of public utilities, streets and bridges would endanger public health or safety or where such facilities are deemed essential to the orderly functioning of the area, construction or repair of such facilities shall only be permitted if they are designed to comply with section 22-849.
 - b. Minor or auxiliary roads or nonessential utilities may be constructed at lower elevations if they are designed to withstand flood forces to the regional flood elevation.
- (7) *Sewage systems, wells, solid waste sites.*

- a. All sewage disposal systems shall be designed to minimize or eliminate infiltration of flood water into the system, pursuant to section 22-849, to the flood protection elevation and meet the provisions of all local ordinances and Wis. Admin. Code SPS 383.
 - b. All wells shall be designed to minimize or eliminate infiltration of flood waters into the system, pursuant to section 22-849, to the flood protection elevation, and shall meet the provisions of Wis. Admin. Code chs. NR 811 and 812.
 - c. Disposal of solid or hazardous waste is prohibited in floodfringe areas.
- (8) *Deposition of materials.* Any deposited material must meet all the provisions of this article.
- (9) *Manufactured homes.*
- a. Owners or operators of all manufactured home parks and subdivisions shall provide adequate surface drainage to minimize flood damage, and prepare, secure approval and file an evacuation plan, indicating vehicular access and escape routes, with local emergency management authorities.
 - b. In existing manufactured home parks, all new homes, replacement homes on existing pads, and substantially improved homes shall:
 - 1. Have the lowest floor elevated to the flood protection elevation; and
 - 2. Be anchored so they do not float, collapse or move laterally during a flood.
 - c. Outside of existing manufactured home parks, including new manufactured home parks and all single units outside of existing parks, all new, replacement and substantially improved manufactured homes, shall meet the residential development standards for the floodfringe in subsection (c)(1) of this section.
- (10) *Mobile recreational vehicles.* All mobile recreational vehicles **must be on site for less than 180 consecutive days and be either:**
- a. **fully licensed and ready for highway use; or**
 - b. **shall meet the elevation and anchoring requirements in subsection (c)(9) of this section. ~~that are on site for 180 consecutive days or more or are not fully licensed and ready for highway use shall meet the elevation and anchoring requirements in section 22-802(a).~~**
- A mobile recreational vehicle is ready for highway use if it's on its wheels or jacking system, is attached to the site only by quick-disconnect utilities and security devices and has no permanently attached additions.

(Ord. No. 2010-O-09, § 22.432, 10-12-2010; Ord. No. 2014-O-31, § 1, 8-26-2014)

~~Sec. 22-803. Other floodplain districts.~~

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

~~(Ord. No. 2010 O 09, § 22.432, 10 12 2010; Ord. No. 2014 O 31, § 1, 8 26 2014)~~

Sec. 22-8043. GFP General Floodplain District.

- (a) *Applicability.* The provisions for the General Floodplain District shall apply to development in all floodplains mapped as A, AO, AH, and in AE zones within which a floodway is not delineated on the Flood Insurance Rate Maps identified in section 22-788 ~~for this district shall apply to all floodplains mapped as A, AO or AH zones.~~
- (b) *Floodway Boundaries.* For proposed development in zone A, or in zone AE within which a floodway is not delineated on the Flood Insurance Rate Map identified in section 22-788, the boundaries of the regulatory floodway shall be determined pursuant to section 22-803(e). If the development is proposed to encroach upon the regulatory floodway, the development is subject to the standards of section 22-801. If the development is located entirely within the floodfringe, the development is subject to the standards of section 22-802.
- (bc) *Permitted uses.* Pursuant to subsection (de) of this section, it shall be determined whether the proposed use is located within the floodway or floodfringe. Those uses permitted in sections 22-801 for floodways and 22-802 for floodfringe are allowed within the General Floodplain District, provided that the procedures of subsection (de) of this section, sections 22-839, 22-840 and 22-841 are met, and all permits or certificates required have been secured by the applicant.
- (ed) *Standards for development.* If the proposed use is located within a floodway, the provisions of section 22-801 shall apply, pursuant to subsection (e) of this section. If the proposed use is located within the floodfringe, the provisions of section 22-802 shall apply, determined pursuant to subsection (e) of this section. The rest of this article applies to all development.
- (1) New construction and substantial improvement of structures in zone AO shall have the lowest floor, including basement, elevated ~~In AO/AH zones the structure's lowest floor must meet one of the conditions listed below whichever is higher:~~
- a. To or above the depth, in feet, as shown on the FIRM above the highest adjacent natural grade ~~At or above the flood protection's elevation;~~ or
 - b. If the depth is not specified on the FIRM, two feet (2) above the highest adjacent natural grade or higher. ~~Two feet above the highest adjacent grade around the structure; or~~
 - c. ~~The depth as shown on the FIRM.~~
- (2) New Construction and substantial improvement of structures in zone AH shall have the lowest floor, including basement, elevated to or above the flood protection elevation.
- (23) In AO/AH zones, provide plans showing adequate drainage paths to guide floodwaters around structures.
- (4) All development in zones AO and zone AH shall meet the requirements of section 22-802 applicable to floodfringe areas.
- (de) *Procedures for determining floodway and floodfringe limits.* Upon receiving an application for development within Zone A, or within Zone AE where a floodway has not been delineated on the Flood Insurance Road Maps, ~~the general floodplain district,~~ the zoning administrator shall:
- (1) Require the applicant to submit, at the time of application, two copies of an aerial photograph, or a plan which accurately locates the proposed development with respect to the general floodplain district limits, channel of stream, existing floodplain 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 floodproofing measures; and the flood zone as shown on the FIRM.

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- (2) Require the applicant to furnish any of the following information deemed necessary by the department to evaluate the effects of the proposal upon flood height and flood flows, regional flood elevation and to determine floodway boundaries:
- a. A hydrologic and hydraulic study as specified in section 22-840(c).
 - b. Plan (surface view) showing: elevations or contours of the ground; pertinent structure, fill or storage elevations; size, location and layout of all proposed and existing structures on the site; location and elevations of streets, water supply, and sanitary facilities; soil types and other pertinent information.
 - c. Specifications for building construction and materials, floodproofing, filling, dredging, channel improvement, storage, water supply and sanitary facilities.

(Ord. No. 2010-O-09, § 22.434, 10-12-2010; Ord. No. 2014-O-31, § 1, 8-26-2014)

Sec. 22-8054. Flood Storage District (FSD).

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

- (1) *Applicability.* The provisions of this section apply to all areas within the FSD Flood Storage District, as shown in the official floodplain zoning maps.
- (2) *Permitted uses.* Any use or development which occurs in a flood storage district must meet the applicable ~~city~~ requirements in section 22-802(c).
- (3) *Standards for development in flood storage districts.*
 - a. Development in flood storage district shall not cause an increase equal or greater than 0.00 of a foot in the height of the regional flood.
 - b. No development shall be allowed which removes flood storage volume unless an equal volume of storage as defined by the pre-development ground surface and the regional flood elevation shall be provided in the immediate area of the proposed development to compensate for the volume of storage which is lost, (compensatory storage). Excavation below the groundwater table is not considered to provide an equal volume of storage.
 - c. If compensatory storage cannot be provided, the area may not be developed unless the entire area zoned as flood storage district, on this waterway, is rezoned to the floodfringe district. This must include a revision to the floodplain study and map done for the waterway to revert to the higher regional flood discharge calculated without floodplain storage, as per section 22-851, Amendments, of this article.
 - d. No area may be removed from the flood storage district unless it can be shown that the area has been filled to the flood protection elevation and is contiguous to other lands lying outside of the floodplain.

(Ord. No. 2010-O-09, § 22.435, 10-12-2010; Ord. No. 2014-O-31, § 1, 8-26-2014)

Secs. 22-8065—22-833. Reserved.

DIVISION 2. NONCONFORMING STRUCTURES AND USES

Sec. 22-834. Nonconforming uses—General provisions.

(a) Applicability. ~~If these standards conform with Wis. Stats. § 62.23(7)(h), they shall apply to all modifications or additions to any nonconforming use or structure and to the use of any structure or premises which was lawful before the passage of the ordinance from which this article is derived or any amendment thereto.~~

(1) The standards in this section shall apply to all uses and buildings that do not conform to the provisions contained within a floodplain zoning ordinance or with Wis Stats. § 87.30 and Wis. Admin. Code ch. NR 116.12-14 and 44 CFR 59-72., these standards shall apply to all modifications or additions to any nonconforming use or structure and to the use of any structure or premises which was lawful before the passage of this ordinance or any amendment thereto. A party asserting existence of a lawfully established nonconforming use or structure has the burden of proving that the use or structure was compliant with the floodplain zoning ordinance in effect at the time the use was created.

(2) As permit applications are received for additions, modifications, or substantial improvements to nonconforming building in the floodplain, municipalities shall develop a list of those nonconforming buildings, their present equalized assessed value, and a list of the costs of those activities associated with changes to those buildings.

(b) The existing lawful use of a structure, property, or its accessory use which is not in conformity with the provisions of this article, may be continued, subject to the following conditions:

(1) No modifications or additions to a nonconforming use or structure shall be permitted unless they are made in conformity with the provisions of this article. For the purpose of this section, the words "modification" and "addition" shall include, but not be limited to, any alteration, addition, modification, structural repair, rebuilding or replacement of any such existing use, structure or accessory structure or use. Maintenance is not considered a modification; this includes painting, decorating, paneling and other nonstructural components; and the maintenance, repair or replacement of existing private sewage or water supply systems, or connections to public utilities. Any costs associated with the repair of a damaged structure are not considered maintenance.

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

(2) If a nonconforming use or the use of a nonconforming structure is discontinued for 12 consecutive months, it is no longer permitted and any future use of the property, and any structure or building thereon, shall conform to the applicable requirements of this article.

(3) The municipality shall keep a record which lists all nonconforming uses and nonconforming structures, their present equalized assessed value, the cost of all modifications or additions which have been permitted, and the percentage of the structure's total current value of those modifications present.

(4) No modification or addition to any nonconforming structure or any structure with a nonconforming use, which over the life of the structure would equal or exceed 50 percent of its present equalized assessed value, shall be allowed unless the entire structure is permanently changed to a conforming structure with a conforming use in compliance with the applicable requirements of this article. Contiguous dry land access must be provided for residential and commercial uses in compliance with section 22-802(c). The costs of elevating the lowest floor of a nonconforming building or a building with a nonconforming use to the flood protection elevation are excluded from the 50 percent provisions of this paragraph subsection.

(5) No maintenance on a per event basis to any nonconforming structure or any structure with a nonconforming use, the cost of which would equal or exceed 50% percent of its present equalized

assessed value, shall be allowed unless the entire structure is permanently changed to a conforming structure with a conforming use in compliance with the applicable requirements of this article. Contiguous dry land access must be provided for residential and commercial uses in compliance with section 22-802(c)(4). Maintenance to any nonconforming structure, which does not exceed 50 percent of its present equalized assessed value on a per event basis, does not count against the cumulative calculations over the life of the structure for a substantial improvement calculation.

- (6) If on a per event basis the total value of the work being done under (4) and (5) above equals or exceeds 50 percent of the present equalized assessed value the work shall not be permitted unless the entire structure is permanently changed to a conforming structure with a conforming use in compliance with the applicable requirements of this article. Contiguous dry land access must be provided for residential and commercial uses in compliance with section 22-802(c)(4).
- (7) Except as provided in subsection (b)(8) of this section, if any nonconforming structure or any structure with a nonconforming use is destroyed or is substantially damaged, it cannot be replaced, reconstructed or rebuilt unless the use and structure meet the provisions of this article. For the purpose of this subsection, a structure is considered substantially damaged if the total cost to restore the structure to its pre-damaged condition equals or exceeds 50 percent of the structure's present equalized assessed value.
- (8) For nonconforming buildings that are substantially damaged or destroyed by a nonflood disaster, the repair or reconstruction of any such nonconforming building shall be permitted in order to restore it to the size and use in effect prior to the damage event, provided that the following minimum federal code requirements below are met, and all required permits have been granted prior to the start of construction:
 - a. Residential structures.
 1. Shall have the lowest floor, including basement, elevated to or above the base flood elevation using fill, pilings, columns, posts or perimeter walls. Perimeter walls must meet the requirements of subsection 22-849(b).
 2. Shall be anchored to prevent flotation, collapse, or lateral movement of the structure resulting from hydrodynamic and hydrostatic loads, including the effects of buoyancy and shall be constructed with methods and materials resistant to flood damage.
 3. Shall be constructed with electrical, heating, ventilation, plumbing and air conditioning equipment and other service facilities that are designed and/or elevated so as to prevent water from entering or accumulating within the components during conditions of flooding.
 4. In A zones, obtain, review and utilize any flood data available from a federal, state or other source.
 5. In AO zones with no elevations specified, shall have the lowest floor, including basement, meet the standards in section 22-803(ed)(4).
 6. In AO zones, shall have adequate drainage paths around structures on slopes to guide floodwaters around and away from the structure.
 - b. Nonresidential structures.
 1. Shall meet the requirements of section 22-834(b)(8)a.1, 2, 5, and 6.
 2. Shall either have the lowest floor, including basement, elevated to or above the regional flood elevation; or, together with attendant utility and sanitary facilities, shall meet the standards in section 22-849(a) or (b).

3. In AO zones with no elevations specified, shall have the lowest floor, including basement, meet the standards in 22-803(d)(4).

~~(9) As requests are received for modifications or additions to nonconforming uses or nonconforming structures, a record shall be kept with the city which lists the nonconforming uses and nonconforming structures, their present equalized assessed value, the cost of those additions or modifications which have been permitted and the percentage of the structure's total current value those modifications represent.~~

Commented [dhs5]: Redundant - See above (3)

~~(c10)~~ A nonconforming historic structure may be altered if the alteration will not preclude the structure's continued designation as a historic structure, the alteration will comply with section 22-801(c)(1), flood resistant materials are used, and construction practices and floodproofing methods that comply with section 22-849 are used. Repair or rehabilitation of historic structures shall be exempt from the development standards of section 22-834(b)(8)a if it is determined that the proposed repair or rehabilitation will not preclude the structure's continued designation as a historic structure and is the minimum necessary to preserve the historic character and design of the structure.

~~(11) Any legal nonconforming use of property which does not involve the use of a structure and which existed at the time of the adoption or subsequent amendment of this article adopted under Wis. Stats. § 62.231 may be continued although such use does not conform with the provisions of this article. However, such nonconforming use may not be extended or increased.~~

Commented [dhs6]: Not in DNR model ordinance. Need to renumber if stays.

~~(12) Uses which are nuisances under common law shall not be permitted to continue as nonconforming uses.~~

Commented [dhs7]: Not in DNR model ordinance. Not sure that we can do this.

(Ord. No. 2010-O-09, § 22.441, 10-12-2010; Ord. No. 2014-O-31, § 1, 8-26-2014)

Sec. 22-835. Floodway District.

- (a) No modification or addition shall be allowed to any nonconforming structure or any structure with a nonconforming use in the Floodway District, unless such modification or addition:
- (1) Has been granted a permit or variance which meets all ordinance requirements.
 - (2) Meets the requirements of section 22-834.
 - (3) Shall not increase the obstruction to flood flows or regional flood height.
 - (4) Any addition to the existing structure shall be floodproofed, pursuant to section 22-849, by means other than the use of fill, to the flood protection elevation; and
 - (5) If any part of the foundation below the flood protection elevation is enclosed, the following standards shall apply:
 - a. The enclosed areas shall be designed by a registered architect or engineer to allow for the efficient entry and exit of floodwaters without human intervention. A minimum of two openings must be provided with a minimum net area of at least one square inch for every one square foot of the enclosed area. The lowest part of the opening can be no more than 12 inches above the adjacent grade;
 - b. The parts of the foundation located below the flood protection elevation must be constructed of flood-resistant materials;
 - c. Mechanical and utility equipment must be elevated or floodproofed to or above the flood protection elevation; and
 - d. The use must be limited to parking, building access or limited storage.

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- (b) No new on-site sewage disposal system, or addition to an existing on-site sewage disposal system, except where an addition has been ordered by a government agency to correct a hazard to public health, shall be allowed in the Floodway District. Any replacement, repair or maintenance of an existing on-site sewage disposal system in a floodway area shall meet the applicable requirements of all municipal ordinances, section 22-849(c) and Wis. Admin. Code SPS 383.
 - (c) No new well or modification to an existing well, used to obtain potable water shall be allowed in the Floodway District. Any replacement, repair or maintenance of an existing well in the Floodway District shall meet the applicable requirements of this article, section 22-849(c) and Wis. Admin. Code chs. NR 811 and NR 812.

(Ord. No. 2010-O-09, § 22.442, 10-12-2010; Ord. No. 2014-O-31, § 1, 8-26-2014)

Sec. 22-836. Floodfringe District.

- (a) No modification or addition shall be allowed to any nonconforming structure or any structure with a nonconforming use unless such modification or addition has been granted a permit or variance by the city and meets the requirements of section 22-802(c), except where subsection (b) of this section is applicable.
- (b) Where compliance with the provisions of subsection (a) of this section would result in unnecessary hardship, and only where the structure will not be used for human habitation or be associated with a high flood damage potential, the board of appeals, using the procedures established in sections 22-844~~5~~ and 22-846~~7~~, may grant a variance from those provisions of subsection (a) of this section for modifications or additions, using the criteria listed below. Modifications or additions which are protected to elevations lower than the flood protection elevation may be permitted if:
 - (1) No floor is allowed below the regional flood elevation for residential or commercial structures;
 - (2) Human lives are not endangered;
 - (3) Public facilities, such as water or sewer, shall not be installed;
 - (4) Flood depths shall not exceed two feet;
 - (5) Flood velocities shall not exceed two feet per second; and
 - (6) The structure shall not be used for storage of materials as described in section 22-802(c)(5).
- (c) All new private sewage disposal systems, or addition to, replacement, repair or maintenance of a private sewage disposal system shall meet all the applicable provisions of all local ordinances, section 22-849(c) and Wis. Admin. Code SPS 383.
- (d) All new wells, or addition to, replacement, repair or maintenance of a well shall meet the applicable provisions of this chapter, section 22-849(c) and Wis. Admin. Code chs. NR 811 and 812.

(Ord. No. 2010-O-09, § 22.443, 10-12-2010; Ord. No. 2014-O-31, § 1, 8-26-2014)

Sec. 22-837. Flood storage areas.

No modifications or additions shall be allowed to any nonconforming structure in a flood storage area unless the standards outlined in section 22-804(3) are met.

(Ord. No. 2010-O-09, § 22.444, 10-12-2010; Ord. No. 2014-O-31, § 1, 8-26-2014)

Sec. 22-838. Administration.

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

(Ord. No. 2010-O-09, § 22.450, 10-12-2010; Ord. No. 2014-O-31, § 1, 8-26-2014)

Sec. 22-839. Zoning administrator.

- (a) *Duties and powers.* The zoning administrator is authorized to administer this chapter and shall have the following duties and powers:
- (1) Advise applicants of the article provisions, assist in preparing permit applications and appeals, and ensure that the regional flood elevation for the proposed development is shown on all permit applications.
 - (2) Issue permits and inspect properties for compliance with provisions of this article, and issue certificates of compliance where appropriate.
 - (3) Inspect and assess all damaged floodplain structures to determine if substantial damage to the structures has occurred.
 - (4) Keep records of all official actions such as:
 - a. All permits issued; inspections made, and work approved;
 - b. Documentation of certified lowest floor and regional flood elevations ~~for~~;
 - c. Floodproofing certificates;
 - d. Water surface profiles, floodplain zoning maps and ordinances, nonconforming uses and structures including changes, appeals, variances and amendments;
 - e. All substantial damage assessment reports for floodplain structures; and
 - f. List of nonconforming structures and uses.
 - (5) Submit copies of the following items to the department regional office:
 - a. Within ten days of the decision, a copy of any decisions on variances, appeals for map or text interpretations, and map or text ~~amendments~~;
 - b. Copies of case-by-case analyses, and other required information including an annual summary of floodplain zoning actions taken; and
 - c. Copies of substantial damage assessments performed and all related correspondence concerning the assessments.
 - (6) Investigate, prepare reports, and report violations of this article to the municipal zoning agency and attorney for prosecution. Copies of the reports shall also be sent to the department regional office.
 - (7) Submit copies of amendments and biennial reports to the regional FEMA office.

(Ord. No. 2010-O-09, § 22.451, 10-12-2010; Ord. No. 2014-O-31, § 1, 8-26-2014)

Sec. 22-840. Zoning permits.

