

CHAPTER 5

Height Restrictions at Neillsville Municipal Airport

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SEC. 10-5-1 DEFINITIONS.

As used in this chapter, unless the context otherwise requires:

- (a) "Airport" means the Neillsville Municipal Airport located in Section 16, Town 24N, Range 1W, Clark County, Wisconsin.
- (b) "Airport hazard" means any structure or object of natural growth, which obstructs the air space required for the flight of aircraft in landing or taking off at an airport or is otherwise hazardous to such landing or taking off.
- (c) "Nonconforming use" means any structure or tree which does not conform to a regulation prescribed in this ordinance or an amendment thereto, as of the effective date of such regulation.
- (d) "Person" means any individual, firm, partnership, corporation, company, association, joint stock association, or body politic, and includes any trustee, receiver, assignee, or other similar representative thereof.
- (e) "Structure" means any object constructed or installed by man.
- (f) "Trees" do not include shrubs, bushes or plants which do not grow to a height of more than twenty (20) feet.
- (g) "Runway" means a level portion of an airport having a surface specially developed and maintained for the landing and take-off of aircraft.

SEC. 10-5-2 ZONES.

All zones established by this section are as shown on the map dated February 11, 2008 entitled, "Height Limitation Zoning Map, Neillsville Municipal Airport, Neillsville, Wisconsin," which is attached hereto and adopted as part of this ordinance.

Amended: Ord. 1019, 3/11/08

SEC. 10-5-3 HEIGHT LIMITATION ZONES.

Except as otherwise provided in this ordinance, no structure shall be constructed, altered, located or permitted to remain after such construction, alteration or location, and no trees shall be allowed to grow, to a height in excess of the height limit indicated on the map referred to in Section 10-5-2 hereof.

SEC. 10-5-4 EXCEPTIONS.

The restrictions contained in Section 10-5-3 shall not apply to objects which are less than thirty-five (35) feet in height above ground level at the object site within one-half (1/2) mile of the airport boundary or to structures less than fifty (50) feet in height above ground within the area beginning one-half (1/2) mile from the airport boundary and extending to one (1) mile from the airport boundary or to structures less than one hundred (100) feet in height above the ground within the area beginning one (1) mile from the airport boundary and extending to three (3) miles from the airport boundary.

SEC. 10-5-5 NONCONFORMING USES.

(a)Not retroactive. The regulations prescribed in Section 10-5-2 and 10-5-3 of this ordinance shall not be construed to require the removal, lowering or other change or alteration of any nonconforming use, or otherwise interfere with the continuance of any nonconforming use, except as otherwise provided by Section 10-5-7(b).

(b)Changes. Nothing herein contained shall require any change in the construction, alteration or intended use of any structure, if the construction or alteration of such was begun prior to the effective date of this ordinance, and if such is diligently prosecuted.

(c)Removal. This section shall not interfere with the removal of nonconforming uses by purchase or the use of eminent domain.

SEC. 10-5-6 ADMINISTRATION.

It shall be the duty of the Zoning Administrator to administer and enforce the regulations prescribed herein. Applications for permits and variances shall be made to the Zoning Administrator upon a form furnished by him. Applications which are by this ordinance to be decided by the Airport Committee shall be granted or denied within fifteen (15) days of the date of filing of the application, unless Federal Aviation Administration approval is requested. Applications for action by the Board of Appeals shall be forthwith transmitted by the Airport Committee to the Board for hearing and decision. There shall be no charge for applications or permits.

SEC. 10-5-7 PERMITS.

(a)Future Uses. No structure shall hereafter be constructed, erected or installed, or be permitted to remain in any zone created by Section 10-5-2 of this ordinance until the owner or his agent shall have applied in writing for a permit therefore and obtained such permit from the Zoning

Administrator, except structures less than thirty-five (35) feet in height above the ground and within one-half (1/2) mile of the airport boundary and structures less than fifty (50) feet in height above the ground within the area beginning one-half (1/2) mile from the airport boundary and extending to one (1) mile from the airport boundary, and structures less than one hundred (100) feet in height above the ground within the area beginning one (1) mile from the airport boundary and extending to three (3) miles from the airport boundary. Said permit shall be posted in a prominent place on the premises prior to and during the period of construction, erection, installation or establishment. Application for such permit shall indicate the use for which the permit is desired, and shall describe and locate the use with sufficient particularity to permit the Zoning Administrator to determine whether such use would conform to the regulations herein prescribed. If such determination is in the affirmative, the Zoning Administrator shall issue the permit applied for.

(b)Existing Uses. Before any nonconforming structure may be replaced, altered, or rebuilt, a permit shall be applied for and secured in the manner prescribed by paragraph (a) authorizing such change, replacement or repair. No such permit shall be denied if the structure will not become a greater hazard to air navigation than it was on the effective date of this ordinance, or than it was when the application for permit was made.

SEC. 10-5-8 BOARD OF APPEALS.

There is hereby created a Board of Appeals, consisting of three (3) members appointed by the Mayor subject to confirmation by the City Council for terms of three years, excepting that of those first appointed. One shall serve for one year; one for two years and one for three years. The members

of said Board of Appeals shall receive the said sum as established by the Common Council for each meeting attendance by them.

SEC. 10-5-9 APPEALS AND REVIEW.

(a)Variances. Upon appeal in special cases the Board of Appeals may, after investigation and public hearing, grant such variance from the terms of this ordinance as will not be contrary to the public interest, where owing to special conditions, a literal enforcement of this ordinance would result in unnecessary hardship, and such relief will do substantial justice and be in accord with the spirit of this ordinance, and does not create a hazard to the safe, normal operation of aircraft.

(b)Aggrieved Person. Any person aggrieved or affected by any decision or action of the Zoning Administrator made in his administration of this ordinance may appeal such decision or action to the Board of Appeals.

(c)Procedure. Any appeal taken pursuant to this section shall be in conformity with the procedure established by Section 62.23(7)(e) of the Wisconsin Statutes.

SEC. 10-5-10 PENALTIES.

Any person violating any of the provisions of this ordinance shall, upon conviction, forfeit not less than Twenty-five (\$ 25.00) dollars nor more than Two Hundred Fifty (\$ 250.00) dollars for such offense, together with the costs of prosecution, and in default of payment of such forfeiture and costs of prosecution, shall be imprisoned in the county jail until said forfeiture and costs are paid, but not to exceed thirty (30) days for each violation. Each day that a violation continues to exist shall constitute a separate offense.

Chapter 5 recreated: Ord. 897, 8/14/90

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ARTICLE A

Introduction

SEC. 10-6-1 STATUTORY AUTHORIZATION.

This Chapter for floodplain protection is adopted pursuant to the authorization contained in Sections and 61.35 and 62.23, Wis. Stats.

SEC. 10-6-2 FINDING OF FACT.

Uncontrolled development and use of the shoreland-wetlands, floodplains, river and streams, and the pollution of the navigable waters of this municipality 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.

SEC. 10-6-3 STATEMENT OF PURPOSE.

The purpose of this chapter is to provide a uniform basis for the preparation, implementation and administration of sound floodplain regulations for all floodplains within the City of Neillsville to:

- (a) Protect life, health and property;
- (b) Maintain the storm and flood water 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 navigable waters;
- (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 shoreland-wetland area;

- (f) Preserve shore cover and natural beauty by restricting shoreland-wetland excavation, filling and other earth moving 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 tax paying public;
- (i) Prevent business interruptions which usually result in the loss of local income;
- (j) Reduce damage to public facilities such as utilities, municipal buildings, streets and bridges which may be located in the 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 a floodplain if there is any practicable alternative to locate the activity, use or structure outside of the floodplain.

§10-6-3(a) and (n) - Created: Ord. 1030, 5/25/10

§10-6-3(b) through (m) - Re-lettered: Ord. 1030, 5/25/10

SEC. 10-6-4 TITLE.

This chapter shall be known as the Floodplain and Shoreland-Wetland Zoning Ordinance for the City of Neillsville, Wisconsin.

SECS. 10-6-5 THROUGH 10-6-9 RESERVED FOR FUTURE USE.

ARTICLE B

General Provisions

SEC. 10-6-10 COMPLIANCE - OTHER PERMITS.

