

PLAN COMMISSION MEETING

Monday, April 10, 2017 at 4:30 p.m.

Council Chambers in the Municipal Building

AGENDA:

- 1) Review of PH Comments – Chapter 532, Floodplain and Shoreland-Wetland Zoning; formerly Chapter 22, Floodplain and Shoreland-Wetland Zoning
- 2) Revisit: Amendment of Chapter 545, Subdivision Code, Parkland Dedication and Improvement Fees
- 3) Plan Commission Minutes – March 27, 2017

AN ORDINANCE

TO ADOPT, AMEND AND RECREATE CHAPTER 532, FLOODPLAIN AND SHORELAND-WETLAND ZONING (FORMERLY CHAPTER 22, FLOODPLAIN AND SHORELAND-WETLAND ZONING, THROUGH THE CITY'S RECODIFICATION OF THE CITY OF WATERTOWN GENERAL CODE)

Sponsor: Mayor David
From: Plan Commission with Positive Recommendation

SECTION 1. Adopt Chapter 532, Floodplain and Shoreland-Wetland Zoning (formerly Chapter 22, Floodplain and Shoreland-Wetland Zoning), which was ratified by the Common Council on October 4, 2016 (Ordinance #16-18) [Drafter's Note: Attachment A is the recodified Chapter 532 with Section 2's language already included.]

SECTION 2. Section Specific Amendments to Chapter 532, Floodplain and Shoreland-Wetland Zoning:

* * *

1. References to "land use permit" in § 532-16D and elsewhere in this chapter are revised to "building permit."
2. In § 532-33A(4) "registered land surveyor" is revised to "professional land surveyor."
3. In §§ 532-36B and 532-45F references to "zoning agency" (or board) are revised to "Plan Commission."
4. In §532-49 the definition of "municipality or municipal" is amended to read "The City of Watertown, Wisconsin."
5. Section 545-37B is amended to change 12 inches to 8 inches.

* * *

SECTION 3. Recreate mandatory sections of Chapter 532, Floodplain and Shoreland-Wetland Zoning, deleted during the recodification process:

* * *

Discontinued Use for 12 Months (Section 532-25J)

J. 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 ordinance;

532-50. Severability

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

* * *

SECTION 4. All ordinances or parts of ordinances inconsistent with the provisions of this ordinance are hereby repealed

SECTION 5. This ordinance shall take effect and be in force the day after its passage and publication.

DATE:	04/18/2017		05/02/2017	
READING:	1ST		2ND	
	YES	NO	YES	NO
MCFARLAND				
SMITH				
BERG				
LARSEN				
ZGONC				
RAETHER				
TIETZ				
MARON				
KILPS				
MAYOR DAVID				
TOTAL				

ADOPTED _____

CITY CLERK/TREASURER

APPROVED _____

MAYOR

Attachment A

Chapter 532

FLOODPLAIN AND SHORELAND-WETLAND ZONING

GENERAL REFERENCES

Subdivision of land — See Ch. 545.

Zoning — See Ch. 550.

ARTICLE I
Introduction

§ 532-1. Statutory authorization.

This chapter for floodplain and wetland protection is adopted pursuant to the authorization contained in §§ 61.35, 62.23, 62.231, 87.30 and 281.31, Wis. Stats.

§ 532-2. Findings of fact.

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

§ 532-3. Statement of purpose.

To promote the public health, safety, convenience and general welfare and protect life, health and property, this chapter has been established to:

- A. Protect life, health and property;
- B. Maintain the stormwater and floodwater storage capacity of wetlands;
- C. Prevent and control water pollution by preserving wetlands which filter or store sediments, nutrients, heavy metals or organic compounds that would otherwise drain into waters of the state;
- D. Protect fish spawning grounds, fish, aquatic life and wildlife by preserving wetlands and other fish and aquatic habitat;
- E. Prohibit certain uses detrimental to the wetland areas;
- F. Preserve shore cover and natural beauty by restricting wetland excavation, filling and other earthmoving activities;
- G. Minimize expenditures of public monies for costly flood control projects;
- H. Reduce rescue and relief efforts, generally undertaken at the expense of the taxpaying public;
- I. Prevent business interruptions, which usually result in the loss of local incomes;
- J. Reduce damage to public facilities such as utilities, municipal buildings, streets and bridges which may be located in floodplains;
- K. Prevent the occurrence of future flood blight areas on floodplains;
- L. Discourage the victimization of unwary land and home buyers;

- M. Prevent increases in regional flood heights which could increase damage during floods and which may result in conflicts or litigation between property owners; and
- N. Discourage development in the floodplain if there is any practicable alternative to locate the activity, use or structure outside of the floodplain.

§ 532-4. Title.

This chapter shall be known as the "Floodplain and Wetland Zoning Ordinance for the City of Watertown."

ARTICLE II
General Provisions

§ 532-5. Compliance; other permits.

Any development, as defined in § 532-49, in floodplains and wetlands shall be in full compliance with the terms of this chapter and other applicable local, state and federal regulations. It is the responsibility of the applicant to secure all other necessary permits from appropriate federal, state and local agencies, including those required by the United States Army Corps of Engineers under Section 404 of the Federal Water Pollution Control Act, amendments of 1972, 33 U.S.C. § 1344, as amended.

§ 532-6. Areas to be regulated.

- A. This chapter regulates all areas that would be covered by the regional flood or base flood as shown on the Flood Insurance Rate Map (FIRM) or other maps approved by DNR. Base flood elevations are derived from the flood profiles in the Flood Insurance Study (FIS) and are shown as AE, A1-30 and AH Zones on the FIRM. Other regulatory zones are displayed as A and AO Zones. Regional flood elevations (RFE) may be derived from other studies. If more than one map or revision is referenced, the most restrictive information shall apply.
- B. Municipalities and state agencies regulated. Unless specifically exempted by law, all cities, villages, towns and counties are required to comply with this chapter and obtain all necessary permits. State agencies are required to comply if § 13.48(13), Wis. Stats., applies. The construction, reconstruction, maintenance and repair of state highways and bridges by the Wisconsin Department of Transportation are exempt when § 30.2022, Wis. Stats., applies.

§ 532-7. Abrogation and greater restrictions.

- A. This chapter supersedes all the provisions of the City of Watertown Zoning Code, Chapter 550, except that where the Zoning Code is more restrictive than the provisions contained in this chapter, the Zoning Code shall continue in full force and effect to the extent of the greater restrictions, but not otherwise. The more restrictive of either the Wetland District or Floodplain District regulations shall apply when a property is located in both zoning districts.
- B. This chapter is not intended to repeal, abrogate or impair any existing deed restrictions, covenants or easements. However, where this chapter imposes greater restrictions, the provisions of this chapter shall prevail.

§ 532-8. Interpretation.

In their interpretation and application, the provisions of this chapter shall be held to be minimum requirements and shall be liberally construed in favor of the City and shall not be deemed a limitation or repeal of any other powers granted by the Wisconsin Statutes. Where a provision of this chapter is required by a standard in Ch. NR 116 or NR 117, Wis. Adm. Code, and where the provision of this chapter is unclear, the provision shall be interpreted in light of the Chs. NR 116 and NR 117 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.

§ 532-9. Warning and disclaimer of liability.

The degree of flood protection provided by this chapter is considered reasonable for regulatory purposes and is based on engineering experience and scientific methods of study. Larger floods may occur or the flood height may be increased by man-made or natural causes such as ice dams or bridge openings restricted by debris. Therefore, this chapter does not imply that areas outside of the delineated floodplain or permitted land uses within the floodplain will be totally free from flooding and associated flood damages; nor does this chapter create liability on the part of, or a cause of action against, the City or any officer or employee thereof for any flood damage that may result from reliance on this chapter.

§ 532-10. Annexed areas.

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

§ 532-11. Zoning maps.

The maps designated below are hereby adopted and made part of this chapter. The boundaries of all floodplain districts are designated as floodplains or A Zones (A, AE, AH, AO or A1-30) on the maps based on the Flood Insurance Study (FIS) listed below and the revisions in the Watertown Floodplain Appendix. Any change to the base flood elevations (BFE) or any changes to the boundaries of the floodplain or floodway in the FIS or on the Flood Insurance Rate Map (FIRM) must be reviewed and approved by the DNR and FEMA through the Letter of Map Change process (see Article VII, Amendments) before it is effective. No changes to regional flood elevations (RFEs) on non-FEMA maps shall be effective until approved by the DNR. These maps and revisions are on file in the office of the City Engineer, City of Watertown, Wisconsin. If more than one map or revision is referenced, the most restrictive information applies. See also § 532-7B.

A. Official maps based on the FIS.

- (1) FEMA Digital Flood Insurance Rate Maps (DFIRM) for Jefferson County, Panels Nos. 55055C0067F, 55055C0078F, 55055C0079F, 55055C0086F, 55055C0087F, and 55055C0088F, dated February 4, 2015, based on the Flood Insurance Study (FIS) 55055CV001B and 55025CV002B, dated February 4, 2015. **[Amended 1-6-2015 by Ord. No. 14-33]**
- (2) FEMA Digital Flood Insurance Rate Maps (DFIRM) for Dodge County, Panels Nos. 55027C0659G, 55027C0676G, 55027C0678G and 55027C0679G, dated May 19, 2014, based on the Flood Insurance Study (FIS) 55027CV000C, dated May 19, 2014.

- B. Official maps based on other studies. Any maps referenced in this section must be approved by the DNR and be more restrictive than those based on the FIS at the site of the proposed development.
- (1) Dodge County Flood Storage Map Panel No. 3 of 13, dated May 19, 2014, approved by the DNR.
 - (2) Jefferson County Flood Storage Map Panel No. 12 of 13, dated February 4, 2015, approved by the DNR. [**Added 1-6-2015 by Ord. No. 14-33**]
 - (3) Wisconsin wetland inventory maps stamped "Final" on January 23, 1986.
 - (4) One-hundred-year dam failure floodplain map for the upper Watertown DAMBRK Study, dated April 2004, prepared by Mead & Hunt, Inc., and approved by the Wisconsin Department of Natural Resources and the Federal Emergency Management Agency.

ARTICLE III
Wetland Zoning District

§ 532-12. District boundaries of wetlands.

- A. The wetland zoning district includes all wetlands in the City of Watertown which are two acres or more in size and are shown on the final Wetland Inventory Map that has been adopted and made a part of this chapter in § 532-11.
- (1) There shall be excepted from the boundary of the wetland district that part of a mapped wetland hereinafter described, established and determined as set forth in the following described lands in Jefferson County, Wisconsin: A.L. Pritchard's 1st Addition, part of lots 1 through 8, Block 6, and that part of the right-of-way owned by the Chicago, Milwaukee and St. Paul Railway Company, as shown on the map. (Property is known as 315 Mary Street.)
- B. When an apparent discrepancy exists between the wetland district boundary shown on the official zoning maps and the actual field conditions at the time the maps were adopted, the Zoning Administrator shall contact the appropriate district office of the Department to determine if the wetland district boundary, as mapped, is in error. If Department staff concur with the Zoning Administrator that a particular area was incorrectly mapped as a wetland, the Zoning Administrator shall have the authority to immediately grant or deny a building permit in accordance with the regulations applicable to the correct zoning district. In order to correct wetland mapping errors shown on the official zoning maps, the Zoning Administrator shall be responsible for initiating a map amendment within a reasonable period.

§ 532-13. Permitted uses in wetlands.

The following uses are permitted, subject to the provisions of Chs. 30 and 31, Wis. Stats., and the provisions of other local, state and federal laws, if applicable.

