



Legislation Details (With Text)

File #: 050836 **Version:** 2

Type: Ordinance **Status:** Passed

File created: 10/18/2005 **In control:** ZONING, NEIGHBORHOODS & DEVELOPMENT COMMITTEE

On agenda: **Final action:** 12/13/2005

Effective date:

Title: A substitute ordinance relating to floodplain zoning regulations.

Sponsors: THE CHAIR

Indexes: FLOOD CONTROL, ZONING

Attachments: 1. Letter from Zoning Code Technical Committee, 2. CPC letter, 3. Notice Published on 12-29-05.PDF

Date	Ver.	Action By	Action	Result	Tally
10/18/2005	0	COMMON COUNCIL	ASSIGNED TO		
10/19/2005	0	ZONING, NEIGHBORHOODS & DEVELOPMENT COMMITTEE	REFERRED TO		
10/19/2005	0	ZONING, NEIGHBORHOODS & DEVELOPMENT COMMITTEE	REFERRED TO		
10/20/2005	1	CITY CLERK	DRAFT SUBMITTED		
11/14/2005	1	CITY CLERK	PUBLISHED		
11/23/2005	1	ZONING, NEIGHBORHOODS & DEVELOPMENT COMMITTEE	HEARING NOTICES SENT		
11/23/2005	1	ZONING, NEIGHBORHOODS & DEVELOPMENT COMMITTEE	HEARING NOTICES SENT		
11/23/2005	1	ZONING, NEIGHBORHOODS & DEVELOPMENT COMMITTEE	HEARING NOTICES SENT		
11/29/2005	1	ZONING, NEIGHBORHOODS & DEVELOPMENT COMMITTEE	RECOMMENDED FOR PASSAGE	Pass	5:0
12/13/2005	1	COMMON COUNCIL	SUBSTITUTED	Pass	15:0
12/13/2005	2	COMMON COUNCIL	PASSED	Pass	15:0
12/13/2005	2	CITY CLERK	DRAFT SUBMITTED		
12/20/2005	2	MAYOR	SIGNED		
12/29/2005	1	CITY CLERK	PUBLISHED		

050836
SUBSTITUTE 2

THE CHAIR
A substitute ordinance relating to floodplain zoning regulations.
200-26-2.5 cr
295-107-2 (table) am
295-129 cr
295-201-54 cr

295-201-56 cr
295-201-56.5 cr
295-201-88 cr
295-201-90 cr
295-201-90.5 cr
295-201-98 cr
295-201-99 rc
295-201-132 cr
295-201-138 cr
295-201-143 am
295-201-154 cr
295-201-164 cr
295-201-172 cr
295-201-172.5 cr
295-201-195 rc
295-201-196 cr
295-201-197 am
295-201-198 cr
295-201-198.5 cr
295-201-199 rc
295-201-201 rc
295-201-202 cr
295-201-202.5 cr
295-201-203 rc
295-201-205 rc
295-201-207 rc
295-201-210 cr
295-201-211 rc
295-201-226 cr
295-201-246 cr
295-201-252 cr
295-201-276 cr
295-201-276.5 cr
295-201-302 cr
295-201-312 cr
295-201-360 cr
295-201-382 cr
295-201-390 cr
295-201-392 cr
295-201-401 am
295-201-402 cr
295-201-408 cr
295-201-408.5 cr
295-201-416 cr
295-201-466 cr
295-201-470 cr
295-201-474 cr
295-201-626 cr
295-201-645 am
295-201-648 cr

- 295-201-676.5 cr
- 295-201-678 cr
- 295-201-678.5 cr
- 295-201-680 cr
- 295-205-14 cr
- 295-311-1-a-1 am
- 295-311-4-e rc
- 295-311-4-f-0 am
- 295-311-4-f-1 ra
- 295-311-4-f-1 cr
- 295-311-4-f-2 ra
- 295-311-4-f-3 rn
- 295-311-5-h cr
- 295-311-8 cr
- 295-415-9 rc
- 295-1011 rc

This ordinance makes various revisions to the City’s zoning regulations for floodplains to reflect recently-adopted modifications to the “Model Floodplain Ordinance” prepared by the Wisconsin Department of Natural Resources.

The Mayor and Common Council of the City of Milwaukee do ordain as follows:

Part 1. Section 200-26-2.5 of the code is created to read:

200-26. Application for Permits.

2.5. REVIEW FOR FLOOD SAFETY. The commissioner of city development shall review all permit applications to determine whether proposed building sites will be reasonably safe from flooding. If a proposed building site is in a flood-prone area, all new construction and substantial improvements shall be designed or modified and adequately anchored to prevent flotation, collapse or lateral movement of the structure resulting from hydrodynamic and hydrostatic loads; be constructed with materials resistant to flood damage; be constructed by methods and practices that minimize flood damage; and be constructed with electrical, heating, ventilation, plumbing and air conditioning equipment and other service facilities designed or located so as to prevent water from entering or accumulating within the components during conditions of flooding.

Part 2. Table 295-107-2 of the code is amended to read:

TABLE 295-107-2 ZONING DISTRICTS			
District	Map Indicator	Most Similar District Under the Previous	Subchapter Reference
Residential Districts			
Single-Family	RS1, RS2, RS3, RS4, RS5 and RS6	R/F-1/40, R/F-2/40, 3/40, R/F-4/40 and I	5
Two-Family	RT1, RT2, RT3 and RT4	R/D-1/40, R/C-1/40 R/E/40	5
Multi-Family	RM1	R/D/40	5

Multi-Family	RM2	R/C/40	5
Multi-Family	RM3	R/D/40, R/D/60 and	5
Multi-Family	RM4	R/C/40, R/C/60, R/C/	5
		R/C/125	
Multi-Family	RM5	R/B/40	5
Multi-Family	RM6	R/B/60	5
Multi-Family	RM7	R/B/85, R/A/85 and	5
Residential and Office	RO1, RO2	all O and RO districts	5
Commercial Districts			
Neighborhood Shopping	NS1, NS2	all S districts	6
Local Business	LB1, LB2	all L districts	6
Commercial Service	CS	all CS districts	6
Regional Business	RB1, RB2	all RS districts	6
Central Business	C9A-C9H	C9A-C9H	7
Industrial Districts			
Industrial-Office	IO	M/D/40, M/C/60, I/D/	8
		I/E/40	
Industrial- Light	IL	M/B/85, M/A/125, I/C/	8
		I/D/40, I/D/60 and I/	
Industrial-Mixed	IM	none	8
Industrial-Heavy	IH	I/A/125 and I/B/85	8
Special Districts and Overlay Zones			
Parks	PK	None	9
Institutional	TL	all T districts	9
Planned Development	PD and DPD	GPD and DPD	9
Neighborhood Conservation	NC	None	10
Interim Study	IS	None	10
Development Incentive	DIZ	DIZ	10
Site Plan Review	SP	SPROD	10
[[Flood Plain]] >>Floodplain<<	[[FP1 and FP2]] >>FW, FF and FSD<<	FP1 and FP2	10
Shoreland-Wetland	WL	Shoreland-Wetland	10
Lakefront	LF	LF/C/60	10

Master Sign Program	MSP	None	10
---------------------	-----	------	----

Part 3. Section 295-129 of the code is created to read:

295-129. Statutory Authorization for Floodplain Regulations. The provisions of this chapter relating to use and development of floodplain lands are adopted pursuant to ss. 62.23 and 87.30, Wis. Stats.