Any development, as defined in Sec. 10-6-90 in floodplains and shoreland-wetlands shall be in full compliance with the terms of this chapter. (However, see Article H, of this chapter, for the standards applicable to nonconforming uses.) It is the responsibility of the applicant to secure all other necessary permits from appropriate federal, state, and local agencies, including those required by the U.S. Army Corps of Engineers under Section 404 of the Federal Water Pollution Control Act amendments of 1972, 33 U.S.C. 1344.

SEC. 10-6-11 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 Section 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 Sec. 30.2022, Wis. Stats., applies.

SEC. 10-6-12 ABROGATION AND GREATER RESTRICTIONS; INTERPRETATION OF CHAPTER.

(a)GREATER RESTRICTIONS. This chapter supersedes all the provisions of any municipal zoning ordinance enacted under Sections 62.23 Wis. Stats., which relate to floodplains or shoreland-wetlands except that where another municipal zoning ordinance is more restrictive than the provisions contained in this Chapter, that ordinance shall continue in full force and effect to the extent of the greater restrictions, but not otherwise. The more restrictive of either the Shoreland-Wetland District or Floodplain District regulations shall apply when a property is located in both zoning districts.

(b)ABROGATION. It is not otherwise intended by this chapter to repeal, abrogate, or impair any existing easements, covenants or deed restrictions; however, where this chapter imposes greater restrictions, the provisions of this Chapter shall prevail.

(c)INTERPRETATION. In their interpretation and application, the provisions of this chapter shall be held to be minimum requirements liberally construed in favor of the governing body, and shall not be deemed a limitation on or repeal of any other powers granted by the Wisconsin Statutes. Where a provision of this Chapter is required by a standard in Chapter NR 116, Wisconsin Administrative Code, and where the meaning of the Chapter provision is unclear, the provision shall be interpreted in light of the Chapter NR 116 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.

SEC. 10-6-13 WARNING AND DISCLAIMER OF LIABILITY.

The degree of flood protection intended to be 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 manmade or natural causes, such as ice jams and bridge

openings restricted by debris. 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 a 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.

SEC. 10-6-14 ZONING MAPS.

The maps designated below are hereby adopted and made part of this Chapter. They are on file in the office of the City Public Works Department.

(a)OFFICIAL MAPS: Based on the FIS:

Flood Insurance Rate Map (FIRM), panel number 55019C0678D, 55019C0679D, 55019C0686D, 55019C068D and 55019C0691D dated July 6, 2010, with corresponding profiles that are base on the Flood Insurance Study (FIS) dated July 6, 2010, Volume number 55019CV000A.

(b)OFFICIAL MAPS: Based on other studies:

None

Recreated: Ord. 1030, 5/25/10

SECS. 10-6-15 THROUGH 10-6-19 RESERVED FOR FUTURE USE.

ARTICLE C

Shoreland-Wetland District

SEC. 10-6-20 DISTRICT BOUNDARIES OF SHORELAND-WETLANDS.

(a)The Shoreland-Wetland Zoning District includes all wetlands in the City which are five (5) 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 Sec. 10-6-14 and which are:

(1)Within one thousand (1,000) feet of the ordinary highwater mark of navigable lakes, ponds or flowages. Lakes, ponds or flowages in the City shall be presumed to be navigable if they are listed in the Department publication "Surface Water Resources of Clark County" or shown on the United States Geological Water Survey quadrangle maps or other zoning base maps which have been made a part of this chapter in Sec. 10-6-14.

(2)Within three hundred (300) feet of the ordinary highwater mark of navigable rivers or streams, or to the landward side of the floodplain, whichever distance is greater. Rivers and streams shall be presumed to be navigable if they are designated as either continuous or intermittent waterways on the United States Geological Survey quadrangle maps or other zoning base maps which have been incorporated by reference and made a part of this chapter in Sec. 10-6-14. Floodplain zoning maps adopted in Sec. 10-6-14 shall be used to determine the extent of floodplain areas.

(b)Determinations of navigability and ordinary highwater mark location shall initially be made by the Zoning Administrator. When questions arise, the Zoning Administrator shall contact the appropriate district office of the Department for a final determination of navigability or ordinary highwater mark.

(c)When an apparent discrepancy exists between the shoreland-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 shoreland-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 land use or 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.

(d) Under Sec. 144.26(?-m), Wis. Stats., notwithstanding any other provision of law or administrative rule, wetland zoning ordinances required under Sec. 61.351 for villages or 62.231 for cities, Wis. Stats., and Ch. NR 117, Wis. Adm. Code, do not apply to lands adjacent to farm drainage ditches if:

- (1) Such lands are not adjacent to a natural navigable stream or river,
- (2) Those parts of the drainage ditches adjacent to such lands were not navigable streams before ditching; and
- (3) Such lands are maintained in nonstructural agricultural use.

SEC. 10-6-21 PERMITTED USES IN SHORELAND-WETLANDS.

(NOTE: Under NR 117.05(2), Wis. Adm. Code, cities and villages may permit, authorize as a conditional use or prohibit the following uses of shoreland-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 zoning permit, provided that no wetland alteration occurs, such as:

- (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; and
- (6) The construction and maintenance of duck blinds.

(b) Uses which do not require the issuance of a zoning 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 Sec. 30.20, Wis. Stats., to restore pre-existing 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 shoreland-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 shoreland-wetland listed in Sec. 10-6-23(a) 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 Sec. 10-6-21(a) and (b) provided:

- 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 Sec. 10-6-23(a) 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 and 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 any 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 shoreland-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 flow 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 paragraph 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

this paragraph are allowed only where such construction and maintenance meets the criteria in Subsection (c)(1) above; 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 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 Sec. 10-6-23(a).

SEC. 10-6-22 PROHIBITED USES IN SHORELAND-WETLANDS,

- (a) Any use not listed in Sec. 10-6-21 is prohibited unless the wetland or a portion of the wetland has been rezoned by amendment of this Chapter in accordance with Sec. 10-6-23 and Article I.
- (b) The use of a boathouse for human habitation and the construction or placement of a boathouse or a fixed houseboat below the ordinary highwater mark of any navigable waters are prohibited.

SEC. 10-6-23 REZONING SHORELAND-WETLANDS.

- (a) Rezoning of a shoreland-wetland shall require amendment of the Final Wisconsin Wetland Inventory map adopted with Sec. 10-6-14 of this chapter pursuant to procedures established in Article J. In order to insure that any amendment will be consistent with the shoreland protection objectives of Sec. 144.26, Wis. Stats., the City shall not rezone a wetland in a shoreland-wetland zoning district, or any portion thereof, where the proposed rezoning may result in a significant adverse impact upon any of the following:
 - (1) Storm and flood water 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 ground water through a wetland;
 - (3) Filtering or storage of sediments, nutrients, heavy metals or organic compounds that would otherwise drain into navigable waters;
 - (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 J, 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 Sec. 10-6-23(a) of this Chapter, 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 planning agency in writing that a proposed amendment may have a significant adverse impact upon any of the criteria listed in Sec. 10-6-23(a), that proposed amendment, if approved by the City shall not become effective until more than thirty (30) days have elapsed since written notice of the Council or Board approval was mailed to the Department, as required by Article J. If Department intends to adopt a superseding shoreland-wetland zoning ordinance for the City under Sections 62.231(5) or 61.351(6), Wis. Stats., the

proposed amendment shall not become effective until that ordinance adoption procedure is completed or otherwise terminated. The record of the Council decision on the proposed amendment shall advise the petitioner of the provisions of this section.

SEC. 10-6-24 THROUGH 10-6-29 RESERVED FOR FUTURE USE.

ARTICLE D

General Provisions for All Floodplains

SEC. 10-6-30 AREAS TO BE REGULATED.

This ordinance regulates all areas that would be covered by the regional flood or base flood. Note: Base flood elevations are derived from the flood profiles in the Flood Insurance Study. Regional flood elevations may be derived from other studies. Areas covered by the base flood are identified as A-Zones on the Flood Insurance Rate Map.

SEC. 10-6-31 OFFICIAL MAPS & REVISIONS; ESTABLISHMENT OF DISTRICTS.