- A. Activities and uses which do not require the issuance of a building permit, provided that no wetland alteration occurs:
- (1) Hiking, fishing, trapping, hunting, swimming, snowmobiling and boating.
- (2) The harvesting of wild crops, such as marsh hay, ferns, moss, wild rice, berries, tree fruits and tree seeds, in a manner that is not injurious to the natural reproduction of such crops.
- (3) The practice of silviculture, including the planting, thinning and harvesting of timber.
- (4) The pasturing of livestock.
- (5) The cultivation of agricultural crops.
- B. Uses which do not require the issuance of a building permit and which may involve wetland alterations only to the extent specifically provided below:
- (1) The practice of silviculture, including limited temporary water level stabilization measures which are necessary to alleviate abnormally wet or dry conditions that

would have an adverse impact on the conduct of silvicultural activities if not corrected;

- (2) The cultivation of cranberries, including limited wetland alterations necessary for the purpose of growing and harvesting cranberries;
 - (3) The maintenance and repair of existing drainage systems, where permissible under § 30.20, Wis. Stats., to restore preexisting levels of drainage, including the minimum amount of filling necessary to dispose of dredged spoil, provided that the filling is permissible under Ch. 30, Wis. Stats., and that dredged spoil is placed on existing spoil banks where possible;
 - (4) The construction and maintenance of fences for the pasturing of livestock, including limited excavating and filling necessary for such construction or maintenance;
 - (5) The construction and maintenance of piers, docks and walkways, observation decks and trail bridges built on pilings, including limited excavating and filling necessary for such construction or maintenance;
 - (6) The installation and maintenance of sealed tiles for the purpose of draining lands outside the wetland zoning district, provided that such installation or maintenance is done in a manner designed to minimize the adverse impact upon the natural functions of the wetlands listed in § 532-15A of this chapter; and
 - (7) The maintenance, repair, replacement and reconstruction of existing highways and bridges, including limited excavating and filling necessary for such maintenance, repair, replacement or reconstruction.
- C. Uses which are allowed upon the issuance of a conditional use permit and which may include wetland alterations only to the extent specifically provided below:
- (1) The construction and maintenance of roads which are necessary for the continuity of the municipal street system, the provision of essential utility and emergency services, or to provide access to uses permitted under this section, provided that:
 - (a) The road cannot, as a practical matter, be located outside the wetland;
 - (b) The road is designed and constructed to minimize the adverse impact upon the natural functions of the wetland listed in § 532-15A of this chapter;
 - (c) The road is designed and constructed with the minimum cross-sectional area practical to serve the intended use;
 - (d) Road construction activities are carried out in the immediate area of the roadbed only; and
 - (e) Any wetland alteration must be necessary for the construction or maintenance of the road.
 - (2) The construction and maintenance of nonresidential buildings, provided that:
 - (a) The building is used solely in conjunction with a use permitted in the wetland district or for the raising of waterfowl, minnows or other wetland or aquatic animals;

- (b) The building cannot, as a practical matter, be located outside the wetland;
 - (c) The building does not exceed 500 square feet in floor area; and
 - (d) Only limited filling and excavating necessary to provide structural support for the building is allowed.
- (3) The establishment and development of public and private parks and recreation areas, outdoor education areas, historic, natural and scientific areas, game refuges and closed areas, fish and wildlife habitat improvement projects, game bird and animal farms, wildlife preserves and public boat launching ramps, provided that:
- (a) Any private development allowed under this subsection shall be used exclusively for the permitted purpose.
 - (b) Only limited filling and excavating necessary for the development of public boat launching ramps, swimming beaches or the construction of park shelters or similar structures is allowed.
 - (c) The construction and maintenance of roads necessary for the uses permitted under this subsection are allowed only where such construction and maintenance meets the criteria in Subsection C(1); and
 - (d) Wetland alterations in game refuges and closed areas, fish and wildlife habitat improvement projects, game bird and animal farms, and wildlife preserves shall be for the purpose of improving wildlife habitat or to otherwise enhance wetland values.
- (4) The construction and maintenance of electric and telephone transmission lines and water, gas and sewer lines and related facilities, and the construction and maintenance of railroad lines, provided that:
- (a) The transmission and distribution lines and related facilities and railroad lines cannot, as a practical matter, be located outside the wetland;
 - (b) Only limited filling or excavating necessary for such construction or maintenance is allowed; and
 - (c) Such construction or maintenance is done in a manner designed to minimize the adverse impact upon the natural functions of the wetland listed in § 532-15A.

§ 532-14. Prohibited uses in wetlands.

- A. Any use not listed in § 532-13 is prohibited, unless the wetland or a portion of the wetland has been rezoned by amendment of this chapter in accordance with § 532-15 and Article VII.
- B. The use of a boathouse for human habitation and the construction or placement of a boathouse or fixed houseboat below the ordinary high-water mark of any navigable waters is prohibited.

§ 532-15. Rezoning wetlands.

- A. Rezoning of a shoreland wetland shall require amendment of the Final Wisconsin Wetland Inventory Map, adopted in Article II of this chapter, pursuant to procedures established in Article VII. In order to ensure that any amendment will be consistent with the protection objectives of § 281.31, Wis. Stats., the City shall not rezone a wetland in a wetland zoning district, or any portion thereof, where the proposed rezoning may result in a significant adverse impact upon any of the following:
- (1) Stormwater and floodwater storage capacity;
 - (2) Maintenance of dry season stream flow or the discharge of groundwater to a wetland, the recharge of groundwater from a wetland to another area or the flow of groundwater through a wetland;
 - (3) Filtering or storage of sediments, nutrients, heavy metals or organic compounds that would otherwise drain into waters of the state;
 - (4) Shoreline protection against soil erosion;
 - (5) Fish spawning, breeding, nursery or feeding grounds;
 - (6) Wildlife habitat; or
 - (7) Areas of special recreational, scenic or scientific interest, including scarce wetland types and habitat of endangered species.
- B. Upon notification of a proposed amendment as required by Article VII, if the district office of the Department determines that a proposed rezoning may have a significant adverse impact upon any of the criteria listed in Subsection A of this section, the Department shall so notify the City of its determination either prior to or during the public hearing held on the proposed amendment.
- C. If the Department notifies the municipal Plan Commission in writing that a proposed amendment may have a significant adverse impact upon any of the criteria listed in Subsection A, that proposed amendment, if approved by the City, shall not become effective until more than 30 days have elapsed since written notice of the Common Council approval was mailed to the Department, as required by Article VII. If within the thirty-day period the Department notifies the Council that the Department intends to adopt a superseding wetland zoning ordinance for the City under § 62.231(6), Wis. Stats., the proposed amendment shall not become effective until that ordinance adoption procedure is completed or otherwise terminated. The record of the Common Council decision on the proposed amendment shall advise the petitioner of the provisions of this section.

ARTICLE IV
Floodplain Zoning Districts

§ 532-16. General provisions applicable to all floodplain districts.

- A. General standards applicable to all floodplain districts.
- (1) The community shall review all permit applications to determine whether proposed building sites will be reasonably safe from flooding. If a proposed building site is in a flood-prone area, all new construction and substantial improvements shall be designed and anchored to prevent flotation, collapse or lateral movement of the structure resulting from hydrodynamic and hydrostatic loads; be constructed with flood-resistant materials; and be constructed to minimize flood damages and to ensure that utility and mechanical equipment is designed and/or located so as to prevent water from entering or accumulating within the equipment during conditions of flooding.
 - (2) Subdivisions shall be reviewed for compliance with the above standards. All subdivision proposals (including manufactured home parks) shall include regional flood elevation and floodway data for any development that meets the subdivision definition of this chapter and all other requirements in § 532-31. Adequate drainage shall be provided to reduce exposure to flood hazards and all public utilities and facilities, such as sewer, gas, electrical, and water systems, shall be located and constructed to minimize or eliminate flood damages.
- B. District boundaries of floodplain zoning districts. The boundaries of the regional floodplain areas shall be those areas designated on the zoning maps which have been adopted and made a part of this chapter in § 532-11.
- C. Establishment of districts. The regional floodplain areas within the jurisdiction of this chapter are hereby divided into four districts defined as follows:
- (1) The Floodway District (FW) consists of the channel of a river or stream and those portions of the floodplain adjoining the channel required to carry the regional floodwaters and is contained within AE Zones as shown on the FIRM.
 - (2) The Flood-Fringe District (FF) consists of that portion of the floodplain between the regional flood limits and the floodway and displayed as AE Zones on the FIRM.
 - (3) The General Floodplain District (GFP) consists of all areas which have been or may be hereafter covered by floodwater during the regional flood and does not have a BFE or floodway boundary determined, including A, AH and AO Zones on the FIRM. It includes both the floodway and flood-fringe districts.
 - (4) The Flood Storage District (FSD) is that area of the floodplain where storage of floodwaters is calculated to reduce the regional flood discharge.
- D. Locating floodplain boundaries. Where an apparent discrepancy exists between the location of the outermost boundary of the flood-fringe district or general floodplain district shown on the Official Floodplain Zoning Map and actual field conditions, the location of the district boundary line shall be initially determined by the Zoning Administrator using the criteria set forth in Subsection D(1) or (2) below. Where the Zoning Administrator

finds that there is a significant difference between the district boundary shown on the map and the actual field conditions, the map shall be amended using the procedures established in Article VII, Amendments. The Zoning Administrator can rely on a boundary derived from a profile elevation to grant or deny a building permit, whether or not a map amendment is required. The Zoning Administrator shall be responsible for documenting actual predevelopment field conditions and the basis upon which the district boundary was determined and for initiating any map amendments required under this section. Disputes between the Zoning Administrator and an applicant over the location of the district boundary line shall be settled by the Zoning Board of Appeals according to § 532-37D. Where the flood profiles are based on established base flood elevations from a FIRM, FEMA must approve any map amendment or revision pursuant to Article VII, Amendments.¹

- (1) Where flood profiles exist, the location of the district boundary line shall be determined by the Zoning Administrator using both the scale appearing on the map and the elevations shown on the water surface profile of the regional flood. Where a discrepancy exists between the boundary line location shown on the map and actual field conditions, the regional flood elevations shall govern. A map amendment is required where there is a significant discrepancy between the map and actual field conditions. The Zoning Administrator shall have the authority to immediately grant or deny a building permit on the basis of a district boundary derived from the elevations shown on the water surface profile of the regional flood, whether or not a map amendment is required. The Zoning Administrator shall be responsible for initiating any map amendments required under this section within a reasonable period of time.
 - (2) Where flood profiles do not exist, the location of the district boundary line shall be determined by the Zoning Administrator using the scale appearing on the map. Where there is a significant difference between the district boundary line shown on the map and actual field conditions, the Zoning Administrator shall be responsible for initiating a map amendment within a reasonable time. Where a map amendment has been approved by both Common Council and the Department, the Zoning Administrator shall have the authority to grant or deny a building permit.
- E. Removal of land from floodplain. Compliance with the provisions of this chapter shall not be grounds for removing lands from the floodplain district, unless they are removed by filling to a height of at least two feet above the regional flood elevation; the fill is contiguous to lands outside the floodplain district; and the map is amended pursuant to Article VII. To remove flood insurance requirements, FEMA must first revise the Flood Insurance Rate Map or issue a Letter of Map Amendment or Revision. Also see Article VII.
- F. Hydraulic and hydrologic analysis.
- (1) No development shall be allowed in floodplain areas which will:
 - (a) Cause an obstruction to flow as defined in § 532-49; or
 - (b) Cause an increase in regional flood height due to floodplain storage area lost.

1. Editor's Note: Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. II).

- (2) The Zoning Administrator shall deny permits where it is determined the proposed development will cause an obstruction to flow or increase in regional flood height of 0.00 feet or greater unless the provisions of Article VII, Amendments, are met.
- G. Watercourse alterations. Prior to any alteration or relocation of a watercourse, and prior to the issuance of any building permit which may be required for the alteration or relocation of a watercourse, the Zoning Administrator shall notify adjacent municipalities, the regional office of the Department and the appropriate office of FEMA and shall require the applicant to secure all necessary state and federal permits. The standards of this subsection must be met and the flood-carrying capacity within the altered or relocated portion of any watercourse shall be maintained. As soon as is practicable, but not later than six months after the date of the watercourse alteration or relocation and pursuant to Article VII, the community shall apply for a Letter of Map Revision (LOMR) from FEMA. Any such alterations must be reviewed and approved by FEMA and the DNR through the LOMC process.
- H. Development under Chs. 30 and 31, Wis. Stats. Development which requires a permit from the Department, under Chs. 30 and 31, Wis. Stats., such as docks, piers, wharves, bridges, culverts, dams and navigational aids, may be allowed if the necessary permits are obtained and amendments to the floodway lines, water surface profiles, BFEs established in the FIS, or other data from the officially adopted FIRM, or other floodplain zoning maps or this chapter are made according to Article VII.
- I. Public or private campgrounds. Public or private campgrounds shall have low flood damage potential and shall meet the following provisions:
 - (1) The campground is approved by the Department of Health Services.
 - (2) A building permit for the campground is issued by the Zoning Administrator.
 - (3) The character of the river system and the elevation of the campground are such that a seventy-two-hour warning of an impending flood can be given to all campground occupants.
 - (4) There is an adequate flood warning procedure for the campground that offers the minimum notice required under this section to all persons in the campground. This procedure shall include a written agreement between the campground owner, the municipal emergency management coordinator and the chief law enforcement official which specifies the flood elevation at which evacuation shall occur, personnel responsible for monitoring flood elevations, types of warning systems to be used and the procedures for notifying at-risk parties, and the methods and personnel responsible for conducting the evacuation.
 - (5) This agreement shall be for no more than one calendar year, at which time the agreement shall be reviewed and updated by the officials identified in Subsection I(4) to remain in compliance with all applicable regulations, including those of the State Department of Health Services and all other applicable regulations.
 - (6) Only camping units that are fully licensed, if required, and ready for highway use are allowed.