- (a) *When required.* Unless another section of this article specifically exempts certain types of development from this requirement, a zoning permit shall be obtained from the zoning administrator before any development, repair, modification or addition to an existing structure, as defined in section 22-853, including any change in the use of an existing building or structure, including sewer and water facilities, is initiated.
- (b) *Application.* An application for a permit shall be made to the zoning administrator upon forms furnished and shall include the following information for the purpose of proper enforcement of these regulations:
- (1) *General information.*
 - a. Name, address, and telephone number of applicant, property owner and contractor.
 - b. Legal description, proposed use and whether it is new construction or a modification.
 - (2) *Site development plan.* The site plan shall be drawn to scale and submitted as a part of the permit application form and shall contain:
 - a. Location, dimensions, area and elevation of the lot;
 - b. Location of the ordinary highwater mark of any abutting navigable waterways;
 - c. Location of any structures with distances measured from the lot lines and center line of all abutting streets or highways;
 - d. Location of any existing or proposed on-site sewage systems or private water supply systems;
 - e. Location and elevation of existing or future access roads;
 - f. Location of floodplain and floodway limits on the property as determined from the official floodplain zoning maps;
 - g. The elevation of the lowest floor of proposed buildings and any fill using the vertical datum from the adopted study, either National Geodetic Vertical Datum (NGVD) or North American Vertical Datum (NAVD);
 - h. Data sufficient to determine the regional flood elevation in NGVD or NAVD at the location of the development and to determine whether or not the requirements of sections 22-800 through 22-803 are met; and
 - i. Data to determine if the proposed development will cause an obstruction to flow or an increase in regional flood height or discharge according to section 22-800(a). This may include any of the information noted in section 22-801(c)(1).
- (c) *Hydraulic and hydrologic studies to analyze development.* All hydraulic and hydrologic studies shall be completed under the direct supervision of a professional engineer registered in the state. The study contractor shall be responsible for the technical adequacy of the study. All studies shall be reviewed and approved by the department.
- (1) *Zone A floodplains and in AE zones within which a floodway is not delineated.*
 - a. *Hydrology.* The appropriate methods shall be based on the standards in ch. NR 116.07(3), Wis. Admin. Code, Hydrologic analysis: Determination of regional flood discharge.
 - b. *Hydraulic modeling.* The regional flood elevation shall be based on the standards in Wis. Admin. Code ch. NR 116.07(4), Hydraulic analysis: Determination of regional flood elevation, and the following:

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1. Determination of the required limits of the hydraulic model shall be based on detailed study information for downstream structures (dam, bridge, culvert) to determine adequate starting WSEL for the study.
 2. Channel sections must be surveyed.
 3. Minimum four-foot contour data in the overbanks shall be used for the development of cross section overbank and floodplain mapping.
 4. A maximum distance of 500 feet between cross sections is allowed in developed areas with additional intermediate cross sections required at transitions in channel bottom slope including a survey of the channel at each location.
 5. The most current version of HEC-RAS shall be used.
 6. A survey of bridge and culvert openings and the top of road is required at each structure.
 7. Additional cross sections are required at the downstream and upstream limits of the proposed development and any necessary intermediate locations based on the length of the reach if greater than 500 feet.
 8. Standard accepted engineering practices shall be used when assigning parameters for the base model such as flow, Manning's N values, expansion and contraction coefficients or effective flow limits. The base model shall be calibrated to past flooding data such as high water marks to determine the reasonableness of the model results. If no historical data is available, adequate justification shall be provided for any parameters outside standard accepted engineering practices.
 9. The model must extend past the upstream limit of the difference in the existing and proposed flood profiles in order to provide a tie-in to existing studies. The height difference between the proposed flood profile and the existing study profiles shall be no more than 0.00 feet.
- c. *Mapping.* A work map of the reach studied shall be provided, showing all cross-section locations, floodway/floodplain limits based on best available topographic data, geographic limits of the proposed development and whether the proposed development is located in the floodway.
1. If the proposed development is located outside of the floodway, then it is determined to have no impact on the regional flood elevation.
 2. If any part of the proposed development is in the floodway, it must be added to the base model to show the difference between existing and proposed conditions. The study must ensure that all coefficients remain the same as in the existing model, unless adequate justification based on standard accepted engineering practices is provided.
- (2) *Zone AE Floodplains.*
- a. *Hydrology.* If the proposed hydrology will change the existing study, the appropriate method to be used shall be based on Wis. Admin. Code ch. NR 116.07(3), Hydrologic analysis: Determination of regional flood discharge.
 - b. *Hydraulic model.* The regional flood elevation shall be based on the standards in Wis. Admin. Code ch. NR 116.07(4), Hydraulic analysis: Determination of regional flood elevation, and the following:
 1. Duplicate effective model. The effective model shall be reproduced to ensure correct transference of the model data and to allow integration of the revised data to provide a continuous FIS model upstream and downstream of the revised reach. If data from the

effective model is available, models shall be generated that duplicate the FIS profiles and the elevations shown in the floodway data table in the FIS report to within 0.1 foot.

2. Corrected effective model. The corrected effective model shall not include any man-made physical changes since the effective model date, but shall import the model into the most current version of HEC-RAS for department review.
3. Existing (pre-project conditions) model. The existing model shall be required to support conclusions about the actual impacts of the project associated with the revised (post-project) model or to establish more up-to-date models on which to base the revised (post-project) model.
4. Revised (post-project conditions) model. The revised (post-project conditions) model shall incorporate the existing model and any proposed changes to the topography caused by the proposed development. This model shall reflect proposed conditions.
5. All changes to the duplicate effective model and subsequent models must be supported by certified topographic information, bridge plans, construction plans and survey notes.
6. Changes to the hydraulic models shall be limited to the stream reach for which the revision is being requested. Cross sections upstream and downstream of the revised reach shall be identical to those in the effective model and result in water surface elevations and top widths computed by the revised models matching those in the effective model upstream and downstream of the revised reach as required. The effective model shall not be truncated.

c. *Mapping.* Maps and associated engineering data shall be submitted to the department for review which meet the following conditions:

1. Consistency between the revised hydraulic models, the revised floodplain and floodway delineations, the revised flood profiles, topographic work map, annotated FIRMs and/or flood boundary floodway maps (FBFMs), construction plans, bridge plans.
2. Certified topographic map of suitable scale, contour interval, and a planimetric map showing the applicable items. If a digital version of the map is available, it may be submitted in order that the FIRM may be more easily revised.
3. Annotated FIRM panel showing the revised one percent and two-tenths percent annual chance floodplains and floodway boundaries.
4. If an annotated FIRM and/or FBFM and digital mapping data (GIS or CADD) are used then all supporting documentation or metadata must be included with the data submission along with the Universal Transverse Mercator (UTM) projection and state plan coordinate system in accordance with FEMA mapping specifications.
5. The revised floodplain boundaries shall tie into the effective floodplain boundaries.
6. All cross sections from the effective model shall be labeled in accordance with the effective map and a cross section lookup table shall be included to relate to the model input numbering scheme.
7. Both the current and proposed floodways shall be shown on the map.
8. The stream centerline, or profile baseline used to measure stream distances in the model shall be visible on the map.

(d) *Expiration.* All permits issued under the authority of this article shall expire no more than 180 days after issuance. The permit may be extended for a maximum of 180 days for good and sufficient cause. [If the](#)

permitted work has not started within 180 days of the permit date, the development must comply with any regulations, including any revisions to the FIRM or FIS, that took effect after the permit date.

(Ord. No. 2010-O-09, § 22.452, 10-12-2010; Ord. No. 2014-O-31, § 1, 8-26-2014)

Sec. 22-841. Certificate of compliance.

- (a) ~~Except where no zoning permit or conditional use permit is required, a~~ No land shall be occupied or used, and no building which is hereafter constructed, altered, added to, modified, repaired, rebuilt or replaced shall be occupied, until a certificate of compliance is issued by the zoning administrator subject to the following provisions:
- (1) The certificate of compliance shall show that the building or premises or part thereof, and the proposed use, conform to the provisions of this article.
 - (2) Application for such certificate shall be concurrent with the application for a permit.
 - (3) If all article provisions are met, the certificate of compliance shall be issued within ten days after written notification that the permitted work is completed.
 - (4) The applicant shall submit a certification signed by a registered professional engineer, architect, or registered land surveyor that the fill, lowest floor ~~elevations~~, and floodproofing ~~elevations~~ are in compliance with the permit issued. Floodproofing measures also require certification by a registered professional engineer or architect that the requirements of section 22-849 are met.
 - (5) Where applicable pursuant to section 22-803(d), the applicant must submit a certificate by a registered professional engineer or surveyor of the elevation of the bottom of the lowest horizontal structural member supporting the lowest floor (excluding pilings or columns), and an indication of whether the structure contains a basement.
 - (6) Where applicable pursuant to section 22-803(d), the applicant must submit certifications by a registered professional engineer or architect that the structural design and methods of construction meet accepted standards of practice as required by section 22-803(d).
- ~~(b) 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 adoption of this article, 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 of this article.~~

Sec. 22-842. Other permits.

Prior to obtaining a floodplain development permit the applicant must secure all necessary permits from federal, state, and local agencies, including, but not limited to, those required by the U.S. Army Corps of Engineers under Section 404 of the Federal Water Pollution Control Act, Amendments of 1972, 33 USC 1344.

(Ord. No. 2010-O-09, § 22.453, 10-12-2010; Ord. No. 2014-O-31, § 1, 8-26-2014)

Sec. 22-843. Plan commission.

- (a) The plan commission shall:
- (1) Oversee the functions of the office of the zoning administrator; and
 - (2) Review and advise the governing body on all proposed amendments to this article, maps and text.

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- (3) Publish adequate notice pursuant to Wis. Ch. 985, specifying the date, time, place, and subject of the public hearing.

(b) The plan commission shall not:

- (1) Grant variances to the terms of the article in place of action by the board of appeals; or
- (2) Amend the text or zoning maps in place of official action by the common council.

(Ord. No. 2010-O-09, § 22.454, 10-12-2010; Ord. No. 2014-O-31, § 1, 8-26-2014)

Sec. 22-84~~3~~3. Fees.

The common council shall set fees for the following and include in the annual budget appendix fee schedule.

- (1) Zoning permits.
- (2) Certificates of compliance.
- (3) Board of appeals.
- (4) Re-zonings, including PDDs.

~~(5) Conditional use permits.~~

(Ord. No. 2010-O-09, § 22.455, 10-12-2010; Ord. No. 2014-O-31, § 1, 8-26-2014)

Sec. 22-84~~5~~4. Board of appeals.

The board of appeals, created under Wis. Stats. § 62.23(7)(e) is hereby authorized or shall be appointed to act for the purposes of this article. The board shall exercise the powers conferred by Wisconsin Statutes and adopt rules for the conduct of their business as required by Wis. Stats. § 63.23(7)(e)3. The zoning administrator shall not be the secretary of the board.

(1) *Powers and duties.* The board of appeals shall:

- a. *Appeals.* 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 article;
- b. *Variances.* Hear and decide, upon appeal, a variance from the ordinance standards; and
- c. *Boundary disputes.* Hear and decide disputes concerning the district boundaries shown on the official floodplain zoning map.

(2) *Appeals to the board.*

- a. *Generally.* Appeals to the board of appeals may be taken by any person aggrieved or by an officer, department, board or bureau of the community affected by any order, requirement decision, or determination of the official whose decision is in question. Such appeals shall be taken within 60 days as provided by the rules of the board, by filing with the official whose decision is in question, and with the board of appeals, a notice of appeal specifying the reasons for the appeal. The official whose decision is in question shall transmit to the board all the documents constituting the record concerning the matter appealed.
- b. *Notice and hearing.*

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1. *Notice.* The board of appeals shall fix a reasonable time for a hearing on the appeal or application. Public notice shall be provided by publishing the appropriate notice as required by state law with the notice specifying the date, time and place of the hearing and the matters to come before the board. Notice shall be mailed to the parties in interest. Written notice shall be given to the department regional office at least ten days prior to hearings.
 2. *Hearing.* At the public hearing, any party may appear in person or by agent or attorney. The board shall resolve boundary disputes according to section 22-846~~5~~; decide variance applications according to section 22-847~~6~~; and/or decide appeals of permit denials according to section 22-848.
- c. *Decision.* A final decision regarding the appeal or variance application shall;
1. Be made within a reasonable time;
 2. Be sent to the Department Regional office within 10 days of the decision;
 3. Be a written determination signed by the chairman or secretary of the Board;
 4. State the specific facts which are the basis for the Board's decision;
 5. Either affirm, reverse, vary or modify the order, requirement, decision, or determination appealed, in whole or in part, dismiss the appeal for lack of jurisdiction or grant or deny the variance application; and
 6. Include the reasons for granting an appeal, describing the hardship demonstrated by the applicant in the case of a variance, clearly stated in the recorded minutes of the Board proceedings.

~~be made as soon as practical. Copies of all decisions shall be submitted to the department regional office within ten days of the decision. The final disposition of an application to the board of appeals shall be in the form of a written resolution or order signed by the chairman and secretary of the board. Such resolution shall state the specific facts which are the basis of the determination and shall either affirm, reverse, vary or modify the order, requirement, decision or determination appealed, in whole or in part, dismiss the application for lack of jurisdiction or prosecution, or grant the application. Such resolution shall also include the reasons for granting an appeal, describing the hardship demonstrated by the applicant in the case of a variance, clearly stated in the recorded minutes of the board proceedings.~~

(Ord. No. 2010-O-09, § 22.456, 10-12-2010; Ord. No. 2014-O-31, § 1, 8-26-2014)

Sec. 22-846~~5~~. Boundary disputes.

- (a) The following procedure shall be used by the board of appeals in hearing disputes concerning the floodplain district boundaries:
- (1) Where a floodplain district boundary is established by approximate or detailed floodplain studies, the regional flood elevations or profiles for the point in question shall be the governing factor in locating the district boundary. If no regional flood elevations or profiles are available to the board, other available evidence may be examined;
 - (2) The person contesting the location of the district boundary shall be given a reasonable opportunity to present arguments and technical evidence to the board of appeals; and

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- (3) Where it is determined that the district boundary is incorrectly mapped, the board should inform the ~~plan commission zoning committee~~ or person contesting the location of the boundary to petition the municipality for a map amendment according to section 22-851, Amendments.

~~(b) Where the flood profiles are based on established base flood elevations from a FIRM, FEMA must also approve any map amendment pursuant to section 22-851.~~

(Ord. No. 2010-O-09, § 22.457, 10-12-2010; Ord. No. 2014-O-31, § 1, 8-26-2014)

Sec. 22-8476. Variances.

- (a) The board of appeals may, upon appeal, grant a variance from the standards of this article where an applicant convincingly demonstrates that:
- (1) Literal enforcement of the article provisions will cause unnecessary hardship;
 - (2) The hardship is due to adoption of the floodplain article and special conditions unique to the property, and not common to a group of adjacent lots or premises (in such case the zoning ordinance or map must be amended);
 - (3) Such variance is not contrary to the public interest; and
 - (4) Such variance is consistent with the purpose of this article in section 22-785.
- (b) In addition to the criteria in subsection (a) of this section, to qualify for a variance under FEMA regulations, the following criteria must be met:
- (1) The variance shall not cause any increase in the regional flood elevation;
 - (2) Variances can only be granted for lots that are less than one-half acre and are contiguous to existing structures constructed below the RFE; ~~and~~
 - (3) Variances shall only be granted upon a showing of good and sufficient cause; ~~;~~
 - (4) ~~Variances shall be the minimum relief necessary, shall not cause increased risks to public safety or nuisances; ;~~
 - (5) ~~Variances shall not increase costs for rescue and relief efforts, cause fraud on or victimization of the public, and shall not be contrary to the purpose of the article; and-~~
 - (6) ~~Failure to grant the variance would result in exceptional hardship.~~
- (c) A variance shall not:
- (1) Grant or increase any use of property prohibited in the zoning district;
 - (2) Be granted for a hardship based solely on an economic gain or loss;
 - (3) Be granted for a hardship which is self-created;
 - (4) Damage the rights or property values of other persons in the area;
 - (5) Allow actions without the amendments to this article or maps required in section 22-851, Amendments; and
 - (6) Allow any alteration of an historic structure, including its use, which would preclude its continued designation as an historic structure.
- (d) When a floodplain variance is granted, the board shall notify the applicant in writing that it may increase risks to life and property and flood insurance premiums could increase up to \$25.00 per \$100.00 of coverage. A copy shall be maintained with the variance record.

(Ord. No. 2010-O-09, § 22.458, 10-12-2010; Ord. No. 2014-O-31, § 1, 8-26-2014)

Sec. 22-847. Conditional use permits.

- (a) ~~Required; pertinent information furnished by applicant necessary to determine proposed use. Any use listed as a conditional use in this article shall be permitted only after an application has been submitted to the zoning administrator and a conditional use permit has been granted by the plan commission, following the procedures in subsection (c) of this section. To secure information upon which to base its determination, the plan commission may require the applicant to furnish, in addition to the information required for a zoning permit, other pertinent information which is necessary to determine if the proposed use is consistent with the purpose of this article.~~
- (b) ~~Conditions. Upon consideration of the permit application and the standards applicable to the permitted uses in this article, the plan commission shall attach such conditions to a conditional use permit, in addition to those required elsewhere in this article, as are necessary to further the purposes of this article as listed in section 22-785. Such conditions may include specifications for, without limitation because of specific enumeration: type of shore cover; erosion protection measures; increased side yard setbacks; specific sewage disposal and water supply facilities; landscaping and planting screens; period of operation; operational control; sureties; deed restrictions; location of piers, docks, parking areas and signs; and type construction.~~
- (c) ~~Hearing applications for conditional use permits.~~
 - (1) ~~Notice and hearing. The plan commission shall fix a reasonable time for a hearing on the appeal or application. The plan commission shall give public notice by publishing a class 1 notice under Wis. Stats. ch. 985 specifying the date, time and place of the hearing and the matters to come before the board. Notice shall be mailed to the parties in interest. Written notice shall be given to the southern district office of the department at least ten days prior to hearings on proposed conditional uses. At the public hearing, any party may appear in person or by agent or attorney.~~
 - (2) ~~Decision. A decision regarding the appeal or application shall be made as soon as practical. Copies of all decisions on conditional uses shall be submitted to the appropriate district office of the department within ten days after they are granted or denied. The final disposition of an application to the plan commission shall be in the form of a written resolution or order signed by the chairman and secretary of the commission. Such resolution shall state the specific facts which are the basis of the determination and shall either affirm, reverse, vary or modify the order, requirement, decision or determination appealed, in whole or in part, dismiss the application for lack of jurisdiction or prosecution, or grant the application.~~

(Ord. No. 2010-O-09, § 22.459, 10-12-2010; Ord. No. 2014-O-31, § 1, 8-26-2014)

Sec. 22-848. To review appeals of permit denials.

- (a) The board of appeals shall review all data constituting the basis for the appeal of permit denial. This data may include:
 - (1) Permit application data listed in section 22-840;
 - (2) Floodway/floodfringe determination data in section 22-803(e);
 - (3) Data listed in section 22-801(c)(1)b where the applicant has not submitted this information to the zoning administrator; and
 - (4) Other data submitted with the application, or submitted to the board with the appeal.

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- (b) For appeals of all denied permits the board shall:
- (1) Follow the procedures of section 22-8454;
 - (2) Consider zoning agency recommendations; and
 - (3) Either uphold the denial or grant the appeal.
- (c) For appeals concerning increases in regional flood elevation the board shall:
- (1) Uphold the denial where the board agrees with the data showing an increase in flood elevation. Increases may only be allowed after amending the flood profile and map and all appropriate legal arrangements are made with all adversely affected property owners as per the requirements of section 22-851, Amendments.
 - (2) Grant the appeal where the board agrees that the data properly demonstrates that the project does not cause an increase provided no other reasons for denial exist.

(Ord. No. 2010-O-09, § 22.460, 10-12-2010; Ord. No. 2014-O-31, § 1, 8-26-2014)

Sec. 22-849. Floodproofing standards for nonconforming structures or uses.