(a)OFFICIAL MAPS & REVISIONS

The boundaries of all floodplain districts are designated as floodplains or A-Zones on the maps listed below and the revisions in the Neillsville Floodplain Appendix. Any changes 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 (RFE's) on non-FEMA maps shall be effective until approved by the DNR. These maps and revisions are on file in the office of the Public Works Director, City of Neillsville, If more than one map or revision is referenced, the most restrictive information shall apply.

(1)OFFICIAL MAPS: Based on the FIS:

a.Flood Insurance Rate Map (FIRM), panel number 55019C0678D, 55019C0679D, 55019C0686D, 55019C0687D and 55019C0691D dated July 6, 2010, with corresponding profiles that are based on the Flood Insurance Study (FIS) dated July 6, 2010, Volume number 55019CV000A.

(2)OFFICIAL MAPS: Based on other studies:

a.None

(b)ESTABLISHMENT OF DISTRICTS

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

(1)The Floodway District (FW) is the channel of a river or stream and those portions of the floodplain adjoining the channel required to carry the regional flood waters.

(2) The Floodfringe District (FF) is that portion of the floodplain between the regional flood limits and the floodway.

- (3) The General Floodplain District (GFP) is those areas that have been or may be covered by flood water during the regional flood.

Amended: Ord. 1030, 5/25/10

SEC. 10-6-32 LOCATING FLOODPLAIN BOUNDARIES.

Discrepancies between boundaries on the official floodplain zoning map and actual field conditions shall be resolved using the criteria in paragraphs (a) or (b) below. If a significant difference exists, the map shall be amended according to s. 10-6-100. The zoning administrator can rely on a boundary derived from a profile elevation to grant or deny a land use permit, whether or not a map amendment is required. The zoning administrator shall be responsible for documenting actual pre-development field conditions and the basis upon which the district boundary was determined and for initiating any map amendments required under this section. Disputes between the zoning administrator and an applicant over the district boundary line shall be settled according to s. 10-6-93(e) and the criteria in (a) and (b) below.

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

(b) Where flood profiles do not exist, the location of the boundary shall be determined by the map scale, visual on-site inspection and any information provided by the Department.

Note: Where the flood profiles are based on established base flood elevations from a FIRM, FEMA must also approve any map amendment pursuant to s. 10-6-100(d).

SEC. 10-6-33 REMOVAL OF LANDS FROM FLOODPLAIN.

Compliance with the provisions of this ordinance shall not be grounds for removing land from the floodplain unless it is filled at least two feet above the regional or base flood elevation, the fill is contiguous to land outside the floodplain, and the map is amended pursuant to s. 10-6-100.

Note: This procedure does not remove the requirements for the mandatory purchase of flood insurance.

The property owner must contact FEMA to request a Letter of Map Change (LOMC).

SEC. 10-6-34 HYDRAULIC AND HYDROLOGIC ANALYSIS.

(a) No development shall be allowed in floodplain areas which will:

(1) Cause an obstruction to flow, defined in Sec. 10-6-120 as any development which physically blocks the conveyance of flood waters by itself or in conjunction with future similar development causing an increase in regional flood height; or

(2) Cause an increase in regional flood height due to floodplain storage area lost, which is equal to or exceeding 0.01 foot except as provided in paragraph (b) below.

(b) Obstruction or increases equal to or greater than 0.01 foot may only be permitted if amendments made to this ordinance, the official floodplain zoning maps, including floodway lines and water surface profiles, according to Sec. 10-6-38 and Article J.

(c) 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 0.01 foot or greater.

SEC. 10-6-35 MOBILE HOMES AND MANUFACTURED HOMES.

(a) Owners or operators of all manufactured home parks and subdivisions shall provide adequate surface

drainage to minimize flood damage, and prepare, secure approval and file an evacuation plan, indicating vehicular access and escape routes, with local emergency management authorities.

(b) In existing manufactured home parks, all new homes, replacement homes on existing pads, and substantially improved homes shall:

(1) have the lowest floor elevated to the flood protection elevation; and

(2) be anchored so they do not float, collapse or move laterally during a flood.

(c) Outside of existing manufactured home parks, including new manufactured home parks and all single

units outside of existing parks, all new, replacement and substantially improved manufactured homes shall meet the residential development standards for the floodfringe in s. 10-6-62(b).

SEC. 10-6-36 WATERCOURSE ALTERATIONS.

Prior to any alteration or relocation of a watercourse, and prior to the issuance of any land use permit which may be required for the alteration or relocation of a watercourse, the local zoning official shall

notify adjacent municipalities, 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 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, the zoning administrator

shall notify FEMA of the changes by submitting appropriate technical or scientific data in accordance with

NFIP guidelines that shall be used to revise the FIRM, risk premium rates and floodplain management

regulations as required

SEC. 10-6-37 FLOODPROOFING.

No permit or variance shall be issued until the applicant submits a plan certified by a registered professional engineer or architect that the floodproofing measures will protect the structure or development to the flood protection elevation.

(a) Floodproofing measures shall be designed to:

(1) Withstand flood pressures, depths, velocities, uplift and impact forces and other regional flood factors;

(2) Protect structures to the flood protection elevation;

(3) Anchor structures to foundations to resist flotation and lateral movement; and

(4) Insure that structural walls and floors are watertight to the flood protection elevation, and the interior remains completely dry during flooding without human intervention.

(b) Floodproofing measures could include:

(1) Reinforcing walls and floors to resist rupture or collapse caused by water pressure or

(2) Adding mass or weight to prevent flotation.

(3) Placing essential utilities above the flood protection elevation.

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

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

(6) Putting cutoff valves on sewer lines or eliminating gravity flow basement drains.

SEC. 10-6-38 AMENDMENTS.

(a) When amendments are required, the procedures in Article F shall apply. Actions which require an amendment include, but are not limited to the following:

(1) Any change to the official floodplain map including the floodway line or boundary of the floodplain area;

(2) Correction of significant discrepancies between the water surface profiles and floodplain zoning maps;

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

(4) Any fill or encroachment into the floodplain that will obstruct flow or cause an increase of 0.01 foot or more in the height of the regional flood; and

(5) Any upgrading of floodplain zoning ordinances required by NR 116.05, Wis. Adm. Code, or otherwise required by law, or for changes by the City.

(b) No amendment to the maps or text of this chapter shall become effective until reviewed and approved by the Department of Natural Resources and FEMA.

(c) All persons petitioning for a map amendment which involves an obstruction to flow causing an increase

in the height of the regional flood of 0.01 foot or more shall obtain flooding easements, or other appropriate legal arrangements, from all affected local units of government and property owners

before

the municipality may approve an amendment which would result in such an increase to the regional flood elevation.

(d) When considering amendments to the official floodplain zoning map, in areas where no water surface profiles exist, the zoning agency shall consider data submitted by the Department, the Zoning Administrator's visual on-site inspections and other available information.

SEC. 10-6-39 CHAPTER 30, 31 WIS. STATS., DEVELOPMENT

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, BFE's established in the FIS, or

other data from the officially adopted FIRM, or other floodplain zoning maps or the floodplain zoning ordinance

are made according to section 10-6-100.

SEC. 10-6-40 ANNEXED AREAS FOR CITIES

The Clark County floodplain zoning provisions in effect on the date of annexation shall remain in effect and shall be enforced by the municipality for all annexed areas until the municipality adopts and enforces an ordinance which meets the requirements of ch. NR 116, Wis. Adm. Code and the 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 municipal zoning administrator. All plats or maps of annexation shall show the regional flood elevation and the location of the floodway.

SEC. 10-6-41 GENERAL DEVELOPMENT STANDARDS

The community shall review all permit applications to determine whether proposed building sites will be reasonably safe from flooding. If a proposed building site is in a flood-prone area, all new construction and substantial improvements shall be designed or modified and adequately anchored to prevent flotation, collapse, or lateral movement of the structure resulting from hydrodynamic and hydro

static loads; be constructed with materials resistant to flood damage; be constructed by methods and practices that minimize flood damages; and be constructed with electrical, heating, ventilation, plumbing,

and air conditioning equipment and other service facilities designed and/or located so as to prevent water

from entering or accumulating within the components during conditions of flooding. Subdivisions shall be

reviewed for compliance with the above standards. All subdivision proposals (including manufactured home parks) shall include regional flood elevation and floodway data for any development that meets

the
subdivision definition of this ordinance.