Part 4. Section 295-201-54 of the code is created to read:

295-201. Definitions.

54. A-ZONE means an area shown on the official floodplain zoning map that would be inundated by the regional flood. Such area may be a numbered or unnumbered A-Zone. An A-Zone may or may not be reflective of flood profiles, depending on the availability of data for a given area.

Part 5. Section 295-201-56 and 56.5 of the code is created to read:

56. BASE FLOOD means the flood having a one percent chance of being equaled or exceeded in any given year, as published by the federal emergency management agency as part of a flood insurance study and depicted on a flood insurance rate map.

56.5. BASEMENT means any enclosed area of a building having its floor below grade on all sides.

Part 6. Section 295-201-88 of the code is created to read:

88. BULKHEAD LINE means a geographic line along a reach of navigable water that has been adopted by city ordinance and approved by the Wisconsin department of natural resources pursuant to s. 30.11, Wis. Stats., as amended, and which allows limited filling between this bulkhead line and the original ordinary high water mark, except where such filling is prohibited by the floodway provisions of s. 295-1011.

Part 7. Section 295-201-90 and 90.5 of the code is created to read:

90. CAMPGROUND means any parcel of land which is designed, maintained, intended or used for the purpose of providing sites for non-permanent overnight use by 4 or more camping units, or which is advertised or represented as a camping area.

90.5. CAMPING UNIT means any portable device, not 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, tent or other mobile recreational vehicle.

Part 8. Section 295-201-98 of the code is created to read:

98. CERTIFICATE OF COMPLIANCE means 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 s. 295-1011.

Part 9. Section 295-201-99 of the code is repealed and recreated to read:

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

Part 10. Section 295-201-132 of the code is created to read:

132. CRAWLWAY or CRAWL SPACE means an enclosed area below the first usable floor of a building, generally less than 5 feet in height, used for access to plumbing and electrical utilities.

Part 11. Section 295-201-138 of the code is created to read:

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

Part 12. Section 295-201-143 of the code is amended to read:

143. DEVELOPMENT means any man-made modification to real estate, including construction or alteration of structures, >>repair of damaged structures,<< mining, dredging, filling, grading, paving, excavation or drilling operations, [[øf]] >>storing,<< depositing >>or extracting<< [[øf]] materials >>or equipment, and the installation, repair or removal of public or private sewage disposal systems or water supply facilities<< .

Part 13. Section 295-201-154 of the code is created to read:

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

Part 14. Section 295-201-164 of the code is created to read:

164. ENCROACHMENT INTO THE FLOODWAY means any fill, structure, equipment, building, use or development in the floodway.

Part 15. Section 295-201-172 and 172.5 of the code is created to read:

172. EXISTING MANUFACTURED HOME PARK OR SUBDIVISION means a parcel of land, divided into 2 or more manufactured home lots for rent or sale, on which the construction of facilities for servicing the lots is completed before the effective date of this ordinance [December 30, 2005]. At a minimum, this would include the installation of utilities, the construction of streets and either final site grading or the pouring of concrete pads.

172.5. EXPANSION TO EXISTING MANUFACTURING HOME PARK means the preparation of additional sites for an existing manufactured home park or subdivision by the construction of facilities for servicing the lots on which the manufactured homes are to be placed. This includes installation of utilities, construction of streets and either final site grading or the pouring of concrete pads.

Part 16. Section 295-201-195 of the code is repealed and recreated to read:

195. FLOOD or FLOODING means a general and temporary condition of partial or complete inundation of normally dry land areas caused by one of the following conditions:

- a. The overflowing or rising 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.
- d. The sudden increase caused by an unusually high water level in a natural body of water, accompanied by a severe storm or an unanticipated force of nature, such as a seiche, or by some similarly unusual event.

Part 17. Section 295-201-196 of the code is created to read:

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

Part 18. Section 295-201-197 of the code is amended to read:

197. FLOOD FRINGE means that portion of the ~~[[flood plain]]~~ >>floodplain<< outside of the floodway which is covered by flood waters during the regional flood. It is generally associated with standing water rather than rapidly flowing water.

Part 19. Section 295-201-198 and 198.5 of the code is created to read:

198. FLOOD HAZARD BOUNDARY MAP means a map designating approximate flood hazard areas. Flood hazard areas are designated as unnumbered A-Zones and do not contain floodway lines or regional flood elevations. This map forms the basis for both the regulatory and insurance aspects of the national flood insurance program until superseded by a flood insurance study and a flood insurance rate map.

198.5. FLOOD INSURANCE RATE MAP means a map of a community on which the federal insurance administration has delineated both special flood hazard areas and the risk premium zones applicable to the community, and which can only be amended by the federal emergency management agency.

Part 20. Section 295-201-199 of the code is repealed and recreated to read:

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

Part 21. Section 295-201-201 of the code is repealed and recreated to read:

201. FLOODPLAIN means land which 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.

Part 22. Section 295-201-202 and 202.5 of the code is created to read:

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

202.5. FLOODPLAIN MANAGEMENT means policy and procedures to insure wise use of floodplains, including mapping and engineering, mitigation, education and administration and enforcement of floodplain regulations.

Part 23. Section 295-201-203, 205 and 207 of the code is repealed and recreated to read:

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

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

207. FLOOD PROTECTION ELEVATION means an elevation of 2 feet of freeboard above the water surface profile elevation designated for the regional flood.

Part 24. Section 295-201-210 of the code is created to read:

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

Part 25. Section 295-201-211 of the code is repealed and recreated to read:

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

Part 26. Section 295-201-226 of the code is created to read:

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

Part 27. Section 295-201-246 of the code is created to read:

246. HABITABLE STRUCTURE means any structure or portion thereof used or designed for human habitation.

Part 28. Section 295-201-252 of the code is created to read:

252. HEARING NOTICE means publication or posting meeting the requirements of ch. 985, Wis. Stats., as amended. For appeals, a class 1 notice, published at least 7 days before the hearing, is required. For all zoning map and text amendments, a class 2 notice, published twice, once each week consecutively, the last at least 7 days before the hearing is required.

Part 29. Section 295-201-276 and 276.5 of the code is created to read:

276. HIGH FLOOD DAMAGE POTENTIAL means damage that could result from flooding that includes any danger to life or health or any significant economic loss to a structure or building and its contents.

276.5. HISTORIC STRUCTURE means a structure that is any of the following:

- a. Listed individually in the national register of historic places or preliminarily determined by the United States 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. Designated as an historic structure by the common council pursuant to the provisions of s. 308-81.

Part 30. Section 295-201-302 of the code is created to read:

302. INCREASE IN REGIONAL FLOOD HEIGHT means a calculated upward rise in the regional flood elevation, equal to or greater than 0.01 foot, based on a comparison of existing conditions and proposed conditions which is directly attributable to development in the floodplain but not attributable to manipulation of mathematical variables such as roughness factors, expansion and contraction coefficients and discharge.

Part 31. Section 295-201-312 of the code is created to read:

312. LAND USE means any nonstructural use made of unimproved or improved real estate.

Part 32. Section 295-201-360 of the code is created to read:

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

Part 33. Section 295-201-382 of the code is created to read:

382. MOBILE RECREATIONAL VEHICLE means a vehicle which is built on a single chassis, measures 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 for use not as a permanent dwelling, but as temporary living quarters for recreational, camping, travel or seasonal use. This term does not

include a manufactured home that was towed or carried onto a parcel of land but does not remain capable of being towed or carried, including parked model homes.