- (a) No permit or variance shall be issued for a non-residential structure designed to be watertight below the regional flood elevation until the applicant submits a plan certified by a registered professional engineer or architect that the floodproofing measures will protect the structure or development to or above the flood protection elevation and submits a FEMA floodproofing certificate. Floodproofing is not an alternative to the development standards in this article including Secs. 22-799, 22-800, 22-801, 22-802, and 22-803.
- (b) For a structure designed to allow the entry of floodwaters, no permit or variance shall be issued until the applicant submits a plan either:
- (1) Certified by registered professional engineer or architect; or
 - (2) Meets or exceeds the following standards:
 - a. A minimum of two openings having a total net area of not less than one square inch for every square foot of enclosed area subject to flooding;
 - b. The bottom of all openings shall be no higher than one foot above grade; and
 - c. Openings may be equipped with screens, louvers, valves, or other coverings or devices provided that they permit the automatic entry and exist of floodwaters.
- (c) Floodproofing measures shall be designed, as appropriate, to:
- (1) Withstand flood pressures, depths, velocities, uplift and impact forces, and other regional flood factors;
 - (2) Protect structures to the flood protection elevation;
 - (3) Anchor structures to foundations to resist flotation and lateral movement;
 - (4) Minimize or eliminate infiltration of flood waters; and
 - (5) Minimize or eliminate discharges into flood waters; and-
 - (6) Placement of essential utilities to or above the flood protection elevation; and
 - (7) If any part of the foundation below the flood protection elevation is enclosed, the following standards shall apply:

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- a. The enclosed area shall be designed by a registered engineer or architect to allow for the efficient entry and exit of flood waters without human intervention. A minimum of two openings must be provided with a minimum net area of at least one square inch for every one square foot of the enclosed area. The lowest part of the opening can be no more than 12 inches above the adjacent grade;
 - b. The parts of the foundation located below the flood protection elevation must be constructed of flood-resistant materials;
 - c. Mechanical and utility equipment must be elevated or floodproofed to or above the flood protection elevation; and
 - d. The use must be limited to parking, building access or limited storage.

(Ord. No. 2010-O-09, § 22.461, 10-12-2010; Ord. No. 2014-O-31, § 1, 8-26-2014)

Sec. 22-850. Public information.

- (a) Place marks on bridges or buildings or other markers may be set to show the depth of inundation during the regional flood at appropriate locations within the floodplain.
- (b) All maps, engineering data and regulations shall be available be widely distributed.
- (c) Real estate transfers should show what floodplain district any real property is in.

(Ord. No. 2010-O-09, § 22.462, 10-12-2010; Ord. No. 2014-O-31, § 1, 8-26-2014)

Sec. 22-851. Amendments.

Obstructions or increases may only be permitted if amendments are made to this article, the official floodplain zoning maps, floodway lines and water surface profiles, in accordance with subsection (1) of this section.

In AE zones with a mapped floodway, no obstructions or increases shall be permitted unless the applicant receives a conditional letter of map revision from FEMA and amendments are made to this article, the official floodplain zoning maps, floodway lines and water surface profiles, in accordance with subsection (1) of this section. Any such alterations must be reviewed and approved by FEMA and the DNR.

In A zones increases equal to or greater than 1.0 foot may only be permitted if the applicant receives a conditional letter of map revision from FEMA and amendments are made to this article, the official floodplain maps, floodway lines, and water surface profiles, in accordance with subsection (1) of this section.

- (1) *Generally.* When amendments are required, the procedures in section 22-851, subsection (2) below, shall apply. Official amendments are required for any changes in the official floodway lines, water surface profiles, floodplain zoning maps or text of the floodplain overlay zoning article. Article amendments may also be made upon petition of any interested party according to the provisions of Wis. Stats. § 62.23. Such petitions shall include all necessary data required by sections 22-803(e) and 22-840. The governing body may change or supplement the floodplain zoning district boundaries and this article in the manner outlines in subsection (2) of this section. Actions which require an amendment to the article and/or submittal of a letter of map change (LOMC) include, but are not limited to, the following:
 - a. Any fill or floodway encroachment that obstructs flow causing any increase in the regional flood height;

- b. Any change to the floodplain boundaries and/or watercourse alterations on the FIRM;
- c. Any changes to any other officially adopted floodplain maps listed in 22-788(c);
- d. Any floodplain fill which raises the elevation of the filled area to a height at or above the flood protection elevation and is contiguous to land lying outside the floodplain;
- e. Correction of discrepancies between the water surface profiles and floodplain maps;
- f. Any upgrade to a floodplain zoning subchapter text required by Wis. Admin. Code § NR 116.05 or otherwise required by law, or for changes by the city; and
- g. All channel relocations and changes to the maps to alter floodway lines or to remove an area from the floodway or the floodfringe that is based on a base flood elevation from a FIRM requires prior approval by FEMA.

(2) *Procedures.* Article amendments may be made upon petition of any party according to the provisions of Wis. Stats. § 62.23. The petitions shall include all data required by sections 22-840 and 22-803(e). The zoning land-use permit shall not be issued until a letter of map revision is issued by FEMA for the proposed changes.

- a. The proposed amendment shall be referred to the plan commission for a public hearing and recommendation to the common council. The amendment and notice of public hearing shall be submitted to the department regional office for review prior to the hearing. The amendment procedure shall comply with the provisions of Wis. Stats. § 62.23.
- b. No amendments shall become effective until reviewed and approved by the department of natural resources.
- c. All persons petitioning for a map amendment that obstructs flow causing any increase in the regional flood height, shall obtain flooding easements, or other appropriate legal arrangements from all adversely affected property owners and notify local units of government before the amendment can be approved by the common council.

(Ord. No. 2010-O-09, § 22.463, 10-12-2010; Ord. No. 2014-O-31, § 1, 8-26-2014)

Sec. 22-852. Enforcement and penalties.

Any violation of the provisions of this article by any person shall be unlawful and shall be referred to the municipal attorney who shall expeditiously prosecute all such violators. See forfeiture/bond/deposit schedule for penalties for any person, firm, association, or corporation who violates or refuses to comply with any of the provisions of this article. Each day of continued violation shall constitute a separate offence. Every violation of this article is a public nuisance and the creation thereof may be enjoined and the maintenance thereof may be abated by action at suit of the municipality, the state, or any citizen thereof pursuant to Wis. Stats. § 87.30. Fines/penalties in the floodplain are limited to no more than \$50.00/day/violation under Wis. Stats. § 87.30.

(Ord. No. 2010-O-09, § 22.464, 10-12-2010; Ord. No. 2014-O-31, § 1, 8-26-2014)

Sec. 22-853. Definitions.

The following words, terms and phrases, when used in this article, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning. Unless specifically defined, words and phrases in this article shall have their common law meaning and shall be applied in accordance with their common usage. Words used in the present tense include the future, the singular number includes the plural and

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the plural number includes the singular. The term "may" is permissive; the term "shall" is mandatory and is not discretionary.

A *zones* means those areas shown on the official floodplain zoning map which would be inundated by the regional flood. These areas may be numbered or unnumbered A zones. The A zones may or may not be reflective of flood profiles, depending on the availability of data for a given area.

AH zone. See "Area of shallow flooding."

AO zone. See "Area of shallow flooding."

Accessory structure or use means a facility, structure, building or use which is accessory or incidental to the principal use of a property, structure or building. **An accessory structure shall not be used for human habitation.**

Alteration means an enhancement, upgrading or substantial change or modifications other than an addition or repair to a dwelling or to electrical, plumbing, heating, ventilating, air conditioning and other systems within a structure.

Area of shallow flooding means a designated AO, AH, AR/AO, AR/AH, or VO zone on a community's flood insurance rate map (FIRM) with a one percent or greater annual chance of flooding to an average depth of one to three feet where a clearly defined channel does not exist, where the path of flooding is unpredictable, and where velocity flood may be evident. Such flooding is characterized by ponding or sheet flow.

Base flood means the flood having a one percent chance of being equaled or exceeded in any given year, as published by FEMA as part of a FIS and depicted on a FIRM.

Basement means any enclosed area of a building having its floor subgrade, i.e., below ground level, on all sides.

Building. See "Structure."

Bulkhead line means a geographic line along a reach of navigable water that has been adopted by a municipal ordinance and approved by the department pursuant to Wis. Stats. § 30.11, and which allows specified filling between the bulkhead line and the original ordinary highwater mark, except where such filling is prohibited by the floodway provisions of this article.

Campground means any parcel of land which is designed, maintained, intended or used for the purpose of providing sites for nonpermanent overnight use by four or more **mobile recreational vehicles and/or** camping units, or which is advertised or represented as a camping area.

Camping unit means any portable device, no more than 400 square feet in area, used as a temporary shelter, including but not limited to a camping trailer, motor home, bus, van, pick-up truck, or tent that is fully licensed, if required, and ready for highway use.

Certificate of compliance means a certification that construction and the use of land or a building, the elevation of fill or the lowest floor of a structure is in compliance with all of the provisions of this article.

Channel means a natural or artificial watercourse with definite bed and banks to confine and conduct normal flow of water.

Crawlways or crawl space means an enclosed area below the first usable floor of a building, generally less than five feet in height, used for access to plumbing and electrical utilities.

Deck means an unenclosed exterior structure that has no roof or sides, ~~but~~ and has a permeable floor which allows the infiltration of precipitation.

Department means the Wisconsin Department of Natural Resources.

Development means any artificial change to improved or unimproved real estate, including, but not limited to, the construction of buildings, structures or accessory structures; the construction of additions or alterations to

buildings, structures or accessory structures, the repair of any damaged structure or the improvement or renovation of any structure, regardless of percentage of damage or improvement; the placement of buildings or structures; subdivision layout and site preparation; mining, dredging, filling grading, paving, excavation or drilling operations; the storage, deposition or extraction of materials or equipment; and the installation, repair or removal of public or private sewage disposal systems or water supply facilities.

Dry land access means a vehicular access route which is above the regional flood elevation and which connects land located in the floodplain to land outside the floodplain, such as a road with its surface above regional flood elevation and wide enough for wheeled rescue and relief vehicles.

Encroachment means any fill, structure, equipment, use or development in the floodway.

Federal Emergency Management Agency (FEMA) means the federal agency that administers the National Flood Insurance Program.

Flood or flooding means a general and temporary condition of partial or complete inundation of normally dry land areas caused by one of the following conditions: the overflow or rise of inland waters; the rapid accumulation or runoff of surface waters from any source; the inundation caused by waves or currents of water exceeding anticipated cyclical levels along the shore of Lake Michigan or Lake Superior; or the sudden increase caused by an unusually high water level in a natural body of water, accompanied by a severe storm, or by an unanticipated force of nature, such as a seiche, or by some similarly unusual event.

Flood frequency means the probability of a flood occurrence which is determined from statistical analyses. The frequency of a particular flood event is usually expressed as occurring, on the average, once in a specified number of years or as a percent chance of occurring in any given year.

Flood hazard boundary map means a map designating approximate flood hazard areas. Flood hazard areas are designated as unnumbered A zones and do not contain floodway lines or regional flood elevations. This map forms the basis for both the regulatory and insurance aspects of the National Flood Insurance Program (NFIP) until superseded by a flood insurance study and a flood insurance rate map.

Flood insurance rate map (FIRM) means a map of a community on which the Federal Insurance Administration has delineated both the floodplain and the risk premium zones applicable to the community. This map can only be amended by the Federal Emergency Management Agency.

Flood insurance study means a technical engineering examination, evaluation, and determination of the local flood hazard areas. It provides maps designating those areas affected by the regional flood and provides both flood insurance rate zones and base flood elevations and may provide floodway lines. The flood hazard areas are designated as numbered and unnumbered A zones. Flood insurance rate maps, that accompany the flood insurance study, for the basis for both the regulatory and the insurance aspects of the National Flood Insurance Program.

Flood profile means a graph or a longitudinal profile line showing the relationship of the water surface elevation of a flood event to locations of land surface elevations along a stream or river.

Flood protection elevation means an elevation of two feet of freeboard above the water surface profile elevation designated for the regional flood. Also see "freeboard."

Flood storage means those floodplain areas where storage of floodwaters has been taken into account during analysis in reducing the regional flood discharge.

Floodfringe means the portion of the floodplain outside of the floodway which is covered by floodwaters during the regional flood and associated with standing water rather than flowing water.

Floodplain means land which has been or may be covered by floodwater during the regional flood. It includes the floodway and the floodfringe, and may include other designated floodplain areas for regulatory purposes.

Floodplain island means a natural geologic land formation within the floodplain that is surrounded, but not covered, by floodwater during the regional flood.

Floodplain management means policy and procedures to ensure wise use of floodplains, including mapping and engineering, mitigation, education, and administration and enforcement of floodplain regulations.

Floodproofing means any combination of structural provisions, changes or adjustments to properties and structures, water and sanitary facilities and contents of buildings subject to flooding for the purpose of reducing or eliminating flood damage.

Floodway means the channel of a river or stream and those portions of the floodplain adjoining the channel required to carry the regional flood discharge.

Freeboard means a safety factor expressed in terms of a specified number of feet above a calculated flood level. Freeboard compensates for any factors that cause flood heights greater than those calculated, including ice jams, debris accumulation, wave action, obstruction of bridge openings and floodways, the effects of watershed urbanization, loss of flood storage areas due to development and aggregation of the river or stream bed.

Habitable structure means any structure, or portion thereof used or designed for human habitation.

Hearing notice means publication or posting meeting the requirements of Wis. Stats. ch. 985. For appeals, a class 1 notice, published once at least one week (seven days) before the hearing, is required. For all zoning ordinances and amendments, a class 2 notice, published twice, once each week consecutively, the last at least a week (seven days) before the hearing. Local ordinances or bylaws may require additional notice, exceeding these minimums.

High flood damage potential means damage that could result from flooding that includes any danger to life or health or any significant economic loss to a structure or building and its contents.

Highest adjacent grade means the highest natural elevation of the ground surface prior to construction next to the proposed walls of a structure.

Historic structure means any structure that is **either**:

- (1) Listed individually in the National Register of Historic Places or preliminarily determined by the secretary of the interior as meeting the requirements for individual listing on the National Register.
- (2) Certified or preliminarily determined by the secretary of the interior as contributing to the historical significance of a registered historic district or a district preliminarily determined by the secretary to qualify as a registered historic district.
- (3) Individually listed on a state inventory of historic places in states with historic preservation programs which have been approved by the secretary of the interior.
- (4) Individually listed on a local inventory of historic places in communities with historic preservation programs that have been certified either by an approved state program, as determined by the secretary of the interior, or by the secretary of the interior in states without approved programs.

Increase in regional flood height means a calculated upward rise in the regional flood elevation, greater than 0.00 foot, based on a comparison of existing conditions and proposed conditions which is directly attributable to development in the floodplain but not attributable to manipulation of mathematical variables such as roughness factors, expansion and contraction coefficients and discharge.

Land use means any nonstructural use made of unimproved or improved real estate. Also see "Development."

Lowest adjacent grade means the elevation of the lowest ground surface that touches any of the exterior walls of a building.

Lowest floor means the lowest floor of the lowest enclosed area (including basement). An unfinished or flood resistant enclosure, usable solely for parking of vehicles, building access or storage in an area other than a basement area is not considered a building's lowest floor; provided that such enclosure is not built so as to render the structure in violation of the applicable non-elevation design requirements of 44 CFR 60.3.

Maintenance means the act or process of **ordinary upkeep or repairs** ~~restoring to original soundness~~, including redecorating, refinishing, non structural repairs, or the replacement of existing fixtures, systems or equipment with equivalent fixtures, systems or structures.

Manufactured home means a structure transportable in one or more sections, which is built on a permanent chassis and is designed to be used with or without a permanent foundation when connected to required utilities. The term "manufactured home" includes a mobile home but does not include a "mobile recreational vehicle."

Mobile/manufactured home park or subdivision means a parcel (or contiguous parcels) of land, divided into two or more manufactured home lots for rent or sale.

Mobile/manufactured home park or subdivision, existing means a parcel of land divided into two or more manufactured home lots for rent or sale, on which the construction of facilities for servicing the lots is completed before the effective date of this article. At a minimum, this would include the installation of utilities, the construction of streets and either final site grading or the pouring of concrete pads.

Mobile/manufactured home park, expansion to existing means the preparation of additional sites by the construction of facilities for servicing the lots on which the manufactured homes are to be affixed. This includes installation of utilities, construction of streets and either final site grading, or the pouring of concrete pads.

Mobile recreational vehicle means a vehicle which is built on a single chassis, 400 square feet or less when measured at the largest horizontal projection, designed to be self-propelled, carried or permanently towable by a licensed, light-duty vehicle, is licensed for highway use if registration is required and is designed primarily not for use as permanent dwelling, but as temporary living quarters for recreational, camping, travel or seasonal use. Manufactured homes that are towed or carried onto a parcel of land, but do not remain capable of being towed or carried, including park model homes, do not fall within the definition of "mobile recreational vehicles."

Model, corrected effective means a hydraulic engineering model that corrects any errors that occur in the duplicate effective model, adds any additional cross sections to the duplicate effective model, or incorporates more detailed topographic information than that used in the current effective model.

Model, duplicate effective means a copy of the hydraulic analysis used in the effective FIS and referred to as the effective model.

Model, effective means the hydraulic engineering model that was used to produce the current effective flood insurance study.

Model, existing (pre-project) means a modification of the duplicate effective model or corrected effective model to reflect any man-made modifications that have occurred within the floodplain since the date of the effective model but prior to the construction of the project for which the revision is being requested. If no modification has occurred since the date of the effective model, then this model would be identical to the corrected effective model or duplicate effective model.

Model, revised (post-project) means a modification of the existing or pre-project conditions model, duplicate effective model or corrected effective model to reflect revised or post-project conditions.

Municipality or municipal means the county, city or village governmental units enacting, administering and enforcing this zoning ordinance.

NAVD or North American Vertical Datum means elevations referenced to mean sea level datum, 1988 adjustment.

New construction means, for floodplain management purposes, structures for which the start of construction commenced on or after the effective date of floodplain zoning regulations adopted by this community and includes any subsequent improvements to such structures. For the purpose of determining flood insurance rates, it includes any structures for which the "start of construction" commenced on or after the effective date of an initial FIRM or after December 31, 1974, whichever is later, and includes any subsequent improvements to such structures.

Non-flood disaster means a fire or an ice storm, tornado, windstorm, mudslide, or other destructive act of nature, but excludes a flood.

NGVD or National Geodetic Vertical Datum means elevations referenced to mean sea level datum, 1929 adjustment.

Nonconforming structure means an existing lawful structure or building which is not in conformity with the dimensional or structural requirements of this article for the area of the floodplain which it occupies. For example, an existing residential structure in the floodfringe district is a conforming use. However, if the first floor is lower than the flood protection elevation, the structure is nonconforming.

Nonconforming use means an existing lawful use or accessory use of a structure or building which is not in conformity with the provisions of this article for the area of the floodplain which it occupies, such as a residence in the floodway.

Obstruction to flow means any development which blocks the conveyance of floodwaters such that this development alone or together with any future development will cause an increase in regional flood height.

Official floodplain zoning map means that map, adopted and made part of this chapter, as described in section 22-788, which has been approved by the department and FEMA.

Open space use means those uses having a relatively low flood damage potential and not involving structures.

Ordinary highwater mark means the point on the bank or shore up to which the presence and action of surface water is so continuous as to leave a distinctive mark such as by erosion, destruction or prevention of terrestrial vegetation, predominance of aquatic vegetation, or other easily recognized characteristic.

Person means an individual, or group of individuals, corporation, partnership, association, municipality or state agency.

Private sewage system means a sewage treatment and disposal system serving one structure with a septic tank and soil absorption field located on the same parcel as the structure. It also means an alternative sewage system approved by the department of safety and professional services, including a substitute for the septic tank or soil absorption field, a holding tank, a system serving more than one structure or a system located on a different parcel than the structure.

Public utilities means those utilities using underground or overhead transmission lines such as electric, telephone and telegraph, and distribution and collection systems such as water, sanitary sewer and storm sewer.

Reasonably safe from flooding means base floodwaters will not inundate the land or damage structures to be removed from the floodplain and that any subsurface waters related to the base flood will not damage existing or proposed buildings.

Regional flood means a flood determined to be representative of large floods known to have occurred in the state. A regional flood is a flood with a one percent chance of being equaled or exceeded in any given year, and if depicted on the FIRM, the RFE is equivalent to the BFE.

Start of construction means the date the building permit was issued, provided the actual start of construction, repair, reconstruction, rehabilitation, addition, placement, or other improvement was within 180 days of the permit date. The actual start means either the first placement of permanent construction on a site, such as the pouring of slab or footings, the installation of piles, the construction of columns, or any work beyond

initial excavation, or the placement of a manufactured home on a foundation. Permanent construction does not include land preparation, such as clearing, grading and filling, nor does it include the installation of streets and/or walkways, nor does it include excavation for a basement, footings, piers or foundation or the erection of temporary forms, nor does it include the installation on the property of accessory buildings, such as garages or sheds not occupied as dwelling units or not part of the main structure. For an alteration, the actual start of construction means the first alteration of any wall, ceiling, floor or other structural part of a building, whether or not that alteration affects the external dimensions of the building.