SEC. 10-6-42 PUBLIC OR PRIVATE CAMPGROUNDS

Public or private campgrounds shall have a low flood damage potential and shall meet the following provisions:

- (a)The campground is approved by the Department of Health Services.
- (b)A land use permit for the campground is issued by the zoning administrator.
- (c)The character of the river system and the elevation of the campground is such that a 72-hour warning of an impending flood can be given to all campground occupants.
- (d)There is an adequate flood warning procedure for the campground that offers the minimum notice required under this section to all persons in the campground. This procedure shall include a written agreement between the campground owner, the municipal emergency government coordinator and the chief law enforcement official which specifies the flood elevation at which evacuation shall occur, personnel responsible for monitoring flood elevations, types of warning systems to be used and the procedures for notifying at-risk parties, and the methods and personnel responsible for conducting the evacuation.
- (e)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 sub. (4) – to remain in compliance with all applicable regulations, including those of the state department of health and family services and all other applicable regulations.
- (f)Only camping units are allowed.
- (g) 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.
- (h)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.
- (i)The municipality shall monitor the limited authorizations issued by the campground operator to assure
compliance with the terms of this section.
- (j)All camping units that remain in place for more than 180 consecutive days must meet the applicable requirements in either Article E or Article F for the floodplain district in which the structure is located.
- (k)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.
- (l)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 flood proofed to
the flood protection elevation.

§10-6-42(a) - Amended: Ord. 1030, 5/25/10

SEC. 10-6-43 THROUGH 10-6-49 RESERVED FOR FUTURE USE.

ARTICLE E

Floodway District (FW)

SEC.10-6-50 APPLICABILITY.

The provisions of this Article shall apply to all areas within the Floodway District, as shown on the official floodplain zoning maps, and to the floodway portion of the General Floodplain District.

SEC.10-6-51 PERMITTED USES.

The following open space uses are permitted within the Floodway District, and in the floodway portion of the General Floodplain District, provided that they are not prohibited by any other regulations, and provided further that they meet all of the standards contained in Section 10-6-22. and all permits or

certificates required under this Chapter have been issued:

- (a)Agricultural uses, such as: general farming, pasturing, outdoor plant nurseries, horticulture, viticulture, truck farming, forestry, sod fanning and wild crop harvesting.
- (b)Nonstructural industrial and commercial uses, such as: loading areas, parking areas, and airport landing strips.
- (c)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, hiking and horseback riding trails.
- (d)Uses or structures accessory to open space uses, or essential for historical areas, providing they are not in conflict with the provisions in Sections 10-6-52 and 10-6-53.
- (e)Extraction of sand, gravel or other materials pursuant to Sec. 10-6-52(d).
- (f)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 for the Department.
- (g)Public utilities, streets and bridges, according to Sec. 10-6-22(c).

SEC. 10-6-52 STANDARDS FOR DEVELOPMENTS IN FLOODWAY AREAS.

(a)GENERAL REQUIREMENTS.

(1)Any development in floodway areas shall:

- a. Meet all of the provisions of Article D; and
- b. Have a low flood damage potential.

(2) Applicants shall provide the following data for the Zoning Administrator to determine the

effects of the proposal according to Sec. 10-6-34:

- a. A cross-section elevation view of the proposal, perpendicular to the watercourse, indicating whether the proposed development will obstruct flow; or
 - b. An analysis calculating the effects of this proposal on regional flood height.
- (3) The Zoning Administrator shall deny the permit application where it is determined the project will increase flood elevations upstream or downstream 0.01 foot or more, based on the data submitted for Subsection 10-6-52(a)(2) above.

(b) **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, providing the structures meet all of the following criteria:

- (1) The structures are not designed for human habitation;
- (2) The structures are constructed and placed on the building site so as to cause an increase less

than 0.01 foot in flood height and offer minimum obstruction to the flow of flood waters. Structures shall be constructed with the longitudinal axis parallel to the direction of flow of flood waters, and approximately on the same line as those of adjoining structures;

(3) The structures are firmly anchored to prevent them from floating away and restricting bridge openings or other restricted sections of the stream or river; and

(4) The structures have all service facilities, such as electrical and heating equipment at or above the flood protection elevation for the particular area.

(c) **UTILITIES.** Public utilities, streets and bridges provided that:

- (1) Adequate floodproofing measures are provided to the flood protection elevation;
- (2) Construction does not cause an increase in the regional flood height according to Sec. 10-6-34, except where the water surface profiles, floodplain zoning maps and floodplain zoning ordinance are amended as needed, to reflect any changes resulting from such construction.

(d) **FILLS.** Fills or deposition of materials may be allowed by permit provided that:

- (1) The requirements of Section 10-6-34 are met;
- (2) 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 permit has been granted by the Department of Natural Resources pursuant to Chapter 30, Wis. Stats., 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;
- (3) The fill or other materials will be protected against erosion by riprap, vegetative cover, sheet piling and/or bulkheading sufficient to prevent erosion; and provided that
- (4) Such fills are not associated with private, public or hazardous solid waste disposal.

SEC. 10-6-53 PROHIBITED USES.

All uses not listed as permitted uses in Sec. 10-6-51 are prohibited within the floodway district and in the floodway portion of the general floodplain district including the following uses which are always prohibited in the floodway:

- (a) Storage of any materials that are buoyant, flammable, explosive, or injurious to property, water

quality, or human, animal, plant, fish or other aquatic life;

(b) Any uses which are not in harmony with, or which may be detrimental to, the uses permitted in the adjoining districts;

(c) All private or public on-site sewage disposal systems, except portable latrines that are removed prior

to flooding, and systems associated with recreational areas and Department approved campgrounds, that meet the applicable provisions of local ordinances and Chapter COMM 83, Wisconsin Administrative Code;

(d) All public or private wells which are used to obtain water for ultimate human consumption; except those for recreational areas that meet the requirements of local ordinances and Chapters NR 811 and NR 812, Wis. Adm. Code;

(e) All solid and hazardous waste disposal sites, whether public or private

(f) All wastewater treatment ponds or facilities except those permitted under Sec. NR 110.15(3)(b), Wis. Adm. Code;

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

(h) Habitable structures, structures with high flood damage potential, or those not associated with

permanent open-space uses.

SEC. 10-6-54 THROUGH 10-6-59 RESERVED FOR FUTURE USE.

ARTICLE F

Flood Fringe District (FF)

SEC. 10-6-60 APPLICABILITY.

The provisions of this Article shall 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.

SEC. 10-6-61 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 Article D and in Section 10-6-62 are met, that the use is not prohibited by this or any other ordinance or any other local, state or federal regulation and that all permits or certificates required by this Chapter have been issued.

SEC. 10-6-62 STANDARDS FOR DEVELOPMENT IN FLOOD FRINGE AREAS.

(a)STANDARDS. All of the provisions of Article D shall apply hereto.

(b)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:

(1)The lowest flood excluding the basement or crawlway, shall be placed, on fill, at or above the flood protection elevation (which is a point two (2) feet above the regional flood elevation) except where Subsection (b)(2) below is applicable. The fill elevation shall be one foot or more above the regional flood elevation extending at least fifteen (15) feet beyond the limits of the structure. The Department may authorize other floodproofing measures where existing streets or sewer lines are at elevations which make compliance impractical provided the Board of Appeals grants a variance due to dimensional restrictions;

(2)The basement or crawlway floor may be placed at the regional flood elevation providing it is flood proofed to the flood protection elevation. No permit or variance shall allow any floor, basement or crawlway below the regional flood elevation;

(3)Contiguous dryland access, defined in Sec. 10-6-120, as a vehicle access route above regional flood elevation, shall be provided from a structure or building to land which is outside of the floodplain, except as provided in Subsection (4);

(4)In existing developments where existing streets or sewer lines are at elevations which make compliance with Subsection (3) impractical, the City may permit new development and substantial improvements where access roads are at or below the regional flood elevation, provided:

a. The City 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

b. The City has an adequate natural disaster plan concurred with the Wisconsin Emergency Management and approved by the Department.