- (7) The camping units may not occupy any site in the campground for more than 180 consecutive days, at which time the camping unit must be removed from the floodplain for a minimum of 24 hours.
- (8) All camping units that remain on site for more than 30 days shall be issued a limited authorization by the campground operator, a written copy of which is kept on file at the campground. Such authorization shall allow placement of a camping unit for a period not to exceed 180 days and shall ensure compliance with all the provisions of this section.
- (9) The municipality shall monitor the limited authorizations issued by the campground operator to assure compliance with the terms of this section.
- (10) All camping units that remain in place for more than 180 consecutive days must meet the applicable requirements in either § 532-17 or 532-18 for the floodplain district in which the structure is located.
- (11) The campground shall have signs clearly posted at all entrances warning of the flood hazard and the procedures for evacuation when a flood warning is issued.
- (12) All service facilities, including but not limited to refuse collection, electrical service, natural gas lines, propane tanks, sewage systems and wells, shall be properly anchored and placed at or floodproofed to the flood protection elevation.

§ 532-17. Floodway district (FW).

- A. Applicability. The provisions of this section apply to all areas mapped as floodway on the official floodplain zoning maps, and to those portions of the general floodplain district determined to be floodway.
- B. Permitted uses. The following open space uses are allowed within the floodway district and in the floodway portion of the general floodplain district, provided that they are not prohibited by any other regulations, that the standards contained in Subsections C and D are met, and that all permits or certificates required under this chapter have been issued:
 - (1) Agricultural uses, such as general farming, pasturing, outdoor plant nurseries, horticulture, silviculture, truck farming, forestry, sod farming and wild crop harvesting.
 - (2) Nonstructural industrial and commercial uses, such as loading areas, parking areas and airport landing strips.
 - (3) Nonstructural private and public recreational uses, such as golf courses, tennis courts, driving ranges, archery ranges, picnic grounds, boat launching ramps, swimming areas, parks, wildlife and nature preserves, game farms, fish hatcheries, shooting preserves, target ranges, trap and skeet ranges, hunting and fishing areas, and hiking and horseback riding trails.
 - (4) Uses or structures accessory to open space uses, or essential for historical areas, provided they are not in conflict with the provisions in Subsections C and D.
 - (5) Extraction of sand, gravel or other materials, according to Subsection C(4) below.

- (6) Functionally water-dependent uses such as docks, piers or wharves, including those used as part of a marina; other water-related uses, such as dams, flowage areas, culverts, navigational aids and river crossings of transmission lines and pipelines may be allowed if all other necessary local, state and federal permits are secured, including Ch. 30 or 31, Wis. Stats., permits, from the Department.
 - (7) Public utilities, streets and bridges, according to Subsection C(3) below.
- C. Standards for developments in floodway areas.
- (1) General.
 - (a) Any development in floodway areas shall meet all of the provisions of § 532-16 and have low flood damage potential.
 - (b) Applicants shall provide a cross-section elevation view of the proposal, perpendicular to the watercourse, indicating whether the proposed development will obstruct flow, or an analysis calculating the effects of the proposal on the regional flood height for the Zoning Administrator to determine the effects of the proposal according to § 532-16F.
 - (c) The Zoning Administrator shall deny the permit application where it is determined the project will cause any increase in the flood elevations upstream or downstream based on the data submitted for Subsection C(1)(b) above.
 - (2) Structures. Only structures which are accessory to permitted open space uses, or are essential for historical areas, or are functionally dependent on a waterfront location, may be allowed by permit, provided the structures meet all of the following criteria:
 - (a) The structures are not designed for human habitation or associated with high flood damage potential;
 - (b) The structures do not obstruct the flow of floodwaters or cause any increase in flood levels during the occurrence of the regional flood. Structures shall be constructed with the longitudinal axis parallel to the direction of flow of floodwaters, and approximately on the same line as those of adjoining structures;
 - (c) The structures are firmly anchored to resist flotation, collapse and lateral movement; and
 - (d) The structures have all service facilities, such as electrical and heating equipment, at or above the flood protection elevation for the particular area and shall have a minimum of two openings on different walls having a total net area not less than one square inch for every square foot of enclosed area, the bottom of all such openings being no higher than one foot above grade. The openings shall be equipped with screens, louvers or other coverings or devices, provided that they permit the automatic entry and exit of floodwaters.
 - (3) Public utilities, streets and bridges may be allowed by permit, provided that:
 - (a) Adequate floodproofing measures are provided to the flood protection elevation;

- (b) Construction does not cause an increase in the height of the regional flood according to § 532-16F, except where the water surface profiles, floodplain zoning maps and this chapter are amended, as needed, to reflect any changes resulting from such construction. Any such amendment must be reviewed and approved by the Department and FEMA. See also Article VII pertaining to amendments.
- (4) Fills or deposition of materials may be allowed by permit, provided that:
- (a) The requirements of § 532-16A are met;
 - (b) The fill or deposition of materials does not encroach on the channel area between the ordinary high-water mark on each bank of the stream unless a Ch. 30, Wis. Stats., permit has been granted by the Department and a permit pursuant to Section 404 of the Federal Water Pollution Control Act, Amendments of 1972, 33 U.S.C. § 1344, has been issued, if applicable, and the other requirements of this section are met;
 - (c) The fill or other materials will be protected against erosion by riprap, vegetative cover, sheet piling or bulkheading sufficient to prevent erosion; and
 - (d) Such fills are not associated with private or public solid or hazardous waste disposal.
- D. Prohibited uses. All uses not listed as permitted uses in Subsection B are prohibited, in addition to the following uses which are always prohibited, in floodways and the floodway portions of the general floodplain:
- (1) Structures in, on or over floodway areas which are designed for human habitation, associated with high flood damage potential, or not associated with permanent open space uses;
 - (2) The storage of any materials that are buoyant, flammable, explosive or injurious to property, water quality or human, animal, plant, fish or other aquatic life;
 - (3) Any uses which are not in harmony with, or which may be detrimental to, the uses permitted in the adjoining districts;
 - (4) All private or public on-site sewage disposal systems, except portable latrines that are removed during flooding, and systems associated with public recreational areas and Department-approved campgrounds that meet the applicable provisions of Ch. SPS 383, Wis. Adm. Code;
 - (5) All public or private wells that are used to obtain water for ultimate human consumption, except those for recreational areas that meet the requirements of local ordinances and Chs. NR 811 and NR 812, Wis. Adm. Code;
 - (6) All solid or hazardous waste disposal sites, whether public or private;
 - (7) All wastewater treatment ponds or facilities except those permitted under § NR 110.15(3)(b), Wis. Adm. Code;

- (8) All sanitary sewer or water lines, except those used to service existing or proposed development outside of the floodway which complies with the regulations for the floodplain area occupied.

§ 532-18. Flood-fringe district (FF).

- A. Applicability. The provisions of this section apply to all areas within the flood-fringe district, as shown on the official floodplain zoning maps, and to those portions of the general floodplain district that are determined to be in the flood-fringe area.
- B. Permitted uses. Any structures, land use or development, including accessory structures and uses, are allowed within the flood-fringe district and flood-fringe portions of the general floodplain district, provided that the standards contained in § 532-16A and Subsection C below are met, that the use is not prohibited by any other ordinance or local, state or federal regulation, and that all permits or certificates required under this chapter have been issued.
- C. Standards for developments in flood-fringe areas. All of the provisions of § 532-16A shall apply in addition to the following requirements according to the use requested:
 - (1) Residential uses. Any structure or building used for human habitation which is to be erected, constructed, reconstructed, altered or moved into the flood-fringe area shall meet or exceed the following standards:
 - (a) The lowest floor, excluding the basement or crawlway, shall be placed on fill at or above the flood protection elevation (which is a point two feet above the regional flood elevation) except where Subsection C(1)(b) is applicable. The fill elevation shall be one foot or more above the regional flood elevation extending at least 15 feet beyond the limits of the structure.
 - (b) The basement or crawlway floor may be placed at the regional flood elevation, provided that it is floodproofed to the flood protection elevation. No permit or variance shall allow any floor, basement or crawlway below the regional flood elevation.
 - (c) Contiguous dry land access, defined in § 532-49 as a vehicular access route above regional flood elevation, shall be provided from a structure or building to land which is outside the floodplain, except as provided in Subsection C(1)(d) below.
 - (d) In existing developments where existing streets or sewer lines are at elevations which make compliance with Subsection C(1)(c) above impractical, the municipality may permit new development and substantial improvements where access roads are at or below the regional flood elevation, provided:
 - [1] The municipality has written assurance from the appropriate local units of police, fire and emergency services that rescue and relief will be provided to the structure(s) by wheeled vehicles, considering the anticipated depth, duration and velocity of the regional flood event; or
 - [2] The municipality has a DNR-approved emergency evacuation plan.

- (2) Accessory structures or uses. An accessory structure or use (not connected to a principal structure), including nonresidential agricultural structures, shall meet all the applicable provisions of § 532-17C(2) and D.
- (3) Commercial uses. Any commercial structure or building which is to be erected, constructed, reconstructed, altered or moved into the flood-fringe area shall meet the requirements of Subsection C(1) pertaining to residential uses. Storage yards, parking lots and other accessory land uses may be at lower elevations, subject to the requirements of Subsection C(5) below, provided an adequate warning system exists to protect life and property. However, no such area in general use by the public shall be inundated to a depth greater than two feet or subjected to flood velocities greater than two feet per second during the regional flood.
- (4) Manufacturing and industrial uses. Any manufacturing or industrial structure or building which is to be erected, constructed, reconstructed, altered or moved into the flood-fringe area shall have the lowest floor (including basement) elevated to or above the base flood level or meet the floodproofing standards in § 532-42. On streams or rivers having prolonged flood durations, greater protection may be required to minimize interference with normal plant operations. A lesser degree of protection may be permissible for storage yards, parking lots and other similar uses subject to the criteria in Subsection C(3) above and (5) below.
- (5) Storage or processing of materials. The storage or processing of materials that are buoyant, flammable, explosive or which in times of flooding could be injurious to human, animal or plant life shall be at or above the flood protection elevation for the particular area or floodproofed in compliance with § 532-42. Adequate measures shall be taken to assure that these materials will not enter the river or stream during flooding.
- (6) Public utilities, streets and bridges should be designed to be compatible with the local comprehensive floodplain development plans and:
 - (a) When failure or interruption of public utilities, streets and bridges would result in danger to the public health or safety or where such facilities are essential to the orderly functioning of the area, construction of and substantial improvements to such facilities may only be permitted if they are floodproofed to the flood protection elevation in compliance with § 532-42.
 - (b) Minor or auxiliary roads or nonessential utilities may be constructed at lower elevations, provided that they withstand flood forces to the regional flood elevation.
- (7) Sewage systems, wells and solid waste sites.
 - (a) All on-site sewage disposal systems shall be floodproofed to the flood protection elevation and shall meet the applicable provisions of all local ordinances and Ch. SPS 383, Wis. Adm. Code.
 - (b) All wells, whether public or private, shall be floodproofed to the flood protection elevation and shall meet the applicable provisions of Chs. NR 811 and NR 812, Wis. Adm. Code.

