

City of Waukesha, Wisconsin

Ordinance No. 2023 – 11

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**An Ordinance Repealing Section 22.70 and Retitling and Creating Chapter 24 of the Waukesha Municipal Code, Regarding Floodplain Zoning**

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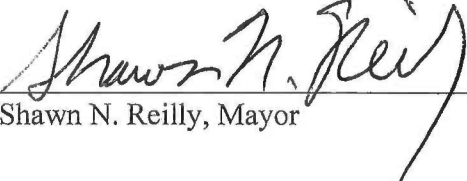
The Common Council of the City of Waukesha do ordain as follows:

**Section 1.** Section 22.70 of the Waukesha Municipal Code, titled Floodplain Zoning, is repealed in its entirety. A notation shall be entered in the Code noting that it has been replaced by Chapter 24.

**Section 2.** Chapter 24 of the Waukesha Municipal Code, which was titled Floodland Zoning and reserved for future use, is retitled Floodplain Zoning and created to read in its entirety as the attached Sections 24.01 through 24.15.

**Section 3.** This Ordinance shall be effective the day after its publication.

Passed the 5<sup>th</sup> day of September, 2023.

  
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Shawn N. Reilly, Mayor

  
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Attest: Gina L. Kozlik, City Clerk

#### **24.01 Statutory Authority, Findings of Fact, and Statement of Purpose.**

- (1) Statutory Authorization.** This Chapter 24 of the City of Waukesha Municipal Code is adopted pursuant to Wis. Stat. §62.23 and §87.30.
- (2) Finding of Fact.** The Common Council finds that uncontrolled development and use of Floodplains within the City of Waukesha would impair the public health, safety, convenience, general welfare, and tax base, and that reasonable regulation of such development is necessary.
- (3) Statement of Purpose.** This Chapter regulates Floodplain development for the protection of life, health, and property; to minimize expenditures of public funds for flood control projects; to minimize rescue and relief efforts undertaken at taxpayer expense; to minimize business and other economic disruptions; to minimize damage to public facilities in the Floodplain; to minimize the occurrence of future flood blight areas in the Floodplain; to discourage the victimization of unwary land buyers; to prevent increases in flood heights that could increase flood damage and result in conflicts among property owners; and to discourage development in a Floodplain if there is any practical alternative.

**24.02 Definitions and Construction.** For purposes of this Chapter only, words and phrases shall have the following meanings. Unless specifically defined in this section, words and phrases in this Chapter shall have their common meanings and shall be applied in accordance with their common usages. Words used in the present tense include the future, the singular number includes the plural and the plural number includes the singular. The word “may” is permissive, and the word “shall” is mandatory and not discretionary.

- (1) **A Zones.** Those areas shown on the Official Floodplain Zoning Map that would be inundated by the regional flood. These areas may be numbered or unnumbered A Zones. The A Zones may or may not be reflective of flood profiles, depending on the availability of data for a given area.
- (2) **Accessory Structure or Use.** A facility, Structure, building or use that is accessory or incidental to the principal use of a property, Structure or building. Accessory Structures shall not be used for human habitation.
- (3) **Alteration.** An enhancement, upgrade or substantial change or modification other than an addition or repair to a dwelling or to electrical, plumbing, heating, ventilating, air conditioning and other systems within a Structure.
- (4) **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 Flood Insurance Study and depicted on a Flood Insurance Rate Map.
- (5) **Basement.** Any enclosed area of a building having its floor sub-grade on all sides.
- (6) **Campground.** Any parcel of land that is designed, maintained, intended, or used for the purpose of providing sites for overnight use by 4 or more Camping Units, or is advertised as a camping area.
- (7) **Camping Unit.** Any portable device, no more than 400 square feet in area, used as a temporary shelter, including but not limited to a camping trailer, motor home, bus, van, pick-up truck, or tent that is fully licensed, if required, and ready for highway use.
- (8) **Certificate of Compliance.** A certification that the construction and the use of land or a building, the elevation of fill or the Lowest Floor of a Structure is in compliance with all of the provisions of this Chapter.
- (9) **Channel.** A natural or artificial watercourse with definite bed and banks to confine and conduct normal flow of water.
- (10) **Chapter.** This Chapter 24 of the Waukesha Municipal Code.
- (11) **Corrected Effective Model.** 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.
- (12) **Crawl Space.** An enclosed area below the first usable floor of a building, generally less than five feet in height, used for access to plumbing and electrical utilities.

- (13) **Deck.** An unenclosed exterior Structure that has no roof or sides and has a permeable floor that allows the infiltration of precipitation.
- (14) **Department.** The Wisconsin Department of Natural Resources.
- (15) **Development.** Any artificial change to improved or unimproved real estate, including, but not limited to, the construction of buildings, Structures or accessory Structures; the construction of additions or alterations to buildings, Structures or accessory Structures; the repair of any damaged Structure or the improvement or renovation of any Structure, regardless of percentage of damage or improvement; the placement of buildings or Structures; subdivision layout and site preparation; mining, dredging, filling, grading, paving, excavation or drilling operations; the storage, deposition or extraction of materials or equipment; and the installation, repair or removal of public or Private Sewage Systems or water supply facilities.
- (16) **DNR.** The Wisconsin Department of Natural Resources.
- (17) **Dryland Access.** A vehicular access route that is above the regional flood elevation, and that 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.
- (18) **Duplicate Effective Model.** A copy of the hydraulic analysis used in the effective FIS and referred to as the Effective Model.
- (19) **Encroachment.** Any fill, Structure, equipment, use or Development in the Floodway.
- (20) **FBFM.** Flood Boundary Floodway Map.
- (21) **FEMA.** Federal Emergency Management Agency.
- (22) **FIRM.** Flood Insurance Rate Map.
- (23) **FIS.** Flood Insurance Study.
- (24) **Flood, Flooding.** A general and temporary condition of partial or complete inundation of normally dry land areas caused by one of the following conditions:
- (a) The overflow or rise of inland waters;
  - (b) The rapid accumulation or runoff of surface waters from any source;
  - (c) The inundation caused by waves or currents of water exceeding anticipated cyclical levels along the shore of Lake Michigan or Lake Superior; or
  - (d) 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.
- (25) **Flood Frequency.** The probability of a flood occurrence that 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.

- (26) **Flood Fringe.** That portion of the Floodplain outside of the Floodway that is covered by flood waters during the regional flood where water is standing and not flowing.
- (27) **Flood Hazard Boundary Map.** A map designating approximate flood hazard areas. Flood hazard areas are designated as unnumbered A-Zones and do not contain Floodway lines or regional flood elevations. This map forms the basis for both the regulatory and insurance aspects of the National Flood Insurance Program until superseded by a Flood Insurance Study and a Flood Insurance Rate Map.
- (28) **Flood Insurance Rate Map.** Map showing Floodplains and risk premium zones delineated by the Federal Insurance Administration.
- (29) **Flood Insurance Study.** A technical engineering examination, evaluation, and determination of the local flood hazard areas. It provides maps designating those areas affected by the regional flood and provides both flood insurance rate zones and Base Flood elevations and may provide Floodway lines. The flood hazard areas are designated as numbered and unnumbered A-Zones. Flood Insurance Rate Maps, that accompany the Flood Insurance Study, form the basis for both the regulatory and the insurance aspects of the National Flood Insurance Program.
- (30) **Floodplain.** Land that has been or may be covered by flood water during the regional flood. It includes the Floodway and the Flood Fringe and may include other designated Floodplain areas for regulatory purposes.
- (31) **Flood Profile.** A graph or a longitudinal profile line showing the relationship of the water surface elevation of a flood event to locations of land surface elevations along a stream or river.
- (32) **Floodproofing.** Any combination of structural provisions, changes or adjustments to properties and Structures, water and sanitary facilities and contents of buildings subject to flooding, for the purpose of reducing or eliminating flood damage.
- (33) **Flood Protection Elevation.** An elevation of two feet of freeboard above the Regional Flood Elevation. See also Freeboard.
- (34) **Flood Storage.** Those Floodplain areas where storage of floodwaters has been taken into account during analysis in reducing the regional flood discharge.
- (35) **Floodway.** The Channel of a river or stream and those portions of the Floodplain adjoining the Channel required to carry the regional flood discharge.
- (36) **Freeboard.** A safety factor expressed in terms of a specified number of feet above a calculated flood level. Freeboard compensates for any factors that cause flood heights greater than those calculated, including ice jams, debris accumulation, wave action, obstruction of bridge openings and Floodways, the effects of watershed urbanization, loss of flood storage areas due to development and aggregation of the river or stream bed.
- (37) **Habitable Structure.** Any Structure or portion thereof used or designed for human habitation.
- (38) **High Flood Damage Potential.** Damage that could result from flooding that includes any danger to life or health or any significant economic loss to a Structure or building and its contents.