Structure means any manmade object with form, shape and utility, either permanently or temporarily attached to, placed upon or set into the ground, stream bed or lakebed, including, but not limited to, roofed and walled buildings, gas or liquid storage tanks, bridges, dams and culverts.

Subdivision has the meaning given in Wis. Stats. § 236.02(12) defined as a division of a lot, parcel or tract of land by the owner thereof or the owner's agent for the purpose of sale or of building development, where the act of division creates five or more parcels or building sites of 1½ acres each or less in areas; or five or more parcels or building sites of 1½ acres each or less in area are created by successive divisions within a period of five years.

Substantial damage means damage of any origin sustained by a structure, whereby the cost of restoring the structure to its pre-damaged condition would equal or exceed 50 percent of the equalized assessed value of the structure before the damage occurred.

Substantial improvement means any repair, reconstruction, rehabilitation, addition or improvement of a building or structure, the cost of which equals or exceeds 50 percent of the equalized assessed value of the structure before the improvement or repair is started. If the structure has sustained substantial damage, any repairs are considered substantial improvements regardless of the work performed. The term does not, however, include either any project for the improvement of a building required to correct existing health, sanitary or safety code violations identified by the building official and that are the minimum necessary to assure safe living conditions; or any alteration of a historic structure provided that the alteration will not preclude the structure's continued designation as a historic structure.

Unnecessary hardship means where special conditions affecting a particular property which were not self-created have made strict conformity with restrictions governing areas, setbacks, frontage, height or density unnecessarily burdensome or unreasonable in light of the purposes of this article.

Variance means an authorization by the board of adjustment or appeals for the construction or maintenance of a building or structure in a manner which is inconsistent with dimensional standards (not uses) contained in the floodplain zoning ordinance.

Violation means the failure of a structure or other development to be fully compliant with the floodplain zoning ordinance. A structure or other development without required permits, lowest floor elevation documentation, floodproofing certificates or required floodway encroachment calculations is presumed to be in violation until such time as that documentation is provided.

Water surface profile means a graphical representation showing the elevation of the water surface of a watercourse for each position along a reach of river or stream at a certain flood flow. A water surface profile of the regional flood is used in regulating floodplain areas.

Watershed means the entire region contributing runoff or surface water to a watercourse or body of water.

Well means an excavation opening in the ground made by digging, boring, drilling, driving or other methods, to obtain groundwater regardless of its intended use.

(Ord. No. 2010-O-09, § 22.470, 10-12-2010; Ord. No. 2014-O-31, § 1, 8-26-2014)

ARTICLE X. FLOODPLAIN OVERLAY ZONING

DIVISION 1. GENERALLY

Sec. 22-783. Statutory authorization.

This article is adopted pursuant to the authorization in Wis. Stats. §§ 61.35 and 62.23, and the requirements in Wis. Stats. § 87.30.

(Ord. No. 2010-O-09, § 22.401, 10-12-2010; Ord. No. 2014-O-31, § 1, 8-26-2014)

Sec. 22-784. Findings of fact.

The uncontrolled development and use of the floodplains, rivers and streams, and the pollution of navigable waters of the city would impair the public health, safety, convenience, general welfare and the tax base. The state legislature has delegated responsibility to all municipalities to further the maintenance of safe and healthful conditions; prevent and control water pollution; protect spawning grounds, fish and aquatic life; control building sites, placement of structures and land uses; and preserve shore cover and natural beauty.

(Ord. No. 2010-O-09, § 22.402, 10-12-2010; Ord. No. 2014-O-31, § 1, 8-26-2014)

Sec. 22-785. Purpose.

This subchapter is intended to regulate floodplain development to:

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

(Ord. No. 2010-O-09, § 22.403, 10-12-2010; Ord. No. 2014-O-31, § 1, 8-26-2014)

Sec. 22-786. Title.

This article shall be known as the Floodplain Overlay Zoning for the City of Fitchburg, Wisconsin.
(Ord. No. 2010-O-09, § 22.404, 10-12-2010; Ord. No. 2014-O-31, § 1, 8-26-2014)

Sec. 22-787. Areas to be regulated.

This article regulates all areas of special flood hazard identified as zones A, AO, AH, A1-30, AE on the Flood Insurance Rate Map. Additional areas identified on maps approved by the Department of Natural Resources (DNR) and local community may also be regulated under the provisions of the article, where applicable.
(Ord. No. 2010-O-09, § 22.411, 10-12-2010; Ord. No. 2014-O-31, § 1, 8-26-2014)

Sec. 22-788. Official maps and revisions.

- (a) Special Flood Hazard Areas (SFHA) are designated as A, AE, AH, AO or A1-30 on the Flood Insurance Rate Maps based on flood hazard analyses summarized in the Flood Insurance Study (FIS) listed below. Additional flood hazard areas subject to regulation under this article are identified on maps based on studies approved by the DNR and listed below. These maps and revisions are on file in the office of the city planning department of the City of Fitchburg.
- (b) Official maps, based on the FIS:
Flood Insurance rate maps (FIRM) panel numbers 55025C0413G, 55025C0415G, 55025C0416G, 55025C0417G, 55025C0418G, 55025C0419G, 55025C0438G, 55025C0576G, 55025C0580G dated 01/02/2009. Flood Insurance Rate Map (FIRM) panel numbers 55025C0584H and 55025C0585H dated 09/17/2014. Flood Insurance Rate Map (FIRM) panel numbers 55025C0601G and 55025C0605G dated 01/02/2009. Flood insurance study (FIS) for Dane County dated 04/09/2025. Approved by the DNR and FEMA.
- (c) Official maps, based on other studies: Any maps referenced in this section must be approved by the DNR and be more restrictive than those based on the FIS at this site of the proposed development.
Dane County and Incorporated Areas Flood Storage Districts, Panels 25 and 26 effective 04/09/2025.
Prepared by the WDNR. Approved by the WDNR.

(Ord. No. 2010-O-09, § 22.412, 10-12-2010; Ord. No. 2014-O-31, § 1, 8-26-2014; Ord. No. 2016-O-08, § 1, 3-22-2016)

Sec. 22-789. Establishment of floodplain zoning districts.

The flood hazard areas regulated by this ordinance are divided into districts as follows:

- (1) The Floodway District (FW), is the channel of a river or stream and those portions of the floodplain adjoining the channel required to carry the regional floodwaters, within AE Zones as shown on the FIRM, or within A Zones shown on the FIRM when determined according to section 22-803(e) of this article.
- (2) The Floodfringe District (FF) is that portion of a riverine special flood hazard area outside the floodway within AE Zones on the FIRM, or, when floodway limits have been determined according to section 22-803(e) of this article within A Zones shown on the FIRM.

(3) The General Floodplain District (GFP) is those riverine areas that may be covered by floodwater during the regional flood in which a floodway boundary has not been delineated on the FIRM and also includes shallow flooding areas identified as AH and AO zones on the FIRM.

(4) The Flood Storage District (FSD) is that area of the floodplain where storage of floodwaters is calculated to reduce the regional flood discharge.

(Ord. No. 2010-O-09, § 22.413, 10-12-2010; Ord. No. 2014-O-31, § 1, 8-26-2014)

Sec. 22-790. Locating floodplain boundaries.

(a) Discrepancies between the exterior boundaries of zones A1-30, AE, AH, or A on the official floodplain zoning map and actual field conditions may be resolved using the criteria in this section in (1) and (2) below. If a significant difference exists, the map shall be amended according to section 22-851 of this article. The zoning administrator can rely on a boundary derived from a profile elevation to grant or deny a land use permit, whether or not a map amendment is required. The zoning administrator shall be responsible for documenting actual pre-development field conditions and the basis upon which the district boundary was determined. Disputes between the zoning administrator and the applicant over the district boundary line shall be settled according to section 22-846 and the criteria in (1) and (2) below. Where the flood profiles are based on established base flood elevations from a FIRM, FEMA must approve any map amendment or revision pursuant to section 22-851 of this article.

(1) If flood profiles exist, the map scale and the profile elevations shall determine the district boundary. The regional or base flood elevations shall govern if there are any discrepancies.

(2) Where flood profiles do not exist for projects, including any boundary of zone A or AO, the location of the boundary shall be determined by the map scale.

(Ord. No. 2010-O-09, § 22.414, 10-12-2010; Ord. No. 2014-O-31, § 1, 8-26-2014)

Sec. 22-791. Removal of lands from floodplain.

(a) Compliance with the provisions of this article shall not be grounds for removing lands from the floodplain unless it is filled at least two feet above the regional or base flood elevation, the fill is contiguous to lands outside the floodplain and the map is amended pursuant to section 22-851 of this article.

(b) The delineation of any of the Floodplain Districts may be revised by the community where natural or man-made changes have occurred and/or where more detailed studies have been conducted. However, prior to any such change, approval must be obtained from the Wisconsin Department of Natural Resources and Federal Emergency Management Agency. A completed Letter of Map Revision is a record of this approval. The zoning administrator shall not sign a community acknowledgement form unless all criteria set forth in the following paragraphs are met:

(1) The land and/or land around the structure must be filled at least two feet above the regional or base flood elevation;

(2) The fill must be contiguous to land outside the floodplain; Applicant shall obtain floodplain development permit before applying for a LOMR or LOMR-F;

(c) Removal of lands from the floodplain may also occur by operation of Wis. Stat. § 87.30(1)(e) if a property owner has obtained a letter of map amendment from the federal emergency management agency under 44 C.F.R. 70.

(Ord. No. 2010-O-09, § 22.415, 10-12-2010; Ord. No. 2014-O-31, § 1, 8-26-2014)

Sec. 22-792. Compliance; other permits.

- (a) No structure or use within area regulated by this ordinance shall hereafter be located, erected, constructed, reconstructed, repaired, extended, converted, enlarged, or altered without full compliance with the terms of these regulations and all other applicable federal, state, and local regulations that apply to uses within the jurisdiction of these regulations. (See division 2 of this article for the standards applicable to nonconforming uses.)
- (b) Failure to obtain a floodplain development permit shall be a violation of these regulations and shall be punishable in accordance with section 22-852.
- (c) Floodplain development permits issued on the basis of plans and applications approved by the Zoning Administrator authorize only the use, and arrangement, set forth in such plans and applications, or amendments thereto if approved by the Zoning Administrator. Use, arrangement, or construction contrary to that authorized shall be deemed in violations of these regulations and punishable in accordance with section 22-852.
- (d) It is the responsibility of the applicant to secure all other necessary permits from appropriate federal, state, and local agencies, including those required by the U.S. Army Corps of Engineers under Section 404 of the Federal Water Pollution Control Act amendments of 1972, 33 USC 1344.

(Ord. No. 2010-O-09, § 22.416, 10-12-2010; Ord. No. 2014-O-31, § 1, 8-26-2014)

Sec. 22-793. Municipalities and state agencies regulated.

Unless specifically exempted by law, all cities, villages, towns, and counties are required to comply with this article and obtain all necessary permits. State agencies are required to comply if Wis. Stats. § 13.48(13) applies. The construction, reconstruction, maintenance and repair of state highways and bridges by the Wisconsin Department of Transportation is exempt when Wis. Stats. § 30.2022 applies. Although exempt from a local zoning permit and permit fees, WisDOT must provide sufficient project documentation and analysis to ensure that the community is in compliance with federal, state, and local floodplain standards. If a local transportation project is located within a Zone A floodplain and is not a WisDOT project under Wis. Stats. § 30.2022, then the road project design documents (including appropriate detailed plans and profiles) may be sufficient to meet the requirements for issuance of a local floodplain permit if the following apply: The applicant provides documentation to the Zoning Administrator that the proposed project is a culvert replacement or bridge replacement under 20-foot span at the same location, the project is exempt from DNR permit under Wis. Stats. § 30.123(6)(d), the capacity is not decreased, the top road grade is not raised, and no floodway data is available from federal, state, or other source. If floodway data is available in the impacted area from a federal, state, or other source that existing data must be utilized by the applicant in the analysis of the project site.

(Ord. No. 2010-O-09, § 22.417, 10-12-2010; Ord. No. 2014-O-31, § 1, 8-26-2014)

Sec. 22-794. Abrogation and greater restrictions.

- (a) This article supersedes all the provisions of any municipal zoning ordinance enacted under Wis. Stats. § 62.23 or 87.30, which relate to floodplains. A more restrictive ordinance shall continue in full force and effect to the extent of the greater restrictions, but not otherwise.
- (b) This article is not intended to repeal, abrogate or impair any existing deed restrictions, covenants or easements. If this article imposes greater restrictions, the provisions of this article shall prevail.

(Ord. No. 2010-O-09, § 22.418, 10-12-2010; Ord. No. 2014-O-31, § 1, 8-26-2014)

Sec. 22-795. Interpretation.

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

(Ord. No. 2010-O-09, § 22.419, 10-12-2010; Ord. No. 2014-O-31, § 1, 8-26-2014)

Sec. 22-796. Warning and disclaimer of liability.

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

(Ord. No. 2010-O-09, § 22.420, 10-12-2010; Ord. No. 2014-O-31, § 1, 8-26-2014)

Sec. 22-797. Severability.

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

(Ord. No. 2010-O-09, § 22.421, 10-12-2010; Ord. No. 2014-O-31, § 1, 8-26-2014)

Sec. 22-798. Annexed areas for cities and villages.

The Dane County floodplain zoning provisions in effect on the date of annexation shall remain in effect and shall be enforced by the city for all annexed areas until the city adopts and enforces an ordinance which meets the requirements of Wis. Admin. Code ch. NR 116, and 44 CFR 59-72, National Flood Insurance Program (NFIP). These annexed lands are described on the city's official zoning map. County floodplain zoning provisions are incorporated by reference for the purpose of administering this section and are on file in the office of the city's zoning administrator. All plats or maps of annexation shall show the regional flood elevation and the floodway location.

(Ord. No. 2010-O-09, § 22.422, 10-12-2010; Ord. No. 2014-O-31, § 1, 8-26-2014)

Sec. 22-799. General development standards.

The community shall review all permit applications to determine whether proposed building sites will be reasonably safe from flooding and assure that all necessary permits have been received from those governmental agencies whose approval is required by federal or state law.

(a) If a proposed building site is in a flood-prone area, all new construction and substantial improvements shall:

- (1) be designed and anchored to prevent flotation, collapse, or lateral movement of the structure resulting from hydrodynamic and hydrostatic loads, including the effects of buoyancy;
- (2) be constructed with flood-resistant materials;
- (3) be constructed by methods and practices to minimize flood damages; and

(4) be constructed to ensure that utility and mechanical equipment is elevated to or above the flood protection elevation.

(b) If a subdivision or other proposed new development is in a flood-prone area, the community shall assure that:

(1) such a proposed subdivision or other proposed new development is consistent with the need to minimize flood damage within the flood-prone area;

(2) public utilities and facilities such as sewer, gas, electrical, and water systems are located and constructed to minimize or eliminate flood damage; and

(3) adequate drainage is provided to reduce exposure to flood hazards.

All subdivision proposals (including manufactured home parks) shall include regional flood elevation and floodway data for any development that meets the subdivision definition of this article and all other requirements in section 22-840. Adequate drainage shall be provided to reduce exposure to flood hazards and all public utilities and facilities, such as sewer, gas, electrical, and water systems are located and constructed to minimize or eliminate flood damages.

(Ord. No. 2010-O-09, § 22.423, 10-12-2010; Ord. No. 2014-O-31, § 1, 8-26-2014)

Sec. 22-800. General provisions for all floodplain districts.

(a) *Hydraulic and hydrologic analyses.*

(1) No floodplain development shall:

a. Obstruct flow, defined as development which blocks the conveyance of floodwaters by itself or with other development, causing any increase in the regional flood height; or

b. Cause any increase in the regional flood height due to floodplain storage area lost.

(2) The zoning administrator shall deny permits if it is determined the proposed development will obstruct flow or cause any increase in the regional flood height, based on the officially adopted FIRM or other adopted map, unless the provisions of section 22-851, Amendments, are met.

(b) *Watercourse alterations.*

(1) No land use permit to alter or relocate a watercourse in a mapped floodplain shall be issued until the local official has notified in writing all adjacent municipalities, the department and FEMA regional offices, and required the applicant to secure all necessary state and federal permits. The standards of subsection (a) of this section must be met and the flood carrying capacity within the altered or relocated watercourse shall be maintained.

(2) As soon as is practicable, but no later than six months after the date of the watercourse alteration or relocation and pursuant to section 22-851, Amendments, the community shall apply for a letter of map revision (LOMR) from FEMA. Any such alterations must be reviewed and approved by FEMA and the DNR through the LOMC process.

(c) *State statute chapters regarding development.* Development which requires a permit from the department, under Wis. Stats. chs. 30 and 31, such as docks, piers, wharves, bridges, culverts, dams and navigational aids, may be allowed if the necessary permits are obtained and amendments to the floodplain zoning article are made according to section 22-851, Amendments.

(d) *Public or private campgrounds.* Public or private campgrounds shall have a low flood damage potential and shall meet the following provisions:

(1) The campground is approved by the Department of Agriculture, Trade and Consumer Protection;

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- (2) A land use permit for the campground is issued by the zoning administrator;
 - (3) The character of the river system and the campground elevation are such that a 72-hour warning of an impending flood can be given to all campground occupants;
 - (4) There is an adequate flood warning procedure for the campground that offers the minimum notice required under this section to all persons in the campground. This procedure shall include a written agreement between the campground owner, the floodplain zoning agency or zoning administrator, the municipal emergency government coordinator and the chief law enforcement official which specifies the flood elevation at which evacuation shall occur, personnel responsible for monitoring flood elevations, types of warning systems to be used and the procedures for notifying at-risk parties, and the methods and personnel responsible for conducting the evacuation;
 - (5) This agreement shall be for no more than one calendar year, at which time the agreement shall be reviewed and updated by the officials identified in subsection (4) of this section to remain in compliance with all applicable regulations, including those of the state Department of Agriculture, Trade and Consumer Protection and all other applicable regulations;
 - (6) All mobile recreational vehicles placed on the site must meet one of the following:
 - a. be fully licensed, if required, and ready for highway use; or
 - b. not occupy any site in the campground for more than 180 consecutive days, at which time the mobile recreational vehicle must be removed from the floodplain for a minimum of 24 hours; or
 - c. Meet the requirements in either sections 22-801, 22-802, and 22-803 for the floodplain district in which the structure is located;

A mobile recreational vehicle, defined in this section, is ready for highway use if it is on its wheel or jacking system, is attached to the site only by quick-disconnect utilities and security devices and has no permanently attached additions.
 - (7) All mobile recreational vehicles that remain on site for more than 30 days shall be issued a limited authorization by the campground operator, a written copy of which is kept on file at the campground. Such authorization shall allow placement of a mobile recreational vehicle consistent with section 22-800(d)(6) and shall ensure compliance with all the provisions of this section.
 - (8) The municipality shall monitor the limited authorizations issued by the campground operator to ensure compliance with the terms of this section.
 - (9) The campground shall have signs clearly posted at all entrances warning of the flood hazard and the procedures for evacuation when a flood warning is issued.
 - (10) All service facilities, including but not limited to refuse collection, electrical service, gas lines, propane tanks, sewage systems and wells shall be properly anchored and placed at or floodproofed to the flood protection elevation.
 - (11) Standards for structures in a campground:
 - a. All structures must comply with section 22-800(d) or meet the applicable requirements in sections 22-801, 22-802, and 22-803 for the floodplain district in which the structures is located;
 - b. Deck/landing – a portable landing may be allowed for mobile recreational unit for each entry provided that the landing is not permanently attached to the ground or mobile recreational unit, is no more than 200 square feet in size, shall be portable, contain no walls or roof, and can be removed from the campground by a truck and/or trailer. Sections of such portable landings may be placed together to form a single deck not greater than 200 square feet at one entry point. Provisions for the removal of these temporary landings during flood events must be addressed within the written

agreement with municipality compliant with section 22-800(d)(4). Any such deck/landing structure may be constructed at elevations lower than the flood protection elevation but must not obstruct flow of flood waters or cause any increase in flood levels during the occurrence of the regional flood.

- c. Decks/patios that are constructed completely at grade may be allowed but must also comply with applicable shoreland zoning standards.
- d. Camping equipment and appurtenant equipment in the campground may be allowed provided that the equipment is not permanently attached to the ground or mobile recreational vehicle, is not used as a habitable structures, and must not obstruct flow of flood waters or cause any increase in flood levels during the occurrence of the regional flood. Provisions for the removal of this equipment during flooding events shall be addressed within the written agreement with the municipality compliant with section 22-800(d)(4).
- e. Once a flood warning in the written agreement has been issued for the campground, the campground owner or the designated operator shall ensure that all persons, mobile recreational vehicles, decks, camping equipment and appurtenant equipment in the campground shall be evacuated within the timelines specified within the written agreement with the municipality compliant with section 22-800(d)(4).