Part 34. Section 295-201-390 and 392 of the code is created to read:

390. NATIONAL GEODETIC VERTICAL DATUM means elevations referenced to mean sea level datum, 1929 adjustment.

392. NEW CONSTRUCTION means, for floodplain management purposes, a structure for which the start of construction commenced on or after the effective date of this ordinance [December 30, 2005] and includes any subsequent improvements to such structures. For the purpose of determining flood insurance rates, this term includes any structure for which the start of construction occurred on or after the effective date of an initial flood insurance rate map or after December 31, 1974, whichever is later, and includes any subsequent improvements to such structure.

Part 35. Section 295-201-401 of the code is amended to read:

401. NONCONFORMING STRUCTURE means >>, except in s. 295-415-9, << a structure which was legally constructed but which no longer complies with the dimensional requirements of the zoning district in which it is located. >>In s. 295-415-9, “nonconforming structure” means an existing lawful structure or building which is not in conformity with the dimensional or structural requirements of s. 295-1011 for the area of the floodplain which it occupies. <<

Part 36. Section 295-201-402 of the code is created to read:

402. NONCONFORMING USE means, in s. 295-415-9, an existing lawful use or accessory use of a structure or building which is not in conformity with the provisions of s. 295-1011 for the area of the floodplain which it occupies. In all other sections, “nonconforming use” shall have the meaning established in subs. 393, 395 or 399, as applicable.

Part 37. Section 295-201-408 and 408.5 of the code is created to read:

408. OBSTRUCTION TO FLOW means any development which blocks the conveyance of floodwaters such that this development, alone or together with any future development, will cause an increase in regional flood height.

408.5. OFFICIAL FLOODPLAIN ZONING MAP means all panels of the flood insurance rate map applicable to the city of Milwaukee, with corresponding profiles that are based on flood insurance studies which have been approved by the Wisconsin department of natural resources and the federal emergency management agency.

Part 38. Section 295-201-416 of the code is created to read:

416. OPEN SPACE USE means a use having a relatively low flood damage potential and not involving structures.

Part 39. Section 295-201-466 of the code is created to read:

466. PRIVATE SEWAGE SYSTEM means a sewage treatment and disposal system serving one structure with a septic tank and soil absorption field located on the same parcel as the structure. It

also means an alternative sewage system approved by the Wisconsin department of commerce, 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.

Part 40. Section 295-201-470 of the code is created to read:

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

Part 41. Section 295-201-474 of the code is created to read:

474. REASONABLY SAFE FROM FLOODING means base flood waters will not inundate the land or damage structures to be removed from the special flood hazard area, and that any subsurface waters related to the base flood will not damage existing or proposed buildings.

Part 42. Section 295-201-626 of the code is created to read:

626. START OF CONSTRUCTION means the date the building permit was issued, provided the actual start of construction, repair, reconstruction, rehabilitation, addition, placement or other improvement occurred within 180 days of that date. For purposes of this definition, “actual start” means either the first placement of permanent construction on a site, such as the pouring of slab or footings, the installation of piles, the construction of columns, any work beyond initial excavation or the placement of a manufactured home on a foundation. “Permanent construction” does not include land preparation, such as clearing, grading or filling, the installation of streets or walkways, excavation for a basement, footings, piers or foundations, the erection of temporary forms or the installation of accessory buildings, such as garages or sheds not occupied as dwelling units or not part of the main structure. For an alteration, “actual start” of construction means the first alteration of any wall, ceiling, floor or other structural part of a building, regardless of whether the alteration affects the external dimensions of the building.

Part 43. Section 295-201-645 of the code is amended to read:

645. STRUCTURE means any constructed or erected materials or combination of materials for use, occupancy or ornamentation installed on, above or below the surface of land or water. This term includes any constructed or built object which requires location on the ground or attachment to something located on the ground. Examples include, but are not limited to, buildings, decks, fences, towers, >>gas or liquid storage tanks, bridges, dams, culverts,<< flagpoles, signs and similar objects.

Part 44. Section 295-201-648 of the code is created to read:

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

Part 45. Section 295-201-676.5 of the code is created to read:

676.5. VIOLATION, within s. 295-1011, means the failure of a structure or development to be fully compliant with s. 295-415-9, 295-1011 or any other provision of this chapter relating to development in the floodplain. A structure or other development without required permits, lowest floor elevation

documentation, floodproofing certificates or required floodway encroachment calculations is presumed to be in violation until such time as that documentation is provided.

Part 46. Section 295-201-678 and 678.5 of the code is created to read:

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

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

Part 47. Section 295-201-680 of the code is created to read:

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

Part 48. Section 295-205-14 of the code is created to read:

295-205. Rules of Measurement.

14. LOCATING FLOODPLAIN BOUNDARIES. Discrepancies between boundaries on the official floodplain zoning map and actual field conditions shall be resolved using the criteria in pars. a and b. If a significant difference exists, the map shall be amended according to s. 295-307. The commissioner may 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 commissioner shall be responsible for documenting actual pre-development field conditions and the basis upon which the district boundary was determined, and for initiating any map amendments required under this subsection. Disputes between the commissioner and an applicant over a district boundary line shall be settled according to s. 295-311-8 and the following criteria:

- a. 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. Where the flood profiles are based on established base flood elevations from a flood insurance rate map, the approval of the federal emergency management agency pursuant to s. 295-1011-7-b-6 shall be required for any map amendment.
- b. Where flood profiles do not exist, the location of the boundary shall be determined by the map scale, visual on-site inspection and any information provided by the Wisconsin department of natural resources.

Part 49. Section 295-311-1-a-1 of the code is amended to read:

295-311. Appeals.

1. BOARD OF ZONING APPEALS.

a. Creation; Authority.

a-1. There is created a board of zoning appeals which shall have the powers granted by state

statutes and the authority to interpret this chapter, to approve, conditionally approve or deny variances and special use permits, ~~[[to make beneficial use determinations]]~~ >>to resolve disputes concerning floodplain district boundaries<< and to hear and decide appeals of administrative decisions of the commissioner of city development or the commissioner of neighborhood services that may arise under this chapter or state statutes.

Part 50. Section 295-311-4-e of the code is repealed and recreated to read:

4. ADDITIONAL SPECIAL USE AND VARIANCE REGULATIONS.

e. Additional Standards for Floodplain Overlay Zones. e-1. In addition to the criteria in sub. 3-d, no variance for development or use of property in a floodplain overlay zone shall be granted by the board unless the board finds that:

e-1-a. The variance will not cause any increase in the regional flood elevation.

e-1-b. The lot upon which the development or use would occur is less than one-half acre and is contiguous to one or more lots containing existing structures constructed below the regional flood elevation.

e-1-c. The applicant has demonstrated good and sufficient cause for granting the variance.

e-1-d. The variance is the minimum relief necessary to allow the proposed development or use.

e-1-e. The variance will not cause increased risks to public safety or nuisances.

e-1-f. The variance will not increase costs for rescue and relief efforts.

e-2. Whenever the board grants a variance for development or use of property in a floodplain overlay zone, the board shall notify the applicant in writing that the variance may increase flood insurance premiums and risks to life and property. A copy of this notice shall be maintained with the variance record.