- (39) **Highest Adjacent Grade.** The highest natural elevation of the ground surface prior to construction next to the proposed walls of a Structure.
- (40) **Historic Structure.** Any Structure that is either:
- (a) 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;
  - (b) 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;
  - (c) Individually listed on a state inventory of historic places in states with historic preservation programs that have been approved by the Secretary of the Interior; or
  - (d) 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.
- (41) **Increase in Regional Flood Height.** A calculated upward rise in the regional flood elevation based on a comparison of existing conditions and proposed conditions that 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.
- (42) **Land Use.** Any nonstructural use made of unimproved or improved real estate. Also see Development.
- (43) **Lowest Adjacent Grade.** Elevation of the lowest ground surface that touches any of the exterior walls of a building.
- (44) **Lowest Floor.** The Lowest Floor of the lowest enclosed area, including Basement.
- (45) **Manufactured Home.** A Structure transportable in one or more sections that 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 mobile homes but does not include a Mobile Recreational Vehicle.
- (46) **Mobile or Manufactured Home Park or Subdivision.** A parcel, or contiguous parcels, of land divided into two or more Manufactured Home lots for rent or sale.
- (47) **Mobile Recreational Vehicle.** A vehicle that 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, licensed for highway use if registration is required, and designed primarily as temporary living quarters for recreational, camping, travel or seasonal use, not for use as a permanent dwelling. Manufactured Homes that are towed or carried onto a parcel of land, but do not remain capable of being towed or carried, are not Mobile Recreational Vehicles.

- (48) **Model, Corrected Effective.** 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.
- (49) **Model, Duplicate Effective.** A copy of the hydraulic analysis used in the effective FIS and referred to as the Effective Model.
- (50) **Model, Effective.** The hydraulic engineering model that was used to produce the current effective Flood Insurance Study.
- (51) **Model, Existing (Pre-Project).** 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.
- (52) **Model, Revised (Post-Project).** A modification of the Existing or Pre-Project Conditions Model, Duplicate Effective Model or Corrected Effective Model to reflect revised or post-project conditions.
- (53) **NAVD.** North American Vertical Datum, referenced to mean sea level datum, 1988 adjustment.
- (54) **NGVD.** National Geodetic Vertical Datum, referenced to mean sea level datum, 1929 adjustment.
- (55) **New Construction.** Structures for which the start of construction commenced on or after the effective date of a Floodplain zoning regulation adopted by the City and includes any subsequent improvements to such Structures.
- (56) **Nonconforming Structure.** An existing lawful Structure or building that is not in conformity with the dimensional or structural requirements of this Chapter for the area of the Floodplain that it occupies. (For example, an existing residential Structure in the Flood Fringe district is a conforming use. However, if the Lowest Floor is lower than the flood protection elevation, the Structure is nonconforming.)
- (57) **Nonconforming Use.** An existing lawful use or accessory use of a Structure or building that is not in conformity with the provisions of this Chapter for the area of the Floodplain that it occupies.
- (58) **Obstruction to Flow.** Any Development that blocks the conveyance of floodwaters such that this Development alone or together with any future Development will cause an Increase in Regional Flood Height.
- (59) **Official Floodplain Zoning Map.** The map, adopted and made part of this Chapter pursuant to §24.03(2), that has been approved by the Department and FEMA.
- (60) **Open Space Use.** Those uses having a relatively low flood damage potential and not involving Structures.

- (61) **Ordinary Highwater Mark.** The point on the bank or shore up to which the presence and action of surface water is so continuous as to leave a distinctive mark such as by erosion, destruction or prevention of terrestrial vegetation, predominance of aquatic vegetation, or other easily recognized characteristic.
- (62) **Person.** An individual, corporation, partnership, limited-liability company association, municipality, or state agency.
- (63) **Private Sewage System.** A sewage treatment and disposal system serving one Structure with a septic tank and soil absorption field located on the same parcel as the Structure. It also means an alternative sewage system approved by the Department of 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.
- (64) **Public Utilities.** Those utilities using underground or overhead transmission lines such as electric, telephone and telegraph, and distribution and collection systems such as water, sanitary sewer, and storm sewer.
- (65) **Regional Flood.** A flood determined to be representative of large floods known to have occurred in Wisconsin. A regional flood is a flood with a one percent chance of being equaled or exceeded in any given year, and if depicted on the FIRM, the RFE is equivalent to the BFE.
- (66) **SFHA.** Special Flood Hazard Area.
- (67) **Structure.** Any man-made object permanently or temporarily attached to, placed upon, or set into the ground, stream bed or lake bed. Structures include, but are not limited to, roofed and walled buildings, storage tanks, bridges, dams, and culverts.
- (68) **Subdivision.** Has the meaning given in Wis. Stat. §236.02(12).
- (69) **Substantial Damage.** Damage of any origin sustained by a Structure, whereby the cost of restoring the Structure to its pre-damaged condition would equal or exceed 50 percent of the equalized assessed value of the Structure before the damage occurred.
- (70) **Substantial Improvement.** 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 Improvement regardless of the work performed. The term does not 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.
- (71) **Water Surface Profile.** A graphical representation showing the elevation of the water surface of a watercourse for each position along a reach of river or stream at a certain flood flow. A water surface profile of the regional flood is used in regulating Floodplain areas.
- (72) **Zoning Administrator.** The City's Chief Building Inspector.

### 24.03 General Provisions.

- (1) **Areas Regulated.** This Chapter 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 and the City may also be regulated under the provisions of this Chapter, where applicable.
- (2) **Official Maps and Revisions.** Special Flood Hazard Areas are designated as zones A, A1-30, AE, AH and AO on the Flood Insurance Rate Maps based on flood hazard analyses summarized in the Flood Insurance Study listed in subd. (a) below. Additional flood hazard areas subject to regulation under this Chapter are identified on maps based on studies approved by the DNR and listed in subd. (b) below. These maps and revisions are on file in the office of the City Planner at Waukesha City Hall.
  - (a) **Official Maps Based on the FIRM.**
    - (i) Panel numbers 55133C0191H, 55133C0192H, 55133C0193H, 55133C0194H, 55133C0211H, 55133C0212H, 55133C0213H, 55133C0214H, 55133C0216H, 55133C0218H, 55133C0306H, 55133C0307H, 55133C0308H, 55133C0309H, 55133C0326H, 55133C0327H, 55133C0328H and 55133C0331H, effective October 19, 2023.
    - (ii) Flood Insurance Study volumes 55133CV001D, 55133CV002D, 55133CV003D, 55133CV004D and 55133CV005D for Waukesha County, effective October 19, 2023, as approved by the Department and FEMA.
  - (b) **Official Maps Based on Other Studies.** Flood Storage Map, Waukesha County and incorporated areas Flood Storage Districts Panels 7, 8, and 11, effective October 19, 2023, as approved by the Department.
- (3) **State Agencies Regulated.** Unless specifically exempted by law, all State agencies are required to comply with this Chapter and obtain all necessary permits if Wis. Stat. §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. Stat. §30.2022 applies. Although exempt from a local zoning permit and permit fees, DOT must provide sufficient project documentation and analysis to ensure that the City 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 §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 a DNR permit under §30.123(6)(d), the capacity is not decreased, the top road grade is not raised, and no Floodway data are available. If Floodway data are available in the impacted area they must be utilized by the applicant in the analysis of the project site.
- (4) **Abrogation and Greater Restrictions.**
  - (a) This Chapter supersedes all the provisions of former Municipal Code §22.70 and any municipal zoning ordinance enacted under Wis. Stat. §62.23 that relates 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 Chapter is not intended to repeal, abrogate, or impair any existing deed restrictions, covenants, or easements. If this Chapter imposes greater restrictions, the provisions of this Chapter shall control.
- (5) **Interpretation.** In their interpretation and application, the provisions of this Chapter are the minimum requirements liberally construed in favor of the governing body and are not a limitation on or repeal of any other powers granted by the Wisconsin Statutes. If a provision of this Chapter 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 Chapter or in effect on the date of the most recent text amendment to this Chapter.
- (6) **Warning and Disclaimer of Liability.** The flood protection standards in this Chapter are based on engineering experience and research. Larger floods may occur, or the flood height may be increased by man-made or natural causes. This Chapter does not imply or guarantee that non-Floodplain areas or permitted Floodplain uses will be free from flooding and flood damages. This Chapter does not create liability on the part of, or a cause of action against, the City or any officer or employee thereof for any flood damage.
- (7) **Severability.** Should any portion of this Chapter be declared unconstitutional or invalid by a court of competent jurisdiction, the remainder of this Chapter shall not be affected.
- (8) **Annexed Areas for Cities and Villages.** The Waukesha 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 that meets the requirements of Wis. Admin. Code ch. NR 116, and the National Flood Insurance Program, 44 CFR §§59-72. 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 Chapter and are on file in the office of the Zoning Administrator. All plats or maps of annexation shall show the regional flood elevation and the Floodway location.