(12) A zoning use permit shall be obtained as a provided under section 22-840 before any development; repair, modification, or addition to an existing structure; or change in the use of building or structure, including sewer and water facilities, may be initiated.

(Ord. No. 2010-O-09, § 22.430, 10-12-2010; Ord. No. 2014-O-31, § 1, 8-26-2014)

Sec. 22-801. FW Floodway District.

- (a) *Applicability.* This section applies to all floodway areas on the floodplain-zoning maps and those identified pursuant to section 22-803(e).
- (b) *Permitted uses.* The following open space uses are allowed within the Floodway District, and in the floodway areas of the General Floodplain District, provided that they are not prohibited by any other regulations, that the standards contained in subsections (c) and (d) of this section are met, and that all permits or certificates have been issued according to sections 22-840 and 22-841:
 - (1) Agricultural uses, such as farming, outdoor plant nurseries, horticulture, viticulture and wild crop harvesting.
 - (2) Nonstructural industrial and commercial uses, such as loading areas, parking areas and airport landing strips.
 - (3) Nonstructural recreational uses, such as golf courses, tennis courts, archery ranges, picnic grounds, boat ramps, swimming areas, parks, wildlife and nature preserves, game farms, fish hatcheries, shooting, trap and skeet activities, hunting and fishing areas, and hiking and horseback riding trails subject to the fill limitations of section 22-801(c)(4).
 - (4) Uses or structures accessory to open space uses, or classified as historic structures that comply with subsections (c) and (d) of this section.
 - (5) Extraction of sand, gravel or other materials according to subsection (c)(4) of this section.
 - (6) Functionally water-dependent uses, such as docks, piers or wharves, dams, flowage areas, culverts, navigational aids and river crossings of transmission lines, and pipelines that comply with Wis. Stats. chs. 30 and 31.

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- (7) Public utilities, streets and bridges that comply with subsection (c)(3) of this section.
 - (8) Portable latrines that are removed prior to flooding and systems associated with recreational areas and Department-approved campgrounds that meet the applicable provisions of local ordinances and Wis. Adm. Code ch. SPS 383.
 - (9) Public or private wells used to obtain potable water for recreational areas that meet the requirements of local ordinances and Wis. Adm. Code chs. NR 811 and NR 812.
 - (10) Wastewater treatment ponds or facilities permitted under Wis. Adm. Code s. NR 110.15(3)(b).
 - (11) Sanitary sewer or water supply lines to service existing or proposed development located outside the floodway that complies with the regulations for the floodplain area occupied.
- (c) *Standards for developments in the floodway.*
- (1) General.
 - a. Any development in the floodway shall comply with section 22-800 and have a low flood damage potential;
 - b. Applicants shall provide an analysis calculating the effects of the proposal on the regional flood height to determine the effects of the proposal according to sections 22-800(a) and 22.840. The analysis must be completed by a registered professional engineer in the state of Wisconsin.
 - c. Any encroachment in the regulatory floodway is prohibited unless the data submitted for sub-section (c)(1)b. above demonstrates that the encroachment will cause no increase in flood elevations in flood events up to the base flood at any location or removes the encroached area from the regulatory floodway as provided in section 22-791.
 - (2) Structures. Structures accessory to permanent open space uses, including utility and sanitary facilities, or functionally dependent on a waterfront location may be allowed by permit if the structures comply with the following criteria:
 - a. Not designed for human habitation, does not have a high flood damage potential and is constructed to minimize flood damage;
 - b. Shall either have the lowest floor elevated to or above the flood protection elevation or shall meet all the following standards:
 1. Have the lowest floor elevated to or above the regional flood elevation and be dry floodproofed so that the structure is watertight with walls substantially impermeable to the passage of water and completely dry to the flood protection elevation without human intervention during flooding;
 2. Have structural components capable of meeting all provisions of section 22-801(c)(2)g. below; and
 3. Be certified by a registered professional engineer or architect, through the use of a Federal Emergency Management Agency Floodproofing Certificate, that the design and methods of construction are in accordance with 22-801(c)(2)g. below.
 - c. Mechanical and utility equipment must be elevated to or above the flood protection elevation;
 - d. Must be anchored to resist flotation, collapse, and lateral movement; and
 - e. It must not obstruct flow of floodwaters or cause any increase in flood levels during the occurrence of the regional flood.

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- f. For a structure designed to allow the automatic entry of floodwaters below the Regional Flood Elevation, the applicant shall submit a plan that meets section 22-801(2)a. through 22-801(2)e. and meets or exceeds the following standards:
1. The lowest floor must be elevated to or above the regional flood elevation;
 2. a minimum of two openings having a total net area of not less than one square inch for every square foot of enclosed area subject to flooding;
 3. the bottom of all openings shall be no higher than one foot above the lowest adjacent grade; openings may be equipped with screens, louvers, valves, or other coverings or devices provided that they permit the automatic entry and exit of floodwaters, otherwise must remain open; and
 4. The use must be limited to parking, building access or limited storage.
- g. Certification: Whenever floodproofing measures are required, a registered professional engineer or architect shall certify that the following floodproofing measures will be utilized, where appropriate, and are adequate to withstand the flood depths, pressures, velocities, impact and uplift forces and other factors associated with the regional flood:
1. Reinforcement of floors and walls to resist rupture, collapse, or lateral movement caused by water pressures or debris buildup;
 2. Construction of wells, water supply systems and waste treatment systems so as to prevent the entrance of flood waters in such systems and must be in accordance with provisions in sections 22-801(d)(4) and 22-801(d)(5)
 3. Subsurface drainage systems to relieve external pressures on foundation walls and basement floors;
 4. Cutoff valves on sewer lines or the elimination of gravity flow basement drains; and
 5. Placement of utilities to or above the flood protection elevation.
- (3) Public utilities, streets and bridges may be allowed by permit, provided that:
- a. Adequate floodproofing measures are provided to the flood protection elevation; and
 - b. Construction meets the development standards of section 22-800(a).
- (4) Fills or deposition of materials may be allowed by permit, if:
- a. The requirements of section 22-800(a) are met;
 - b. No material is deposited in navigable waters unless a permit is issued by the Department pursuant to Wis. Stats. ch. 30 and a permit pursuant to Section 404 of the Federal Water Pollution Control Act, amendments of 1972, 33 USC 1344 has been issued, if applicable, and all other requirements have been met;
 - c. The fill or other materials will be protected against erosion by riprap, vegetative cover, sheet piling or bulkheading; and
 - d. The fill is not classified as a solid or hazardous material.
- (d) *Prohibited uses.* All uses not listed as permitted uses in subsection (b) of this section are prohibited, including the following uses:
- (1) Habitable structures, structures with high flood damage potential, or those not associated with permanent open-space uses;

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- (2) Storing materials that are buoyant, flammable, explosive, injurious to property, water quality or human, animal, plant, fish or other aquatic life;
 - (3) Uses not in harmony with or detrimental to uses permitted in the adjoining districts;
 - (4) Any private or public sewage systems except portable latrines that are removed prior to flooding, and systems associated with recreational areas and department-approved campgrounds, that meet the applicable provisions of local ordinances and Wis. Admin. Code SPS 383;
 - (5) All wells, whether public or private, which are used to obtain potable water, except those for recreational areas that meet the requirements of local ordinances and Wis. Admin. Code chs. NR 811 and 812;
 - (6) Any solid or hazardous waste disposal sites;
 - (7) Any wastewater treatment ponds or facilities, except those permitted under Wis. Admin. Code § NR 110.15(3)(b); and
 - (8) Any sanitary sewer or water supply lines, except those to service existing or proposed development located outside the floodway, which complies with the regulations for the floodplain area occupied.

(Ord. No. 2010-O-09, § 22.431, 10-12-2010; Ord. No. 2014-O-31, § 1, 8-26-2014)

Sec. 22-802. FF Floodfringe District.

- (a) *Applicability.* This section applies to all floodfringe areas shown on the floodplain zoning maps and those identified pursuant to section 22-803(e).
- (b) *Permitted uses.* Any structure, land use, or development, including accessory structures and uses, is allowed within the Floodfringe District, provided that the standards contained in subsection (c) of this section are met, that the use is not prohibited by this article or any other ordinance or local, state, or federal regulation and that all permits or certificates required under this article have been secured by the applicant.
- (c) *Standards for development in the floodfringe.* All of the provisions of section 22-800 shall apply in addition to the following requirements according to the use requested. Any existing structure in the floodfringe must meet the requirements of section 22-834.
 - (1) *Residential uses.* Any structure, including a manufactured home, which is to be newly constructed, or moved into the floodfringe, shall meet or exceed the following standards. Any existing structure in the floodfringe must meet the requirements of section 22-834.
 - a. All new construction, including placement of manufactured homes, and substantial improvement of residential structures, shall have the lowest floor elevated to or above the flood protection elevation on fill. The fill around the structures shall be one foot or more above the regional flood elevation extending at least 15 feet beyond the limits of the structure. No area may be removed from the floodfringe district unless it can be show to meet section 22-791.
 - b. Notwithstanding section 22-802(c)(1), a basement or crawlspace floor may be placed at the regional flood elevation if the basement or crawlspace is designed to make all portions of the structure below the flood protection elevation watertight with walls substantially impermeable to the passage of water and with structural components having the capability of resisting hydrostatic and hydrodynamic loads and effects of buoyancy. No floor of any kind is allowed below the regional flood elevation.
 - c. Contiguous dry land access shall be provided from a structure to land outside of the floodplain, except as provided in subsection (c)(1)d of this section.

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- d. In developments where existing street or sewer line elevations make compliance with subsection (c)(1)c of this section impractical, the municipality may permit new development and substantial improvements where roads are below the regional flood elevation, if:
1. The municipality has written assurance from police, fire and emergency services that rescue and relief will be provided to the structure(s) by wheeled vehicles during a regional flood event; or
 2. The municipality has a DNR-approved emergency evacuation plan that follows acceptable hazard mitigation planning guidelines.
- (2) *Accessory structures or uses.* In addition to section 22-800, new construction and substantial improvements of Accessory structures shall be constructed on fill with the lowest floor at or above the regional flood elevation.
- (3) *Commercial uses.* In addition to section 22-800, any commercial structure which is erected, constructed, reconstructed, altered or moved into the floodfringe shall meet the requirements of subsection (c)(1) of this section. Subject to the requirements of subsection (c)(5) of this section, storage yards, surface parking lots and other such uses may be placed at lower elevations if an adequate warning system exists to protect life and property.
- (4) *Manufacturing and industrial uses.* In addition to section 22-800, any manufacturing or industrial structure which is to be erected, constructed, reconstructed, altered or moved into the floodfringe shall have the lowest floor elevated to or above the flood protection elevation or meet the floodproofing standards in section 22-849. Subject to the requirements of subsection (c)(5) of this section, storage yards, surface parking lots and other such uses may be placed at lower elevations if an adequate warning system exists to protect life and property.
- (5) *Storage or processing of materials.* Materials that are buoyant, flammable, explosive, or injurious to property, water quality or human, animal, plant, fish or aquatic life, shall be stored at or above the flood protection elevation or floodproofed in compliance with section 22-849. Adequate measures shall be taken to ensure that such materials will not enter the water body during flooding.
- (6) *Public utilities, streets and bridges.* All utilities, streets and bridges shall be designed to be compatible with comprehensive floodplain development plans and:
- a. When failure or interruption of public utilities, streets and bridges would endanger public health or safety or where such facilities are deemed essential to the orderly functioning of the area, construction or repair of such facilities shall only be permitted if they are designed to comply with section 22-849.
 - b. Minor or auxiliary roads or nonessential utilities may be constructed at lower elevations if they are designed to withstand flood forces to the regional flood elevation.
- (7) *Sewage systems, wells, solid waste sites.*
- a. All sewage disposal systems shall be designed to minimize or eliminate infiltration of flood water into the system, pursuant to section 22-849, to the flood protection elevation and meet the provisions of all local ordinances and Wis. Admin. Code SPS 383.
 - b. All wells shall be designed to minimize or eliminate infiltration of flood waters into the system, pursuant to section 22-849, to the flood protection elevation, and shall meet the provisions of Wis. Admin. Code chs. NR 811 and 812.
 - c. Disposal of solid or hazardous waste is prohibited in floodfringe areas.
- (8) *Deposition of materials.* Any deposited material must meet all the provisions of this article.

(9) *Manufactured homes.*

- a. Owners or operators of all manufactured home parks and subdivisions shall provide adequate surface drainage to minimize flood damage, and prepare, secure approval and file an evacuation plan, indicating vehicular access and escape routes, with local emergency management authorities.
- b. In existing manufactured home parks, all new homes, replacement homes on existing pads, and substantially improved homes shall:
 1. Have the lowest floor elevated to the flood protection elevation; and
 2. Be anchored so they do not float, collapse or move laterally during a flood.
- c. Outside of existing manufactured home parks, including new manufactured home parks and all single units outside of existing parks, all new, replacement and substantially improved manufactured homes, shall meet the residential development standards for the floodfringe in subsection (c)(1) of this section.

(10) *Mobile recreational vehicles.* All mobile recreational vehicles must be on site for less than 180 consecutive days and be either:

- a. fully licensed and ready for highway use; or
- b. shall meet the elevation and anchoring requirements in subsection (c)(9) of this section.

A mobile recreational vehicle is ready for highway use if it's on its wheels or jacking system, is attached to the site only by quick-disconnect utilities and security devices and has no permanently attached additions.

(Ord. No. 2010-O-09, § 22.432, 10-12-2010; Ord. No. 2014-O-31, § 1, 8-26-2014)

Sec. 22-803. GFP General Floodplain District.

- (a) *Applicability.* The provisions for the General Floodplain District shall apply to development in all floodplains mapped as A, AO, AH, and in AE zones within which a floodway is not delineated on the Flood Insurance Rate Maps identified in section 22-788.
- (b) *Floodway Boundaries.* For proposed development in zone A, or in zone AE within which a floodway is not delineated on the Flood Insurance Rate Map identified in section 22-788, the boundaries of the regulatory floodway shall be determined pursuant to section 22-803(e). If the development is proposed to encroach upon the regulatory floodway, the development is subject to the standards of section 22-801. If the development is located entirely within the floodfringe, the development is subject to the standards of section 22-802.
- (c) *Permitted uses.* Pursuant to subsection (e) of this section, it shall be determined whether the proposed use is located within the floodway or floodfringe. Those uses permitted in sections 22-801 for floodways and 22-802 for floodfringe are allowed within the General Floodplain District, provided that the procedures of subsection (e) of this section, sections 22-839, 22-840 and 22-841 are met, and all permits or certificates required have been secured by the applicant.
- (d) *Standards for development.* If the proposed use is located within a floodway, the provisions of section 22-801 shall apply, pursuant to subsection (e) of this section. If the proposed use is located within the floodfringe, the provisions of section 22-802 shall apply, determined pursuant to subsection (e) of this section. The rest of this article applies to all development.

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- (1) New construction and substantial improvement of structures in zone AO shall have the lowest floor, including basement, elevated:
 - a. To or above the depth, in feet, as shown on the FIRM above the highest adjacent natural grade or
 - b. If the depth is not specified on the FIRM, two feet (2) above the highest adjacent natural grade or higher.
 - (2) New Construction and substantial improvement of structures in zone AH shall have the lowest floor, including basement, elevated to or above the flood protection elevation.
 - (3) In AO/AH zones, provide plans showing adequate drainage paths to guide floodwaters around structures.
 - (4) All development in zones AO and zone AH shall meet the requirements of section 22-802 applicable to floodfringe areas.
 - (e) *Procedures for determining floodway and floodfringe limits.* Upon receiving an application for development within Zone A, or within Zone AE where a floodway has not been delineated on the Flood Insurance Road Maps, the zoning administrator shall:
 - (1) Require the applicant to submit, at the time of application, two copies of an aerial photograph, or a plan which accurately locates the proposed development with respect to the general floodplain district limits, channel of stream, existing floodplain 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 floodproofing measures; and the flood zone as shown on the FIRM.
 - (2) Require the applicant to furnish any of the following information deemed necessary by the department to evaluate the effects of the proposal upon flood height and flood flows, regional flood elevation and to determine floodway boundaries:
 - a. A hydrologic and hydraulic study as specified in section 22-840(c).
 - b. Plan (surface view) showing: elevations or contours of the ground; pertinent structure, fill or storage elevations; size, location and layout of all proposed and existing structures on the site; location and elevations of streets, water supply, and sanitary facilities; soil types and other pertinent information.
 - c. Specifications for building construction and materials, floodproofing, filling, dredging, channel improvement, storage, water supply and sanitary facilities.

(Ord. No. 2010-O-09, § 22.434, 10-12-2010; Ord. No. 2014-O-31, § 1, 8-26-2014)

Sec. 22-804. Flood Storage District (FSD).

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

- (1) *Applicability.* The provisions of this section apply to all areas within the FSD Flood Storage District, as shown in the official floodplain zoning maps.
- (2) *Permitted uses.* Any use or development which occurs in a flood storage district must meet the applicable requirements in section 22-802(c).
- (3) *Standards for development in flood storage districts.*

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- a. Development in flood storage district shall not cause an increase equal or greater than 0.00 of a foot in the height of the regional flood.
 - b. No development shall be allowed which removes flood storage volume unless an equal volume of storage as defined by the pre-development ground surface and the regional flood elevation shall be provided in the immediate area of the proposed development to compensate for the volume of storage which is lost, (compensatory storage). Excavation below the groundwater table is not considered to provide an equal volume of storage.
 - c. If compensatory storage cannot be provided, the area may not be developed unless the entire area zoned as flood storage district, on this waterway, is rezoned to the floodfringe district. This must include a revision to the floodplain study and map done for the waterway to revert to the higher regional flood discharge calculated without floodplain storage, as per section 22-851, Amendments, of this article.
 - d. No area may be removed from the flood storage district unless it can be shown that the area has been filled to the flood protection elevation and is contiguous to other lands lying outside of the floodplain.

(Ord. No. 2010-O-09, § 22.435, 10-12-2010; Ord. No. 2014-O-31, § 1, 8-26-2014)

Secs. 22-805—22-833. Reserved.

DIVISION 2. NONCONFORMING STRUCTURES AND USES

Sec. 22-834. Nonconforming uses—General provisions.

- (a) Applicability.
 - (1) The standards in this section shall apply to all uses and buildings that do not conform to the provisions contained within a floodplain zoning ordinance or with Wis Stats. § 87.30 and Wis. Admin. Code ch. NR 116.12-14 and 44 CFR 59-72., these standards shall apply to all modifications or additions to any nonconforming use or structure and to the use of any structure or premises which was lawful before the passage of this ordinance or any amendment thereto. A party asserting existence of a lawfully established nonconforming use or structure has the burden of proving that the use or structure was compliant with the floodplain zoning ordinance in effect at the time the use was created.
 - (2) As permit applications are received for additions, modifications, or substantial improvements to nonconforming building in the floodplain, municipalities shall develop a list of those nonconforming buildings, their present equalized assessed value, and a list of the costs of those activities associated with changes to those buildings.
- (b) The existing lawful use of a structure, property, or its accessory use which is not in conformity with the provisions of this article, may be continued, subject to the following conditions:
 - (1) No modifications or additions to a nonconforming use or structure shall be permitted unless they are made in conformity with the provisions of this article. For the purpose of this section, the words "modification" and "addition" shall include, but not be limited to, any alteration, addition, modification, structural repair, rebuilding or replacement of any such existing use, structure or accessory structure or use. Maintenance is not considered a modification; this includes painting, decorating, paneling and other nonstructural components; and the maintenance, repair or

replacement of existing private sewage or water supply systems, or connections to public utilities. Any costs associated with the repair of a damaged structure are not considered maintenance.