(5)An accessory structure which is not connected to the principal structure and which is less than 600 square feet in size and valued at less than \$10,000 may be constructed with its lowest floor no more than two feet below the regional flood elevation if it is subject to flood velocities of no more than two feet per second and it meets all of the provisions of Sections 10-6-52(a) and 10-6-62(f) below.

(c)ACCESSORY STRUCTURES OR USES.

(1)Except as provided in par. (2), an accessory structure which is not connected to a principal structure may be constructed with its lowest floor at or above the regional flood elevation.

(2)An accessory structure which is not connected to the principal structure and which is less than 600 square feet in size and valued at less than \$10,000 may be constructed with its lowest floor no more than two feet below the regional flood elevation if it is subject to flood velocities of no more than two feet per second and it meets all of the provisions of Sections 10-6-52(a), (b) and (d) and 10-5-53.

(d)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 Section 10-6-52(b) above. Storage yards, parking lots and other accessory land uses may be at lower elevations, subject to the requirements of Subsection (f). However, no such area in general use by the public shall be inundated to a depth greater than two (2) feet or subjected to flood velocities greater than two (2) feet per second upon the occurrence of the regional flood. Inundation of such yards or parking areas exceeding two (2) feet may be allowed provided an adequate warning system exists to protect life and property.

(e)MANUFACTURING, AGRICULTURAL AND INDUSTRIAL USES. Any manufacturing,

agricultural or industrial structure or building which is to be erected, constructed, reconstructed, altered or moved into the flood fringe area shall be protected to the flood protection elevation utilizing fill, levees, flood walls, adequate floodproofing measures in accordance with Section 10-6-37, or any combination thereof. Subject to the requirements of s.4.3(5), storage yards, surface parking lots and other such uses may be placed at lower elevations if an adequate warning system exists to protect life and property. 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, compatible with the criteria in Subsections (d) and (f) may be permissible for storage yards, parking lots and other similar uses.

(f)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 property, water quality or human, animal, fish, plant or aquatic life, shall be at or above the flood protection elevation for the particular area or flood proofed in compliance with Section 10-6-37. Adequate measures shall be taken to assure that said materials will not enter the river or stream during flooding.

(g)PUBLIC UTILITIES, STREETS AND BRIDGES. All utilities, streets and bridges should be designed to be compatible with the local comprehensive floodplain development plans; and

(1) 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 flood proofed to the flood protection elevation in compliance with Sec. 10-6-37;

(2)Minor or auxiliary roads or nonessential utilities may be constructed at lower elevations providing they withstand flood forces to the regional flood elevation.

(h)SEWAGE SYSTEMS. All on-site sewage disposal systems shall be flood proofed to the flood protection elevation and shall meet the applicable provisions of all local ordinances and Chapter COMM 83 Wisconsin Administrative Code.

(i)WELLS. All wells, whether public or private, shall be flood proofed to the flood protection elevation, pursuant to Section 10-6-37, and shall meet the applicable provisions of Chapters NR 811 and NR 812, Wis. Adm. Code.

(j)SOLID WASTE DISPOSAL SITES. All solid or hazardous waste disposal sites, whether public or private, are prohibited in flood fringe area.

(k)DEPOSITION OF MATERIALS. Any materials deposited for any purpose may only be allowed if all the provisions of this chapter are met.

(l)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 s. 10-6-62(l)(2) and (3). 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.

§10-6-62(c) - Recreated: Ord. 1030, 5/25/10

SEC. 10-6-63 THROUGH 10-6-69 RESERVED FOR FUTURE USE.

ARTICLE G

General Floodplain District (GFP)

SEC. 10-6-70 APPLICABILITY.

The provisions for this district shall apply to all floodplains in the City for which "regional flood" data is not available, or where regional flood data is available but floodways have not been delineated. As adequate regional flood data becomes available and floodways are delineated for portions of this district, such portions shall be placed in the Flood Fringe or Floodway District, as appropriate.

SEC. 10-6-71 PERMITTED USES.

The General Floodplain District encompasses both floodway and flood fringe areas. Therefore, a determination shall be made pursuant to Section 10-6-73, to determine whether the proposed use is located within a floodway or flood fringe area. Those uses permitted in floodways and flood fringe areas are allowed within the general floodplain district, according to the standards of Sec. 10-6-72 and provided that all permits or certificates required under this chapter have been issued.

SEC. 10-6-72 STANDARDS FOR DEVELOPMENT IN THE GENERAL FLOODPLAIN DISTRICT.

Once it is determined according to Sec. 10-6-73 that a proposed use is located within a floodway, the provisions of Article E shall apply. Once determined that the proposed use is located within the flood fringe, the provisions of Article F shall apply. All provisions of the remainder of this chapter apply to either district.

SEC. 10-6-73 DETERMINING FLOODWAY AND FLOOD FRINGE LIMITS.

Upon receiving an application for development within the general floodplain district, the Zoning Administrator shall:

- (a) Require the applicant to submit, at the time of application, two (2) copies of an aerial photograph, or a plan which accurately locates the proposed development with respect to the general flood plain district limits, channel of stream, existing floodplain developments, together with all pertinent information such as the nature of the proposal, legal description of the property, fill limits and elevations, building floor elevations and flood proofing measures.
- (b) 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, the regional flood elevation and where applicable to determine the boundaries of the floodway:

(1) A typical valley cross-section showing the channel of the stream, the floodplain adjoining each side of the channel, the cross-sectional area to be occupied by the proposed development, and all historic high water information.

(2) 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.

(3) Profile showing the slope of the bottom of the channel or flow line of the stream.

(4) Specifications for building construction and materials, flood proofing, filling, dredging, channel improvement, storage of materials, water supply and sanitary facilities.

(c) Transmit one (1) copy of the information described in Subsections (a) and (b) to the Department regional office along with a written request for technical assistance to establish regional flood elevations and, where applicable, floodway data. Where the provisions of Sec. 10-6-91(a)(3) apply, the applicant shall provide all required information and computations, to delineate floodway boundaries and the effects of the project on flood elevations.

SECS. 10-6-74 THROUGH 10-6-79 RESERVED FOR FUTURE USE.

ARTICLE H

Nonconforming Uses

SEC. 10-6-80 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) No modification or additions to a nonconforming use or structure shall be permitted unless they comply with this ordinance. The words "modification" and "addition" include, but are not limited to, any alteration, addition, modification, structural repair, rebuilding or replacement of any such existing use, structure or accessory structure or use. Ordinary maintenance repairs are not considered an extension, modification or addition; these include painting, decorating, paneling and the replacement of doors, windows and other nonstructural components and the maintenance, repair or replacement of existing private sewage or water supply systems or connections to public utilities. Ordinary maintenance repairs do not include any costs associated with the repair of a damaged structure. 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) If a nonconforming use or the use of a nonconforming structure is discontinued for twelve (12)

consecutive months, any future use of the building, structure or property shall conform to the appropriate provisions of this chapter.

(c) 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 adopted under Section 62.23(7)(h), Wis. Stats., may be continued although such use does not conform with the provisions of the Chapter. However, such nonconforming use may not be extended or increased.

(d) The maintenance and repair of nonconforming boathouses which are located below the ordinary highwater mark of any navigable waters shall comply with the requirements of Sec. 30.121, Wis. Stats.

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

SEC. 10-6-81 SHORELAND-WETLANDS.

Notwithstanding Sec. 62.23(7)(h), Wis. Stats., the repair, reconstruction, renovation, remodeling or expansion of a legal nonconforming structure in existence at the time of adoption or subsequent amendment

of this Chapter adopted under Sec. 62.231, Wis. Stats., or of an environmental control facility in existence

on May 7, 1982, related to that structure, is permitted under Sec. 62.231(5), Wis. Stats. Section 62.23(7)(h),

Wis. Stats., applies to any environmental control facility that was not in existence on May 7, 1982, but was

in existence on the effective date of this Chapter or amendment.

SEC. 10-6-82 GENERAL PROVISION FOR SHORELAND-WETLANDS AND FLOODPLAINS.