#### **24.04 Floodplain Districts.**

**(1) Designation of Floodplain Districts.** The lands regulated by this Chapter are divided into districts as follows:

- (a) Floodway (FW) District.** The Floodway District 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 §24.08(5).
- (b) Flood Fringe (FF) District.** The Flood Fringe District 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 §24.08(5), within A Zones shown on the FIRM.
- (c) General Floodplain (GFP) District.** The General Floodplain District 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.
- (d) Flood Storage (FS) District.** The Flood Storage District is that area of the Floodplain where storage of floodwaters is calculated to reduce the regional flood discharge.

**(2) Determining Floodplain Boundaries.**

- (a)** Floodplain boundaries are as shown as Areas of Special Flood Hazard identified as Zones A, AO, AH, A1-30, and AE on the FIRM. 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 subd (b) and (c) below. If a significant difference exists, the map shall be amended according to §24.14. 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 an applicant over the district boundary line shall be settled according to §24.13(5)(b) and the criteria in (b) and (c) 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 §24.14.
- (b)** 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.
- (c)** Where flood profiles do not exist for projects, including any boundary of zone A, AO, the location of the boundary shall be determined by the map scale.

**(3) Removal of Lands from Floodplain.**

- (a)** Compliance with the provisions of this Chapter shall not be grounds for removing land from the Floodplain unless it is filled at least two feet above the regional or Base Flood

elevation, the fill is contiguous to land outside the Floodplain, and the map is amended pursuant to §24.14.

- (b)** The delineation of any of the Floodplain Districts may be revised by the City where natural or man-made changes have occurred or where more detailed studies have been conducted. However, prior to any such change, approval must be obtained from the Department and FEMA. A completed Letter of Map Revision is a record of this approval. The Zoning Administrator shall not sign a community acknowledgement form unless the following criteria are met:

  - (i)** The land must be filled at least two feet above the regional or Base Flood elevation;
  - (ii)** The fill must be contiguous to land outside the Floodplain; and
  - (iii)** Applicant shall obtain a Floodplain development permit before applying for a Letter of Map Revision.
- (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 Revision from FEMA under 44 CFR §70.

## **24.05 General Standards Applicable to All Floodplain Districts**

### **(1) Standards.**

- (a)** The City 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. “Reasonably safe from flooding” means Base Flood waters 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, according to the FBFM and FIRM.
- (b)** If a proposed building site is in a flood-prone area, all New Construction and Substantial Improvements shall:
  - (i)** 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;
  - (ii)** Be constructed with flood-resistant materials;
  - (iii)** Be constructed by methods and practices that minimize flood damages; and
  - (iv)** Mechanical and utility equipment must be elevated to or above the flood protection elevation.
- (c)** If a subdivision or other proposed new Development is in a flood-prone area, the City shall issue a permit only if the City determines that:
  - (i)** Such proposed subdivision or other proposed new Development is consistent with the need to minimize flood damage within the flood-prone area;
  - (ii)** Public utilities and facilities such as sewer, gas, electrical, and water systems are located and constructed to minimize or eliminate flood damage; and
  - (iii)** Adequate drainage is provided to reduce exposure to flood hazards.
- (d)** 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 Chapter and all other requirements in §24.11.

### **(2) Flow Obstruction, Increase in Flood Height Prohibited.**

- (a)** No Development shall:
  - (i)** Obstruct flow, defined as Development that blocks the conveyance of floodwaters by itself or with other Development causing any increase in the regional flood height; or
  - (ii)** Cause any increase in the regional flood height due to Floodplain storage area lost.

- (b) The Zoning Administrator shall deny permits if it is determined a 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 §24.14 are met.

**(3) Watercourse Alterations**

- (a) 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 §24.05(2)(a)(i) must be met and the flood-carrying capacity of any altered or relocated watercourse shall be maintained.
- (b) As soon as possible, and not later than six months after the date of the watercourse alteration or relocation and pursuant to §24.14, the City shall apply for a Letter of Map Amendment from FEMA. Any such alterations must be reviewed and approved by FEMA and the DNR through the Letter of Map Amendment process.

**(4) Wisconsin Statutes Chapters 30 and 31 Development.** Development that requires a permit from the Department, under Wisconsin Statutes Chapters 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 ordinance are made according to §24.14.

**(5) Campgrounds.**

- (a) Public or private Campgrounds shall be located only in areas having a low flood damage potential and shall meet the following requirements:
  - (i) The Campground is approved by the Department of Agriculture, Trade and Consumer Protection.
  - (ii) A Land Use permit for the Campground is issued by the Zoning Administrator.
  - (iii) 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.
  - (iv) 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 Zoning Administrator, the City's emergency government coordinator and Chief of Police that specifies the flood elevation at which evacuation shall occur, identifies the personnel responsible for monitoring flood elevations, identifies the types of warning systems to be used and the procedures for notifying at-risk parties, and describes the methods and personnel responsible for conducting evacuation. The term of the agreement shall be for no more than one calendar year, after which the agreement shall be reviewed and updated by the officials identified above to remain in compliance with all applicable regulations, including those of the state Department of Agriculture, Trade and Consumer Protection.
  - (v) 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 consistent with §24.05(5)(a)(iv) and shall ensure compliance with all the provisions of this section.

- (vi) The City shall monitor the limited authorizations issued by the Campground operator to assure compliance with the terms of this subsection.
  - (vii) 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.
  - (viii) 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.
- (b) All Mobile Recreational Vehicles placed in a Campground must meet one of the following:
- (i) Be fully licensed, if required, and ready for highway use, meaning it is on its wheels or jacking system, is attached to the site only by quick-disconnect utilities and security devices, and has no permanently attached additions;
  - (ii) Not occupy any site in the Campground for more than 180 consecutive days, at which time the recreational vehicle must be removed from the Floodplain for a minimum of 24 hours; or
  - (iii) Meet the requirements in either §24.06, §24.07, or §24.08(1) for the Floodplain district in which the Campground is located.
- (c) All Structures located in a Campground shall comply with the applicable requirements for the Floodplain district in which the Campground is located;
- (d) Decks may be allowed for Camping Units for each entry provided that the Deck is not permanently attached to the ground or Camping Unit, is no more than 200 square feet in size, is portable, contains no walls or roof, and can be removed from the Campground by a truck or trailer. Sections of such Decks may be placed together to form a single Deck not greater than 200 square feet at one entry point. Provisions for the removal of Decks during flood events must be addressed within the written agreement with the City pursuant to section §24.05(5)(a)(iv). Any such Deck 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.
- (e) Decks that are constructed completely at grade may be allowed but must comply with applicable shoreland zoning standards.
- (f) Camping and appurtenant equipment in the Campground may be allowed provided that the equipment is not permanently attached to the ground or Camping Unit, is not used as a Habitable Structure, and must not obstruct flow of flood waters or cause any increase in flood levels during the occurrence of a regional flood. Provisions for the removal of this equipment during flooding events shall be addressed within the written agreement with the City pursuant to §24.05(5)(a)(iv).