Part 51. Section 295-311-4-f-0 of the code is amended to read:

f. Additional Procedures Relating to ~~[[Flood Plain]]~~ >>Floodplain<< and Shoreland-Wetland ~~[[Districts]]~~ >>Overlay Zones<< .

Part 52. Section 295-311-4-f-1 to 3 of the code is renumbered 295-311-4-f-2 to 4.

Part 53. Section 295-311-4-f-1 of the code is created to read:

f-1. Certified Floodproofing Measures. No permit or variance for development in a floodplain overlay zone shall be issued until the applicant submits a plan certified by a registered professional engineer or architect that the proposed floodproofing measures will protect the structure or development to the flood protection elevation.

Part 54. Section 295-311-4-f-2 and 3 of the code is amended to read:

f-2. Hearing Notifications. Notice of a hearing relating to a request for a variance or special use

permit in a ~~[[flood plain]]~~ >>floodplain<< or shoreland-wetland ~~[[district]]~~ >>overlay zone<< shall be published in a newspaper of general circulation at least once each week for 2 consecutive weeks. No hearing may be held until at least 7 days following the last publication. Notices shall specify the date, time, place and subject of the hearing, and shall also be mailed to the parties of interest.

f-3. Notice to Department of Natural Resources. f-3-a. Copies of applications for variances and special use permits in ~~[[flood plain]]~~ >>floodplain<< and shoreland-wetland ~~[[districts]]~~ >>overlay zones<< shall, upon receipt by the board, be transmitted to the Wisconsin department of natural resources. No final board action may be taken on any application for 30 days or until the Wisconsin department of natural resources has made its recommendation, whichever is sooner.

f-3-b. Copies of decisions rendered by the board for variances and special uses permits in ~~[[flood plain]]~~ >>floodplain<< and shoreland-wetland ~~[[districts]]~~ >>overlay zones<< shall be transmitted to the Wisconsin department of natural resources within 10 days of the effective dates of such actions.

Part 55. Section 295-311-5-h of the code is created to read:

5. APPEALS OF ADMINISTRATIVE DECISIONS.

h. Appeal Relating to Increase in Regional Flood Elevation. For an appeal of an administrative decision relating to an increase in the regional flood elevation, the board shall uphold the commissioner's decision if the board agrees with the data showing an increase in flood elevation. An increase greater than or equal to 0.01 foot may only be allowed after the flood profile and map have been amended and all appropriate legal arrangements with adversely affected property owners have been made.

Part 56. Section 295-311-8 of the code is created to read:

8. FLOODPLAIN BOUNDARY DISPUTES. The following procedures shall be used by the board in hearing and deciding disputes concerning floodplain district boundaries:

a. If a floodplain district boundary is established by approximate or detailed floodplain studies, the flood elevations or profiles shall prevail in locating the boundary. If none exist, other evidence may be examined.

b. In all cases, the person contesting the boundary location shall be given reasonable opportunity to present arguments and technical evidence to the board.

c. If the boundary is incorrectly mapped, the board shall direct the commissioner to initiate a map amendment in accordance with the procedures of s. 295-307.

Part 57. Section 295-415-9 of the code is repealed and recreated to read:

295-415. Nonconformities.

9. FLOODPLAIN OVERLAY ZONES. a. General. The existing lawful use of a structure or its accessory use which is not in conformity with the provisions of s. 295-1011 may continue subject to the following conditions:

a-1. No modifications or additions to a nonconforming use or structure shall be permitted unless they

comply with this subsection and s. 295-1011. 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. Ordinary maintenance repairs are not considered an extension, modification or addition; these include painting, decorating, paneling and the replacement of doors, windows and other nonstructural components and the maintenance, repair or replacement of existing private sewage or water supply systems or connections to public utilities. Ordinary maintenance repairs do not include any costs associated with the repair of a damaged structure.

a-2. The construction of a deck that does not exceed 200 square feet and that is adjacent to the exterior wall of a principal structure does not constitute 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.

a-3. 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.

a-4. The municipality shall keep a record which lists all nonconforming uses and nonconforming structures, their present equalized assessed value, the cost of all modifications or additions which have been permitted, and the percentage of the structure's total current value those modifications represent.

a-5. No modification or addition to any nonconforming structure or any structure with a nonconforming use, which over the life of the structure would 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 ordinance. Contiguous dryland access must be provided for residential and commercial uses in compliance with s. 295-1011-10-b. The costs of elevating a nonconforming building or a building with a nonconforming use to the flood protection elevation are excluded from the 50% provisions of this paragraph.

a-6. Except as provided in subd. a-7, 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 code requirements. A structure is considered substantially damaged if the total cost to restore the structure to its pre-damaged condition exceeds 50% of the structure's present equalized assessed value.

a-7. For nonconforming buildings that are damaged or destroyed by a nonflood disaster, the repair or reconstruction of any such nonconforming building may be permitted in order to restore it after the nonflood disaster, provided that the nonconforming building will meet all of the minimum requirements under 44 CFR Part 60, or under the regulations promulgated thereunder.

a-8. A nonconforming historic structure may be altered if the alteration will not preclude the structure's continued designation as an historic structure, the alteration will comply with s. 295-1011-9-b, flood resistant materials are used, and construction practices and floodproofing methods that comply with s. 295-1011-14 are used.

b. Floodway Overlay Zone. b-1. No modification or addition shall be allowed to any nonconforming structure or any structure with a nonconforming use in a floodway overlay zone, unless such

modification or addition meets all of the following criteria:

b-1-a. The modification or addition has been granted a permit or variance which meets all code requirements.

b-1-b. The modification or addition meets the requirements of par. a.

b-1-c. The modification or addition will not increase the obstruction to flood flows or regional flood height.

b-1-d. The modification or addition will be floodproofed, pursuant to s. 295-1011-14, by means other than the use of fill, to the flood protection elevation.

b-2. 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 a floodway overlay zone. Any replacement, repair or maintenance of an existing on-site sewage disposal system in a floodway overlay zone shall meet the applicable requirements of this code and ch. Comm 83, Wis. Adm. Code, as amended.

b-3. No new well or modification to an existing well used to obtain potable water shall be allowed in a floodway overlay zone. Any replacement, repair or maintenance of an existing well in a floodway overlay zone shall meet the applicable requirements of this code and chs. NR 811 and NR 812, Wis. Adm. Code, as amended.

c. Flood Fringe Overlay Zone. c-1. No modification or addition shall be allowed to any nonconforming structure or any structure with a nonconforming use unless such modification or addition has been granted a permit or variance by the city, and the modification or addition shall be placed on fill or floodproofed to the flood protection elevation in compliance with the standards for that particular use in s. 295-1011-10-b to m, except where subd. 2 is applicable.

c-2. Where compliance with the provisions of subd. 1 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, using the procedures established in s. 295-311-4-e, may grant a variance from the provisions of subd. 1 for modifications or additions, using the criteria listed in this subdivision. Modifications or additions which are protected to elevations lower than the flood protection elevation may be permitted if all of the following conditions are met:

c-2-a. No floor is located below the regional flood elevation for residential or commercial structures.

c-2-b. Human lives are not endangered.

c-2-c. Public facilities, such as water or sewer, will not be installed.

c-2-d. Flood depths will not exceed 2 feet.