- (c) All solid or hazardous waste disposal sites, whether public or private, are prohibited.
- (8) Deposition of materials for any purpose may only be allowed if the provisions of this chapter are met.
- (9) Mobile homes, manufactured homes, and mobile recreational vehicles in floodplains.
 - (a) Owners or operators of all existing mobile home parks and mobile home subdivisions located in the regional floodplain shall file an evacuation plan, indicating alternate vehicular access and escape routes, including mobile home hauler routes, with the appropriate local disaster preparedness authorities and shall provide for adequate surface drainage to minimize flood damage.
 - (b) In existing mobile home parks, all new homes with new pads, replacement units on existing pads, substantially improved mobile/manufactured homes, and recreational vehicles that remain on site in excess of 180 days or are unlicensed or not ready for highway use, and which are placed or improved on a site located in the regional floodplain, shall:
 - [1] Have the lowest floor elevated to the regional flood elevation; and
 - [2] Be anchored so they do not float, collapse or move laterally during a flood.
 - (c) Outside of existing mobile home parks, including new mobile home parks, and all single units outside of existing parks, all new, replacement and substantially improved mobile/manufactured homes and recreational vehicles that remain on site more than 180 days which are unlicensed or are not ready for highway use shall meet the residential development standards for the flood-fringe in Subsection C(1) and (9)(b)[2] of this section. 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.
 - (d) Mobile recreational vehicles. All mobile recreational vehicles that are on site for 180 consecutive days or more or are not fully licensed and ready for highway use shall meet the elevation and anchoring requirements in Subsection C(9)(b) and (c). 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.

§ 532-19. Other floodplain districts.

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

§ 532-20. General floodplain district (GFP).

- A. Applicability. The provisions for this district shall apply to all floodplains mapped as A, AO or AH Zone.
- B. Permitted uses. The general floodplain district encompasses both floodway and flood-fringe areas. Therefore, a determination shall be made pursuant to Subsection D below

to determine whether the proposed use is located within a floodway or flood-fringe area. Those uses permitted in § 532-17, Floodway district (FW), above and § 532-18, Flood-fringe district (FF), above are allowed within the general floodplain district, according to the standards of Subsection C, Standards for development in the general floodplain district, below, and provided that all permits or certificates required under this chapter have been issued.

- C. Standards for development in the general floodplain district. Once it is determined according to Subsection D below that a proposed use is located within a floodway, the provisions of § 532-17, Floodway district (FW), above shall apply. Once it is determined that the proposed use is located within the flood-fringe, the provisions of § 532-18, Flood-fringe district (FF), above shall apply. All provisions of the remainder of this chapter apply to either district.
- (1) In AO/AH Zones the structure's lowest floor must meet one of the conditions listed below, whichever is higher:
 - (a) At or above the flood protection elevation; or
 - (b) Two feet above the highest adjacent grade around the structure; or
 - (c) The depth as shown on the FIRM.
 - (2) In AO/AH Zones, provide plans showing adequate drainage paths to guide floodwaters around structures.
- D. Determining floodway and flood-fringe limits. Upon receiving an application for development within the general floodplain district, the Zoning Administrator shall:
- (1) Require the applicant to submit, at the time of application, two copies of an aerial photograph or a plan which accurately locates the proposed development with respect to the general floodplain district limits, channel of stream, existing floodplain developments, together with all pertinent information such as the nature of the proposal, legal description of the property, fill limits and elevations, building floor elevation and floodproofing, and the flood zone as shown on the FIRM.
 - (2) Require the applicant to furnish any of the following additional information as is deemed necessary by the Department for evaluation of the effects of the proposal upon flood height and flood flows and the regional flood elevation and, where applicable, to determine the boundaries of the floodway:
 - (a) Plan (surface view) showing elevations or contours of the ground; pertinent structure, fill or storage elevations; size, location and spatial arrangement of all proposed and existing structures on the site; location and elevations of streets, water supply and sanitary facilities; soil types; and other pertinent information.
 - (b) Specifications for building construction and materials, floodproofing, filling, dredging, channel improvement, storage of materials, water supply and sanitary facilities.
 - (c) A hydrologic and hydraulic study as specified in § 532-32.

§ 532-21. Flood storage district.

- A. General. 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 area and assures that any development in the storage areas will not decrease the effective flood storage capacity, which would cause higher flood elevations.
- B. Applicability. The provisions of this section apply to all areas within the flood storage district (FSD), as shown on the official floodplain zoning maps.
- C. Permitted uses. Any use or development which occurs in a flood storage district must meet the applicable requirements in § 532-18C.
- D. Standards for development in flood storage districts.
 - (1) Development in a flood storage district shall not cause an increase equal or greater than 0.00 of a foot in the height of the regional flood.
 - (2) No development shall be allowed which removes flood storage volume unless an equal volume of storage as defined by the predevelopment ground surface and the regional flood elevation shall be provided in the immediate area of the proposed development to compensate for the volume of storage which is lost (compensatory storage). Excavation below the groundwater table is not considered to provide an equal volume of storage.
 - (3) 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 Article VII, Amendments, of this chapter.
 - (4) 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.

ARTICLE V
Nonconforming Structures and Uses

§ 532-22. Applicability.

Insofar as the standards in this article are not inconsistent with the provisions of § 62.23(7)(h), Wis. Stats., for cities and villages, they shall apply to all nonconforming uses and nonconforming structures. These regulations apply to the modification of, or addition to, any structure and to the use of any structure or premises which was lawful before the passage of this chapter or any amendment thereto.

§ 532-23. General provisions.

The lawful use of a building, structure or property which existed at the time this chapter or an applicable amendment to this chapter took effect and which is not in conformity with the provisions of this chapter, including the routine maintenance of such a building or structure, may be continued, subject to the following conditions:

- A. If a nonconforming use or the use of a nonconforming structure is discontinued for 12 consecutive months, any future use of the building, structure or property shall conform to the appropriate provisions of this chapter.
- B. Any legal nonconforming use of property which does not involve the use of a structure and which existed at the time of the adoption or subsequent amendment of this chapter may be continued although such use does not conform to the provisions of this chapter. However, such nonconforming use may not be extended or increased.
- C. The maintenance and repair of nonconforming boathouses which are located below the ordinary high-water mark of any navigable waters shall comply with the requirements of § 30.121, Wis. Stats.
- D. Uses which are nuisances under common law shall not be permitted to continue as nonconforming uses.

§ 532-24. Modifications and additions to nonconforming structures in wetland zoning district.

Nonconforming structures and uses regulated under the wetland provisions of this chapter are subject to all provisions of this chapter, except as otherwise stipulated in § 62.23(7)(h), Wis. Stats.

§ 532-25. Nonconforming structures in floodplain areas; general provisions.

- A. 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. 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.

- B. 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.
- C. No modification or addition to any nonconforming structure or any structure with a nonconforming use which over the life of the structure would equal or exceed 50% 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, and contiguous dry land access is provided in compliance with § 532-18C(1). The costs of elevating a nonconforming structure or a structure with a nonconforming use to the flood protection elevation are excluded from the fifty-percent provision in this subsection.
- D. No maintenance to any nonconforming structure or any structure with a nonconforming use, the cost of which would equal or exceed 50% of its present equalized assessed value, shall be allowed unless the entire structure is permanently changed to a conforming structure with a conforming use in compliance with the applicable requirements of this chapter. Contiguous dry land access must be provided for residential and commercial uses in compliance with § 532-18C(1).
- E. If on a per-event basis the total value of the work being done under Subsections C and D 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 § 532-18C(1).
- F. Except as provided in Subsection G 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 predamaged condition equals or exceeds 50% of the structure's present equalized assessed value.
- G. 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 applicable FEMA regulations (44 CFR Part 60) or the regulations promulgated thereunder.
 - (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 § 532-42C.

- (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, shall 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 § 532-20C.
 - (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 Subsection G(1)(a) to (f).
 - (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 § 532-42A or C.
 - (c) In AO Zones with no elevations specified, shall have the lowest floor, including basement, meet the standards in § 532-20C.
- H. 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 § 532-17C; flood-resistant materials are used; and construction practices and floodproofing methods that comply with § 532-42 are used. Repair or rehabilitation of historic structures shall be exempt from the development standards of Subsection G 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.
- I. As requests are received for structural modifications or additions to nonconforming uses or nonconforming structures in the floodplain, a record shall be kept which lists the nonconforming uses and nonconforming structures, their present equalized assessed value, the cost of those additions or modifications which have been permitted, and the percentage of the structure's total current value those modifications represent.

§ 532-26. Nonconforming structures in floodway areas.

A. Modification or addition.

- (1) No modification or addition shall be allowed to any nonconforming structure or any structure with a nonconforming use in a floodway area, unless such modification or addition:

- (a) Has been granted a permit or variance;
 - (b) Meets criteria of § 532-25; and
 - (c) Will not increase the amount of obstruction to flood flows as provided in § 532-16F.
- (2) Any addition to an existing structure shall be floodproofed pursuant to § 532-42.
- (3) If any part of the foundation below the flood protection elevation is enclosed, the following standards shall apply:
- (a) The enclosed area shall be designed by a registered architect or engineer to allow for the efficient entry and exit of floodwaters without human intervention. A minimum of two openings must be provided with a minimum net area of at least one square inch for every one square foot of the enclosed area. The lowest part of the opening can be no more than 12 inches above the adjacent grade;
 - (b) The parts of the foundation located below the flood protection elevation must be constructed of flood-resistant materials;
 - (c) Mechanical and utility equipment must be elevated or floodproofed to or above the flood protection elevation; and
 - (d) The use must be limited to parking 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 a floodway area. Any replacement, repair or maintenance of an existing on-site sewage disposal system in a floodway area shall meet the applicable requirements of all local ordinances and Ch. SPS 383, Wis. Adm. Code.
- C. No new well or modification to an existing well, used to obtain water for ultimate human consumption, shall be allowed in a floodway area. Any replacement, repair or maintenance of an existing well in a floodway area shall meet the applicable requirements of this chapter and Chs. NR 811 and NR 812, Wis. Adm. Code.

§ 532-27. Nonconforming structures in flood-fringe areas.

- A. No modification or addition shall be allowed to any nonconforming structure or any structure with a nonconforming use in the flood-fringe area unless such modification or addition has been granted a permit or variance and, except where Subsection B below is applicable, the modification or addition is placed on fill or is floodproofed to the flood protection elevation in compliance with the applicable regulations for that particular use in a flood-fringe area in § 532-18.
- 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 Zoning Board of Appeals, using the procedures established in §§ 532-7 and 532-8, may grant a variance from those provisions for modifications or additions, using the criteria listed below. Modifications or additions which are protected to elevations lower than the flood protection elevation may be permitted, provided:

- (1) No floor is below regional flood for residential and commercial structures;
 - (2) Human lives are not endangered;
 - (3) Public facilities, such as water and sewer, are not to be installed;
 - (4) Flood depths will not exceed two feet;
 - (5) Flood velocities will not exceed two feet per second; and
 - (6) The structure will not be used for storage of materials that are buoyant, flammable, explosive or injurious to human, animal, plant, fish or other aquatic life.
- C. All new on-site sewage disposal systems or addition to, replacement, repair or maintenance of an on-site sewage disposal system in a flood-fringe area shall meet all the applicable provisions of all local ordinances and Ch. SPS 383, Wis. Adm. Code.
- D. All new wells or addition to, replacement, repair or maintenance of a well in a flood-fringe area shall meet the applicable provisions of this chapter and Chs. NR 811 and NR 812, Wis. Adm. Code.

§ 532-28. Flood storage area.

No modifications or additions shall be allowed to any nonconforming structure in a flood storage area unless the standards outlined in § 532-21D are met.

ARTICLE VI
Administration

§ 532-29. General.

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

§ 532-30. Zoning Administrator.

The Zoning Administrator shall have the following duties and powers:

- A. Advise applicants as to the provisions of this chapter, assist them in preparing permit applications and appeal forms, and ensure that the regional flood elevation is shown on permit applications where appropriate.
- B. Issue permits and certificates of compliance and inspect properties for compliance with this chapter.
- C. Inspect all damaged floodplain structures and perform a substantial damage assessment to determine if substantial damage to the structure has occurred.
- D. Keep records of all official actions, such as:
 - (1) All permits issued.
 - (2) Inspections made.
 - (3) Work approved.
 - (4) Floodproofing certificates.
 - (5) Documentation of certified lowest floor and regional flood elevations for floodplain development.
 - (6) Records of water surface profiles, floodplain zoning maps and ordinances, nonconforming uses and structures, including changes, appeals, variances and amendments.
 - (7) All substantial damage assessment reports for floodplain structures.
 - (8) List of nonconforming structures and uses.
- E. Have access to any structure or premises between the hours of 8:00 a.m. and 6:00 p.m. for the purpose of performing these duties.
- F. Submit copies of the following items to the Department regional office:
 - (1) Within 10 days of the decision, a copy of any decisions on variances, appeals for map or text interpretations, and map or text amendments.
 - (2) Copies of any case-by-case analyses and any other information required by the Department, including an annual summary of the number and types of floodplain zoning actions taken.