- (g)** 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, Camping Units, Decks, camping equipment and appurtenant equipment in the Campground shall be evacuated within the timelines specified within the written agreement with the City pursuant to §24.05(5)(a)(iv).
- (h)** A Land Use permit shall be obtained as provided under §24.11 before any Development, repair, modification, or addition to an existing Structure, or change in the use of a building or Structure, including sewer and water facilities, may be initiated in a Campground.

## **24.06 Floodway District.**

- (1) Applicability.** This section applies to all Floodway areas on the Floodplain zoning maps and those identified pursuant to §24.08(5).
- (2) Permitted Uses.** The following Open Space Uses are allowed in the Floodway District and the Floodway areas of the General Floodplain District, if they are not prohibited by any other ordinance; they meet the standards in §24.06(3) and §24.06(4); and all permits or certificates have been issued according to §24.11:
  - (a)** Agricultural uses, such as farming, outdoor plant nurseries, horticulture, viticulture, and wild crop harvesting.
  - (b)** Nonstructural industrial and commercial uses, such as loading areas, parking areas and airport landing strips.
  - (c)** 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 §24.06(3)(d).
  - (d)** Uses or Structures accessory to Open Space Uses or classified as Historic Structures that comply with §24.06(3) and §24.06(4).
  - (e)** Extraction of sand, gravel or other materials that comply with §24.06(3)(d).
  - (f)** 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. Stat. chs. 30 and 31.
  - (g)** Public utilities, streets and bridges that comply with §24.06(3)(c).
  - (h)** 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 ch. SPS 383.
  - (i)** Public or private wells used to obtain potable water for recreational areas that meet the requirements of local ordinances and Wis. Admin. Code chs. NR 811 and NR 812.
  - (j)** Wastewater treatment ponds or facilities permitted under Wis. Admin. Code. NR 110.15(3)(b).
  - (k)** 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.
- (3) Standards for Development in the Floodway.**
  - (a) General.**
    - (i)** Any Development in the Floodway shall comply with §24.05 and have a low flood damage potential.

- (ii) Applicants shall provide an analysis calculating the effects of this proposal on the regional flood height to determine the effects of the proposal according to §24.05(2) and §24.11(3). The analysis must be completed by a registered professional engineer in the state of Wisconsin.
  - (iii) Any encroachment in the regulatory Floodway is prohibited unless the data submitted for subsection (ii) 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 §24.04(3).
- (b) **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:
- (i) Not designed for human habitation, does not have a High Flood Damage Potential and is constructed to minimize flood damage;
  - (ii) 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 §24.06(3)(b)(iv) 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 §24.06(3)(b)(iv).
    - (4) Must be anchored to resist flotation, collapse, and lateral movement;
    - (5) Mechanical and utility equipment must be elevated to or above the flood protection elevation; and
    - (6) Must not obstruct flow of flood waters or cause any increase in flood levels during the occurrence of the regional flood.
  - (iii) For a Structure designed to allow the automatic entry of floodwaters below the Regional Flood Elevation, the applicant shall submit a plan that meets §24.06(3)(b)(i) and (ii) 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.

- (4) The use must be limited to parking, building access or limited storage.
- (iv) 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 §24.06(4)(d) and §24.06(4)(e);
  - (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.
- (c) **Public Utilities, Streets and Bridges.** Public utilities, streets and bridges may be allowed by permit, if:
  - (i) Adequate floodproofing measures are provided to the flood protection elevation; and
  - (ii) Construction meets the development standards of §24.05(2).
- (d) **Fills or Deposition of Materials.** Fills or deposition of materials may be allowed by permit, if:
  - (i) The requirements of §24.05(2) are met;
  - (ii) No material is deposited in navigable waters unless a permit is issued by the Department pursuant to Wisconsin Statutes Chapter 30, and a permit pursuant to §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;
  - (iii) The fill or other materials will be protected against erosion by riprap, vegetative cover, sheet piling or bulkheading; and
  - (iv) The fill is not classified as a solid or hazardous material.
- (4) **Prohibited Uses.** All uses not listed as permitted uses in §24.06(2) are prohibited, including the following uses:
  - (a) Habitable Structures, Structures with High Flood Damage Potential, or those not associated with permanent open-space uses;

- (b)** Storing materials that are buoyant, flammable, explosive, injurious to property, water quality, or human, animal, plant, fish or other aquatic life;
- (c)** Uses not in harmony with or detrimental to uses permitted in the adjoining districts;
- (d)** 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 ch. SPS 383;
- (e)** Any private or public wells that 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 NR 812;
- (f)** Any solid or hazardous waste disposal sites;
- (g)** Any wastewater treatment ponds or facilities, except those permitted under Wis. Admin. Code §NR 110.15(3)(b); and
- (h)** Any sanitary sewer or water supply lines, except those to service existing or proposed Development located outside the Floodway that complies with the regulations for the Floodplain area occupied.

## 24.07 Flood Fringe District.

- (1) **Applicability.** This section applies to all Flood Fringe areas shown on the Floodplain zoning maps and those identified pursuant to §24.08(5).
- (2) **Permitted Uses.** Any Structure, Land Use, or Development is allowed in the Flood Fringe District if the standards in §24.07(3) are met, the use is not prohibited by this, or any other ordinance or regulation and all permits or certificates specified in §24.11 have been issued.
- (3) **Standards for Development in the Flood Fringe.** Section 24.05 shall apply in addition to the following requirements according to the use requested. Any existing Structure in the Flood Fringe must meet the requirements of §24.09.
  - (a) **Residential Uses.** Any Structure, including a Manufactured Home, that is to be newly constructed or moved into the Flood Fringe, shall meet or exceed the following standards. Any existing Structure in the Flood Fringe must meet the requirements of §24.09;
    - (i) 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 Structure 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 Flood Fringe district unless it can be shown to meet §24.04(3).
    - (ii) Notwithstanding §24.07(3)(a)(i), a Basement or Crawl Space floor may be placed one (1) foot above the regional flood elevation if the Basement or Crawl Space 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;
    - (iii) Contiguous Dryland Access shall be provided from a Structure to land outside of the Floodplain, except as provided in subsection (iv), below.
    - (iv) In Developments where existing street or sewer line elevations make compliance with subsection (iii) impractical, the City may permit new Development and Substantial Improvements where roads are below the regional flood elevation, if:
      - (1) The City has written assurance from its Police and Fire Departments that rescue and relief will be provided to the Structure by wheeled vehicles during a regional flood event; or
      - (2) The City has a DNR-approved emergency evacuation plan that follows acceptable hazard mitigation planning guidelines.
  - (b) **Accessory Structures or Uses.** In addition to §24.05, New Construction and Substantial Improvements of Accessory Structures shall be constructed on fill with the Lowest Floor at or above the regional flood elevation.

- (c) **Commercial Uses.** In addition to §24.05, any commercial Structure that is erected, altered, or moved into the Flood Fringe shall meet the requirements of §24.07(3)(a). Subject to the requirements of §24.07(3)(e), 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.
- (d) **Manufacturing and Industrial Uses.** In addition to §24.05, any manufacturing or industrial Structure that is erected, altered, or moved into the Flood Fringe shall have the Lowest Floor elevated to or above the flood protection elevation or meet the floodproofing standards in §24.10. Subject to the requirements of §24.07(3)(e), 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.
- (e) **Storage of Materials.** Materials that are buoyant, flammable, explosive, or injurious to property, water quality or human, animal, plant, fish, or aquatic life shall be stored at or above the flood protection elevation or floodproofed in compliance with §24.10. Adequate measures shall be taken to ensure that such materials will not enter the water body during flooding.
- (f) **Public Utilities, Streets and Bridges.** All utilities, streets and bridges shall be designed to be compatible with comprehensive Floodplain development plans; and
  - (i) When failure of public utilities, streets and bridges would endanger public health or safety, or where such facilities are deemed essential, construction or repair of such facilities shall only be permitted if they are designed to comply with §24.10.
  - (ii) Minor roads or non-essential utilities may be constructed at lower elevations if they are designed to withstand flood forces to the regional flood elevation.
- (g) **Sewage Systems.** All sewage disposal systems shall be designed to minimize or eliminate infiltration of flood water into the system, pursuant to §24.10(2)(d), to the flood protection elevation and meet the provisions of all local ordinances and Wis. Admin. Code ch. SPS 383.
- (h) **Wells.** All wells shall be designed to minimize or eliminate infiltration of flood waters into the system, pursuant to §24.10(2)(d), to the flood protection elevation and shall meet the provisions of Wis. Admin. Code chs. NR 811 and NR 812.
- (i) **Solid Waste Disposal Sites.** Disposal of solid or hazardous waste is prohibited in Flood Fringe areas.
- (j) **Deposited Materials.** Any deposited material must meet all the provisions of this Chapter.
- (k) **Manufactured Homes.**
  - (i) 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.