c-2-e. Flood velocities will not exceed 2 feet per second.

c-2-f. The structure will not be used for storage of materials as described in s. 295-1011-10-f.

c-3. If neither the requirements of subds. 1 or 2 can be met, one addition to an existing room in a

nonconforming building or a building with a nonconforming use shall be allowed in the flood fringe overlay zone if all of the following conditions are met:

c-3-a. The addition meets all other regulations and will be allowed by permit or variance.

c-3-b. The addition does not exceed 60 square feet in area.

c-3-c. In combination with other previous modifications or additions to the building, the addition does not exceed 50% of the present equalized assessed value of the building.

c-4. Any new private sewage disposal system, or addition to, replacement, repair or maintenance of a private sewage disposal system, shall meet all the applicable provisions of this code and ch. Comm 83, Wis. Adm. Code, as amended.

c-5. Any new well, or addition to, replacement, repair or maintenance of a well, shall meet the applicable provisions of this code and ch. NR 811 and NR 812, Wis. Adm. Code, as amended.

d. Flood Storage Overlay Zone. No modifications or additions shall be allowed to any nonconforming structure in a flood storage overlay zone unless the standards in s. 295-1011-11-b are met.

Part 58. Section 295-1011 of the code is repealed and recreated to read:

295-1011. Floodplain Overlay Zones (FW, FF, FSD) 1. FINDING OF FACT. The common council finds that uncontrolled development and use of the floodplains and rivers of the city of Milwaukee would impair the public health, safety, convenience, general welfare and tax base of the city.

2. PURPOSES. The purposes of the floodplain overlay zones are to identify flood-prone areas in the city with respect to establishing corrective and preventive measures to reduce flood damage and alerting the public to the flood-related hazards it may face in such areas. The regional floodplain areas are divided into three floodplain overlay zones, floodway, flood fringe and flood storage. Floodways are characterized by deeper, faster-moving water, while flood fringe areas typically contain shallow, slow-moving water. Flood storage areas are those floodplain areas where storage of flood waters has been taken into account during analysis in reducing the regional flood discharge. The purpose of the floodway overlay zone is to insure that the flow of water is not impeded during periodic flooding, and that flood heights upstream are not increased. The purpose of the flood fringe overlay zone is to allow limited development so long as adequate floodproofing measures are followed, flood storage areas are not reduced during periodic flooding and flood heights are not increased upstream. The purpose of the flood storage overlay zone is to reduce the regional flood discharge. In addition, the provisions of this section are intended to regulate floodplain development to:

a. Protect life, health and property.

b. Minimize expenditures of public funds for flood control projects.

c. Minimize rescue and relief efforts undertaken at the expense of taxpayers.

d. Minimize business interruptions and other economic disruptions.

e. Minimize damage to public facilities in the floodplain.

- f. Minimize the occurrence of future flood blight areas in the floodplain.
- g. Discourage the victimization of unwary land and home buyers.
- h. Prevent increases in flood heights that could increase flood damage and result in conflicts between property owners.
- i. Discourage development in a floodplain if there is any practicable alternative to locate the activity, use or structure outside of the floodplain.

3. AREAS TO BE REGULATED. This section regulates all areas that would be covered by the base flood or regional flood. Base flood elevations shall be derived from flood profiles in the flood insurance study. Regional flood elevations may be derived from other studies. Areas covered by the base flood are the areas identified as “A-Zones” on the flood insurance rate map. Any development or use within the areas regulated by this section shall be in compliance with the provisions of this section and other applicable local, state and federal regulations.

4. ANNEXED AREAS. The floodplain zoning provisions assigned to land being annexed to the city of Milwaukee in effect on the date of annexation shall remain in effect and shall be enforced by the city for all annexed areas until the city adopts and enforces an ordinance which meets the requirements of ch. NR 116, Wis. Adm. Code, as amended, and the national flood insurance program. These annexed lands are described on the city’s official zoning map. County floodplain zoning provisions are incorporated by reference for the purpose of administering this section and are on file in the offices of the department. All plats or maps of annexation shall show the regional flood elevation and the location of the floodway.

5. ABROGATION AND GREATER RESTRICTIONS. The provisions of this section are not intended to repeal, abrogate or impair any existing deed restrictions, covenants or easements. If this section imposes greater restrictions, the provisions of this section shall prevail.

6. INTERPRETATION. In their interpretation and application, the provisions of this section are the minimum requirements liberally construed in favor of the city and are not a limitation or repeal of any other powers granted by the Wisconsin statutes. If a provision of this section, required by ch. NR 116, Wis. Adm. Code, as amended, is unclear, the provision shall be interpreted in light of the standards in effect on the date of adoption of this ordinance [city clerk to insert effective date] or in effect on the date of the most recent amendment to this section.

7. PROCEDURES. a. Creation. Creation of a floodplain overlay zone shall be by amendment to the zoning map, pursuant to s. 295-307. Such an amendment shall not be final until approved by both the Wisconsin department of natural resources and the federal emergency management agency.

b. Amendment. Actions which require an amendment of a flood plain overlay zone boundary include, but shall not be limited to:

b-1. Any change to the official floodplain zoning map, including the floodway line or the boundary of any floodplain area.

b-2. Correction of discrepancies between water surface profiles and the floodplain zoning map.

b-3. Any fill in the floodplain which raises the elevation of the filled area to a height at or above the flood protection elevation and is contiguous to land lying outside the floodplain.

b-4. Any fill or floodplain encroachment that obstructs flow, increasing regional flood height 0.01 foot or more.

b-5. Any upgrade to the text of this section required by s. NR 116.05, Wis. Adm. Code, as amended, otherwise required by law or for changes by the city.

b-6. All channel relocations or changes to the maps to alter floodway lines or to remove an area from the floodway or flood fringe that is based on a base flood elevation from a flood insurance rate map. Such relocations or changes also require prior approval of the federal emergency management agency.

c. Map Amendment; Other Approvals. Any person petitioning for a map amendment that obstructs flow, by increasing regional flood height 0.01 foot or more, shall obtain flooding easements or other appropriate legal arrangements from all adversely affected property owners and notify local units of government before the amendment can be approved by the common council.

d. Zoning Map Designators. Each floodplain overlay zone shall be shown on the zoning map by an "FW" designator indicating a floodway overlay zone, an "FF" designator indicating a flood fringe overlay zone or an "FSD" designator indicating a flood storage overlay zone.

e. Official Maps and Revisions. The boundaries of all floodplain districts are designated as floodplains or A-Zones on the flood insurance rate maps with community panel numbers 550278 0001-0010, 0020 and 0022-0040 (dated March 1, 1982), 550278 0021 (dated November 15, 1985) and 550278 0011, 0018 and 0019 (dated November 11, 2005). Any change to base flood elevations on one of these flood insurance rate maps shall be reviewed and approved by the Wisconsin department of natural resources and the federal emergency management agency before it is effective. These maps and revisions thereto are on file in the office of the commissioner. If more than one map or revision is referenced, the most current approved information shall apply.

f. Variances. Pursuant to s. 295-311-4-f-2-a, the board of zoning appeals shall take no action on any application for a variance in a floodplain overlay zone for 30 days following the date of receipt of the application or until the Wisconsin department of natural resources has made its recommendation, whichever is sooner.