(a) No modifications or additions to a nonconforming use or a nonconforming structure shall be permitted unless they are made in conformity with the provisions of this Chapter for the area of the floodplain it occupies. For the purpose of this Section, the words "modification" and "addition"

shall include, but not be limited to, any alteration, addition, modification, structural repair, rebuilding or replacement of any such existing use, structure or accessory structure or use. Ordinary maintenance repairs are not considered modifications or additions; such ordinary maintenance repairs include internal and external painting, decorating, paneling and the replacement of doors, windows and other nonstructural components; and the maintenance, repair or replacement of existing private sewage or water supply systems, or connections to public utilities.

(b) 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 fifty percent (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 Sec. 10-6-62(b). The costs of elevating a nonconforming building or a building with a nonconforming use to the flood protection elevation are excluded from the 50% provisions of this paragraph.

(c) 1. Except as provided in subd. 2., if any nonconforming structure or any structure with a nonconforming use is destroyed or is substantially damaged, it cannot be replaced, reconstructed or rebuilt unless the use and the structure meet the current ordinance requirements.

A structure is considered substantially damaged if the total cost to restore the structure to its pre-damaged condition equals or exceeds 50% of the structure's present equalized assessed value.

2. 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.

(d) A nonconforming historic structure may be altered if the alteration will not preclude the structures continued designation as a historic structure, the alteration will comply with s. 10-6-52(a), flood resistant materials are used, and construction practices and floodproofing methods that comply with s.

10-6-97 are used.

(e) As requests are received for 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 assess value, and the cost of those additions or modifications which have been permitted.

(f) If any nonconforming structure or any structure with a nonconforming use is destroyed or is so badly damaged that it cannot be practically restored, it cannot be replaced, reconstructed or rebuilt unless

the provisions of Article E are met. For the purpose of this subsection, restoration is deemed impractical where the total cost of such restoration would equal or exceed fifty percent (50%) of the present equalized assessed value of the structure.

Amended: Ord. 1030, 5/25/10

SEC. 10-6-83 FLOODWAY AREAS.

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

(1) Has been granted a permit or variance; and

(2) Meets the requirements of Sec. 10-6-82; and

(3) Will not increase the obstruction to flood flows or regional flood height; and

(4) Any addition to the existing structure shall be flood proofed, pursuant to Sec. 10-6-37, by means other than the use of fill, to the flood protection elevation.

(5) 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 flood waters without human intervention. A minimum of two openings must be provided with a minimum net area of at least one square inch for every one square foot of the enclosed area. The lowest part of the opening can be no more than 12 inches above the adjacent grade;

b. The parts of the foundation located below the flood protection elevation must be constructed of flood-resistant materials;

c. Mechanical and utility equipment must be elevated or flood proofed 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 shall meet the applicable provisions of local ordinances and Chapter COMM 83, Wis. Admin. Code.
- (c) No new well used to obtain water for ultimate human consumption~ or modifications to an existing well, shall be allowed in a floodway area. Any replacement, repair or maintenance of an existing well in a floodway area shall meet the applicable provisions of all municipal ordinances and Chapters NR 811 and NR 812, Wis. Admin. Code.

SEC. 10-6-84 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 if flood proofed to the flood protection elevation in compliance with the applicable regulations for that particular use in a flood fringe area in Article F.
- (b) Where compliance with the provisions of Subsection (a) above would result in unnecessary hardship, and only where the structure will not be either used for human habitation or be associated with a high flood damage potential, the Board of Appeals, using the procedure in Section 10-6-93 and 10-6-94, may grant a variance from those provisions of subsection (a) for modifications or additions, using the criteria listed below. Modifications or additions which are protected to elevations lower than the flood protection elevation may be permitted if:
 - (1) No flood is allowed below the regional flood elevation for residential or commercial structures;
 - (2) Human lives are not endangered;
 - (3) Public facilities, such as water or sewer, will not be installed;
 - (4) Flood depths will not exceed two (2) feet;
 - (5) Flood velocities will not exceed two (2) feet per second; and
 - (6) The structure will not be used for storage of materials described in Section 10-6-32(0).
- (c) If neither the provisions of par (a) or (b) above can be met, one addition to an existing room in a nonconforming building or a building with a nonconforming use may be allowed in the flood fringe on a one-time basis only, if the addition:
 - (1) Has been granted by permit or variance;
 - (2) Does not exceed sixty (60) square feet in area; and
 - (3) In combination with other previous modifications or additions to the building, does not equal or exceed fifty percent (50%) of the present equalized assessed value of the building.
- (d) All new on-site sewage disposal systems, or addition to, replacement, repair or maintenance of an on-site sewage disposal system shall meet all the applicable provisions of all local ordinances and Chapter COMM 83, Wis. Adm. Code.

- (e) All new wells, or addition to, replacement, repair or maintenance of a well shall meet the applicable provisions of this Chapter and C. NR 811 and NR 812, Wis. Adm. Code.

Amended: Ord. 1030, 5/25/10

SECS. 10-6-85 THROUGH 10-6-89 RESERVED FOR FUTURE USE.

ARTICLE I

Administration

(NOTE: This Article provides for the appointment of appropriate boards and staff, and the development of necessary policies and procedures, to administer the floodplain zoning ordinance in accordance with this Article. Where a Zoning Administrator, planning agency or a board of adjustment/appeals has already been appointed to administer a zoning ordinance adopted under Section 62.23(7), Wis. Stats., these officials shall also administer the floodplain zoning ordinance.)

SEC. 10-6-90 ZONING ADMINISTRATOR.

The City Zoning Administrator is hereby authorized to administer the provisions of this Chapter. 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 assure that the regional flood elevation proposed development is shown on all permit applications where appropriate.
- (b) Issue permits and inspect properties for compliance with this Chapter and issue Certificates of Compliance when appropriate.
- (bm) Inspect all damaged floodplain structures and perform a substantial damage assessment to determine
 - if substantial damage to the structures has occurred.
- (c) Keep records of all official actions such as:
 - (1) All permits issued.
 - (2) Inspections made.
 - (3) Work approved.
 - (4) Documentation of certified lowest floor and regional flood elevations for floodplain development.
 - (5) Records of water surface profiles, floodplain zoning maps and ordinances, nonconforming uses and structures including changes, appeals, variances and amendments.
 - (6) All substantial damage assessment reports for floodplain structures.
- (d) 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.
- (e) 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.
- (f) Investigate, prepare reports and report violations of this Chapter to the appropriate City committee and to the municipal attorney, for prosecution. Copies of the violation reports shall also be sent to the appropriate district office of the Department of Natural Resources.
- (g) Submit copies of map and text amendments and biannual reports to the Regional Office of FEMA.

SEC. 10-6-91 ADMINISTRATIVE PROCEDURES.

- (a) LAND USE PERMIT. Unless another section of this Chapter specifically exempts certain types of development from this requirement, a building or zoning permit shall be obtained from the Zoning Administrator before any "development," as defined in Section 10-6-120(a), including any change in the use of an existing building or structure may be initiated. Application for a permit shall be made to the Zoning Administrator upon forms furnished and shall include, for the purpose of proper enforcement of these regulations, the following data:
- (1) General Information:
- a. Name and address of the applicant, property owner, and contractor-builder;
 - 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 noted on a copy of the Wetland Inventory Map, if applicable;
 - b. Location of the ordinary highwater mark of any abutting navigable waterways;
 - c. Location of any structures with distances measured from the lot lines and centerline of all abutting streets or highways;
 - d. Location of any existing or proposed on-site sewage systems or private water supply systems;
 - e. Location and elevation of existing or future access roads;
 - f. Location of floodplain and floodway limits on the property as determined from the official floodplain zoning maps used to delineate floodplain areas;
 - g. The elevation of the lowest floor of proposed buildings and any fill using National Geodetic and Vertical Datum (NGVD) or North American Vertical Datum (NAVD);
 - h. Data sufficient to determine the regional flood elevation at the location of the development and to determine whether or not the requirements of Article C or Article D of this Chapter are met. This may include any of the information noted in Sec. 10-6-73;
 - i. Data sufficient to determine if the proposed development will cause either an obstruction to flow or an increase in regional flood height or discharge according to Sec. 10-6-14(a). This may include any of the information noted in Sec. 10-6-22(a);
 - j. Specifications and dimensions for areas of proposed wetland alteration;
 - k. Existing and proposed topographic and drainage features and vegetative cover.