- (ii) 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
- (iii) 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 Flood Fringe in §24.07(3)(a).
- (l) **Mobile Recreational Vehicles.** All Mobile Recreational Vehicles must be on site for less than 180 consecutive days and either:

  - (i) Meet the elevation and anchoring requirements in §24.07(3)(k)(ii) and (iii); or
  - (ii) Be fully licensed and ready for highway use. A Mobile Recreational Vehicle is ready for highway use if it is on its wheels or jacking system, is attached to the site only by quick-disconnect utilities and security devices and has no permanently attached additions.

## 24.08 Other Floodplain Districts.

- (1) **General Floodplain District.** 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 §24.03(2)(a).
- (2) **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 §24.03(2)(a), the boundaries of the regulatory Floodway shall be determined pursuant to §24.08(5). If the Development is proposed to encroach upon the regulatory Floodway, the Development is subject to the standards of §24.06. If the Development is located entirely within the Flood Fringe, the Development is subject to the standards of §24.07.
- (3) **Permitted Uses.** Pursuant to §24.08(5) it shall be determined whether the proposed use is located within the Floodway or Flood Fringe. Those uses permitted in the Floodway and Flood Fringe Districts are allowed within the General Floodplain District, according to the standards of §24.08(4) provided that all permits or certificates required under §24.11 have been issued.
- (4) **Standards for Development in the General Floodplain District.** Section 24.06 applies to Floodway areas, determined pursuant to §24.08(5). Section 24.07 applies to Flood Fringe areas, determined pursuant to §24.08(5).
  - (a) New Construction and Substantial Improvement of Structures in zone AO shall have the Lowest Floor, including Basement, elevated:
    - (i) To or above the depth, in feet, as shown on the FIRM above the Highest Adjacent Grade plus one additional foot of freeboard; or
    - (ii) If the depth is not specified on the FIRM, 3 feet above the Highest Adjacent Grade.
  - (b) 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.
  - (c) In AO and AH zones, provide adequate drainage paths to guide floodwaters around Structures.
  - (d) All Development in zones AO and AH shall meet the requirements of §24.07 applicable to Flood Fringe areas.
- (5) **Determining Floodway and Flood Fringe 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 Rate Maps, the Zoning Administrator shall:
  - (a) Require the applicant to submit two copies of an aerial photograph or a plan that shows the proposed Development with respect to the general Floodplain district limits, stream Channel, and existing Floodplain Developments, along with a legal description of the property, fill limits and elevations, building floor elevations and flood proofing measures and the flood zone as shown on the FIRM.

- (b) Require the applicant to furnish any of the following information deemed necessary by the Department to evaluate the effects of the proposal upon flood height and flood flows, regional flood elevation and to determine Floodway boundaries.
  - (i) A Hydrologic and Hydraulic Study according to the standards in §24.11(3).
  - (ii) 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.
  - (iii) Specifications for building construction and materials, floodproofing, filling, dredging, Channel improvement, storage, water supply and sanitary facilities.
- (6) **Flood Storage District.** The flood storage district delineates that portion of the Floodplain where storage of floodwaters has been taken into account and is relied upon to reduce the regional flood discharge. The district protects the flood storage areas and assures that any Development in the storage areas will not decrease the effective flood storage capacity that would cause higher flood elevations.
  - (a) **Applicability.** The provisions of this section apply to all areas within the Flood Storage District, as shown on the Official Floodplain Zoning Maps.
  - (b) **Permitted Uses.** Any use or Development that occurs in a flood storage district must meet the applicable requirements in §24.07(3).
  - (c) **Standards for Development in Flood Storage Districts.**
    - (i) Development in a Flood Storage District shall not cause any increase in the height of the regional flood.
    - (ii) No Development shall be allowed that 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 that is lost (compensatory storage). Excavation below the groundwater table is not considered to provide an equal volume of storage.
    - (iii) 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 Flood Fringe 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 §24.14 of this Chapter.
    - (iv) 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.

## **24.09 Nonconforming Uses.**

### **(1) General.**

- (a)** 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. Stat. §87.30 and Wis. Admin. Code §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 that was lawful before the passage of this Chapter 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 or Structure was created.
- (b)** As permit applications are received for additions, modifications, or Substantial Improvements to nonconforming buildings 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.
- (c)** The existing lawful use of a Structure or its accessory use that is not in conformity with the provisions of this Chapter may continue subject to the following conditions:

  - (i)** No modifications or additions to a nonconforming use or Structure shall be permitted unless they comply with this Chapter. The words “modification” and “addition” include, but are not limited to, any alteration, addition, modification, structural repair, rebuilding or replacement of any such existing use, Structure or accessory Structure or use. 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.
  - (ii)** 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.
  - (iii)** 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 Chapter.
  - (iv)** The municipality shall keep a record that lists all nonconforming uses and nonconforming Structures, their present equalized assessed value, the cost of all modifications or additions that have been permitted, and the percentage of the Structure's total current value those modifications represent.
  - (v)** No modification or addition to any nonconforming Structure or any Structure with a nonconforming use that over the life of the Structure would equal or exceed 50% of its present equalized assessed value shall be allowed unless the entire Structure is permanently changed to a conforming Structure with a conforming use in

compliance with the applicable requirements of this Chapter. Contiguous dry land access must be provided for residential and commercial uses in compliance with §24.07(3)(a). 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% provisions of this paragraph.

- (vi) 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% 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 Chapter. Contiguous dry land access must be provided for residential and commercial uses in compliance with §24.07(3)(a). Maintenance to any nonconforming Structure that does not exceed 50% 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 Substantial Improvement calculations.
- (vii) If on a per event basis the total value of the work being done under subsections (v) and (vi), above, equals or exceeds 50% 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 Chapter. Contiguous dry land access must be provided for residential and commercial uses in compliance with §24.07(3)(a).
- (viii) Except as provided in subsection (ix), below, if any nonconforming Structure or any Structure with a nonconforming use is destroyed or is substantially damaged, it cannot be replaced, reconstructed, or rebuilt unless the use and the Structure meet the current ordinance requirements. A Structure is considered substantially damaged if the total cost to restore the Structure to its pre-damaged condition equals or exceeds 50% of the Structure's present equalized assessed value.
- (ix) For nonconforming buildings that are substantially damaged or destroyed by a non-flood 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:
  - (1) **Residential Structures.**
    - (a) 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 §24.10(2).
    - (b) 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.
    - (c) 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.

- (d) In A Zones, obtain, review, and utilize any flood data available from a federal, state or other source.
- (e) In AO Zones with no elevations specified, shall have the Lowest Floor, including Basement, meet the standards in §24.08(4).
- (f) in AO Zones, shall have adequate drainage paths around Structures on slopes to guide floodwaters around and away from the Structure.

**(2) Nonresidential Structures.**

- (a) Shall meet the requirements of §24.09(1)(c)(ix)(1)(a)-(f), above.
- (b) 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 §24.10(1) or (2).
- (c) In AO Zones with no elevations specified, shall have the Lowest Floor, including Basement, meet the standards in §24.08(4).

**(d)** 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 §24.06(3)(a), flood-resistant materials are used, and construction practices and floodproofing methods that comply with §24.10 are used. Repair or rehabilitation of Historic Structures shall be exempt from the development standards of §24.09(1)(c)(ix)(1) 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.