8. STANDARDS APPLICABLE TO ALL FLOODPLAIN OVERLAY ZONES. a. Except as allowed in par. c, no floodplain development shall result in either of the following:

a-1. Obstruct flow, defined as development which blocks the conveyance of floodwaters by itself or with other development, increasing regional flood height.

a-2. Increase regional flood height due to floodplain storage area lost by an amount equal to or exceeding 0.01 foot.

b. The commissioner shall deny permits if it is determined the proposed development will obstruct flow or increase regional flood heights 0.01 foot or more, based on the officially adopted flood insurance rate map or other adopted map, unless the provisions of par. c are met.

c. Obstructions or increases equal to or greater than 0.01 foot with respect to base flood elevations shown on the officially adopted flood insurance rate map or other adopted map may only be permitted if amendments are made to this section, the official floodplain zoning map, floodway lines and water surface profiles, in accordance with sub. 7. Any such alterations shall be reviewed and approved by the federal emergency management agency and the Wisconsin department of natural resources.

d. Development shall not adversely affect channels, floodways or banks of any tributaries of the city's watercourses, or land outside of the floodplain.

e. No river or stream shall be altered or relocated until a floodplain overlay zone zoning map amendment is approved by the common council in accord with s. 295-307.

f. No permit to alter or relocate a watercourse in a mapped floodplain shall be issued until the commissioner has notified, in writing, all adjacent municipalities and the regional offices of the Wisconsin department of natural resources and the federal emergency management agency, and has required the applicant to secure all necessary state and federal permits. The flood-carrying capacity of any altered or relocated watercourse shall be maintained. As soon as is practicable, but not later than 6 months after the date of the watercourse alteration or relocation, the commissioner shall notify the federal emergency management agency of the changes by submitting appropriate technical or scientific data in accordance with national flood insurance program guidelines that shall be used to revise the flood insurance rate map, risk premium rates and floodplain management regulations as required.

9. STANDARDS FOR DEVELOPMENT IN THE FLOODWAY OVERLAY ZONE. a. Permitted Uses. The following open space uses are permitted uses in the floodway overlay zone if they are not prohibited by any other provision of this code, meet the standards of pars. b to f, and all permits or certificates have been issued according to subs. 12 and 13:

a-1. Agricultural uses, such as farming, outdoor plant nurseries, horticulture, viticulture and wild crop harvesting.

a-2. Nonstructural industrial and commercial uses, such as loading areas, parking areas and airport landing strips

a-3. Nonstructural recreational uses, such as golf courses, tennis courts, archery ranges, picnic grounds, boat ramps, swimming areas, parks, wildlife and nature preserves, game farms, fish hatcheries, shooting, trap and skeet activities, hunting and fishing areas, and hiking and horseback riding trails, subject to the fill limitations of par. e.

a-4. Uses or structures accessory to open space uses or classified as historic structures, that comply with pars. b to f.

a-5. Extraction of sand, gravel or other materials, subject to par. e.

a-6. Functionally water-dependent uses, such as docks, piers or wharves, dams, flowage areas, culverts, navigational aids, river crossings of transmission lines and pipelines that are in compliance with chs. 30 and 31, Wis. Stats., as amended.

a-7. Public utilities, streets and bridges that are in compliance with par. e.

b. General Development Standards. b-1. Any development in a floodway overlay zone shall comply with sub. 8 and have a low flood damage potential.

b-2. Applicants shall provide either of the following data to determine the effects of the proposal according to sub. 8:

b-2-a. A cross-section elevation view of the proposal, perpendicular to the watercourse, showing if the proposed development will obstruct flow.

b-2-b. An analysis calculating the effects of the proposal on regional flood height.

b-3. The commissioner shall deny the permit application if the project will increase flood elevations upstream or downstream 0.01 foot or more based on the data submitted pursuant to subd. 2.

c. Structures. A structure accessory to a permanent open space use or functionally dependent on a waterfront location may be allowed by permit if the commissioner finds that the structure will comply with all of the following criteria:

c-1. The structure will not be designed for human habitation and will not have a high flood damage potential.

c-2. The structure will be anchored to resist flotation, collapse and lateral movement.

c-3. The portions of the structure located below the regional flood elevation will be constructed of flood-resistant materials.

c-4. The structure will be designed to allow for the automatic entry of flood waters.

c-5. Mechanical and utility equipment will be elevated to or above, or floodproofed to or above, the regional flood elevation.

c-6. The structure will not obstruct the flow of flood waters or cause any increase in flood levels during the occurrence of the regional flood.

c-7. Use of the structure will be limited to parking or limited storage.

d. Public Utilities, Streets and Bridges. Public utilities, streets and bridges may be allowed by permit if the commissioner finds that the following conditions will be met:

d-1. Adequate floodproofing measures will be provided to the flood protection elevation.

d-2. The facilities will be constructed in compliance with the development standards of sub. 8.

e. Fills or Deposition of Materials. Fills or deposition of materials may be allowed by permit if the commissioner finds that the work to be performed will meet all of the following conditions.

e-1. The work will be in compliance with the provisions of sub. 8.

e-2. No material will be deposited in the navigable channel unless a permit has been issued by the Wisconsin department of natural resources pursuant to ch. 30, Wis. Stats., as amended, and a permit

has been issued pursuant to s. 404 of the Federal Water Pollution Control Act, Amendments of 1972, 33 U.S.C. 1344, if applicable.

e-3. The fill or other materials will be protected against erosion by riprap, vegetative cover, sheet piling or bulkheading.

e-4. The fill is not classified as a solid or hazardous material.

f. Prohibited Uses. All uses not listed in par. a are prohibited uses in the floodway overlay zone, including but not limited to:

f-1. Habitable structures, structures with high flood damage potential and structures not associated with permanent open-space uses.

f-2. Storage of materials that are buoyant, flammable, explosive or injurious to property, water quality or human, animal, plant, fish or other aquatic life.

f-3. Uses not in harmony with, or detrimental to, uses permitted in adjoining zoning districts or overlay zones.

f-4. Any private or public sewage systems, except portable latrines that are removed prior to flooding and systems associated with recreational areas and Wisconsin department of natural resources-approved campgrounds that meet applicable city code provisions and ch. Comm 83, Wis. Adm. Code, as amended.

f-5. Any public or private wells which are used to obtain potable water, except those for recreational areas that meet applicable city code provisions and the requirements of chs. NR 811 and NR 812, Wis. Adm. Code, as amended.

f-6. Any solid or hazardous waste disposal sites.

f-7. Any wastewater treatment ponds or facilities, except those permitted under s. NR 110.15(3)(b), Wis. Adm. Code, as amended.

f-8. Any sanitary sewer or water supply lines, except those to service existing or proposed development located outside the floodway which complies with the regulations for the floodplain area occupied.