- (3) Copies of substantial damage assessments performed and all related correspondence concerning the assessments.
- G. Investigate, prepare reports, and report violations of this chapter to the appropriate municipal planning agency and the City Attorney for prosecution. Copies of the violation reports shall also be sent to the Department regional office.
- H. Submit copies of floodplain text and map amendments and biennial reports to the regional FEMA office.

§ 532-31. Building permits.

- A. When required. Unless another section of this chapter specifically exempts certain types of development from this requirement, a building permit shall be obtained from the Zoning Administrator before any development, as defined in § 532-49, including any change in the use of an existing building or structure, is initiated.
- B. Application. An application for a permit shall be made to the Zoning Administrator upon forms furnished and shall include the following information for the purpose of proper enforcement of these regulations:
 - (1) General information.
 - (a) Name, address and telephone number of applicant, property owner and contractor.
 - (b) Legal description of the property and a general description of the proposed use or development indicating new construction or modification to existing structures.
 - (2) Site development plan. The site development plan shall be drawn to scale and submitted as a part of the permit application form and shall contain the following information:
 - (a) Location, dimensions, area and elevation of the lot. Also, a copy of the Wetland Inventory Map shall be provided, if applicable, with elevation noted;
 - (b) Location and boundaries of wetlands;
 - (c) Specifications and dimensions for areas of proposed wetland alteration;
 - (d) Location of the ordinary high-water mark of any abutting navigable waterways;
 - (e) Existing and proposed topographic and drainage features and vegetative cover;
 - (f) Location of any structures with distances measured from the lot lines and center line of all abutting streets or highways;
 - (g) Location of any existing or proposed on-site sewage systems or private water supply systems;
 - (h) Location and elevation of existing or future access roads;
 - (i) Location of floodplain and floodway limits on the property as determined from floodplain zoning maps used to delineate floodplain areas;

- (j) The elevation of the lot, lowest floor of proposed buildings and fill with the vertical datum from the adopted study, either National Geodetic Vertical Datum (NGVD) or North American Vertical Datum (NAVD). This will include a FEMA elevation certificate.
 - (k) Data sufficient to determine the regional flood elevation at the location of the development and to determine whether or not the requirements of § 532-16 are met. This may include any of the information noted in § 532-20D.
 - (l) Data to determine if the proposed development will cause an obstruction to flow or an increase in regional flood height or discharge according to § 532-16F. See also § 532-17C(1)(b).
- C. Expiration. 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.

§ 532-32. Hydraulic and hydrologic studies to analyze development.

All hydraulic and hydrologic studies shall be completed under the direct supervision of a professional engineer registered in the state. The study contractor shall be responsible for the technical adequacy of the study. All studies shall be reviewed and approved by the Department.

A. Zone A floodplains.

- (1) Hydrology. The appropriate method shall be based on the standards in § NR 116.07(3), Wis. Adm. Code, Hydrologic Analysis: Determination of Regional Flood Discharge.
- (2) Hydraulic modeling. The regional flood elevation shall be based on the standards in § NR 116.07(4), Wis. Adm. Code, Hydraulic Analysis: Determination of the Regional Flood Elevation, and the following:
 - (a) Determination of the required limits of the hydraulic model shall be based on detailed study information for downstream structures (dam, bridge and culvert) to determine adequate starting WSEL for the study.
 - (b) Channel sections must be surveyed.
 - (c) Minimum four-foot contour data in the overbanks shall be used for the development of cross-section overbank and floodplain mapping.
 - (d) 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.
 - (e) The most current version of HEC-RAS shall be used.
 - (f) A survey of bridge and culvert openings and the top of road is required at each structure.
 - (g) 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.

- (h) 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.
 - (i) The model must extend past the upstream limit of the difference in the existing and proposed flood profiles in order to provide a tie-in to existing studies. The height difference between the proposed flood profile and the existing study profiles shall be no more than 0.00 feet.
- (3) 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.
- (a) If the proposed development is located outside of the floodway, then it is determined to have no impact on the regional flood elevation.
 - (b) 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.

- (1) Hydrology. If the proposed hydrology will change the existing study, the appropriate method to be used shall be based on § NR 116.07(3), Wis. Adm. Code, Hydrologic Analysis: Determination of Regional Flood Discharge.
- (2) Hydraulic model. The regional flood elevation shall be based on the standards in § NR 116.07(4), Wis. Adm. Code, Hydraulic Analysis: Determination of the Regional Flood Elevation, and the following:
 - (a) 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.
 - (b) 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.
 - (c) 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.

- (d) 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.
 - (e) All changes to the duplicate effective model and subsequent models must be supported by certified topographic information, bridge plans, construction plans and survey notes.
 - (f) 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.
- (3) Mapping. Maps and associated engineering data shall be submitted to the Department for review which meet the following conditions:
- (a) Consistency between the revised hydraulic models, the revised floodplain and floodway delineations, the revised flood profiles, topographic work map, annotated FIRMs and/or Flood Boundary Floodway Maps (FBFMs), construction plans, and bridge plans.
 - (b) 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.
 - (c) Annotated FIRM panel showing the revised 1% and 0.2% annual chance floodplains and floodway boundaries.
 - (d) If an annotated FIRM and/or FBFM and digital mapping data (GIS or CADD) are used, then all supporting documentation or metadata must be included with the data submission along with the Universal Transverse Mercator (UTM) projection and State Plane Coordinate System in accordance with FEMA mapping specifications.
 - (e) The revised floodplain boundaries shall tie into the effective floodplain boundaries.
 - (f) 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.
 - (g) Both the current and proposed floodways shall be shown on the map.
 - (h) The stream center line or profile baseline used to measure stream distances in the model shall be visible on the map.

§ 532-33. Certificates of compliance.

- A. Except where no building or conditional use permit is required, no land shall be occupied or used and no building which is hereafter constructed, altered, added to, modified, rebuilt

or replaced shall be occupied until a certificate of compliance is issued by the Zoning Administrator, subject to the following provisions:

- (1) The certificate of compliance shall show that the building or premises or part thereof, and the proposed use, conform to the provisions of this chapter.
 - (2) Application for such certificate shall be concurrent with the application for a permit.
 - (3) The certificate of compliance shall be issued within 10 days after notification of completion of the work specified in the permit, providing the building or premises or proposed use conforms to all the provisions of the chapter.
 - (4) For floodplain development, the applicant shall submit a certification signed by a registered professional engineer or professional land surveyor that the fill and lowest floor elevations are in compliance with the permit issued, including any required floodproofing. Floodproofing measures also require certification by a registered professional engineer or architect that the requirements of § 532-42 are met.²
- B. Upon written request from the owner, the Zoning Administrator shall issue a certificate of compliance for any building or premises existing at the time of adoption of this chapter, certifying, after inspection, the extent and type of use made of the building or premises and whether or not such use conforms to the provisions of this chapter. The applicant must secure all necessary permits from federal, state and local agencies, including those required by the United States Army Corps of Engineers under Section 404 of the Federal Water Pollution Control Act, Amendments of 1972, 33 U.S.C. § 1344.

§ 532-34. Other permits.

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

§ 532-35. Fees.

The Common Council may, by resolution, adopt fees for the following:

- A. Building permits.
- B. Certificates of compliance.
- C. Public hearings.
- D. Legal notice publications.
- E. Conditional use permits.

§ 532-36. Plan Commission.

- A. The Plan Commission shall:
 - (1) Oversee the functions of the office of the Zoning Administrator; and

2. Editor's Note: Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. II).

- (2) Review and make recommendations to the governing body on all proposed amendments to this chapter, maps and text.
- B. The Plan Commission shall not:³
- (1) Grant variances to the terms of this chapter in place of action by the Zoning Board of Appeals; nor
 - (2) Amend the text or zoning maps in place of official action by the governing body.

§ 532-37. Board of Appeals.

The appropriate board created under § 62.23(7)(e), Wis. Stats., is hereby authorized or shall be appointed to act as the Zoning Board of Appeals for the purposes of this chapter. The Board of Appeals shall exercise the powers conferred by Wisconsin Statutes and adopt rules for the conduct of business. The Zoning Administrator may not be the Secretary of the Board.

- A. Powers and duties. The Zoning Board of Appeals:
- (1) Shall hear and decide appeals where it is alleged there is error in any order, requirement, decision or determination made by an administrative official in the enforcement or administration of this chapter.
 - (2) May grant, upon appeal, a variance from the dimensional standards of this chapter pursuant to § 532-38.
 - (3) Shall hear and decide disputes concerning the district boundaries shown on the official floodplain zoning map pursuant to Subsection D of this section.
- B. Appeals to the Board. Appeals to the Zoning Board of Appeals may be taken by any person aggrieved or by an officer, department, board or bureau of the City affected by any order, requirement, decision or determination of the official whose decision is in question. Such appeal shall be taken within 30 days, as provided by the rules of the Board, by filing with the official whose decision is in question and with the Zoning Board of Appeals a notice of appeal, specifying the reasons for the appeal. The official whose decision is in question shall transmit to the Board all the documents constituting the record concerning the matter appealed.
- C. Hearing appeals and applications for variances.
- (1) Notice and hearing. The Board of Appeals shall fix a reasonable time for a hearing on the appeal or application. The Board shall give public notice by publishing a Class 1 notice under Ch. 985, Wis. Stats., specifying the date, time and place of the hearing and the matters to come before the Board. Notice shall be mailed to the parties in interest. Written notice shall be given to the appropriate regional office of the Department at least 10 days prior to hearings on proposed variances and appeals for map or text interpretations. At the public hearing, any party may appear in person or by agent or attorney. The Board shall resolve boundary disputes, decide variance applications, and decide appeals of permit denials.

3. Editor's Note: Amended at time of adoption of Code (see Ch. I, General Provisions, Art. II).

- (2) Decision. A decision regarding the appeal or application shall be made as soon as practical. Copies of all decisions on variances and appeals for map or text interpretations shall be submitted to the appropriate regional office of the Department within 10 days after they are granted or denied. The final disposition of an appeal or application to the Zoning Board of Appeals shall be in the form of a written resolution or order signed by the Chairperson and Secretary of the Board. Such resolution shall state the specific facts which are the basis of the Board's determination and shall either affirm, reverse, vary or modify the order, requirement, decision or determination appealed, in whole or in part; dismiss the appeal for lack of jurisdiction or prosecution; or grant the application, including the reasons or justifications for granting an appeal, with a description of the hardship or practical difficulty demonstrated by the applicant, in the case of a variance, clearly stated in the recorded minutes of the Board proceedings.
- D. Boundary disputes. The following procedure shall be used by the Zoning Board of Appeals in hearing disputes concerning the district boundaries shown on the Official Floodplain Zoning Map:
- (1) Where a floodplain district boundary is established by approximate or detailed floodplain studies, the regional flood elevations or profiles for the point in question shall be the governing factor in locating the district boundary. If no regional flood elevations or profiles are available to the Board, other available evidence may be examined.
 - (2) In all cases, the person contesting the location of the district boundary shall be given a reasonable opportunity to present arguments and technical evidence to the Zoning Board of Appeals.
 - (3) Where it is determined that the district boundary is incorrectly mapped, the Board should either inform the Plan Commission to petition the City or inform the person contesting the location of the boundary to petition the City for a map amendment. See also Article VII.

§ 532-38. Variances.

- A. The Zoning Board of Appeals may, upon appeal, grant a variance from the dimensional standards of this chapter where an applicant convincingly demonstrates that:
- (1) Literal enforcement of the provisions of this chapter will result in unnecessary hardship on the applicant;
 - (2) The hardship is due to adoption of this chapter and special conditions exist unique to the property and not common to a group of adjacent lots or premises (in such case the Zoning Code or Map must be amended);
 - (3) Such variance is not contrary to the public interest; and
 - (4) Such a variance is consistent with the purpose of this chapter in § 532-3.
- B. In addition to the criteria in Subsection A, to qualify for a variance under FEMA regulations the following criteria must be met:
- (1) The variance may not cause any increase in the regional flood elevation.