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

- (2) If a nonconforming use or the use of a nonconforming structure is discontinued for 12 consecutive months, it is no longer permitted and any future use of the property, and any structure or building thereon, shall conform to the applicable requirements of this article.
- (3) The municipality shall keep a record which lists all nonconforming uses and nonconforming structures, their present equalized assessed value, the cost of all modifications or additions which have been permitted, and the percentage of the structure's total current value of those modifications present.
- (4) No modification or addition to any nonconforming structure or any structure with a nonconforming use, which over the life of the structure would equal or exceed 50 percent of its present equalized assessed value, shall be allowed unless the entire structure is permanently changed to a conforming structure with a conforming use in compliance with the applicable requirements of this article. Contiguous dry land access must be provided for residential and commercial uses in compliance with section 22-802(c). The costs of elevating the lowest floor of a nonconforming building or a building with a nonconforming use to the flood protection elevation are excluded from the 50 percent provisions of this paragraph.
- (5) No maintenance on a per event basis to any nonconforming structure or any structure with a nonconforming use, the cost of which would equal or exceed 50 percent of its present equalized assessed value, shall be allowed unless the entire structure is permanently changed to a conforming structure with a conforming use in compliance with the applicable requirements of this article. Contiguous dry land access must be provided for residential and commercial uses in compliance with section 22-802(c). Maintenance to any nonconforming structure, which does not exceed 50 percent of its present equalized assessed value on a per event basis, does not count against the cumulative calculations over the life of the structure for a substantial improvement calculation.
- (6) If on a per event basis the total value of the work being done under (4) and (5) above equals or exceeds 50 percent of the present equalized assessed value the work shall not be permitted unless the entire structure is permanently changed to a conforming structure with a conforming use in compliance with the applicable requirements of this article. Contiguous dry land access must be provided for residential and commercial uses in compliance with section 22-802(c).
- (7) Except as provided in subsection (b)(8) of this section, if any nonconforming structure or any structure with a nonconforming use is destroyed or is substantially damaged, it cannot be replaced, reconstructed or rebuilt unless the use and structure meet the provisions of this article. For the purpose of this subsection, a structure is considered substantially damaged if the total cost to restore the structure to its pre-damaged condition equals or exceeds 50 percent of the structure's present equalized assessed value.
- (8) For nonconforming buildings that are substantially damaged or destroyed by a nonflood disaster, the repair or reconstruction of any such nonconforming building shall be permitted in order to restore it to the size and use in effect prior to the damage event, provided that the following minimum requirements are met, and all required permits have been granted prior to the start of construction:
 - a. Residential structures.
 1. Shall have the lowest floor, including basement, elevated to or above the base flood elevation using fill, pilings, columns, posts or perimeter walls. Perimeter walls must meet the requirements of subsection 22-849(b).

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2. Shall be anchored to prevent flotation, collapse, or lateral movement of the structure resulting from hydrodynamic and hydrostatic loads, including the effects of buoyancy and shall be constructed with methods and materials resistant to flood damage.
 3. Shall be constructed with electrical, heating, ventilation, plumbing and air conditioning equipment and other service facilities that are designed and/or elevated so as to prevent water from entering or accumulating within the components during conditions of flooding.
 4. In A zones, obtain, review and utilize any flood data available from a federal, state or other source.
 5. In AO zones with no elevations specified, shall have the lowest floor, including basement, meet the standards in section 22-803(d).
 6. In AO zones, shall have adequate drainage paths around structures on slopes to guide floodwaters around and away from the structure.
- b. Nonresidential structures.
1. Shall meet the requirements of section 22-834(b)(8)a.1-6.
 2. Shall either have the lowest floor, including basement, elevated to or above the regional flood elevation; or, together with attendant utility and sanitary facilities, shall meet the standards in section 22-849(a) or (b).
 3. In AO zones with no elevations specified, shall have the lowest floor, including basement, meet the standards in 22-803(d).
- (c) A nonconforming historic structure may be altered if the alteration will not preclude the structure's continued designation as a historic structure, the alteration will comply with section 22-801(c)(1), flood resistant materials are used, and construction practices and floodproofing methods that comply with section 22-849 are used. Repair or rehabilitation of historic structures shall be exempt from the development standards of section 22-834(b)(8)a if it is determined that the proposed repair or rehabilitation will not preclude the structure's continued designation as a historic structure and is the minimum necessary to preserve the historic character and design of the structure.

(Ord. No. 2010-O-09, § 22.441, 10-12-2010; Ord. No. 2014-O-31, § 1, 8-26-2014)

Sec. 22-835. Floodway District.

- (a) No modification or addition shall be allowed to any nonconforming structure or any structure with a nonconforming use in the Floodway District, unless such modification or addition:
- (1) Has been granted a permit or variance which meets all ordinance requirements.
 - (2) Meets the requirements of section 22-834.
 - (3) Shall not increase the obstruction to flood flows or regional flood height.
 - (4) Any addition to the existing structure shall be floodproofed, pursuant to section 22-849, by means other than the use of fill, to the flood protection elevation; and
 - (5) If any part of the foundation below the flood protection elevation is enclosed, the following standards shall apply:
 - a. The enclosed areas shall be designed by a registered architect or engineer to allow for the efficient entry and exit of floodwaters without human intervention. A minimum of two openings must be provided with a minimum net area of at least one square inch for every one square foot

of the enclosed area. The lowest part of the opening can be no more than 12 inches above the adjacent grade;

- b. The parts of the foundation located below the flood protection elevation must be constructed of flood-resistant materials;
 - c. Mechanical and utility equipment must be elevated or floodproofed to or above the flood protection elevation; and
 - d. The use must be limited to parking, building access or limited storage.
- (b) No new on-site sewage disposal system, or addition to an existing on-site sewage disposal system, except where an addition has been ordered by a government agency to correct a hazard to public health, shall be allowed in the Floodway District. Any replacement, repair or maintenance of an existing on-site sewage disposal system in a floodway area shall meet the applicable requirements of all municipal ordinances, section 22-849(c) and Wis. Admin. Code SPS 383.
- (c) No new well or modification to an existing well, used to obtain potable water shall be allowed in the Floodway District. Any replacement, repair or maintenance of an existing well in the Floodway District shall meet the applicable requirements of this article, section 22-849(c) and Wis. Admin. Code chs. NR 811 and NR 812.

(Ord. No. 2010-O-09, § 22.442, 10-12-2010; Ord. No. 2014-O-31, § 1, 8-26-2014)

Sec. 22-836. Floodfringe District.

- (a) No modification or addition shall be allowed to any nonconforming structure or any structure with a nonconforming use unless such modification or addition has been granted a permit or variance by the city and meets the requirements of section 22-802(c), except where subsection (b) of this section is applicable.
- (b) Where compliance with the provisions of subsection (a) of this section would result in unnecessary hardship, and only where the structure will not be used for human habitation or be associated with a high flood damage potential, the board of appeals, using the procedures established in sections 22-845 and 22-847, may grant a variance from those provisions of subsection (a) of this section for modifications or additions, using the criteria listed below. Modifications or additions which are protected to elevations lower than the flood protection elevation may be permitted if:
- (1) No floor is allowed below the regional flood elevation for residential or commercial structures;
 - (2) Human lives are not endangered;
 - (3) Public facilities, such as water or sewer, shall not be installed;
 - (4) Flood depths shall not exceed two feet;
 - (5) Flood velocities shall not exceed two feet per second; and
 - (6) The structure shall not be used for storage of materials as described in section 22-802(c)(5).
- (c) All new private sewage disposal systems, or addition to, replacement, repair or maintenance of a private sewage disposal system shall meet all the applicable provisions of all local ordinances, section 22-849(c) and Wis. Admin. Code SPS 383.
- (d) All new wells, or addition to, replacement, repair or maintenance of a well shall meet the applicable provisions of this chapter, section 22-849(c) and Wis. Admin. Code chs. NR 811 and 812.

(Ord. No. 2010-O-09, § 22.443, 10-12-2010; Ord. No. 2014-O-31, § 1, 8-26-2014)

Sec. 22-837. Flood storage areas.

No modifications or additions shall be allowed to any nonconforming structure in a flood storage area unless the standards outlined in section 22-804(3) are met.

(Ord. No. 2010-O-09, § 22.444, 10-12-2010; Ord. No. 2014-O-31, § 1, 8-26-2014)

Sec. 22-838. Administration.

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

(Ord. No. 2010-O-09, § 22.450, 10-12-2010; Ord. No. 2014-O-31, § 1, 8-26-2014)

Sec. 22-839. Zoning administrator.

- (a) *Duties and powers.* The zoning administrator is authorized to administer this chapter and shall have the following duties and powers:
- (1) Advise applicants of the article provisions, assist in preparing permit applications and appeals, and ensure that the regional flood elevation for the proposed development is shown on all permit applications.
 - (2) Issue permits and inspect properties for compliance with provisions of this article, and issue certificates of compliance where appropriate.
 - (3) Inspect and assess all damaged floodplain structures to determine if substantial damage to the structures has occurred.
 - (4) Keep records of all official actions such as:
 - a. All permits issued; inspections made, and work approved;
 - b. Documentation of certified lowest floor and regional flood elevations;
 - c. Floodproofing certificates;
 - d. Water surface profiles, floodplain zoning maps and ordinances, nonconforming uses and structures including changes, appeals, variances and amendments;
 - e. All substantial damage assessment reports for floodplain structures; and
 - f. List of nonconforming structures and uses.
 - (5) Submit copies of the following items to the department regional office:
 - a. Within ten days of the decision, a copy of any decisions on variances, appeals for map or text interpretations, and map or text;
 - b. Copies of case-by-case analyses, and other required information including an annual summary of floodplain zoning actions taken; and
 - c. Copies of substantial damage assessments performed and all related correspondence concerning the assessments.

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- (6) Investigate, prepare reports, and report violations of this article to the municipal zoning agency and attorney for prosecution. Copies of the reports shall also be sent to the department regional office.
 - (7) Submit copies of amendments and biennial reports to the regional FEMA office.

(Ord. No. 2010-O-09, § 22.451, 10-12-2010; Ord. No. 2014-O-31, § 1, 8-26-2014)

Sec. 22-840. Zoning permits.

- (a) *When required.* Unless another section of this article specifically exempts certain types of development from this requirement, a zoning permit shall be obtained from the zoning administrator before any development, repair, modification or addition to an existing structure, as defined in section 22-853, including any change in the use of an existing building or structure, including sewer and water facilities, is initiated.
- (b) *Application.* An application for a permit shall be made to the zoning administrator upon forms furnished and shall include the following information for the purpose of proper enforcement of these regulations:
 - (1) *General information.*
 - a. Name, address, and telephone number of applicant, property owner and contractor.
 - b. Legal description, proposed use and whether it is new construction or a modification.
 - (2) *Site development plan.* The site plan shall be drawn to scale and submitted as a part of the permit application form and shall contain:
 - a. Location, dimensions, area and elevation of the lot;
 - b. Location of the ordinary highwater mark of any abutting navigable waterways;
 - c. Location of any structures with distances measured from the lot lines and center line of all abutting streets or highways;
 - d. Location of any existing or proposed on-site sewage systems or private water supply systems;
 - e. Location and elevation of existing or future access roads;
 - f. Location of floodplain and floodway limits on the property as determined from the official floodplain zoning maps;
 - g. The elevation of the lowest floor of proposed buildings and any fill using the vertical datum from the adopted study, either National Geodetic Vertical Datum (NGVD) or North American Vertical Datum (NAVD);
 - h. Data sufficient to determine the regional flood elevation in NGVD or NAVD at the location of the development and to determine whether or not the requirements of sections 22-800 through 22-803 are met; and
 - i. Data to determine if the proposed development will cause an obstruction to flow or an increase in regional flood height or discharge according to section 22-800(a). This may include any of the information noted in section 22-801(c)(1).
- (c) *Hydraulic and hydrologic studies to analyze development.* All hydraulic and hydrologic studies shall be completed under the direct supervision of a professional engineer registered in the state. The study contractor shall be responsible for the technical adequacy of the study. All studies shall be reviewed and approved by the department.
 - (1) *Zone A floodplains and in AE zones within which a floodway is not delineated.*

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- a. *Hydrology.* The appropriate methods shall be based on the standards in ch. NR 116.07(3), Wis. Admin. Code, Hydrologic analysis: Determination of regional flood discharge.
 - b. *Hydraulic modeling.* The regional flood elevation shall be based on the standards in Wis. Admin. Code ch. NR 116.07(4), Hydraulic analysis: Determination of regional flood elevation, and the following:
 - 1. Determination of the required limits of the hydraulic model shall be based on detailed study information for downstream structures (dam, bridge, culvert) to determine adequate starting WSEL for the study.
 - 2. Channel sections must be surveyed.
 - 3. Minimum four-foot contour data in the overbanks shall be used for the development of cross section overbank and floodplain mapping.
 - 4. A maximum distance of 500 feet between cross sections is allowed in developed areas with additional intermediate cross sections required at transitions in channel bottom slope including a survey of the channel at each location.
 - 5. The most current version of HEC-RAS shall be used.
 - 6. A survey of bridge and culvert openings and the top of road is required at each structure.
 - 7. Additional cross sections are required at the downstream and upstream limits of the proposed development and any necessary intermediate locations based on the length of the reach if greater than 500 feet.
 - 8. Standard accepted engineering practices shall be used when assigning parameters for the base model such as flow, Manning's N values, expansion and contraction coefficients or effective flow limits. The base model shall be calibrated to past flooding data such as high water marks to determine the reasonableness of the model results. If no historical data is available, adequate justification shall be provided for any parameters outside standard accepted engineering practices.
 - 9. The model must extend past the upstream limit of the difference in the existing and proposed flood profiles in order to provide a tie-in to existing studies. The height difference between the proposed flood profile and the existing study profiles shall be no more than 0.00 feet.
 - c. *Mapping.* A work map of the reach studied shall be provided, showing all cross-section locations, floodway/floodplain limits based on best available topographic data, geographic limits of the proposed development and whether the proposed development is located in the floodway.
 - 1. If the proposed development is located outside of the floodway, then it is determined to have no impact on the regional flood elevation.
 - 2. If any part of the proposed development is in the floodway, it must be added to the base model to show the difference between existing and proposed conditions. The study must ensure that all coefficients remain the same as in the existing model, unless adequate justification based on standard accepted engineering practices is provided.
- (2) *Zone AE Floodplains.*
- a. *Hydrology.* If the proposed hydrology will change the existing study, the appropriate method to be used shall be based on Wis. Admin. Code ch. NR 116.07(3), Hydrologic analysis: Determination of regional flood discharge.

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- b. *Hydraulic model.* The regional flood elevation shall be based on the standards in Wis. Admin. Code ch. NR 116.07(4),, Hydraulic analysis: Determination of regional flood elevation, and the following:
1. Duplicate effective model. The effective model shall be reproduced to ensure correct transference of the model data and to allow integration of the revised data to provide a continuous FIS model upstream and downstream of the revised reach. If data from the effective model is available, models shall be generated that duplicate the FIS profiles and the elevations shown in the floodway data table in the FIS report to within 0.1 foot.
 2. Corrected effective model. The corrected effective model shall not include any man-made physical changes since the effective model date, but shall import the model into the most current version of HEC-RAS for department review.
 3. Existing (pre-project conditions) model. The existing model shall be required to support conclusions about the actual impacts of the project associated with the revised (post-project) model or to establish more up-to-date models on which to base the revised (post-project) model.
 4. Revised (post-project conditions) model. The revised (post-project conditions) model shall incorporate the existing model and any proposed changes to the topography caused by the proposed development. This model shall reflect proposed conditions.
 5. All changes to the duplicate effective model and subsequent models must be supported by certified topographic information, bridge plans, construction plans and survey notes.
 6. Changes to the hydraulic models shall be limited to the stream reach for which the revision is being requested. Cross sections upstream and downstream of the revised reach shall be identical to those in the effective model and result in water surface elevations and top widths computed by the revised models matching those in the effective model upstream and downstream of the revised reach as required. The effective model shall not be truncated.
- c. *Mapping.* Maps and associated engineering data shall be submitted to the department for review which meet the following conditions:
1. Consistency between the revised hydraulic models, the revised floodplain and floodway delineations, the revised flood profiles, topographic work map, annotated FIRMs and/or flood boundary floodway maps (FBFMs), construction plans, bridge plans.
 2. Certified topographic map of suitable scale, contour interval, and a planimetric map showing the applicable items. If a digital version of the map is available, it may be submitted in order that the FIRM may be more easily revised.
 3. Annotated FIRM panel showing the revised one percent and two-tenths percent annual chance floodplains and floodway boundaries.
 4. If an annotated FIRM and/or FBFM and digital mapping data (GIS or CADD) are used then all supporting documentation or metadata must be included with the data submission along with the Universal Transverse Mercator (UTM) projection and state plan coordinate system in accordance with FEMA mapping specifications.
 5. The revised floodplain boundaries shall tie into the effective floodplain boundaries.
 6. All cross sections from the effective model shall be labeled in accordance with the effective map and a cross section lookup table shall be included to relate to the model input numbering scheme.

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7. Both the current and proposed floodways shall be shown on the map.
 8. The stream centerline, or profile baseline used to measure stream distances in the model shall be visible on the map.
- (d) *Expiration.* All permits issued under the authority of this article shall expire no more than 180 days after issuance. The permit may be extended for a maximum of 180 days for good and sufficient cause. If the permitted work has not started within 180 days of the permit date, the development must comply with any regulations, including any revisions to the FIRM or FIS, that took effect after the permit date.
- (Ord. No. 2010-O-09, § 22.452, 10-12-2010; Ord. No. 2014-O-31, § 1, 8-26-2014)

Sec. 22-841. Certificate of compliance.

- (a) **No** land shall be occupied or used, and no building which is hereafter constructed, altered, added to, modified, repaired, rebuilt or replaced shall be occupied, until a certificate of compliance is issued by the zoning administrator subject to the following provisions:
- (1) The certificate of compliance shall show that the building or premises or part thereof, and the proposed use, conform to the provisions of this article.
 - (2) Application for such certificate shall be concurrent with the application for a permit.
 - (3) If all article provisions are met, the certificate of compliance shall be issued within ten days after written notification that the permitted work is completed.
 - (4) The applicant shall submit a certification signed by a registered professional engineer, architect, or registered land surveyor that the fill, lowest floor and floodproofing elevations are in compliance with the permit issued. Floodproofing measures also require certification by a registered professional engineer or architect that the requirements of section 22-849 are met.
 - (5) Where applicable pursuant to section 22-803(d), the applicant must submit a certificate by a registered professional engineer or surveyor of the elevation of the bottom of the lowest horizontal structural member supporting the lowest floor (excluding pilings or columns), and an indication of whether the structure contains a basement.
 - (6) Where applicable pursuant to section 22-803(d), the applicant must submit certifications by a registered professional engineer or architect that the structural design and methods of construction meet accepted standards of practice as required by section 22-803(d).

Sec. 22-842. Other permits.

Prior to obtaining a floodplain development permit the applicant must secure all necessary permits from federal, state, and local agencies, including, but not limited to, those required by the U.S. Army Corps of Engineers under Section 404 of the Federal Water Pollution Control Act, Amendments of 1972, 33 USC 1344.

(Ord. No. 2010-O-09, § 22.453, 10-12-2010; Ord. No. 2014-O-31, § 1, 8-26-2014)

Sec. 22-843. Plan commission.

- (a) The plan commission shall:
- (1) Oversee the functions of the office of the zoning administrator; and
 - (2) Review and advise the governing body on all proposed amendments to this article, maps and text.

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- (3) Publish adequate notice pursuant to Wis. Ch. 985, specifying the date, time, place, and subject of the public hearing.

(b) The plan commission shall not:

- (1) Grant variances to the terms of the article in place of action by the board of appeals; or
- (2) Amend the text or zoning maps in place of official action by the common council.

(Ord. No. 2010-O-09, § 22.454, 10-12-2010; Ord. No. 2014-O-31, § 1, 8-26-2014)

Sec. 22-844. Fees.

The common council shall set fees for the following and include in the annual budget appendix fee schedule.

- (1) Zoning permits.
- (2) Certificates of compliance.
- (3) Board of appeals.
- (4) Re-zonings, including PDDs.

(Ord. No. 2010-O-09, § 22.455, 10-12-2010; Ord. No. 2014-O-31, § 1, 8-26-2014)

Sec. 22-845. Board of appeals.

The board of appeals, created under Wis. Stats. § 62.23(7)(e) is hereby authorized or shall be appointed to act for the purposes of this article. The board shall exercise the powers conferred by Wisconsin Statutes and adopt rules for the conduct of their business as required by Wis. Stats. § 63.23(7)(e)3. The zoning administrator shall not be the secretary of the board.