10. STANDARDS FOR DEVELOPMENT IN THE FLOOD FRINGE OVERLAY ZONE. a. Permitted Uses. Any structure, land use or development is permitted in the flood fringe overlay zone if it meets the standards of sub. 8 and pars. b to m, is not prohibited elsewhere in this section or this code, and all permits or certificates specified in subs. 12 and 13 have been issued.

b. Residential Use Regulations. Any habitable structure, including a manufactured home, which is to be erected, constructed, reconstructed, altered or moved into a flood fringe overlay zone shall meet or exceed the following standards:

b-1. The elevation of the lowest floor, excluding the basement or crawlway, shall be at or above the flood protection elevation on fill. The fill shall be one foot or more above the regional flood elevation extending at least 15 feet beyond the limits of the structure. The Wisconsin department of natural

resources may authorize other floodproofing measures if the elevations of existing streets or sewer lines make compliance impractical and the board grants a variance.

b-2. The basement or crawlway floor may be placed at the regional flood elevation if it is floodproofed to the flood protection elevation. No basement or crawlway shall be permitted below the regional flood elevation.

b-3. Contiguous dryland access shall be provided from the structure to land outside of the floodplain, except as provided in subd. 4.

b-4. In a development where existing street or sewer line elevations make compliance with subd. 3 impractical, the commissioner may permit new development and substantial improvements where access roads are at or below the regional flood elevation if the commissioner finds either of the following to be true:

b-4-a. The commissioner has received written assurance from the police and fire departments that rescue and relief will be provided to the structure by wheeled vehicles during a regional flood event.

b-4-b. The city has a natural disaster plan approved by Wisconsin emergency management and the Wisconsin department of natural resources.

c. Accessory Structures. c-1. Except as provided in subd. 2, an accessory structure which is not connected to a principal structure shall be constructed with its lowest floor at or above the regional flood elevation.

c-2. An accessory structure which is not connected to the principal structure, less than 600 square feet in size and valued at less than \$10,000 may be constructed with its lowest floor no more than 2 feet below the regional flood elevation provided that it is subject to flood velocities of no more than 2 feet per second and that it meets all of the provisions of par. g and sub. 9-c.

d. Commercial Uses. Any commercial structure which is erected, altered or moved into a flood fringe overlay zone shall meet the requirements of par. b. Subject to the requirements of par. g, storage yards, surface parking lots and similar uses may be placed at lower elevations if an adequate warning system exists to protect life and property.

e. Manufacturing and Industrial Uses. Any manufacturing or industrial structure which is erected, altered or moved into a flood fringe overlay zone shall be protected to the flood protection elevation using fill, levees, floodwalls or other floodproofing measures in sub. 14. Subject to the requirements of par. g, storage yards, surface parking lots and similar uses may be placed at lower elevations if an adequate warning system exists to protect life and property.

f. 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 sub. 14. Adequate measures shall be taken to ensure that such materials will not enter the water body during flooding.

g. Public Utilities, Streets and Bridges. All utilities, streets and bridges shall be designed to be compatible with comprehensive floodplain development plans. When failure of public utilities, streets and bridges would endanger public health or safety, or where such facilities are deemed essential, construction of, and substantial improvements to, such facilities shall only be permitted if they are

floodproofed in compliance with sub. 14 to the flood protection elevation. Minor roads or nonessential utilities may be constructed at lower elevations if they are designed to withstand flood forces to the regional flood elevation.

h. Sewage Systems. All on-site sewage disposal systems shall be floodproofed, in accordance with sub. 14, to the flood protection elevation and shall comply with all applicable city code provisions and the provisions of ch. Comm 83, Wis. Adm. Code, as amended.

i. Wells. All wells shall be floodproofed, in accordance with sub. 14, to the flood protection elevation and shall comply with the provisions of chs. NR 811 and NR 812, Wis. Adm. Code, as amended.

j. Solid Waste Disposal Sites. Disposal of solid or hazardous waste is prohibited in flood fringe overlay zones.

k. Deposition of Materials. Any deposited material shall meet all applicable provisions of this section.

L. Manufactured Homes. L-1. Emergency Preparedness. The owner or operator of any manufactured home park or subdivision in a flood fringe overlay zone shall provide adequate surface drainage to minimize flood damage, and shall prepare and submit, to the fire chief, an evacuation plan indicating vehicular access and escape routes.

L-2. Existing Manufactured Home Parks. In an existing manufactured home park, all new homes, replacement homes on existing pads and substantially improved homes shall meet both of the following requirements:

L-2-a. The home shall have the lowest floor level elevated to the flood protection elevation; and

L-2-b. The home shall be anchored so it does not float, collapse or move laterally during a flood.

L-3. Homes Outside Existing Parks. Outside of existing manufactured home parks, including new manufactured home parks and all single units outside of existing parks, all new, replacement or substantially improved manufactured homes shall meet the residential development standards of par. b.

m. Mobile Recreational Vehicles. Any mobile recreational vehicle that is on-site in a flood fringe overlay zone for 180 or more consecutive days and is not fully licensed and ready for highway use shall meet the elevation and anchoring requirements in par. L-2. 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.

11. STANDARDS FOR DEVELOPMENT IN THE FLOOD STORAGE OVERLAY ZONE. a.

Permitted Uses. Any use or development which occurs in a flood storage overlay zone shall meet the standards of sub. 8 and all applicable requirements of sub. 10.

b. Other Development Standards. b-1. Development in a flood storage overlay zone shall not cause an increase greater than or equal to 0.01 foot in the height of the regional flood.

b-2. No development which removes flood storage volume shall be allowed unless an equal volume of storage as defined by the pre-development ground surface and the regional flood elevation is provided in the immediate area of the proposed development to compensate for the volume of

storage that is lost. Excavation below the groundwater table shall not be considered as providing an equal volume of storage.

b-3. If compensatory storage cannot be provided, the area shall not be developed unless the entire area in the flood storage overlay zone on this waterway is rezoned to the flood fringe overlay zone. This shall 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, per sub. 7-b.

b-4. No area shall be removed from the flood storage overlay zone 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.

12. PERMITS REQUIRED. a. **General Requirements.** It shall be unlawful to use any structure or land, or to erect, alter, relocate, extend or substantially improve any structure or sewer or water facilities, prior to the issuance of a permit. Furthermore, it shall be the responsibility of the permit applicant to secure all necessary permits required by local, state or federal agencies, including but not limited to:

a-1. Any permit, certificate or license, including any floodplain fill permit, in accordance with ch. 200.

a-2. Development which requires a permit from the Wisconsin department of natural resources under chs. 30 and 31, Wis. Stats., as amended, such as docks, piers, wharves, bridges, culverts, dams and navigational aids. Such development may be allowed if the necessary permits are obtained and amendments to the floodway lines, water surface profiles, base flood elevations established in the flood insurance study or other data from the officially-adopted flood insurance rate map, other floodplain zoning maps or this section are made according to sub. 7.

a-3. Wetland fill permits, in accordance with s. 404 of the federal water pollution control act.

b. **Permit Application; General Information.** Information on the application for a permit required under this section shall include:

b-1. The name and address of the applicant, property owner and contractor.

b-2. A legal description of the property, along with a description of the proposed use and whether the project will involve new construction, alteration, relocation, extension or substantial improvement of a structure.

c. **Site Development Plan.** A site plan drawn to scale shall be submitted along with the permit application. The site plan shall contain:

c-1. The location, dimensions, area and elevation of the lot.

c-2. The location of the ordinary highwater mark of any abutting navigable waterways.

c-3. The location of any structures, with distances measured from the lot lines and street center lines.

c-4. The location of any existing or proposed on-site sewage system or private water supply system.

c-5. The location and elevation of existing and future access roads.

c-6. The location of floodplain and floodway limits as determined from the official floodplain zoning maps.

c-7. The elevation of the lowest floor of any proposed building and any fill, using national geodetic vertical datum.

c-8. Data sufficient to determine the regional flood elevation, in national geodetic vertical datum, at the location of the development and to determine whether the requirements of sub. 9 or 10, as applicable, are met.