**(e)** Notwithstanding anything in this chapter to the contrary, modifications, additions, maintenance, and repairs to a nonconforming building shall not be prohibited based on cost and the building's nonconforming use shall be permitted to continue if:

- (i)** Any living quarters in the nonconforming building are elevated to be at or above the flood protection elevation;
- (ii)** The Lowest Floor of the nonconforming building, including the Basement, is elevated to one foot above the regional flood elevation;
- (iii)** The nonconforming building is permanently changed to conform to the applicable requirements of §24.05;
- (iv)** If the nonconforming building is in the Floodway, the building is permanently changed to conform to the applicable requirements of §24.06(3)(a), §24.06(3)(b)(ii), §24.06(4), and §24.09. Any Development that adds additional fill or creates an encroachment in the Floodplain from beyond the original nonconforming Structure's 3-D building envelope must determine the Floodway in accordance with §24.08(5). If the encroachment is in the Floodway, it must meet the standards in §24.06(3)(d);

- (v) If the nonconforming building is in the Flood Fringe, the building is permanently changed to conform to the applicable requirements of §24.07(3) and §24.09(3);
- (vi) Repair or reconstruction of nonconforming Structures and Substantial Improvements of residential buildings in zones A1-30, AE, and AH must have the Lowest Floor (including Basement) elevated to one foot above the Base Flood elevation;
- (vii) Repair or reconstruction of nonconforming Structures and Substantial Improvements of non-residential buildings in zones A1-30, AE, and AH must have the Lowest Floor, including Basement, elevated to or above the Base Flood elevation, or together with attendant utility and sanitary facilities be designed so that below the Base Flood elevation the building is watertight with walls substantially impermeable to the passage of water and with structural components capable of resisting hydrostatic and hydrodynamic loads and effects of buoyancy. Where a non-residential Structure is intended to be made watertight below the Base Flood elevation, a registered professional engineer or architect must develop or review structural design, specifications, and plans for the construction, and must certify that the design and methods of construction are in accordance with accepted standards of practice for meeting the provisions of this subsection. The City must maintain a record of such certification including the specific elevation to which each such Structure is flood-proofed;
- (viii) Fully enclosed areas below the Lowest Floor of repair or reconstruction of nonconforming Structures and Substantial Improvements in zones A1-30, AE, and AH that are usable solely for parking of vehicles, building access, or storage, must be designed to adequately equalize hydrostatic forces on exterior walls by allowing for the entry and exit of floodwaters. Subsequent improvements to repaired or reconstructed nonconforming Structures must not increase the degree of their nonconformity. Designs for meeting this requirement must either be certified by a registered professional engineer or architect, or meet the following criteria:
  - (1) A minimum of two openings into each enclosed area must be located below the Base Flood elevation and provide a total net area of not less than one square inch for every square foot of enclosed area.
  - (2) The bottom of all openings must be no higher than one foot above the adjacent grade.
  - (3) Openings may be equipped with screens, louvers, valves, or other coverings if they permit the automatic entry and exit of floodwaters;
- (ix) Manufactured Homes that are placed or substantially improved within zones A1-30, AE, and AH outside of a Manufactured Home park or subdivision, in a new Manufactured Home park or subdivision, in an expansion to an existing Manufactured Home park or subdivision, or in an existing Manufactured Home park or subdivision on which a Manufactured Home has incurred Substantial Damage as a result of flood, must be elevated on a permanent foundation such that the Lowest Floor of the Manufactured Home is one foot above the Base Flood elevation, and be securely anchored to an adequately anchored foundation system to resist flotation, collapse, and lateral movement;

- (x) Manufactured Homes that are placed or substantially improved within zones A1-30, AE, and AH on existing sites in an existing Manufactured Home park that is not undergoing expansion and on which a Manufactured Home has not incurred Substantial Damage as a result of flood must be elevated so that either the Lowest Floor of the Manufactured Home is one foot above the Base Flood elevation, or the Manufactured Home chassis is supported by reinforced piers or other foundation elements of at least equivalent strength that are no less than 36 inches in height above grade, and be securely anchored to an adequately anchored foundation system to resist flotation, collapse, and lateral movement;
- (xi) Recreational vehicles placed on sites within zones A1-30, AH, and AE must either:
  - (1) Be on site for fewer than 180 consecutive days; or
  - (2) Be fully licensed and ready for highway use (a recreational vehicle is ready for highway use if it is on its wheels or jacking system, is attached to the site only by quick disconnect type utilities and security devices, and has no permanently attached additions); or
  - (3) Meet the elevation and anchoring requirements for Manufactured Homes in §24.09(1)(e)(ix), above;
- (xii) In a regulatory Floodway that has been delineated on the FIRM in zone A1-30 or AE, encroachments, including repair or reconstruction of nonconforming Structures, Substantial Improvement, or other Development (including fill) must be prohibited unless it has been demonstrated through hydrologic and hydraulic analyses performed in accordance with standard engineering practice that the proposed encroachment will not result in any increase in flood levels within the City during the occurrence of the Base Flood discharge. Subsequent improvements to repair or reconstructed nonconforming Structures must not increase the degree of their nonconformity;
- (xiii) In zone A, the City must obtain, review, and reasonably utilize any Base Flood elevation and Floodway data available from a federal, state, or other source as criteria for requiring repair or reconstruction of nonconforming Structures, Substantial Improvement, and other Development to meet §24.09(1)(e)(vi) through (xii), above. Any Development that adds additional fill or creates an encroachment in the Floodplain from beyond the original nonconforming Structure's 3-D building envelope must determine the Floodway in accordance with §24.08(5). If the encroachment is in the Floodway, it must meet the standards in §24.06(3)(d). Subsequent improvements to repair or reconstructed nonconforming Structures must not increase the degree of their nonconformity;
- (xiv) In zones A1-30 or AE where a regulatory Floodway has not been delineated on the FIRM, repair or reconstruction of nonconforming Structures, Substantial Improvement, or any Development that adds additional fill or creates an encroachment in the Floodplain from beyond the original nonconforming Structure's 3-D building envelope must determine the Floodway in accordance with §24.08(5). If the encroachment is in the Floodway, it must meet the standards in section §24.06(3)(d).

Subsequent improvements to repair or reconstructed nonconforming Structures must not increase the degree of their nonconformity;

- (xv) In zone AO, repair or reconstruction of nonconforming Structures and Substantial Improvements of residential Structures must have the Lowest Floor (including Basement) elevated above the highest adjacent grade at least as high as one foot more than the depth number specified in feet on the FIRM (at least 3 feet if no depth number is specified). Subsequent improvements to repair or reconstructed nonconforming Structures must not increase the degree of their nonconformity; or
- (xvi) In zone AO, repair or reconstruction of nonconforming Structures and Substantial Improvements of nonresidential Structures must have the Lowest Floor (including Basement) elevated above the highest adjacent grade at least as high as the depth number specified in feet on the FIRM (at least two feet if no depth number is specified), or (together with attendant utility and sanitary facilities) be structurally dry-floodproofed to that level according to the standard specified in §24.09(1)(e)(vii), above. Subsequent improvements to repair or reconstructed nonconforming Structures must not increase the degree of their nonconformity.

(2) **Floodway District.** 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:

- (i) Has been granted a permit or variance that meets all ordinance requirements;
- (ii) Meets the requirements of §24.09;
- (iii) Shall not increase the obstruction to flood flows or regional flood height;
- (iv) Any addition to the existing Structure shall be floodproofed, pursuant to §24.10, by means other than the use of fill, to the flood protection elevation; and,
- (v) If any part of the foundation below the flood protection elevation is enclosed, the following standards shall apply:
  - (1) The enclosed area shall be designed by a registered architect or engineer to allow for the efficient entry and exit of flood waters without human intervention. A minimum of two openings must be provided with a minimum net area of at least one square inch for every one square foot of the enclosed area. The lowest part of the opening can be no more than 12 inches above the adjacent grade;
  - (2) The parts of the foundation located below the flood protection elevation must be constructed of flood-resistant materials;
  - (3) Mechanical and utility equipment must be elevated or floodproofed to or above the flood protection elevation; and
  - (4) The use must be limited to parking, 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, §24.10(3), and Wis. Admin. Code ch. 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 all municipal ordinances, §24.10(3), and Wis. Admin. Code chs. NR 811 and NR 812.