- (2) Variances can only be granted for lots that are less than 1/2 acre and are contiguous to existing structures constructed below the regional flood elevation.
 - (3) Variances shall only be granted upon a showing of good and sufficient cause, shall be the minimum relief necessary, shall not cause increased risks to public safety or nuisances, shall not increase costs for rescue and relief efforts, and shall not be contrary to the purpose of this chapter.
- C. A variance shall not:
- (1) Grant, extend or increase any use of property prohibited in the zoning district.
 - (2) Be granted for a hardship based solely on an economic gain or loss.
 - (3) Be granted for a hardship which is self-created.
 - (4) Damage the rights or property values of other persons in the area.
 - (5) Permit a lower degree of flood protection in any floodplain area than the flood protection elevation. In the flood-fringe area, a lower degree of flood protection than the flood protection elevation may only be allowed pursuant to § 532-27B.
 - (6) Allow actions without the amendments to this chapter or map(s) required in Article VII.
 - (7) Allow any alteration of a historic structure, including its use, which would preclude its continued designation as a historic structure.
- D. When a floodplain variance is granted, the Board shall notify the applicant in writing that it may increase risks to life and property and flood insurance premiums could increase up to \$25 per \$100 of coverage. A copy shall be maintained with the variance record.

§ 532-39. Conditional use permits.

- A. Any use listed as a conditional use in this chapter shall be permitted only after an application has been submitted to the Zoning Administrator and a conditional use permit has been reviewed and approved, following the procedures in Chapter 550 (Zoning). To secure information upon which to base its determination, the applicant may be required to furnish, in addition to the information otherwise required for a conditional use permit, other pertinent information which is necessary to determine if the proposed use is consistent with the purpose of this chapter.
- B. Conditions. Upon consideration of the permit application and the standards applicable to the permitted uses in this chapter, the Plan Commission shall attach such conditions to a conditional use permit, in addition to those required elsewhere in this chapter, as are necessary to further the purposes of this chapter as listed in § 532-3. Such conditions may include specifications for, without limitation because of specific enumeration, type of shore cover; erosion protection measures; increased side yard setbacks; specific sewage disposal and water supply facilities; landscaping and planting screens; period of operation; operational control; sureties; deed restrictions; location of piers, docks, parking areas and signs; and type of construction.

§ 532-40. Appeals of permit denials.

- A. On appeal, the Common Council shall review all data constituting the basis for the appeal of permit denial. This data may include (where appropriate):
- (1) Permit application data listed in § 532-31B.
 - (2) Floodway/flood-fringe determination data in § 532-20D.
 - (3) Data listed in § 532-17C(1), where the applicant has not submitted this information to the Zoning Administrator.
 - (4) Other data submitted to the Zoning Administrator with the permit application or submitted to the Common Council with the appeal.
 - (5) The recommendation of the Plan Commission.
- B. For appeals of all denied permits, the Common Council shall:
- (1) Follow the procedures outlined in § 532-37.
 - (2) Render a decision regarding the appeal within 10 days of the public hearing, which shall be submitted to the appropriate regional office of the Department within 10 days after rendered. The final disposition of an appeal shall be in the form of a written resolution. Such resolution shall state the specific facts which are the basis of the Council's determination and shall either affirm, reverse, vary or modify the Plan Commission decision or determination appealed, in whole or in part; dismiss the appeal for lack of jurisdiction or prosecution; or grant the application for a permit.
- C. For appeals concerning increases in regional flood elevation, the Common Council shall:
- (1) Affirm the denial where the Common Council agrees with the data showing an increase in flood elevation. Increases equal to or greater than 0.00 foot may only be allowed after amending the flood profile and map and any appropriate legal arrangements are made with all adversely affected property owners.
 - (2) Grant the appeal where the Common Council agrees that the data properly demonstrates that the project does not cause an increase equal to or greater than 0.00 foot, provided no other reasons for denial exist.

§ 532-41. Public information.

- A. Where useful, marks on bridges or buildings or other markers may be set to show the depth of inundation during the regional flood at appropriate locations within the floodplain.
- B. All available information in the form of maps, engineering data and regulations shall be readily available in the office of the City Engineer and should be widely distributed.
- C. All legal descriptions of property in the floodplain should include information designating the floodplain zoning classification when such property is transferred.

§ 532-42. Floodproofing.

- A. No permit or variance shall be issued for a nonresidential structure designed to be watertight below the regional flood elevation until the applicant submits a plan or document certified by a registered professional engineer or architect that the floodproofing measures

are adequately designed to protect the structure or development to the flood protection elevation and submits a FEMA floodproofing certificate.

- B. Floodproofing measures shall be designed, as appropriate, to:
- (1) Withstand the flood pressures, depths, velocities, uplift and impact forces, and other factors associated with the regional flood;
 - (2) Assure protection of structures to the flood protection elevation;
 - (3) Provide anchorage of structures to foundations to resist flotation and lateral movement;
 - (4) Ensure that the structural walls and floors are watertight to the flood protection elevation and the interior remains completely dry during flooding, without human intervention;
 - (5) Minimize or eliminate infiltration of floodwaters; and
 - (6) Minimize or eliminate discharges into floodwaters.
- C. For a structure designed to allow the entry of floodwaters, no permit or variance shall be issued until the applicant submits a plan either:
- (1) Certified by a registered professional engineer or architect; or
 - (2) That meets or exceeds the following standards:
 - (a) A minimum of two openings having a total net area of not less than one square inch for every square foot of enclosed area subject to flooding shall be provided;
 - (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.

ARTICLE VII
Amendments

§ 532-43. Obstructions or increases.

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 § 532-44.

- A. 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 § 532-44. Any such alterations must be reviewed and approved by FEMA and the DNR.
- B. 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 § 532-44.

§ 532-44. Actions requiring amendment.

The Common Council may supplement or change floodplain and wetland zoning districts and regulations contained in this chapter according to § 62.23, Wis. Stats., Chs. NR 116 and 117, Wis. Adm. Code, and, for wetlands, § 532-15. Actions which require an amendment to this chapter and/or submittal of a Letter of Map Change (LOMC) include, but are not limited to, the following:

- A. Any change to the Official Floodplain Zoning Map, including the floodway line or boundary of any floodplain area.
- B. Correction of significant discrepancies between the water surface profiles and floodplain zoning maps.
- C. 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.
- D. Any fill or encroachment into the floodplain that will obstruct flow causing an increase of 0.01 foot or more in regional flood height.
- E. Any upgrading of floodplain zoning ordinance text required by § NR 116.05, Wis. Adm. Code, or otherwise required by law, or for changes by the municipality.
- F. 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.
- G. Any change to the floodplain boundaries and/or watercourse alterations on the FIRM.

§ 532-45. Procedures.

Amendments to this chapter may be made upon petition of any interested party according to the provisions of § 62.23, Wis. Stats. Such petitions shall include all necessary data required by §§ 532-20D and 532-31.

- A. A copy of each proposed amendment shall be referred to the Plan Commission for recommendation to the Common Council and be submitted to the appropriate regional office of the Department within five days of submission to the Plan Commission.
- B. A public hearing shall be held as required by § 62.23(7)(d)2, Wis. Stats., following publication of a Class 2 notice as defined in § 532-49. The appropriate regional office of the Department shall be provided with written notice of the public hearing at least 10 days prior to such hearing.
- C. A copy of the decision on each amendment shall be provided to the Department within 10 days of the decision.
- D. No amendment to the maps or text of this chapter shall become effective until reviewed and approved by the Department. Any change to the base flood elevations (BFE) in the Flood Insurance Study (FIS) or on the Flood Insurance Rate Map (FIRM) must be reviewed and approved by the DNR and FEMA before it is effective. No changes to regional flood elevations (RFEs) on non-FEMA maps are effective until approved by the DNR.
- E. All persons petitioning for a map amendment which involves an obstruction to flow causing an increase of 0.01 foot or more in the height of the regional flood shall obtain flooding easements, or other appropriate legal arrangements, from all adversely affected property owners and notify the local unit of government before the amendment can be approved by the governing body.
- F. When considering amendments to the Official Floodplain Zoning Map, in areas where no water surface profiles exist, the Plan Commission shall consider data submitted by the Department, the Zoning Administrator's visual on-site inspections and other available information. (See § 532-16D.)⁴

4. Editor's Note: Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. II).

ARTICLE VIII
Enforcement and Penalties

§ 532-46. Enforcement.

Any development, as defined in § 532-49, or use established after the effective date of this chapter in violation of this chapter, by any person, firm, association or corporation (including building contractors or their agents), shall be deemed a violation. The Zoning Administrator shall refer violations to the Plan Commission and the City Attorney, who shall prosecute such violations.

§ 532-47. Violations and penalties.

Any person, firm, association or corporation who or which violates or refuses to comply with any of the provisions of this chapter shall be subject to a forfeiture of not less than \$5 nor more than \$50 per offense, together with the taxable costs of such action. Each day of continued violation shall constitute a separate offense.

§ 532-48. Nuisances.

Every violation of this chapter is a public nuisance, and the creation thereof may be enjoined and the maintenance thereof may be abated by action at suit of the City, the state or any citizen thereof pursuant to § 87.30(2), Wis. Stats.

ARTICLE IX

Definitions**§ 532-49. Definitions.**

Word usage: Words used in the present tense include the future; words in the singular number include the plural number, words in the plural number include the singular number; the word "shall" is mandatory, not permissive. All distances, unless otherwise specified, shall be measured horizontally. Definitions: Specific words used in this chapter shall have the following meanings:

ACCESSORY STRUCTURE OR USE — A detached subordinate structure or a use which is clearly incidental to and customarily found with the principal structure or use to which it is related and which is located on the same lot as that of the principal structure or use.

AH ZONE — See "area of shallow flooding."

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

AO ZONE — See "area of shallow flooding."

AREA OF SHALLOW FLOODING — A designated AO, AH, AR/AO, AR/AH or VO Zone on a community's Flood Insurance Rate Map (FIRM) with a one-percent or greater annual chance of flooding to an average depth of one to three feet, where a clearly defined channel does not exist, where the path of flooding is unpredictable, and where velocity flood may be evident. Such flooding is characterized by ponding or sheet flow.

A ZONES — Those areas shown on a municipality's official floodplain zoning map (see definition) which would be inundated by the base flood or regional flood as defined herein. 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.

BASE FLOOD — The flood having a one-percent chance of being equaled or exceeded in any given year, as published by FEMA as part of a FIS and depicted on a FIRM.

BASEMENT — Any enclosed area of a building having its floor subgrade, i.e., below ground level, on all sides.

BOARD OF APPEALS — The Zoning Board of Appeals of the City of Watertown.

BUILDING — See "structure."

BULKHEAD LINE — A geographic line along a reach of navigable water that has been specified by adoption of a municipal ordinance and approved by the Department of Natural Resources pursuant to § 30.11, Wis. Stats., and which allows limited filling between the bulkhead line and the original ordinary high-water mark, except where such filling is prohibited by the floodway provisions of this chapter.

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

CAMPING UNIT — 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, pickup truck, tent or other mobile recreational vehicle.

CERTIFICATE OF COMPLIANCE — A certification issued by the Zoning Administrator, stating that any construction and use of land or a building, the elevation of fill, or the first floor of a structure is in compliance with all of the provisions of this chapter.

CHANNEL — A natural or artificial watercourse with definite bed and banks to confine and conduct normal flow of water.

CONDITIONAL USE — A use which is permitted by this chapter, provided that certain conditions specified in this chapter are met and that a permit is granted by the Plan Commission.

CRAWLWAY or CRAWL SPACE — An enclosed area below the first usable floor of a building, generally less than five feet in height, used for limited access to plumbing and electrical utilities.

DECK — An unenclosed exterior structure that has no roof or sides but has a permeable floor which allows the infiltration of precipitation.

DEPARTMENT — The Wisconsin Department of Natural Resources.

DEVELOPMENT — Any new use, change of use and any artificial change to improved or unimproved real estate, including, but not limited to, the construction of 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; any placement of mobile homes; the construction of additions or alterations to buildings, structures or accessory structures; the placement of buildings or structures; subdivision layout and site preparation; ditching, lagooning, mining, dredging, filling, grading, paving, excavation or drilling operations; the storage, deposition or extraction of materials or equipment; and the installation, repair or removal of public or private sewage disposal systems or water supply facilities.

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

ENCROACHMENT — Any fill, structure, building, use or development in the floodway.

EXISTING MOBILE HOME PARK OR MOBILE HOME SUBDIVISION — A parcel (or contiguous parcels) of land divided into two or more mobile home lots for rent or sale, on which the construction of facilities for servicing the lots (including, at a minimum, the installation of utilities, either final site grading or the pouring of concrete pads, and the construction of streets) is completed before the effective date of this chapter.