(3) Data Requirement To Analyze Developments:

a. The applicant shall provide all computations and survey data required to show the effects of the project on flood heights, velocities and floodplain storage, for all subdivision proposals, as "subdivision" is defined in Sec. 236.02(3), Wis. Stats., and other proposed developments exceeding five (5) acres in area or where the estimated cost exceeds One Hundred Twenty-Five Thousand (\$ 125,000.00) Dollars. The applicant shall provide:

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

2. A map showing location and details of vehicular access to lands outside the floodplain.

3. A surface drainage plan with adequate details showing how flood damage will be minimized. The estimated cost of the proposal shall include all structural development, landscaping improvements, access and road development, electrical and plumbing, and similar items reasonably applied to the overall development costs, but need not include land costs.

(4) Expiration: All permits issued under the authority of this Chapter shall expire one (1) year from the date of issuance.

(b) CERTIFICATE OF COMPLIANCE.

(1) 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, except where no building, zoning or conditional use permit is required subject to the following provisions:

a. The certificate of compliance shall show that the building or premises or part thereof, and the proposed use, conform to the provisions of this Chapter.

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

c. The certificate of compliance shall be issued within ten (10) days after notification of completion of the work specified in the permit, providing the building or premises

or

proposed use conforms with all the provisions of this Chapter.

d. For floodplain development, the applicant shall submit a certification signed by a registered professional engineer or registered land surveyor that the fill and lowest floor elevations are in compliance with the permit issued, including any required floodproofing. Floodproofing adequacy may also be certified by a registered architect.

(2) Upon written request from the owner, the Zoning Administrator shall issue a certificate of compliance for the 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 on premises and whether or not such use conforms to the provisions of this Chapter.

(c) OTHER PERMITS.

The applicant must secure all necessary permits from federal, state, and local agencies, including those

required by the U.S. Army Corps of Engineers under s. 404 of the Federal Water Pollution Control Act, Amendments of 1972, 33 U.S.C. 1344.

Amended: Ord. 1030, 5/25/10

SEC. 10-6-92 FEES.

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

- (a) Building zoning permits.
- (b) Certificates of compliance.
- (c) Public hearings.
- (d) Legal notice publications.
- (e) Conditional use permits.

SEC. 10-6-93 BOARD OF APPEALS.

(a) **STATUTORY AUTHORIZATION.** The appropriate board created under Chapter 62.23(7)(e), Wis. Stats., is hereby authorized to act as 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.

(b) **POWERS AND DUTIES.** The Board of Appeals shall:

- (1) **Appeals.** Hear and decide appeals where it is alleged there is error in any order, requirement, decision or determination made by an administrative official in the enforcement or administration of this Chapter.
- (2) **Boundary Disputes.** Hear and decide disputes concerning the district boundaries shown on the official floodplain zoning map.

(3) **Variances.** Hear and decide, upon appeal, variances from the dimensional standards of this Chapter.

(c) **APPEALS TO THE BOARD.** Appeals to the Board of Appeals may be taken by any person aggrieved or by an officer, department, board or bureau of the municipality affected by any decision, order, requirement or determination of the official whose decision is in question. Such appeal

shall be taken within thirty (30) days, as provided by the rules of the Board, by filing with the Zoning Administrator, and with the Board of Appeals, a notice of appeal specifying the reasons' for appeal.

The

official whose decision is in question shall transmit to the Board all the papers constituting the record concerning the matter appealed.

(d) **NOTICE AND HEARING FOR APPEALS INCLUDING VARIANCES.**

(1) **Notice.** The Board shall:

- a. Fix a reasonable time for the hearing:
- b. Publish adequate Class I or 2 notice pursuant to Wisconsin Statutes, specifying the date, time, place and subject of the hearing.
- c. Mail notice to the parties in interest.
- d. Give written notice to the appropriate regional office of the Department at least ten (10) days prior to hearings on proposed variances, conditional uses, and appeals

for

map or text interpretations. At the public hearing, any party may appear in person or by agent or attorney.

(2) **Hearing.** Any party may appear in person or by agent or attorney. The Board shall:

- a. Resolve boundary disputes according to subsection (d);
- b. Decide variance applications according to subsection (e);
- c. Decide appeals of permit denials according to Sec. 10-6-95.

(3)Decision. A decision regarding the appeal or application shall be made as soon as practical. Copies of all decisions on variances, conditional uses, and appeals for map or text interpretations shall be submitted to the appropriate regional office of the Department within ten (10) days after they are granted or denied. The final disposition of an appeal or application to the Board of Appeals shall be in the form of a written resolution or order signed by the Chairman and Secretary of the Board. Such resolution shall state the specific facts which are the basis of the 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.

(e)BOUNDARY DISPUTES. The following procedure shall be used by the 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 Board of Appeals.
- (3) Where it is determined that the district boundary is incorrectly mapped, the Board should either inform the planning agency to the petition the City or inform the person contesting the location of the boundary to petition the City for a map amendment.

(f) VARIANCE.

- (1) The Board of Appeals may, upon appeal, grant a variance from the dimensional standards of this Chapter where an applicant convincingly demonstrates that:

- a. Literal enforcement of the provisions of the Chapter will result in unnecessary hardship on the applicant;
- b. The hardship is due to adoption of this Chapter and specific conditions unique to the property; and not common to a group of adjacent lots or premises (in such case the Chapter or map must be amended);

c. Such variance is not contrary to the public interest;

- d. Such variance is consistent with the purpose of this Chapter;

(2) A variance shall not:

- a. Grant or increase any use of property prohibited in the zoning district;
- b. Be granted for a hardship based solely on an economic gain or loss;
- c. Be granted for a hardship which is self-created;
- d. Damage the rights or property values of other persons in the area;
- e. Permit a lower degree of flood protection in the floodplain than the flood protection elevation. In the flood fringe area, a lower degree of flood protection elevation may only be allowed pursuant to Sec. 10-6-84(b).

f. Allow any floor, basement or crawlway below the regional flood elevation for residential or commercial structures.

g. Allow actions without the amendments to this ordinance or map(s) required in s. 10-6-100.

h. Allow any alteration of an historic structure, including its use, which would preclude

its continued designation as an historic structure.

(3) In addition to the criteria in par. (1), to qualify for a variance under FEMA regulations, the

following criteria must be met:

- a. The variance may not cause any increase in the regional flood elevation;
- b. Variances can only be granted for lots that are less than one-half acre and are contiguous to existing structures constructed below the RFE;
- c. Variances shall only be granted upon a showing of good and sufficient cause, shall be the minimum relief necessary, shall not cause increased risks to public safety or nuisances, shall not increase costs for rescue and relief efforts and shall not be contrary to the purpose of the ordinance.
- (g) When a variance is granted in a floodplain area, the Board shall notify the applicant in writing that increased flood insurance premiums may result. A copy of this notification shall be maintained with the variance appeal record.

Amended: Ord. 1030, 5/25/10

SEC. 10-6-94 CONDITIONAL USES PERMITS.

- (a) Any use listed as a conditional use in the Chapter shall be permitted only after an application has been submitted to the Zoning Administrator and a conditional use permit has been granted by the Board of Appeals, following the procedures. To secure information upon which to base its determination, the Board of Appeals may require the applicant to furnish, in addition to the information required for a building/zoning 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 Board of Appeals 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 Sec. 10-6-3. Such conditions may include specifications for, without limitation because of specific enumeration: Type of shore cover; erosion protection measures; increase side yard setbacks, specific sewage disposal and water supply facilities; landscaping and planting screens; period of operation; operational control; sureties; deed restrictions; locations of piers, docks, parking areas and signs; and type of construction.

SEC. 10-6-95 REVIEW APPEALS OF PERMIT DENIALS.

- (a) The Board of Appeals shall review all data constituting the basis for the appeal of permit denial. This data may include (where appropriate):
 - (1) Permit application data listed in Sec. 10-6-91(a);
 - (2) Floodway/flood fringe determination data in Sec. 10-6-73;

(3) Data listed in Sec. 10-6-52(a) 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 Board with the appeal.

(b) For appeals of all denied permits the Board shall:

(1) Follow the procedures of Sec. 10-6-93;

(2) Consider Zoning Agency recommendation;

(3) Either uphold the denial or grant the appeal.