c-9. Data sufficient to determine whether the proposed development will cause an obstruction to flow or an increase in regional flood height or discharge in violation of sub. 8. This may include any of the information described in sub. 9-b-2.

d. Data Requirements to Analyze Developments. d-1. The applicant shall provide all survey data and computations required to show the effects of the project on flood heights, velocities and floodplain storage, for all subdivision proposals, as “subdivision” is defined in ch. 236, Wis. Stats., as amended, and for other proposed developments exceeding 5 acres in area or where the estimated cost exceeds \$125,000. The applicant shall provide:

d-1-a. An analysis of the effect of the development on the regional flood profile, velocity of flow and floodplain storage capacity.

d-1-b. A map showing the location and details of vehicular access to lands outside the floodplain.

d-1-c. A surface drainage plan showing how flood damage will be minimized.

d-2. For purposes of determining whether compliance with subd. 1 is required, the estimated cost of a proposed development shall be considered to include costs of structural development, landscaping, access and road development, utilities and other pertinent items, but need not include land costs.

e. Expiration; Renewal; Lapse of Permits. All permits issued under the authority of this section shall expire and may be renewed in accordance with the provisions of s. 200-30.2. Permits shall lapse and be void in accordance with the provisions of s. 200-30.

13. CERTIFICATE OF COMPLIANCE. No land shall be occupied or used, and no building which is hereafter constructed, altered, added to, modified, repaired, rebuilt or replaced shall be occupied, until a certificate of compliance is issued by the commissioner, 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 section.

b. Application for such certificate shall be concurrent with the application for a permit.

c. If applicable code 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 or

registered land surveyor that the fill, lowest floor and floodproofing elevations are in compliance with the permit issued. Floodproofing measures also require certification by a registered professional engineer or registered architect that those measures meet the requirements of sub. 14.

14. FLOODPROOFING. a. Standards. Floodproofing measures shall be designed to:

a-1. Withstand flood pressures, depths, velocities, uplift and impact forces, and other regional flood factors.

a-2. Protect structures to the flood protection elevation.

a-3. Anchor structures to foundations to resist flotation and lateral movement.

a-4. Insure that structural walls and floors are watertight to the flood protection elevation and that the interior of the structure remains completely dry during flooding without human intervention.

b. Floodproofing Measures. Acceptable floodproofing measures include, but are not limited to:

b-1. Reinforcing walls and floors to resist rupture or collapse caused by water pressure or floating debris.

b-2. Adding mass or weight to prevent flotation.

b-3. Placing essential utilities above the flood protection elevation.

b-4. Installing surface or subsurface drainage systems to relieve foundation wall and basement floor pressures.

b-5. Constructing water supply wells and waste treatment systems to prevent the entry of flood waters.

b-6. Putting cutoff valves on sewer lines or eliminating gravity flow basement drains.

15. ADMINISTRATION. The commissioner is authorized to administer the provisions of this section and shall have the following duties and powers:

a. Advise applicants of the provisions of this section, 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, inspect properties for compliance with provisions of this section and issue certificates of compliance where appropriate.

c. Request the commissioner of neighborhood services to inspect all damaged floodplain structures and perform a substantial damage assessment to determine if substantial damage to the structures has occurred.

d. Keep records of all official actions, such as:

d-1. All permits issued, inspections made, and work approved.

d-2. Documentation of certified lowest floor and regional flood elevations for floodplain development.

d-3. Records of water surface profiles, floodplain zoning maps and ordinances, and nonconforming uses and structures, including changes, appeals, variances and amendments.

d-4. All substantial damage assessment reports for floodplain structures.

e. Submit the following items to the Wisconsin department of natural resources regional office:

e-1. Within 10 days of the decision, a copy of any board decision on a variance request or an appeal for a map or text interpretation.

e-2. Within 10 days of passage and publication of any ordinance amending the text of this section or amending the zoning map in a manner adding, deleting or modifying a floodplain overlay zone, a copy of the ordinance amending the text or map.

e-3. Copies of any case-by-case analyses and any other information required by the department of natural resources, including an annual summary of the number and types of floodplain zoning actions taken.

e-4. Copies of substantial damage assessments performed and all related correspondence concerning the assessments.

f. Request the commissioner of neighborhood services to investigate, prepare reports, and report violations of this section, and to remedy the violations in accordance with the provisions of s. 295-309. Copies of the reports and documentation of the enforcement actions shall be sent to the commissioner of city development and the Wisconsin department of natural resources regional office.

g. Submit copies of amendments to the text of this section and map amendments adding, deleting or modifying a floodplain overlay zone, as well as biennial reports of those amendments, to the federal emergency management agency regional office.

h. Provide information to the public as follows:

h-1. The commissioner shall place marks on structures to show the depth of inundation during the regional flood.

h-2. The commissioner shall ensure that all floodplain maps, engineering data and regulations shall be available to the public and widely distributed.

h-3. The commissioner shall, upon request, provide floodplain zoning district information to persons preparing real estate transfer documents.

16. GOVERNMENT AGENCIES REGULATED. Unless specifically exempted by law, the city of Milwaukee, the county of Milwaukee, the Milwaukee board of school directors, the housing authority and the redevelopment authority shall comply with all applicable provisions of this section and obtain all necessary permits. State agencies shall be required to comply if s. 13.48(13), Wis. Stats., applies. The construction, reconstruction, maintenance and repair of state highways and bridges by the Wisconsin department of transportation shall be exempt when s. 30.2022, Wis. Stats., applies.

17. REMOVAL OF LANDS FROM FLOODPLAIN. a. Compliance with the provisions of this section shall not be grounds for removing land from the floodplain unless:

a-1. Such land is filled at least 2 feet above the regional or base flood elevation.

a-2. The fill is contiguous to land outside the floodplain.

a-3. The map is amended pursuant to sub. 7-b.

b. Satisfaction of the requirements of par. a does not eliminate the requirement for mandatory purchase of flood insurance. The property owner shall contact the federal emergency management agency to request a letter of map change.

18. ENFORCEMENT AND PENALTIES. The commissioner of neighborhood services shall be authorized to enforce the provisions of this section. The commissioner shall, on his or her own initiative or on complaint or referral, proceed to the remedy of violations in accordance with the provisions of s. 295-309. Any person, firm or corporation that owns, controls or manages any premises on which has been placed or there exists anything in violation of this section, assists in the commission of any violation of this section, builds contrary to the plans or specifications submitted to and approved by the commissioner of city development or omits, neglects or refuses to do any act required by this section shall be subject to the penalties of s. 295-309-6, as appropriate.

19. WARNING AND DISCLAIMER OF LIABILITY. The flood protection standards in this section are based on engineering experience and scientific research. Larger floods may occur or the flood height may be increased by man-made or natural causes. The provisions of this section do not imply or guarantee that non-floodplain areas or permitted floodplain uses will be free from flooding and flood damages. Nor do the provisions of this section create liability on the part of, or a cause of action against, the municipality or any officer or employee thereof for any flood damage that may result from reliance on those provisions.

APPROVED AS TO FORM

Legislative Reference Bureau

Date: _____

IT IS OUR OPINION THAT THE ORDINANCE
IS LEGAL AND ENFORCEABLE

Office of the City Attorney

Date: _____

Department of City Development

LRB05374-3

JDO

12/12/2005