EXPANSION TO EXISTING MOBILE/MANUFACTURED HOME PARK — The preparation of additional sites by the construction of facilities for servicing the lots on which the mobile homes are to be placed. This includes installation of utilities, either final site grading, pouring pads, or construction of streets.

FEDERAL EMERGENCY MANAGEMENT AGENCY (FEMA) — The federal agency that administers the National Flood Insurance Program.

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

FLOOD-FRINGE — That portion of the floodplain outside of the floodway which is covered by floodwaters during the regional flood; it is generally associated with standing water rather than rapidly flowing water.

FLOOD HAZARD BOUNDARY MAP — A map prepared for the City by FEMA, designating approximate flood hazard areas. Flood hazard areas are designated as unnumbered A Zones and do not contain floodway lines or regional flood elevations. These maps form the basis for both the regulatory and insurance aspects of the National Flood Insurance Program.

FLOOD INSURANCE RATE MAP (FIRM) — A map of a community on which the Federal Insurance Administration has delineated both special flood hazard areas (the floodplain) and the risk premium zones applicable to the community. This map can only be amended by the Federal Emergency Management Agency.

FLOOD INSURANCE STUDY — A technical engineering examination, evaluation and determination of flood hazard areas. It provides maps designating those areas affected by the regional flood and provides both flood insurance rate zones and regional flood elevations as well as floodway lines. The flood hazard areas are designated as numbered and unnumbered A Zones. Flood Insurance Study maps form the basis for both the regulatory and the insurance aspects of the National Flood Insurance Program.

FLOOD or FLOODING — A general and temporary condition of partial or complete inundation of normally dry land areas caused by:

- A. The overflow or rise of inland waters;
- B. The rapid accumulation or runoff of surface waters from any source; and
- C. 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.

FLOODPLAIN — That land which has been or may be hereafter covered by floodwater during the regional flood. The floodplain includes the floodway and the flood-fringe and may include other designated floodplain areas for regulatory purposes.

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

FLOODPLAIN MANAGEMENT — The full range of public policy and action for ensuring wise use of floodplains. It includes everything from the collection and dissemination of flood data to the acquisition of floodplain lands and the enactment and administration of codes, ordinances and statutes for land use in the floodplain.

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.

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.

FLOOD PROTECTION ELEVATION — An elevation that corresponds to a point two feet of freeboard above the water surface profile associated with the regional flood. (Also see "freeboard.")

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

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

FREEBOARD — Represents a factor of safety usually expressed in terms of a certain amount of feet above a calculated flood level. Freeboard compensates for the many unknown factors that contribute to flood heights greater than the height calculated. These unknown factors include, but are not limited to, ice jams, debris accumulation, wave action, obstruction of bridge openings and floodways, the effects of urbanization on the hydrology of the watershed, loss of flood storage areas due to development, and the sedimentation of a riverbed or streambed.

HABITABLE BUILDING — Any building or portion thereof used or designed for human habitation.

HEARING NOTICE — Publication or posting meeting the requirements of Ch. 985, Wis. Stats. Class 1 notice is required at a minimum for appeals; published once at least one week (seven days) before the hearing. Class 2 notice is required at a minimum for all zoning ordinances and amendments, including map amendments; published twice, once each week consecutively, the last publication at least a week (seven days) before the hearing.

HIGHEST ADJACENT GRADE — The highest natural elevation of the ground surface prior to construction next to the proposed walls of a structure.

HIGH FLOOD DAMAGE POTENTIAL — Any danger to human life or public health or the potential for any significant economic loss to a structure or its contents.

HISTORIC STRUCTURE — Any structure that is:

- 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 the states with historic preservation programs which 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 directly by the Secretary of the Interior in states without approved programs.

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

LAND USE — Any nonstructural use made of unimproved or improved real estate. (Also see "development.")

LOWEST ADJACENT GRADE — Elevation of the lowest ground surface that touches any of the exterior walls of a building.

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

MAINTENANCE — The act or process of restoring to original soundness, including redecorating, refinishing, nonstructural repairs, or the replacement of existing fixtures, systems or equipment with equivalent fixtures, systems or structures.

MOBILE HOME or MANUFACTURED HOME — A structure transportable in one or more sections, which is built on a permanent chassis and is designed to be used with or without a permanent foundation when connected to required utilities. For the purpose of this chapter, the term does not include recreational vehicles or travel trailers which remain licensed and ready for highway use and remain on site less than 180 days.

MOBILE/MANUFACTURED HOME PARK, EXPANSION TO EXISTING — The preparation of additional sites by the construction of facilities for servicing the lots on which the manufactured homes are to be affixed. This includes installation of utilities, construction of streets and either final site grading or the pouring of concrete pads.

MOBILE/MANUFACTURED HOME PARK OR SUBDIVISION — A parcel (or contiguous parcels) of land divided into two or more manufactured home lots for rent or sale.

MOBILE/MANUFACTURED HOME PARK OR SUBDIVISION, EXISTING — A parcel of land, divided into two or more manufactured home lots for rent or sale, on which the construction of facilities for servicing the lots is completed before the effective date of this chapter. At a minimum, this would include the installation of utilities, the construction of streets and either final site grading or the pouring of concrete pads.

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

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.

MODEL, DUPLICATE EFFECTIVE — A copy of the hydraulic analysis used in the effective FIS and referred to as the "effective model."

MODEL, EFFECTIVE — The hydraulic engineering model that was used to produce the current effective Flood Insurance Study.

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.

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.

MUNICIPALITY or MUNICIPAL — The City of Watertown, Wisconsin.⁵

NAVD or NORTH AMERICAN VERTICAL DATUM — Elevations referenced to mean sea level datum, 1988 adjustment.

NAVIGABLE WATERS — The Rock River, all natural inland lakes within the City, and all streams, ponds, sloughs, flowages and other waters within the territorial limits of this City which are navigable under the laws of this state (i.e., navigable bodies of water with a bed differentiated from adjacent uplands and with levels or flow sufficient to support navigation by a recreational craft of the shallowest draft on an annually recurring basis).

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

NGVD or NATIONAL GEODETIC VERTICAL DATUM — Elevations referenced to mean sea level datum, 1929 adjustment.

NONCONFORMING STRUCTURE — An existing lawful structure or building which is not in conformity with the dimensional or structural requirements of this chapter for the area of the floodplain which it occupies. (For example, an existing residential structure in the flood-fringe district is a conforming use. However, if the first floor is lower than the flood protection elevation, the structure is nonconforming.)

NONCONFORMING USE — An existing lawful use or accessory use of a structure or building which is not in conformity with the provisions of this chapter for the area of the floodplain which it occupies (such as a residence in the floodway).

OBSTRUCTION OF FLOW — Any development which physically blocks the conveyance of floodwaters such that this development by itself or in conjunction with any future similar development will cause an increase in regional flood height.

OFFICIAL FLOODPLAIN ZONING MAP — That map, adopted and made part of this chapter, as described in § 532-11, which has been approved by the Department and FEMA.

OPEN SPACE USE — Those uses having a relatively low flood damage potential and not involving structures.

ORDINARY HIGH-WATER 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

5. Editor's Note: Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. II).

erosion, destruction or prevention of terrestrial vegetation, predominance of aquatic vegetation, or other easily recognized characteristics.

PERSON — Any individual or group of individuals, corporation, partnership, association, municipality or state agency.

PLANNING AGENCY — The Plan Commission of the City of Watertown.

PRIVATE SEWAGE SYSTEM — A sewage treatment and disposal system serving a single structure with a septic tank and soil absorption field located on the same parcel as the structure. This term also means an alternative sewage system approved by the Department of Safety and Professional Services, including a substitute for the septic tank or the soil absorption field, a holding tank, a system serving more than one structure or a system located on a different parcel than the structure.

PUBLIC UTILITIES — 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.

READY FOR HIGHWAY USE — A mobile recreational vehicle or travel trailer 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.

REASONABLY SAFE FROM FLOODING — Base floodwaters 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.

RECREATIONAL VEHICLE — A vehicle which is built on a single chassis, 400 square feet or less when measured at the largest horizontal projection, designed to be self-propelled, carried or permanently towable by a licensed, light-duty vehicle, is licensed for highway use if registration is required and is designed primarily not for use as a permanent dwelling but as temporary living quarters for recreational, camping, travel or seasonal use.

REGIONAL FLOOD — A flood determined to be representative of large floods known to have occurred in Wisconsin. In any given year, there is a one-percent chance that the regional flood may occur or be exceeded. During a typical thirty-year mortgage period, the regional flood has a twenty-six-percent chance of occurrence. The regional flood is based upon a statistical analysis of stream flow records available for the watershed or an analysis of rainfall and runoff characteristics in the general watershed region, or both. FEMA uses the term "base flood," which means the regional flood. If depicted on the FIRM, the RFE is equivalent to the BFE.

SHORELANDS — Lands within the following distances from the ordinary high-water mark of navigable waters: 1,000 feet from a lake, pond or flowage and 300 feet from a river or stream or to the landward side of the floodplain, whichever distance is greater.

START OF CONSTRUCTION — The date the building permit was issued, provided the actual start of construction, repair, reconstruction, rehabilitation, addition, placement or other improvement was within 180 days of the permit date. The actual start means either the first placement of permanent construction on a site, such as the pouring of slab or footings, the installation of piles, the construction of columns, or any work beyond initial excavation, or the placement of a manufactured home on a foundation. Permanent construction does not include land preparation, such as clearing, grading and filling, nor does it include the installation of streets and/or walkways, nor does it include excavation for a basement, footings, piers or foundations or the erection of temporary forms, nor does it include the installation on the property of accessory buildings, such as garages or sheds not occupied as dwelling units or

not part of the main structure. For an alteration, the actual start of construction means the first alteration of any wall, ceiling, floor or other structural part of a building, whether or not that alteration affects the external dimensions of the building.

STRUCTURE — Any man-made object with form, shape and utility, either permanently or temporarily attached to, placed upon or set into the ground, streambed or lake bed, including, but not limited to, roofed and walled buildings, gas or liquid storage tanks, bridges, dams and culverts.

SUBDIVISION — Has the meaning given in § 236.02(12), Wis. Stats.

SUBSTANTIAL DAMAGE — Damage of any origin sustained by a structure, whereby the cost of restoring the structure to its predamaged condition would equal or exceed 50% of the equalized assessed value of the structure before the damage occurred.

SUBSTANTIAL IMPROVEMENT — Any structural repair, reconstruction or improvement of a structure, the cost of which equals or exceeds 50% of the present equalized assessed value of the structure either before the improvement or repair is started or, if the structure has been damaged and is being restored, before the damage occurred. The term does not, however, include either:

- A. Any project for improvement of a structure to comply with existing state or local health, sanitary or safety code specifications which existed before the improvement began, was identified by a municipal official, and is necessary to assure safe living conditions.
- B. Any alteration of a designated historic structure (see definition) or site documented as deserving preservation by the Wisconsin State Historical Society or listed on the National Register of Historic Places, provided the alteration will not preclude the structure's continued designation as a historic structure.

UNNECESSARY HARDSHIP — The circumstance where special conditions, which were not self-created, affect a particular property and make strict conformity with the restrictions governing dimensional standards (such as area, setbacks, frontage or height) unnecessarily burdensome or unreasonable in light of the purpose of this chapter. Unnecessary hardship is present only where, in the absence of a variance, no feasible use can be made of the property.

VARIANCE — An authorization granted by the Zoning Board of Appeals to construct, alter or use a building or structure in a manner that deviates from the dimensional standards of this chapter. A variance may not permit a use of property otherwise prohibited by this chapter or allow construction not protected to the flood protection elevation.

VIOLATION — The failure of a structure or other development to be fully compliant with this chapter. 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.

WATERSHED — The entire region contributing runoff or surface water to a watercourse or body of water.

WATER SURFACE PROFILE — A graphic 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.

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

WETLAND ALTERATION — Any construction, filling, flooding, draining, dredging, ditching, tiling, excavating, temporary water level stabilization measures or dike and dam construction in a wetland area.

WETLAND DISTRICT — The zoning district created in this chapter, designated as wetlands on the wetlands inventory maps which have been adopted and made a part of this chapter, as described in § 532-11.

WETLANDS — Those areas where water is at, near or above the land surface long enough to support aquatic or hydrophytic vegetation and which have soils indicative of wet conditions.