**(3) Flood Fringe 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 municipality and meets the requirements of §24.07(3) except where §24.09(3)(b) is applicable.
- (b) Where compliance with the provisions of subsection (a), above, 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 Zoning Appeals may grant a variance from those provisions of subsection (a) for modifications or additions using the criteria listed below. Modifications or additions that are protected to elevations lower than the flood protection elevation may be permitted if:
  - (i) No floor is allowed below the regional flood elevation for residential or commercial Structures;
  - (ii) Human lives are not endangered;
  - (iii) Public facilities, such as water or sewer, shall not be installed;
  - (iv) Flood depths shall not exceed two feet;
  - (v) Flood velocities shall not exceed two feet per second; and
  - (vi) The Structure shall not be used for storage of materials as described in §24.07(3)(e).
- (c) All new Private Sewage Systems, or addition to, replacement, repair or maintenance of a Private Sewage System shall meet all the applicable provisions of all local ordinances, §24.10(2)(d) and Wis. Admin. Code ch. SPS 383.
- (d) All new wells, or addition to, replacement, repair, or maintenance of a well shall meet the applicable provisions of this Chapter, §24.10(2)(d) and Wis. Admin. Code chs. NR 811 and NR 812.

- (4) **Flood Storage Districts.** No modifications or additions shall be allowed to any nonconforming Structure in a flood storage area unless the standards outlined in §24.08(6)(c) are met.

## **24.10 Floodproofing Standards.**

- (1)** 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 §24.05, §24.06, §24.07, or §24.08.
- (2)** For a Structure designed to allow the entry of floodwaters, no permit or variance shall be issued until the applicant submits a plan either certified by a registered professional engineer or architect or meeting or exceeding 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.
  - (d)** Floodproofing measures shall be designed, as appropriate, to:
    - (i)** Withstand flood pressures, depths, velocities, uplift and impact forces, and other regional flood factors;
    - (ii)** Protect Structures to the flood protection elevation;
    - (iii)** Anchor Structures to foundations to resist flotation and lateral movement;
    - (iv)** Minimize or eliminate infiltration of flood waters;
    - (v)** Minimize or eliminate discharges into flood waters;
    - (vi)** Placement of essential utilities to or above the flood protection elevation; and
    - (vii)** If any part of the foundation below the flood protection elevation is enclosed, the following standards shall apply:
      - (1)** The enclosed area shall be designed by a registered architect or engineer to allow efficient entry and exit of flood waters without human intervention. A minimum of 2 openings must be provided with a minimum net area of at least 1 square inch for each square foot of enclosed area. The lowest point of the opening can be no more than 12 inches above the adjacent grade;
      - (2)** The parts of the foundation located below the flood protection elevation must be constructed of flood-resistant materials;
      - (3)** Mechanical and utility equipment must be elevated or floodproofed to or above the flood protection elevation; and
      - (4)** The use must be limited to parking, building access, or limited storage.

## **24.11 Permitting.**

### **(1) Requirement of Permit.**

- (a)** No Development within Floodplain areas regulated by this Chapter may be done without first obtaining a Land Use Permit from the Zoning Administrator. No Structure or use within areas regulated by this Chapter shall be located, erected, constructed, reconstructed, repaired, extended, converted, enlarged, or altered without full compliance with the terms of this Chapter and all other applicable regulations that apply to uses within the jurisdiction of these regulations.
- (b)** Failure to obtain a Floodplain development permit shall be a violation of these regulations and carry the penalty in §24.15.
- (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 approved plans and applications, or amendments thereto if approved by the Zoning Administrator. Use, arrangement, or construction contrary to that authorized shall be deemed a violation of these regulations and punishable in accordance with §24.15.

### **(2) Application for Permit.** Application to the Zoning Administrator for a Land Use Permit shall include:

- (a)** Name and address of the applicant, property owner and contractor;
- (b)** Legal description, proposed use, and whether it is New Construction or a modification;
- (c)** A site plan drawn to scale containing:
  - (i)** Location, dimensions, area and elevation of the lot;
  - (ii)** Location of the Ordinary Highwater Mark of any abutting navigable waterways;
  - (iii)** Location of any Structures with distances measured from the lot lines and street center lines;
  - (iv)** Location of any existing or proposed on-site sewage systems or private water supply systems;
  - (v)** Location and elevation of existing or future access roads;
  - (vi)** Location of Floodplain and Floodway limits as determined from the Official Floodplain Zoning Maps;
  - (vii)** The elevation of the Lowest Floor of proposed buildings and any fill using the vertical datum from the adopted study. either NGVD or NAVD;
  - (viii)** 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 §24.06 or §24.07 are met; and

- (ix) Data to determine if the proposed Development will cause an Obstruction to Flow or an Increase in Regional Flood Height or discharge according to §24.05(2). This may include any of the information noted in §24.06(3)(a).

**(3) Standards for Hydraulic and Hydrology Studies.** All hydraulic and hydrologic studies prepared for use in relation with this Chapter 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.

**(a) Zone A Floodplains and AE Zones in Which No Floodway Is Delineated.**

- (i) **Hydrology.** The appropriate method shall be based on the standards in Wis. Admin. Code ch. NR 116.07(3), Hydrologic Analysis: Determination of Regional Flood Discharge.
- (ii) **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. No

height difference between the proposed flood profile and the existing study profiles shall be allowed.

**(iii) 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.

**(b) Zone AE Floodplains.**

**(i) 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.

**(ii) 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 Models upstream and downstream of the revised reach as required. The Effective Model shall not be truncated.
- (iii) Mapping.** Maps and associated engineering data shall be submitted to the Department for review that 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 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 1% and 0.2% annual chance Floodplains and Floodway boundaries.
  - (4) If an annotated FIRM 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 projection and State Plane 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.
- (4) Expiration of Permits.** All permits issued under the authority of this Chapter 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 regulation, including any revision to the FIRM or FIS, that took effect after the permit date.
- (5) Certificate of Compliance.** No land shall be occupied or used, and no building that is hereafter constructed, altered, added to, modified, repaired, rebuilt, or replaced shall be occupied until a

certificate of compliance is issued by the Zoning Administrator, except where no permit is required, subject to the following provisions:

- (a) The certificate of compliance shall show that the building or premises or part thereof, and the proposed use, conform to the provisions of this Chapter;
  - (b) Application for such certificate shall be concurrent with the application for a permit;
  - (c) If all ordinance provisions are met, the certificate of compliance shall be issued within 10 days after written notification that the permitted work is completed;
  - (d) The applicant shall submit a certification signed by a registered professional engineer, architect, or 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 §24.10 are met.
  - (e) Where applicable pursuant to §24.08(4), the applicant must submit a certification 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 and columns, and an indication of whether the Structure contains a Basement.
  - (f) Where applicable pursuant to §24.08(4), 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 §24.08(4).
- (6) **Other Permits.** Prior to obtaining a Floodplain development permit the applicant must secure all necessary permits from federal, state, and county agencies, including but not limited to those required by the U.S. Army Corps of Engineers under §404 of the Federal Water Pollution Control Act, Amendments of 1972, 33 USC §1344.

## 24.12 Administration.

- (1) **Zoning Administrator.** The Zoning Administrator is authorized to administer this Chapter and shall have the following duties and powers:
  - (a) Advise applicants of the ordinance provisions, assist in preparing permit applications and appeals, and assure that the regional flood elevation for the proposed Development is shown on all permit applications.
  - (b) Issue permits and inspect properties for compliance with provisions of this Chapter and issue certificates of compliance where appropriate
  - (c) Inspect and assess all damaged Floodplain Structures to determine if Substantial Damage to the Structures has occurred.
  - (d) Keep records of all official actions such as:
    - (i) All permits issued, inspections made, and work approved;
    - (ii) Documentation of certified Lowest Floor and regional flood elevations;
    - (iii) Floodproofing certificates;
    - (iv) Water surface profiles, Floodplain zoning maps and ordinances, nonconforming uses and Structures including changes, appeals, variances and amendments.
    - (v) All Substantial Damage assessment reports for Floodplain Structures;
    - (vi) List of nonconforming Structures and uses.
  - (e) Submit copies of the following items to the Department Regional office:
    - (i) Within 10 days of the decision, a copy of any decisions on variances, appeals for map or text interpretations, and map or text amendments;
    - (ii) Copies of case-by-case analyses and other required information.
    - (iii) Copies of Substantial Damage assessments performed and all related correspondence concerning the assessments.
  - (f) Investigate and prepare reports of violations of this Chapter, and deliver them to the Department Regional office.
  - (g) Issue municipal citations for violations of this Chapter pursuant to §24.15.
  - (h) Submit copies of amendments to the FEMA Regional office.
- (2) **Plan Commission.** The Plan Commission shall oversee the functions of the Zoning Administrator and advise the Common Council on all proposed amendments to this Chapter.
- (3) **Public Information.** The Zoning Administrator shall, to the extent reasonably practicable:
  - (a) Place marks on Structures to show the depth of inundation during a regional flood.