- (1) *Powers and duties.* The board of appeals shall:
 - a. *Appeals.* 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 article;
 - b. *Variances.* Hear and decide, upon appeal, a variance from the ordinance standards; and
 - c. *Boundary disputes.* Hear and decide disputes concerning the district boundaries shown on the official floodplain zoning map.
- (2) *Appeals to the board.*
 - a. *Generally.* Appeals to the board of appeals may be taken by any person aggrieved or by an officer, department, board or bureau of the community affected by any order, requirement decision, or determination of the official whose decision is in question. Such appeals shall be taken within 60 days as provided by the rules of the board, by filing with the official whose decision is in question, and with the board of appeals, a notice of appeal specifying the reasons for the appeal. The official whose decision is in question shall transmit to the board all the documents constituting the record concerning the matter appealed.
 - b. *Notice and hearing.*
 1. *Notice.* The board of appeals shall fix a reasonable time for a hearing on the appeal or application. Public notice shall be provided by publishing the appropriate notice as required by state law with the notice specifying the date, time and place of the

hearing and the matters to come before the board. Notice shall be mailed to the parties in interest. Written notice shall be given to the department regional office at least ten days prior to hearings.

2. *Hearing.* At the public hearing, any party may appear in person or by agent or attorney. The board shall resolve boundary disputes according to section 22-846; decide variance applications according to section 22-847; and/or decide appeals of permit denials according to section 22-848.

c. *Decision.* A final decision regarding the appeal or variance application shall;

1. Be made within a reasonable time;

2. Be sent to the Department Regional office within 10 days of the decision;

3. Be a written determination signed by the chairman or secretary of the Board;

4. State the specific facts which are the basis for the Board's decision;

5. Either affirm, reverse, vary or modify the order, requirement, decision, or determination appealed, in whole or in part, dismiss the appeal for lack of jurisdiction or grant or deny the variance application; and

6. Include the reasons for granting an appeal, describing the hardship demonstrated by the applicant in the case of a variance, clearly stated in the recorded minutes of the Board proceedings.

(Ord. No. 2010-O-09, § 22.456, 10-12-2010; Ord. No. 2014-O-31, § 1, 8-26-2014)

Sec. 22-846. Boundary disputes.

(a) The following procedure shall be used by the board of appeals in hearing disputes concerning the floodplain district boundaries:

(1) Where a floodplain district boundary is established by approximate or detailed floodplain studies, the regional flood elevations or profiles for the point in question shall be the governing factor in locating the district boundary. If no regional flood elevations or profiles are available to the board, other available evidence may be examined;

(2) The person contesting the location of the district boundary shall be given a reasonable opportunity to present arguments and technical evidence to the board of appeals; and

(3) Where it is determined that the district boundary is incorrectly mapped, the board should inform the plan commission or person contesting the location of the boundary to petition the municipality for a map amendment according to section 22-851, Amendments.

(Ord. No. 2010-O-09, § 22.457, 10-12-2010; Ord. No. 2014-O-31, § 1, 8-26-2014)

Sec. 22-847. Variances.

(a) The board of appeals may, upon appeal, grant a variance from the standards of this article where an applicant convincingly demonstrates that:

(1) Literal enforcement of the article provisions will cause unnecessary hardship;

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- (2) The hardship is due to adoption of the floodplain article and special conditions unique to the property, and not common to a group of adjacent lots or premises (in such case the zoning ordinance or map must be amended);
 - (3) Such variance is not contrary to the public interest; and
 - (4) Such variance is consistent with the purpose of this article in section 22-785.
- (b) In addition to the criteria in subsection (a) of this section, to qualify for a variance under FEMA regulations, the following criteria must be met:
- (1) The variance shall not cause any increase in the regional flood elevation;
 - (2) Variances can only be granted for lots that are less than one-half acre and are contiguous to existing structures constructed below the RFE;
 - (3) Variances shall only be granted upon a showing of good and sufficient cause;
 - (4) Variances shall be the minimum relief necessary, shall not cause increased risks to public safety or nuisances;
 - (5) Variances shall not increase costs for rescue and relief efforts, cause fraud on or victimization of the public, and shall not be contrary to the purpose of the article; and
 - (6) Failure to grant the variance would result in exceptional hardship.
- (c) A variance shall not:
- (1) Grant or increase any use of property prohibited in the zoning district;
 - (2) Be granted for a hardship based solely on an economic gain or loss;
 - (3) Be granted for a hardship which is self-created;
 - (4) Damage the rights or property values of other persons in the area;
 - (5) Allow actions without the amendments to this article or maps required in section 22-851, Amendments; and
 - (6) Allow any alteration of an historic structure, including its use, which would preclude its continued designation as an historic structure.
- (d) When a floodplain variance is granted, the board shall notify the applicant in writing that it may increase risks to life and property and flood insurance premiums could increase up to \$25.00 per \$100.00 of coverage. A copy shall be maintained with the variance record.
- (Ord. No. 2010-O-09, § 22.458, 10-12-2010; Ord. No. 2014-O-31, § 1, 8-26-2014)

Sec. 22-848. To review appeals of permit denials.

- (a) The board of appeals shall review all data constituting the basis for the appeal of permit denial. This data may include:
- (1) Permit application data listed in section 22-840;
 - (2) Floodway/floodfringe determination data in section 22-803(e);
 - (3) Data listed in section 22-801(c)(1)b where the applicant has not submitted this information to the zoning administrator; and

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- (4) Other data submitted with the application, or submitted to the board with the appeal.
 - (b) For appeals of all denied permits the board shall:
 - (1) Follow the procedures of section 22-845;
 - (2) Consider zoning agency recommendations; and
 - (3) Either uphold the denial or grant the appeal.
 - (c) For appeals concerning increases in regional flood elevation the board shall:
 - (1) Uphold the denial where the board agrees with the data showing an increase in flood elevation. Increases may only be allowed after amending the flood profile and map and all appropriate legal arrangements are made with all adversely affected property owners as per the requirements of section 22-851, Amendments.
 - (2) Grant the appeal where the board agrees that the data properly demonstrates that the project does not cause an increase provided no other reasons for denial exist.

(Ord. No. 2010-O-09, § 22.460, 10-12-2010; Ord. No. 2014-O-31, § 1, 8-26-2014)

Sec. 22-849. Floodproofing standards for nonconforming structures or uses.

- (a) No permit or variance shall be issued for a non-residential structure designed to be watertight below the regional flood elevation until the applicant submits a plan certified by a registered professional engineer or architect that the floodproofing measures will protect the structure or development to or above the flood protection elevation and submits a FEMA floodproofing certificate. Floodproofing is not an alternative to the development standards in this article including Secs. 22-799, 22-800, 22-801, 22-802, and 22-803.
- (b) For a structure designed to allow the entry of floodwaters, no permit or variance shall be issued until the applicant submits a plan either:
 - (1) Certified by registered professional engineer or architect; or
 - (2) Meets or exceeds the following standards:
 - a. A minimum of two openings having a total net area of not less than one square inch for every square foot of enclosed area subject to flooding;
 - b. The bottom of all openings shall be no higher than one foot above grade; and
 - c. Openings may be equipped with screens, louvers, valves, or other coverings or devices provided that they permit the automatic entry and exit of floodwaters.
- (c) Floodproofing measures shall be designed, as appropriate, to:
 - (1) Withstand flood pressures, depths, velocities, uplift and impact forces, and other regional flood factors;
 - (2) Protect structures to the flood protection elevation;
 - (3) Anchor structures to foundations to resist flotation and lateral movement;
 - (4) Minimize or eliminate infiltration of flood waters; and
 - (5) Minimize or eliminate discharges into flood waters; and
 - (6) Placement of essential utilities to or above the flood protection elevation; and
 - (7) If any part of the foundation below the flood protection elevation is enclosed, the following standards shall apply:

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- a. The enclosed area shall be designed by a registered engineer or architect to allow for the efficient entry and exit of flood waters without human intervention. A minimum of two openings must be provided with a minimum net area of at least one square inch for every one square foot of the enclosed area. The lowest part of the opening can be no more than 12 inches above the adjacent grade;
 - b. The parts of the foundation located below the flood protection elevation must be constructed of flood-resistant materials;
 - c. Mechanical and utility equipment must be elevated or floodproofed to or above the flood protection elevation; and
 - d. The use must be limited to parking, building access or limited storage.

(Ord. No. 2010-O-09, § 22.461, 10-12-2010; Ord. No. 2014-O-31, § 1, 8-26-2014)

Sec. 22-850. Public information.

- (a) Place marks on bridges or buildings or other markers may be set to show the depth of inundation during the regional flood at appropriate locations within the floodplain.
- (b) All maps, engineering data and regulations shall be available be widely distributed.
- (c) Real estate transfers should show what floodplain district any real property is in.

(Ord. No. 2010-O-09, § 22.462, 10-12-2010; Ord. No. 2014-O-31, § 1, 8-26-2014)

Sec. 22-851. Amendments.

Obstructions or increases may only be permitted if amendments are made to this article, the official floodplain zoning maps, floodway lines and water surface profiles, in accordance with subsection (1) of this section.

In AE zones with a mapped floodway, no obstructions or increases shall be permitted unless the applicant receives a conditional letter of map revision from FEMA and amendments are made to this article, the official floodplain zoning maps, floodway lines and water surface profiles, in accordance with subsection (1) of this section. Any such alterations must be reviewed and approved by FEMA and the DNR.

In A zones increases equal to or greater than 1.0 foot may only be permitted if the applicant receives a conditional letter of map revision from FEMA and amendments are made to this article, the official floodplain maps, floodway lines, and water surface profiles, in accordance with subsection (1) of this section.

- (1) *Generally.* When amendments are required, the procedures in section 22-851, subsection (2) below, shall apply. Official amendments are required for any changes in the official floodway lines, water surface profiles, floodplain zoning maps or text of the floodplain overlay zoning article. Article amendments may also be made upon petition of any interested party according to the provisions of Wis. Stats. § 62.23. Such petitions shall include all necessary data required by sections 22-803(e) and 22-840. The governing body may change or supplement the floodplain zoning district boundaries and this article in the manner outlines in subsection (2) of this section. Actions which require an amendment to the article and/or submittal of a letter of map change (LOMC) include, but are not limited to, the following:
 - a. Any fill or floodway encroachment that obstructs flow causing any increase in the regional flood height;

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- b. Any change to the floodplain boundaries and/or watercourse alterations on the FIRM;
 - c. Any changes to any other officially adopted floodplain maps listed in 22-788(c);
 - d. Any floodplain fill which raises the elevation of the filled area to a height at or above the flood protection elevation and is contiguous to land lying outside the floodplain;
 - e. Correction of discrepancies between the water surface profiles and floodplain maps;
 - f. Any upgrade to a floodplain zoning subchapter text required by Wis. Admin. Code § NR 116.05 or otherwise required by law, or for changes by the city; and
 - g. All channel relocations and changes to the maps to alter floodway lines or to remove an area from the floodway or the floodfringe that is based on a base flood elevation from a FIRM requires prior approval by FEMA.
- (2) *Procedures.* Article amendments may be made upon petition of any party according to the provisions of Wis. Stats. § 62.23. The petitions shall include all data required by sections 22-840 and 22-803(e). The zoning permit shall not be issued until a letter of map revision is issued by FEMA for the proposed changes.
- a. The proposed amendment shall be referred to the plan commission for a public hearing and recommendation to the common council. The amendment and notice of public hearing shall be submitted to the department regional office for review prior to the hearing. The amendment procedure shall comply with the provisions of Wis. Stats. § 62.23.
 - b. No amendments shall become effective until reviewed and approved by the department of natural resources.
 - c. All persons petitioning for a map amendment that obstructs flow causing any increase in the regional flood height, shall obtain flooding easements, or other appropriate legal arrangements from all adversely affected property owners and notify local units of government before the amendment can be approved by the common council.

(Ord. No. 2010-O-09, § 22.463, 10-12-2010; Ord. No. 2014-O-31, § 1, 8-26-2014)

Sec. 22-852. Enforcement and penalties.

Any violation of the provisions of this article by any person shall be unlawful and shall be referred to the municipal attorney who shall expeditiously prosecute all such violators. See forfeiture/bond/deposit schedule for penalties for any person, firm, association, or corporation who violates or refuses to comply with any of the provisions of this article. Each day of continued violation shall constitute a separate offence. Every violation of this article is a public nuisance and the creation thereof may be enjoined and the maintenance thereof may be abated by action at suit of the municipality, the state, or any citizen thereof pursuant to Wis. Stats. § 87.30. Fines/penalties in the floodplain are limited to no more than \$50.00/day/violation under Wis. Stats. § 87.30.

(Ord. No. 2010-O-09, § 22.464, 10-12-2010; Ord. No. 2014-O-31, § 1, 8-26-2014)

Sec. 22-853. Definitions.

The following words, terms and phrases, when used in this article, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning. Unless specifically defined, words and phrases in this article shall have their common law meaning and shall be applied in accordance with their common usage. Words used in the present tense include the future, the singular number includes the plural and

the plural number includes the singular. The term "may" is permissive; the term "shall" is mandatory and is not discretionary.

A zones means those areas shown on the official floodplain zoning map which would be inundated by the regional flood. These areas may be numbered or unnumbered A zones. The A zones may or may not be reflective of flood profiles, depending on the availability of data for a given area.

AH zone. See "Area of shallow flooding."

AO zone. See "Area of shallow flooding."

Accessory structure or use means a facility, structure, building or use which is accessory or incidental to the principal use of a property, structure or building. An accessory structure shall not be used for human habitation.

Alteration means an enhancement, upgrading or substantial change or modifications other than an addition or repair to a dwelling or to electrical, plumbing, heating, ventilating, air conditioning and other systems within a structure.

Area of shallow flooding means a designated AO, AH, AR/AO, AR/AH, or VO zone on a community's flood insurance rate map (FIRM) with a one percent or greater annual chance of flooding to an average depth of one to three feet where a clearly defined channel does not exist, where the path of flooding is unpredictable, and where velocity flood may be evident. Such flooding is characterized by ponding or sheet flow.

Base flood means the flood having a one percent chance of being equaled or exceeded in any given year, as published by FEMA as part of a FIS and depicted on a FIRM.

Basement means any enclosed area of a building having its floor subgrade, i.e., below ground level, on all sides.

Building. See "Structure."

Bulkhead line means a geographic line along a reach of navigable water that has been adopted by a municipal ordinance and approved by the department pursuant to Wis. Stats. § 30.11, and which allows specified filling between the bulkhead line and the original ordinary highwater mark, except where such filling is prohibited by the floodway provisions of this article.

Campground means any parcel of land which is designed, maintained, intended or used for the purpose of providing sites for nonpermanent overnight use by four or more mobile recreational vehicles and/or camping units, or which is advertised or represented as a camping area.

Camping unit means any portable device, no more than 400 square feet in area, used as a temporary shelter, including but not limited to a camping trailer, motor home, bus, van, pick-up truck, or tent that is fully licensed, if required, and ready for highway use.

Certificate of compliance means a certification that construction and the use of land or a building, the elevation of fill or the lowest floor of a structure is in compliance with all of the provisions of this article.

Channel means a natural or artificial watercourse with definite bed and banks to confine and conduct normal flow of water.

Crawlways or crawl space means an enclosed area below the first usable floor of a building, generally less than five feet in height, used for access to plumbing and electrical utilities.

Deck means an unenclosed exterior structure that has no roof or sides and has a permeable floor which allows the infiltration of precipitation.

Department means the Wisconsin Department of Natural Resources.

Development means any artificial change to improved or unimproved real estate, including, but not limited to, the construction of buildings, structures or accessory structures; the construction of additions or alterations to

buildings, structures or accessory structures, the repair of any damaged structure or the improvement or renovation of any structure, regardless of percentage of damage or improvement; the placement of buildings or structures; subdivision layout and site preparation; mining, dredging, filling grading, paving, excavation or drilling operations; the storage, deposition or extraction of materials or equipment; and the installation, repair or removal of public or private sewage disposal systems or water supply facilities.

Dry land access means a vehicular access route which is above the regional flood elevation and which connects land located in the floodplain to land outside the floodplain, such as a road with its surface above regional flood elevation and wide enough for wheeled rescue and relief vehicles.

Encroachment means any fill, structure, equipment, use or development in the floodway.

Federal Emergency Management Agency (FEMA) means the federal agency that administers the National Flood Insurance Program.

Flood or flooding means a general and temporary condition of partial or complete inundation of normally dry land areas caused by one of the following conditions: the overflow or rise of inland waters; the rapid accumulation or runoff of surface waters from any source; the inundation caused by waves or currents of water exceeding anticipated cyclical levels along the shore of Lake Michigan or Lake Superior; or the sudden increase caused by an unusually high water level in a natural body of water, accompanied by a severe storm, or by an unanticipated force of nature, such as a seiche, or by some similarly unusual event.

Flood frequency means the probability of a flood occurrence which is determined from statistical analyses. The frequency of a particular flood event is usually expressed as occurring, on the average, once in a specified number of years or as a percent chance of occurring in any given year.

Flood hazard boundary map means a map designating approximate flood hazard areas. Flood hazard areas are designated as unnumbered A zones and do not contain floodway lines or regional flood elevations. This map forms the basis for both the regulatory and insurance aspects of the National Flood Insurance Program (NFIP) until superseded by a flood insurance study and a flood insurance rate map.

Flood insurance rate map (FIRM) means a map of a community on which the Federal Insurance Administration has delineated both the floodplain and the risk premium zones applicable to the community. This map can only be amended by the Federal Emergency Management Agency.

Flood insurance study means a technical engineering examination, evaluation, and determination of the local flood hazard areas. It provides maps designating those areas affected by the regional flood and provides both flood insurance rate zones and base flood elevations and may provide floodway lines. The flood hazard areas are designated as numbered and unnumbered A zones. Flood insurance rate maps, that accompany the flood insurance study, for the basis for both the regulatory and the insurance aspects of the National Flood Insurance Program.

Flood profile means a graph or a longitudinal profile line showing the relationship of the water surface elevation of a flood event to locations of land surface elevations along a stream or river.

Flood protection elevation means an elevation of two feet of freeboard above the water surface profile elevation designated for the regional flood. Also see "freeboard."

Flood storage means those floodplain areas where storage of floodwaters has been taken into account during analysis in reducing the regional flood discharge.

Floodfringe means the portion of the floodplain outside of the floodway which is covered by floodwaters during the regional flood and associated with standing water rather than flowing water.

Floodplain means land which has been or may be covered by floodwater during the regional flood. It includes the floodway and the floodfringe, and may include other designated floodplain areas for regulatory purposes.

Floodplain island means a natural geologic land formation within the floodplain that is surrounded, but not covered, by floodwater during the regional flood.

Floodplain management means policy and procedures to ensure wise use of floodplains, including mapping and engineering, mitigation, education, and administration and enforcement of floodplain regulations.

Floodproofing means any combination of structural provisions, changes or adjustments to properties and structures, water and sanitary facilities and contents of buildings subject to flooding for the purpose of reducing or eliminating flood damage.

Floodway means the channel of a river or stream and those portions of the floodplain adjoining the channel required to carry the regional flood discharge.

Freeboard means a safety factor expressed in terms of a specified number of feet above a calculated flood level. Freeboard compensates for any factors that cause flood heights greater than those calculated, including ice jams, debris accumulation, wave action, obstruction of bridge openings and floodways, the effects of watershed urbanization, loss of flood storage areas due to development and aggregation of the river or stream bed.

Habitable structure means any structure, or portion thereof used or designed for human habitation.

Hearing notice means publication or posting meeting the requirements of Wis. Stats. ch. 985. For appeals, a class 1 notice, published once at least one week (seven days) before the hearing, is required. For all zoning ordinances and amendments, a class 2 notice, published twice, once each week consecutively, the last at least a week (seven days) before the hearing. Local ordinances or bylaws may require additional notice, exceeding these minimums.

High flood damage potential means damage that could result from flooding that includes any danger to life or health or any significant economic loss to a structure or building and its contents.

Highest adjacent grade means the highest natural elevation of the ground surface prior to construction next to the proposed walls of a structure.

Historic structure means any structure that is either:

- (1) Listed individually in the National Register of Historic Places or preliminarily determined by the secretary of the interior as meeting the requirements for individual listing on the National Register.
- (2) Certified or preliminarily determined by the secretary of the interior as contributing to the historical significance of a registered historic district or a district preliminarily determined by the secretary to qualify as a registered historic district.
- (3) Individually listed on a state inventory of historic places in states with historic preservation programs which have been approved by the secretary of the interior.
- (4) Individually listed on a local inventory of historic places in communities with historic preservation programs that have been certified either by an approved state program, as determined by the secretary of the interior, or by the secretary of the interior in states without approved programs.

Increase in regional flood height means a calculated upward rise in the regional flood elevation, greater than 0.00 foot, based on a comparison of existing conditions and proposed conditions which is directly attributable to development in the floodplain but not attributable to manipulation of mathematical variables such as roughness factors, expansion and contraction coefficients and discharge.

Land use means any nonstructural use made of unimproved or improved real estate. Also see "Development."

Lowest adjacent grade means the elevation of the lowest ground surface that touches any of the exterior walls of a building.