AN ORDINANCE

TO AMEND CHAPTER 545, SUBDIVISION OF LAND, THROUGH THE REMOVAL AND ADDITION OF LANGUAGE

Sponsor: Mayor David
From: Plan Commission with Positive Recommendation

SECTION 1. Recreate Section 545-09B:

* * *

B. Fees to Defray Administrative Expenses. The subdivider of land divisions within the city shall reimburse the city for its actual cost of design, inspection, inventorying, mapping, and collecting attribute information for infrastructure features for the GIS database, testing, construction, and associated legal and real estate fees for the required public improvements for the land division unless otherwise recovered through other fees. The subdivider shall pay to the City of Watertown fees as set by the Common Council and provided under separate fee schedule. Site Plan Review Committee review fees applicable to zoning and development-related issues shall not be applied to land divisions. The city's costs shall be determined as follows:

- 1. The cost of city equipment employed;

- 2. The actual costs of City materials incorporated into the work including transportation costs plus a restocking and/or handling fee not to exceed ten percent (10%) of the cost of the materials;

- 3. All consultant fees associated with the public improvements at the invoiced amount in compliance with Section 66.0628(3), Wisconsin Statutes.

* * *

SECTION 2. Remove Section 545-09C

* * *

~~C. Payment for engineering, planning or legal services. The subdivider shall pay to the City of Watertown the actual cost of any engineering, planning or legal work undertaken by consultants hired by the City, outside of the City budget, at the request of the developer and the Plan Commission.~~

* * *

SECTION 3. Amend Sections 545-33A(1) & 545-33A(2) :

* * *

A. Parkland Dedication Fees and Land Dedications

1. Any development approval, which enables the creation of additional dwelling units, shall require compliance with this parkland dedication fee and land dedication requirement. This would include any land division, which creates new lots. It would also include any building permit for any dwelling unit per existing lot (single-family, duplex, or other multi-family building.) Except for developments submitted to the City for approval prior to June 14, 2006, and after September 7, 2016, each new development within the corporate limits of the City shall be required to comply with the parkland dedication requirements here stated, including the parkland dedication fee imposed in lieu mechanism authorized under this Chapter (as applicable), as well as the subsections following hereto

2. In the design of a subdivision, including minor subdivisions, or planned developments, provision shall be made for suitable sites of adequate area for parks, playgrounds, open spaces, schools, drainage ways, storm water management or treatment facilities and other public purposes. Such sites as are shown on the Official Map, Master Plan or Parks and Open Space Plan shall be made a part of the design. Where such are not shown on said plans or map, consideration shall be given to the preservation of scenic and historic sites, stands of trees, marshes, ponds, streams, and woodland, prairie and wetland plant and animal communities.

* * *

SECTION 3. Amend Sections 545-33C(3) – (5):

* * *

3. Revenues derived from funds collected from impact fees imposed and collected but not used as statutorily required within the applicable statutory period from the date of payment of the impact fee, as prescribed in Section 66.0617(9), Wisconsin Statutes ~~period of ten (10) years after the time of collection, for which the impact fees were imposed~~, shall be refunded on a pro-rated, proportional basis, as determined by the Common Council, to the then-current Owner of Record of the property with respect to which the impact fee was imposed.

4. Any funds subject to a refund may be obtained upon application of the then-current Owner of Record, who shall be entitled to return of the original impact fee paid, together with interest at the rate of one percent (1.0 %) per year from the date of said payment to the date of said refund. The Owner of Record must submit a written application for a refund to the City Clerk-Treasurer of the City of Watertown within

one hundred eighty (180) days after the expiration of the applicable statutory time as prescribed in Section 66.0617(9), Wisconsin Statutes ~~period outlined in this section.~~

5. The payment of an impact fee imposed under this section as a condition of a permit for new construction or issuance of a zoning permit, conditional use permit, or land division may be contested as to the amount, collection, refund, or use of the impact fee to the Watertown Public Works Commission, provided that the applicant files a written notice of appeal in the Office of the City Clerk -Treasurer within fifteen (15) days of the approval of the Full Building Permit by the Office of the Building Inspector for new construction or issuance of any other permit or land division permit upon which the impact fee is imposed. Such notice of appeal shall be entitled, "Notice of Appeal of Impact Fee" and shall state the applicant's name, address, telephone number, address (if available) and legal description of the land development upon which the impact fee is imposed, and a statement of the nature of and reasons for the appeal. Said "Notice of Appeal of Impact Fee" shall be immediately forwarded by the Clerk/Treasurer of the City to the Watertown Public Works Commission Chairperson. The Chairperson shall schedule the appeal for consideration by the Watertown Public Works Commission at a regular meeting as soon as reasonably practicable under the circumstances and shall notify the applicant of the time, date and place of such meeting in writing by regular mail, deposited in the mail no later than at least three (3) days before the date of such meeting. Upon review of such appeal, the Watertown Public Works Commission may adjust the amount, collection, refund or use of the Impact Fee upon just and reasonable cause shown. On and after June 14, 2006, and prior to September 7, 2016, all impact fees imposed under this chapter that are not otherwise required to be paid by the developer or land owner as provided above in this subsection shall be imposed upon each buildable lot in a development and shall be payable in full, at the annually adjusted rate then in effect, within fourteen (14) days of issuance of any zoning, conditional use or building permit. After September 7, 2016, all impact fees imposed under this chapter that are not otherwise required to be paid by the developer or land owner as provided above in this subsection shall be imposed upon each buildable lot in a development and shall be payable in full, at the annually adjusted rate then in effect, at the time of issuance of any zoning, conditional use or building permit under this chapter or any other controlling authority.

* * *

SECTION 4. Create Section 545-33C(12):

* * *

12. The current owner of a property on which an impact fee has been paid may apply for a refund of such fee if the City has not used such impact fee within the applicable statutory period from the date of payment of the impact fee, as prescribed in Section 66.0617(9), Wisconsin Statutes; or (b) the building permit for which the impact fee has been paid has lapsed for non-commencement of construction; or (c) the project for which a building permit has been issued has

been altered in a manner which has resulted in a decrease in the amount of the impact fee due; or (d) as otherwise authorized in this Ordinance.”

* * *

SECTION 5. All ordinances or parts of ordinances inconsistent with the provisions of this ordinance are hereby repealed

SECTION 6. This ordinance shall take effect and be in force the day after its passage and publication.

DATE:	07/05/2016		07/19/2016	
READING:	1ST		2ND	
	YES	NO	YES	NO
MCFARLAND				
SMITH				
BERG				
LARSEN				
ZGONC				
RAETHER				
TIETZ				
MARON				
KILPS				
MAYOR DAVID				
TOTAL				

ADOPTED _____

CITY CLERK/TREASURER

APPROVED _____

MAYOR

Plan Commission Minutes

Monday, March 27th, 2017

The Plan Commission met on the above date at 4:30pm in Council Chambers of City Hall w/ the following members present: John David, Augie Tietz, Ken Berg, Rick Tortomasi, and Jaynellen Holloway, along w/ Zoning Administrator Jacob Maas, Mike Slavney, Neal Wiebelhaus, Ryan/Andy Tessman, John DeWitt, Bryan Hansan.

1: 516 West Street-PH-CUP Request: Augie Tietz opened meeting for Mayor David who had meeting running late. He opened the Public Hearing for a Conditional Use Permit at 516 West St allowing Outdoor Storage or Wholesaling as a business use at this site. Bryan Hansan of Midstate Equipment Company & Neal Wiebelhaus of Morton Buildings Company both spoke in favor of the Tessman's request for a CUP. They have worked with both Andy & Ryan Tessman, who own Emergency Starting & Towing, located at 725 Bernard Street, and were very supportive of their plans on West Street, which is directly north of their existing business site. There being no other comments, Augie closed the PH & asked Jacob Maas for his comments. He stated there was Site Plan approval for the Tessman's CUP request, but that four conditions were outlined. They were:

- 1) An erosion control plan & permit must be submitted to Engineering for review & approval.
- 2) Landscaping will be required and updated site plan depicting the landscaping should be submitted for approval. Applicants may work with City Planner Mike Slavney to accomplish this.
- 3) Items stored outside of the structure will require a CUP and should be depicted on the Site Plan.
- 4) The revised Site Plan can be reviewed by staff w/o the need for the Site Plan Review Committee.

Rick Tortomasi moved to approve the CUP request for 516 West Street with the above 4 conditions required as part of his motion, seconded by Augie Tietz. John David then brought up that we should allow up to 180 days before enforcing Condition #3, as a restriction on their CUP, since the Tessman's have a secure fence surrounding this property. Rick and Augie moved to include the 180 allowance proposed by David as part of their initial motion. John David moved to approve the CUP request by Tessmans with the above 5 conditions listed, seconded by Sherry Cira and approved unanimously.

2: 1923 Gateway Drive, 1925 Gateway Drive & 2011 Airport Road—John DeWitt—Preliminary SCM Review:

Mayor David resumed his duties as Chairman of our Plan Commission and asked Jacob to provide a summary of this request by John DeWitt, the owner of Watertown Land Improvement, Inc, which proposes to create 3 new lots or parcels. Lot 1 would be a 1.2 acre parcel created from a 37 acre parent parcel. Lot 2 is a 2.1 acre parcel created from the same 37 acre parcel and lot 3 would be a 137.8 acre parcel created by combining a 40 acre lot, a 30.9 acre lot, a one acre lot which is located in the Town of Watertown, and the remainder of the parent parcel for lots 1 & 2, along with a separate 32 acre parcel. Mr DeWitt proposes to make the newly created lots 1 & 2 into residential parcels and lot 3 would remain agricultural in its land use.

In addition, Jacob noted our 2009 Comprehensive Plan has identified Gateway Drive as having an expanded right of way of 80 feet, or 40' from centerline, whereas Airport Road should be 100 feet or 50' from centerline. The Preliminary CSM did not reflect these required right of ways for these 2 roads, which needs to be corrected on the Final SCM. Thirdly, Jacob wants the Final CSM to note that Lot 1, lot 2 & lot 3 have an Airport Approach Protection Zone elevation limit of 968 ft above mean sea level for all building, structures and objects of natural growth. Lastly, Jacob does not want the one acre Township parcel owned by Mr. DeWitt to be included in his proposal, since it would need to be annexed into the city and would create an island of two

properties to the north. City Planner Mike Slavney agreed w/ Jacob on not recommending the one acre parcel be part of the Preliminary CSM, and that it remain in the Town of Watertown as it currently is. In doing so, Mr DeWitt can still use the one acre parcel primarily as a driveway or entry for access in and out of the 137.8 acre parcel. Augie Tietz moved to approve the Preliminary CSM for 1923 & 1925 Gateway Drive and 2011 Airport Road w/ the conditions outlined above having to do w/ proper right of ways for the 3 lots, & enforcement of the Airport Approach Protection Zone elevation limits of 968 ft above mean sea level for the three parcels, with exclusion of the one acre parcel from the CSM, seconded by Sherry Cira and approved unanimously.

3: N8776 County Road E—Donald Kiedrowski—Preliminary CSM Review: Jacob stated that Don Kiedrowski was requesting that a one acre lot be created from a 29 acre parcel in the Town of Watertown on Hwy E, with Mr Kiedrowski residing at N8776 County Road E. The two conditions that Jacob has identified as requirements for approval include making the road right of way 120 feet or 60' from centerline, since it is referenced as such in our 2009 Comprehensive Plan, and restricting any new development, physical structures or natural growth on the proposed lot to 950 feet above mean sea level, since it is within the Airport Approach Protection Zone. Jaynellen Holloway moved to approve the Preliminary CSM for the one acre parcel on Hwy E, owned by Mr Kiedrowski with the conditions that the right of way for the new lot be 120' and that the CSM note that the elevation limit on development, structures or natural growth be 950' above mean sea level, seconded by John David and approved unanimously.

4: Site Plan Review Minutes for February 27th, 2017: A motion was made by Augie Tietz to approve the Site Plan minutes for February 27th, 2017 as written, seconded by Rick Tortomasi and approved unanimously.

5: Plan Commission Minutes-March 13, 2017: Motion was made by Augie Tietz to approve Plan Commission minutes for March 13th, 2017 as written, which was seconded by John David and approved unanimously.

There being no further business to come before the Commission, a motion to adjourn at 4:55pm was made by Rick Tortomasi and seconded by Sherry Cira. So ordered.

Respectfully Submitted, Ken Berg Alderperson