- (b)** Ensure that all maps, engineering data and regulations are available and widely distributed.
- (c)** Provide information of the Floodplain status of any parcel of real estate when requested in connection with real estate transfers.

### **24.13 Appeals and Variance Requests.**

- (1)** The City Board of Zoning Appeals, referred to in this Chapter as the Board, shall hear appeals taken from decisions of the Zoning Administrator in the administration of this Chapter; resolve disputes over boundaries on the Official Floodplain Zoning Map; and hear and decide requests for variances from the terms of this Chapter.
- (2)** Appeals to the Board may be taken by any person affected by any decision of the Zoning Administrator, including City officials or departments. Appeals shall be initiated by written notice filed with the Board and the Zoning Administrator, within 30 days of the date of the decision being appealed. The Zoning Administrator shall transmit all records regarding the matter to the Board.
- (3) Scheduling and Notice of Hearing.** Upon receipt of a notice of appeal, the Board shall:
  - (a)** Fix a reasonable time for the hearing;
  - (b)** Publish adequate notice pursuant to Wisconsin Statutes, specifying the date, time, place, and subject of the hearing; and
  - (c)** Assure that notice shall be mailed to the parties in interest and the Department Regional office at least 10 days in advance of the hearing.
- (4) Hearing and Decision.**
  - (a)** Any party may appear in person or by agent.
  - (b)** The Board decision shall:
    - (i)** Be made within a reasonable time;
    - (ii)** Be sent to the Department Regional office within 10 days of the decision;
    - (iii)** Be a written determination signed by the chairman or secretary of the Board;
    - (iv)** State the specific facts that are the basis for the Board's decision;
    - (v)** 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
    - (vi)** 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.
- (5) Appeal Procedures.**
  - (a) Appeals of Permit Denials.** The Board shall:
    - (i)** Review all data submitted to it that is relevant to the appeal;
    - (ii)** Consider zoning agency recommendations; and

- (iii) Either uphold the denial or grant the appeal.
- (b) **Boundary Disputes.** The following procedure shall be used by the Board in hearing disputes concerning Floodplain district boundaries:
  - (i) If a Floodplain district boundary is established by approximate or detailed Floodplain studies, the flood elevations or profiles shall prevail in locating the boundary.
  - (ii) The person contesting the boundary location shall be given a reasonable opportunity to present arguments and technical evidence to the Board; and
  - (iii) If the boundary is incorrectly mapped, the Board should inform the zoning committee or the person contesting the boundary location to petition the governing body for a map amendment according to §24.14.
- (c) **Variance Requests.** The Board may, upon appeal, grant a variance from the standards of this Chapter if an applicant shows by clear and convincing evidence that:
  - (i) Literal enforcement of the ordinance will cause unnecessary hardship;
  - (ii) The hardship is due to adoption of the Floodplain ordinance and unique property conditions, not common to adjacent lots or premises. In such case the ordinance or map must be amended;
  - (iii) The variance is not contrary to the public interest; and
  - (iv) The variance is consistent with the purpose of this Chapter.
- (d) **Variances from FEMA Regulations.** In addition to the criteria in subsection (c), above, to qualify for a variance under FEMA regulations, the Board must also find that the following criteria have been met:
  - (i) The variance shall not cause any increase in the regional flood elevation;
  - (ii) The applicant has shown good and sufficient cause for issuance of the variance;
  - (iii) Failure to grant the variance would result in exceptional hardship;
  - (iv) Granting the variance will not result in additional threats to public safety, extraordinary expense, create a nuisance, cause fraud on or victimization of the public, or conflict with existing local laws or ordinances;
  - (v) The variance granted is the minimum necessary, considering the flood hazard, to afford relief.
- (e) **Restrictions on Variances.** The Board shall not grant any variance that:
  - (i) Grants, extends, or increases any use prohibited in the zoning district;
  - (ii) Is granted for a hardship based solely on an economic gain or loss;
  - (iii) Is granted for a hardship that is self-created;

- (iv) Harms the rights or property values of other persons in the area;
  - (v) Allows actions that are contrary to any provision of this Chapter, including any maps, unless amendments to this Chapter are made pursuant to §24.14; or
  - (vi) Allows any alteration or use of a Historic Structure that would preclude its continued designation as a Historic Structure.
- (f) **Appeals of Increases in Regional Flood Elevation.** The Board shall:
- (i) Affirm the increase if the Board finds that the data provide a reasonable basis for the Zoning Administrator’s decision, provided the flood profile and map have been amended and all appropriate legal arrangements are made with all adversely affected property owners pursuant to §24.14; or
  - (ii) Reverse the increase if the applicant shows by clear and convincing evidence that the data demonstrate that the project does not cause an increase and no other reasons for denial exist.
- (g) **Burden of Proof and Remedies.** In all appeals to Board, the applicant bears the burden of proof, and if the applicant fails to show clear and convincing evidence to support its position, then the Zoning Administrator’s decisions shall be upheld. If the applicant satisfies the Board by clear and convincing evidence of its position, then the Board may remand the matter back to the Zoning Administrator with instructions, or it may make its own decision consistent with the evidence accepted by it and the provisions of this Chapter.
- (h) **Notice of Increased Insurance Premiums.** If 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 of the shall be maintained with the variance record.

#### **24.14 Amendments.**

- (1)** Obstructions or increases may only be permitted if amendments are made to this Chapter, the Official Floodplain Zoning Maps, Floodway lines and water surface profiles, in accordance with this section.
- (1)** 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 Chapter, the Official Floodplain Zoning Maps, Floodway lines and water surface profiles, in accordance with this section. Any such alterations must be reviewed and approved by FEMA and the DNR.
- (2)** 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 Chapter, the official Floodplain maps, Floodway lines, and water surface profiles, in accordance with this section.
- (3)** Ordinance amendments may be made upon petition of any party according to the provisions of Wis. Stat. §62.23. The petitions shall include all data required by §24.08(5) and §24.11(2). The Land Use Permit shall not be issued until a Letter of Map Amendment or Letter of Map Revision is issued by FEMA for the proposed changes.
- (4)** Any proposed amendment shall be referred to the zoning agency for a public hearing and recommendation to the governing body. The amendment and notice of public hearing shall be submitted to the Department Regional Office for review prior to the hearing. The amendment procedure shall comply with the provisions of Wis. Stat. §62.23.
- (5)** The governing body shall change or supplement the Floodplain zoning district boundaries and this Chapter when required. Actions that require an amendment to the ordinance or submittal of a Letter of Map Amendment or Letter of Map Revision 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 §24.03(2)(b);
  - (d)** Any Floodplain fill that 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 ordinance text required by Wis. Admin. Code §NR 116.05, or otherwise required by law, or for changes by the municipality; and
  - (g)** All Channel relocations and changes to the maps to alter Floodway lines or to remove an area from the Floodway or the Flood Fringe that is based on a Base Flood elevation from a FIRM requires prior approval by FEMA.

- (6) No amendments shall become effective until reviewed and approved by the Department.
- (7) 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 governing body.

#### **24.15 Enforcement and Penalties.**

- (1) Injunction.** Every Development placed or maintained within any floodplain in violation of this Chapter is a public nuisance, and the creation thereof may be enjoined and maintenance thereof may be abated by action at suit of the City, the State or any citizen thereof, pursuant to Wis. Stat. §87.30.
- (2) Forfeiture.** Any person who places or maintains any Development within any floodplain in violation of this Chapter may be assessed a forfeiture of not more than \$50 for each offense. Each day during which such violation exists is a separate offense.
- (3) Enforcement.** The Zoning Administrator and his or her designees shall enforce this Chapter.