Lowest floor means the lowest floor of the lowest enclosed area (including basement). An unfinished or flood resistant enclosure, usable solely for parking of vehicles, building access or storage in an area other than a basement area is not considered a building's lowest floor; provided that such enclosure is not built so as to render the structure in violation of the applicable non-elevation design requirements of 44 CFR 60.3.

Maintenance means the act or process of ordinary upkeep or repairs, including redecorating, refinishing, non structural repairs, or the replacement of existing fixtures, systems or equipment with equivalent fixtures, systems or structures.

Manufactured home means a structure transportable in one or more sections, which is built on a permanent chassis and is designed to be used with or without a permanent foundation when connected to required utilities. The term "manufactured home" includes a mobile home but does not include a "mobile recreational vehicle."

Mobile/manufactured home park or subdivision means a parcel (or contiguous parcels) of land, divided into two or more manufactured home lots for rent or sale.

Mobile/manufactured home park or subdivision, existing means a parcel of land divided into two or more manufactures home lots for rent or sale, on which the construction of facilities for servicing the lots is completed before the effective date of this article. At a minimum, this would include the installation of utilities, the construction of streets and either final site grading or the pouring of concrete pads.

Mobile/manufactured home park, expansion to existing means the preparation of additional sites by the construction of facilities for servicing the lots on which the manufactured homes are to be affixed. This includes installation of utilities, construction of streets and either final site grading, or the pouring of concrete pads.

Mobile recreational vehicle means a vehicle which is built on a single chassis, 400 square feet or less when measured at the largest horizontal projection, designed to be self-propelled, carried or permanently towable by a licensed, light-duty vehicle, is licensed for highway use if registration is required and is designed primarily not for use as permanent dwelling, but as temporary living quarters for recreational, camping, travel or seasonal use. Manufactured homes that are towed or carried onto a parcel of land, but do not remain capable of being towed or carried, including park model homes, do not fall within the definition of "mobile recreational vehicles."

Model, corrected effective means a hydraulic engineering model that corrects any errors that occur in the duplicate effective model, adds any additional cross sections to the duplicate effective model, or incorporates more detailed topographic information than that used in the current effective model.

Model, duplicate effective means a copy of the hydraulic analysis used in the effective FIS and referred to as the effective model.

Model, effective means the hydraulic engineering model that was used to produce the current effective flood insurance study.

Model, existing (pre-project) means a modification of the duplicate effective model or corrected effective model to reflect any man-made modifications that have occurred within the floodplain since the date of the effective model but prior to the construction of the project for which the revision is being requested. If no modification has occurred since the date of the effective model, then this model would be identical to the corrected effective model or duplicate effective model.

Model, revised (post-project) means a modification of the existing or pre-project conditions model, duplicate effective model or corrected effective model to reflect revised or post-project conditions.

Municipality or municipal means the county, city or village governmental units enacting, administering and enforcing this zoning ordinance.

NAVD or North American Vertical Datum means elevations referenced to mean sea level datum, 1988 adjustment.

New construction means, for floodplain management purposes, structures for which the start of construction commenced on or after the effective date of floodplain zoning regulations adopted by this community and includes any subsequent improvements to such structures. For the purpose of determining flood insurance rates, it includes any structures for which the "start of construction" commenced on or after the effective date of an initial FIRM or after December 31, 1974, whichever is later, and includes any subsequent improvements to such structures.

Non-flood disaster means a fire or an ice storm, tornado, windstorm, mudslide, or other destructive act of nature, but excludes a flood.

NGVD or National Geodetic Vertical Datum means elevations referenced to mean sea level datum, 1929 adjustment.

Nonconforming structure means an existing lawful structure or building which is not in conformity with the dimensional or structural requirements of this article for the area of the floodplain which it occupies. For example, an existing residential structure in the floodfringe district is a conforming use. However, if the first floor is lower than the flood protection elevation, the structure is nonconforming.

Nonconforming use means an existing lawful use or accessory use of a structure or building which is not in conformity with the provisions of this article for the area of the floodplain which it occupies, such as a residence in the floodway.

Obstruction to flow means any development which blocks the conveyance of floodwaters such that this development alone or together with any future development will cause an increase in regional flood height.

Official floodplain zoning map means that map, adopted and made part of this chapter, as described in section 22-788, which has been approved by the department and FEMA.

Open space use means those uses having a relatively low flood damage potential and not involving structures.

Ordinary highwater mark means the point on the bank or shore up to which the presence and action of surface water is so continuous as to leave a distinctive mark such as by erosion, destruction or prevention of terrestrial vegetation, predominance of aquatic vegetation, or other easily recognized characteristic.

Person means an individual, or group of individuals, corporation, partnership, association, municipality or state agency.

Private sewage system means a sewage treatment and disposal system serving one structure with a septic tank and soil absorption field located on the same parcel as the structure. It also means an alternative sewage system approved by the department of safety and professional services, including a substitute for the septic tank or soil absorption field, a holding tank, a system serving more than one structure or a system located on a different parcel than the structure.

Public utilities means those utilities using underground or overhead transmission lines such as electric, telephone and telegraph, and distribution and collection systems such as water, sanitary sewer and storm sewer.

Reasonably safe from flooding means base floodwaters will not inundate the land or damage structures to be removed from the floodplain and that any subsurface waters related to the base flood will not damage existing or proposed buildings.

Regional flood means a flood determined to be representative of large floods known to have occurred in the state. A regional flood is a flood with a one percent chance of being equaled or exceeded in any given year, and if depicted on the FIRM, the RFE is equivalent to the BFE.

Start of construction means the date the building permit was issued, provided the actual start of construction, repair, reconstruction, rehabilitation, addition, placement, or other improvement was within 180 days of the permit date. The actual start means either the first placement of permanent construction on a site, such as the pouring of slab or footings, the installation of piles, the construction of columns, or any work beyond

initial excavation, or the placement of a manufactured home on a foundation. Permanent construction does not include land preparation, such as clearing, grading and filling, nor does it include the installation of streets and/or walkways, nor does it include excavation for a basement, footings, piers or foundation or the erection of temporary forms, nor does it include the installation on the property of accessory buildings, such as garages or sheds not occupied as dwelling units or not part of the main structure. For an alteration, the actual start of construction means the first alteration of any wall, ceiling, floor or other structural part of a building, whether or not that alteration affects the external dimensions of the building.

Structure means any manmade object with form, shape and utility, either permanently or temporarily attached to, placed upon or set into the ground, stream bed or lakebed, including, but not limited to, roofed and walled buildings, gas or liquid storage tanks, bridges, dams and culverts.

Subdivision has the meaning given in Wis. Stats. § 236.02(12) defined as a division of a lot, parcel or tract of land by the owner thereof or the owner's agent for the purpose of sale or of building development, where the act of division creates five or more parcels or building sites of 1½ acres each or less in areas; or five or more parcels or building sites of 1½ acres each or less in area are created by successive divisions within a period of five years.

Substantial damage means damage of any origin sustained by a structure, whereby the cost of restoring the structure to its pre-damaged condition would equal or exceed 50 percent of the equalized assessed value of the structure before the damage occurred.

Substantial improvement means any repair, reconstruction, rehabilitation, addition or improvement of a building or structure, the cost of which equals or exceeds 50 percent of the equalized assessed value of the structure before the improvement or repair is started. If the structure has sustained substantial damage, any repairs are considered substantial improvements regardless of the work performed. The term does not, however, include either any project for the improvement of a building required to correct existing health, sanitary or safety code violations identified by the building official and that are the minimum necessary to assure safe living conditions; or any alteration of a historic structure provided that the alteration will not preclude the structure's continued designation as a historic structure.

Unnecessary hardship means where special conditions affecting a particular property which were not self-created have made strict conformity with restrictions governing areas, setbacks, frontage, height or density unnecessarily burdensome or unreasonable in light of the purposes of this article.

Variance means an authorization by the board of adjustment or appeals for the construction or maintenance of a building or structure in a manner which is inconsistent with dimensional standards (not uses) contained in the floodplain zoning ordinance.

Violation means the failure of a structure or other development to be fully compliant with the floodplain zoning ordinance. A structure or other development without required permits, lowest floor elevation documentation, floodproofing certificates or required floodway encroachment calculations is presumed to be in violation until such time as that documentation is provided.

Water surface profile means a graphical representation showing the elevation of the water surface of a watercourse for each position along a reach of river or stream at a certain flood flow. A water surface profile of the regional flood is used in regulating floodplain areas.

Watershed means the entire region contributing runoff or surface water to a watercourse or body of water.

Well means an excavation opening in the ground made by digging, boring, drilling, driving or other methods, to obtain groundwater regardless of its intended use.

(Ord. No. 2010-O-09, § 22.470, 10-12-2010; Ord. No. 2014-O-31, § 1, 8-26-2014)

RE: Floodplain Ordinance Adoption Notice - City of Fitchburg

From Rankin, Kristin L - DNR <kristin.rankin@wisconsin.gov>
Date Tue 5/13/2025 1:13 PM
To Deanna Schmidt <Deanna.Schmidt@fitchburgwi.gov>

Deanna,

The ordinance looks great, please continue along with the ordinance adoption process and let me know if you have any questions.

Kristin Rankin

she/her/hers
(920)764-2201
Kristin.Rankin@wisconsin.gov

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From: Deanna Schmidt <Deanna.Schmidt@fitchburgwi.gov>
Sent: Friday, May 9, 2025 8:12 AM
To: Rankin, Kristin L - DNR <kristin.rankin@wisconsin.gov>
Subject: Re: Floodplain Ordinance Adoption Notice - City of Fitchburg

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Hi Kristin,
Thanks for your careful review.

I believe we are close 😊
Please see attached. I've highlighted the most recent corrections.

Thanks,
d

Deanna Schmidt, AICP
City Planner & Zoning Administrator

City of Fitchburg
5520 Lacy Road
Fitchburg, WI 53711

deanna.schmidt@fitchburgwi.gov

608-270-4255



From: Rankin, Kristin L - DNR <kristin.rankin@wisconsin.gov>
Sent: Tuesday, May 6, 2025 11:47 AM
To: Deanna Schmidt <Deanna.Schmidt@fitchburgwi.gov>
Subject: RE: Floodplain Ordinance Adoption Notice - City of Fitchburg

Good Morning,

I looked through the ordinance again. My new comments are on the attached checklist in orange.

As always, let me know if you have any questions

Kristin Rankin

she/her/hers
(920)764-2201
Kristin.Rankin@wisconsin.gov

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From: Deanna Schmidt <Deanna.Schmidt@fitchburgwi.gov>
Sent: Monday, April 28, 2025 7:10 PM
To: Rankin, Kristin L - DNR <kristin.rankin@wisconsin.gov>
Cc: Disser, William T - DNR <william.disser@wisconsin.gov>
Subject: Re: Floodplain Ordinance Adoption Notice - City of Fitchburg

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Hi Kristin,
Please find the updated ordinance attached. I've also the checklist with responses.

Please let me know if you have any questions.

Thanks,
d

Deanna Schmidt, AICP
City Planner & Zoning Administrator

City of Fitchburg
5520 Lacy Road
Fitchburg, WI 53711

deanna.schmidt@fitchburgwi.gov

608-270-4255



From: Rankin, Kristin L - DNR <kristin.rankin@wisconsin.gov>
Sent: Friday, March 28, 2025 9:21 AM
To: Deanna Schmidt <Deanna.Schmidt@fitchburgwi.gov>
Cc: Disser, William T - DNR <william.disser@wisconsin.gov>
Subject: RE: Floodplain Ordinance Adoption Notice - City of Fitchburg

Good morning Deanna,

Attached is the checklist with my comments, I also added a few comment bubbles in the ordinance.

Kristin Rankin
she/her/hers
(920)764-2201
Kristin.Rankin@wisconsin.gov

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From: Deanna Schmidt <Deanna.Schmidt@fitchburgwi.gov>
Sent: Monday, March 24, 2025 7:44 PM
To: Rankin, Kristin L - DNR <kristin.rankin@wisconsin.gov>

Cc: Disser, William T - DNR <william.disser@wisconsin.gov>
Subject: Re: Floodplain Ordinance Adoption Notice - City of Fitchburg

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Hi Kristin,
Please see attached.

Thanks,
d

Deanna Schmidt, AICP
City Planner & Zoning Administrator

City of Fitchburg

5520 Lacy Road

Fitchburg, WI 53711

deanna.schmidt@fitchburgwi.gov

608-270-4255



From: Rankin, Kristin L - DNR <kristin.rankin@wisconsin.gov>
Sent: Monday, March 24, 2025 4:01 PM
To: Deanna Schmidt <Deanna.Schmidt@fitchburgwi.gov>
Cc: Disser, William T - DNR <william.disser@wisconsin.gov>
Subject: RE: Floodplain Ordinance Adoption Notice - City of Fitchburg

Good afternoon Deanna,

I am working on reviewing the ordinance you have sent over and find the red and green lettering to be very confusing. Can you send me a copy of the ordinance with only the text that you plan to adopt?

Kristin Rankin
she/her/hers
(920)764-2201
Kristin.Rankin@wisconsin.gov

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From: Deanna Schmidt <Deanna.Schmidt@fitchburgwi.gov>
Sent: Tuesday, March 18, 2025 8:09 AM
To: Rankin, Kristin L - DNR <kristin.rankin@wisconsin.gov>
Cc: Disser, William T - DNR <william.disser@wisconsin.gov>
Subject: Re: Floodplain Ordinance Adoption Notice - City of Fitchburg

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Hi Kristin,

I've attached Fitchburg's ordinance with changes. The checklist is also attached.

Please let me know if you have any questions or concerns.

One question for you, we have flood plain and flood storage GIS data from 2014. Do you have more recent data that can be shared with us?

Thank you,

d

Deanna Schmidt, AICP
City Planner & Zoning Administrator

City of Fitchburg

5520 Lacy Road

Fitchburg, WI 53711

deanna.schmidt@fitchburgwi.gov

608-270-4255



From: Rankin, Kristin L - DNR <kristin.rankin@wisconsin.gov>
Sent: Friday, March 14, 2025 11:30 AM
To: Deanna Schmidt <Deanna.Schmidt@fitchburgwi.gov>
Cc: Disser, William T - DNR <william.disser@wisconsin.gov>
Subject: RE: Floodplain Ordinance Adoption Notice - City of Fitchburg

Good morning Deanna,

Did you get a chance to fill out the checklist as well as send a complete draft of the ordinance? It is important to make sure the ordinance is approvable by the DNR before it is adopted to make sure the City doesn't have to redo the entire process if there is a mistake.

Kristin Rankin
she/her/hers
(920)764-2201
Kristin.Rankin@wisconsin.gov

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From: Rankin, Kristin L - DNR
Sent: Thursday, February 13, 2025 3:33 PM
To: Deanna Schmidt <Deanna.Schmidt@fitchburgwi.gov>
Cc: Disser, William T - DNR <william.disser@wisconsin.gov>
Subject: RE: Floodplain Ordinance Adoption Notice - City of Fitchburg

Good afternoon Deanna,

I started to take a look and I think it would be beneficial if you also fill out this checklist as you are editing. Please only fill out the "local section" column. I will use the remainder of the checklist when I review the ordinance with the model to make sure nothing is missing.

Let me know if you have any questions.

Kristin Rankin
she/her/hers
(920)764-2201
Kristin.Rankin@wisconsin.gov

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From: Deanna Schmidt <Deanna.Schmidt@fitchburgwi.gov>
Sent: Friday, February 7, 2025 8:17 AM
To: Rankin, Kristin L - DNR <kristin.rankin@wisconsin.gov>
Cc: Disser, William T - DNR <william.disser@wisconsin.gov>
Subject: Re: Floodplain Ordinance Adoption Notice - City of Fitchburg

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Hi Kristin,
I'm not sure what it the best approach, but I certainly appreciate your assistance.

I would like to maintain our section numbering. In the attached document, I've started editing to match the model ordinance.

What are your thoughts?

Thanks,
d

Deanna Schmidt, AICP
City Planner & Zoning Administrator

City of Fitchburg

5520 Lacy Road

Fitchburg, WI 53711

deanna.schmidt@fitchburgwi.gov

608-270-4255



From: Rankin, Kristin L - DNR <kristin.rankin@wisconsin.gov>
Sent: Thursday, February 6, 2025 8:45 AM
To: Deanna Schmidt <Deanna.Schmidt@fitchburgwi.gov>
Cc: Disser, William T - DNR <william.disser@wisconsin.gov>
Subject: RE: Floodplain Ordinance Adoption Notice - City of Fitchburg

Good morning Deanna,

The new model ordinance language includes the updated state and federal standards. There are several updates to the language throughout the ordinance. If the city would like, the DNR can draft the ordinance for free to help you review the ordinance better. Is this something the city would be interested in?

Kristin Rankin
she/her/hers
(920)764-2201
Kristin.Rankin@wisconsin.gov

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From: Deanna Schmidt <Deanna.Schmidt@fitchburgwi.gov>
Sent: Tuesday, February 4, 2025 8:17 AM
To: Rankin, Kristin L - DNR <kristin.rankin@wisconsin.gov>
Cc: Disser, William T - DNR <william.disser@wisconsin.gov>
Subject: Re: Floodplain Ordinance Adoption Notice - City of Fitchburg

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Hi Kristin,
I'm review our ordinance to identify the required changes.

The outline of our ordinance is consistent with the model ordinance, but the specific language varies. For example, the following Fitchburg section, Sec. 22-788(a) is similar to the model ordinance 1.5(2), but the language differs. Below, I've completed edits to match the model ordinance exactly.

Sec. 22-788. Official maps and revisions.

- (a) **Special Flood Hazard Areas (SFHA)** ~~The boundaries of all floodplain districts~~ are designated as A, AE, AH, AO or A1-30 on the Flood Insurance Rate ~~M~~maps based on flood hazard analyses summarized in the Flood Insurance Study ~~the flood insurance study~~ (FIS) listed below. Additional flood hazard areas subject to regulation under this article are identified on maps based on studies approved by the DNR and listed below. ~~Any change to the base flood elevations (BFE) or any changes to the boundaries of the floodplain or floodway in the FIS or on the flood insurance rate map (FIRM) must be reviewed and approved by the WIDNR and FEMA through the letter of map change process (see § 22-851, Amendments) before it is effective. No changes to regional flood elevations (RFEs) on non-FEMA maps shall be effective until approved by the WIDNR.~~ These maps and revisions are on file in the office of the city planning department. ~~If more than one map or revision is referenced, the most restrictive information shall apply.~~

Can you clarify if our ordinance revisions need to have the exact wording of the model ordinance?

Thank you,

d

Deanna Schmidt, AICP
City Planner & Zoning Administrator

City of Fitchburg

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From: Rankin, Kristin L - DNR <kristin.rankin@wisconsin.gov>
Sent: Tuesday, January 28, 2025 4:17 PM
To: Julia Arata-Fratta <Julia.Arata-Fratta@fitchburgwi.gov>
Cc: Deanna Schmidt <Deanna.Schmidt@fitchburgwi.gov>; Disser, William T - DNR <william.disser@wisconsin.gov>
Subject: Floodplain Ordinance Adoption Notice - City of Fitchburg

EXTERNAL EMAIL: BEWARE OF UNKNOWN ATTACHMENTS AND LINKS.

The Honorable Ms. Arata-Fratta:

The Federal Emergency Management Agency (FEMA) recently updated the Flood Insurance Rate Maps (FIRMs) for a portion of Dane County and the Flood Insurance Study (FIS) for the entire county.

As part of these changes your community will need to update the local floodplain zoning ordinance by July 28, 2025. Staff from the Floodplain Program at The Department of Natural Resources (DNR) are available to assist you with this process. Attached is a letter that outlines the steps involved to update and adopt the ordinance. The letter also contains a link to the ordinance adoption procedures required by state law.

Please plan ahead to allow for the time needed to complete the adoption process before the deadline. The ordinance needs to be legally adopted by the community and approved by the DNR prior to July 28, 2025. To meet this deadline, the community should plan to hold the public hearing and adoption by June 13, 2025 (approximately 5 weeks prior to effective date).

Please note adoption approval deadlines may differ among communities in Dane county. Please refer to the adoption approval deadline dates in this email and the attached letter, addressed to your community.

If you have any questions, feel free to contact me. I will reach out in the next few days to ask if the city would like assistance with the update. DNR staff will craft the update for the city to review at no charge.

Kristin Rankin
she/her/hers
(920)764-2201
Floodplain & Shoreland Zoning Specialist

Wisconsin Department of Natural Resources
2984 Shawano Ave. Green Bay, WI 54313
Kristin.Rankin@wisconsin.gov

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