(c) For appeals concerning increases in regional flood elevation the Board shall:

(1) Uphold the denial where the Board agrees with the data showing an increase in flood elevation. Increases equal to or greater than 0.01 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 Board agrees that the data properly demonstrates that the project does not cause an increase equal to or greater than 0.01 foot provided no other reasons for denial exist.

SEC. 10-6-96 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 flood plain.

(b) All available information in the form of maps, engineering data and regulations shall be readily available and should be widely distributed.

(c) All legal descriptions of property in the floodplain should include information relative to the floodplain zoning classification when such property is transferred.

SECS. 10-6-97 THROUGH 10-6-99 RESERVED FOR FUTURE USE.

ARTICLE J

Amendments to Floodplain and Shoreland Wetland Zoning Regulations - Procedures

SEC. 10-6-100 AMENDMENTS GENERALLY.

The Common Council may supplement or change the district boundaries and the regulations contained in this Chapter according to Sec. 62.23(7)(d)2., Wis. Stats., NR 116 and 117, Wis. Adm. Code, and the following:

(a) The Shoreland-Wetland District amendment provisions of Sec. 3.4 and the Floodplain District amendment provisions of Sec. 10-6-60 apply;

(b) A copy of each proposed text or map amendment shall be submitted to the appropriate district office

of the Department within 5 days of the submission of the proposed amendment to the municipal

planning agency;

(c)All proposed text and map amendments shall be referred to the municipal planning agency, and a public

hearing shall be held as required by Sec. 62.23(7)(d)2, Wis. Stats., following publication of a Class 2 notice as defined in Sec. 9.2. The appropriate district office of the Department shall be provided with written notice of the public hearing at least ten (10) days of the decision.

(d)All channel relocations and changes to the maps to alter floodway lines or to remove an area from the

floodway or the floodfringe that is based on a base flood elevation from a FIRM requires prior approval by FEMA.

SECS. 10-6-101 THROUGH 10-6-109 RESERVED FOR FUTURE USE.

ARTICLE K

Enforcement and Penalties

SEC. 10-6-110 ENFORCEMENT AND PENALTIES.

Any development as defined in Sec. 10-6-120 or use established after the effective date of this Chapter

in violation of this ordinance, by any person, firm, association, corporation (including building contractors or

their agents) shall be deemed a violation. The zoning administration shall refer violations to the planning agency

and the municipal attorney who shall prosecute such violations. Any person, firm, association, or corporation

who violates or refuses to comply with any of the provisions of this Chapter shall be subject to a forfeiture of

not less than Twenty (\$ 20.00) Dollars nor more than Fifty (\$ 50.00) Dollars per offense, together with the

taxable costs of such action. Each day of continued violation shall constitute a separate offense. Every violation

of this Chapter is a public nuisance and the creation thereof may be enjoined and the maintenance thereof may

be abated by action at suit of the City, the state, or any citizen thereof pursuant to Sec. 87.30(2), Wis. Stats.

Amended: Ord. 1030, 5/25/10

SECS 10-6-111 THROUGH 10-6-119 RESERVED FOR FUTURE USE.

ARTICLE L

Definitions

SEC. 10-6-120 DEFINITIONS.

(a) Unless specifically defined below, words or phrases used in this Chapter shall be interpreted so as to

give them the same meaning as they have at common law and to give this Chapter its most reasonable

application. Words used in the present tense include the future. Words used in the singular number include the plural and words in the plural number include the singular. The word "may" is permissive. The word "shall" is mandatory and not discretionary.

(1) A Zones - These areas shown on a municipality's "Official Floodplain Zoning Map" which would be inundated by the "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

(2) Accessory Structure or Use - A detached subordinate structure or a use which is clearly incidental to and customarily found in connection with the principal structure or use to it is related, and which is located on the same lot as that of the principal structure or use.

(2m) 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.

(2p) Basement - Any enclosed area of a building having its floor sub-grade, i.e., below ground level, on all sides.

(3) Boathouse - As defined in Sec. 30.121(1), Wis. Stats., means a permanent structure used for the storage of water craft and associated materials and includes all such structures which are totally enclosed, have roofs or walls or any combination of structural parts.

(4) Board of Appeals/Adjustment - The body established under Chapter 62.23, Wis. Stats., for cities or city and designated "board of appeals," or as established under Chapter 59.99, Wis. Stats., for counties and designated "board of adjustment."

(4m) Building - See Structure.

(5) Bulkhead Line - A geographic line along a reach of navigable body of water that has been adopted by a municipal ordinance and approved by the Department of Natural Resources pursuant to Section 30.11, Wis. Stats., and which allows limited filling between this bulkhead line and the original ordinary highwater mark, except where such filling is prohibited by the floodway provisions of this Chapter.

(5m) Campground - Any parcel of land which is designed, maintained, intended or used for the purpose of providing sites for nonpermanent overnight use by 4 or more camping units, or which is advertised or represented as a camping area.

(5r) Camping Unit - Any portable device, no more than 400 square feet in area, used as a temporary shelter, including but not limited to a camping trailer, motor home, bus, van, pick-up truck, tent or other mobile recreational vehicle.

(6) Certificate of Compliance - A certification by the Zoning Administrator stating that the construction and the use of land or a building, the elevation of fill or the lowest floor of a structure is in compliance with all of the provisions of this Chapter.

(7) Channel - A natural or artificial watercourse with definite bed and banks to confine and conduct the normal flow of water.

(8) Conditional Use - A use which is permitted by this Chapter provided that certain conditions specified in the Chapter are met and that a permit is granted by the Board of Appeals or, where designated, the planning or zoning agency.

(8g) Crawlways/Crawl Space - An enclosed area below the first usable floor of a building, generally less than five feet in height, used for access to plumbing and electrical utilities.

(8m)Deck - An unenclosed exterior structure that has no roof or sides, but has a permeable floor which allows the infiltration of precipitation.

(9)Department - The Wisconsin Department of Natural Resources.

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

(11)Drainage System - One or more artificial ditches, tile drains or similar devices which collect surface runoff or groundwater and convey it to a point of discharge.

(12)Dryland Access - A vehicular access route which is above the regional flood elevation and which connects land located in the floodplain to land outside the floodplain, such as a road with its surface above regional flood elevation and wide enough for wheeled rescue and relief vehicles.

(13)Encroachment - Any fill, structure, building, use or development in the floodway.

(14)Environmental Control Facility - Any facility, temporary or permanent, which is reasonably expected to abate, reduce or aid in the prevention, measurement, control or monitoring of noise, air or water pollutants, solid waste and thermal pollution, radiation or other pollutants, including facilities installed principally to supplement or to replace existing property or equipment not meeting or allegedly not meeting acceptable pollution control standards or which are to be supplemented or replaced by other pollution control facilities.

(15)Existing Mobile Home Park or Mobile Home Subdivision - A parcel (or contiguous parcels) of land divided into two (2) or more mobile home lots for rent or sale for 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.

(15m)Expansion to Existing Mobile/Manufactured Home Park - 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.

(16)Federal Emergency Management Agency (FEMA) - The federal agency that administers the National Flood Insurance Program. This agency was previously known as the Federal Insurance Administration (FIA), or the Department of Housing and Urban Development (HUD).

(17)Fixed Houseboat - As defined in Sec. 30.121(1), Wis. Stats., means a structure not actually used for navigation which extends beyond the ordinary highwater mark of a navigable waterway and is retained in place either by cables to the shoreline or by anchors or spudholes attached to the bed of the waterway.

(18)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;
- c. The inundation caused by waves or currents of water exceeding anticipated cyclical levels along the shore of Lake Michigan or Lake Superior; and
- d. The sudden increase caused by an unusually high water level in a natural body of

water, accompanied by a severe storm, or by an unanticipated force of nature, such as a seiche, or by some similarly unusual event.

(19)Flood Frequency - The probability of a flood occurrence. A flood frequency 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.

(20)Flood Fringe - That portion of the floodplain outside of the floodway, which is covered by flood waters during the regional flood; and generally associated with standing water rather than flowing water.

(21)Flood Hazard Boundary Map - A map prepared 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. Said map forms the basis for both the regulatory and insurance aspects of the National Flood Insurance program.

(21m)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.

(22)Flood Insurance Study - A technical engineering examination, evaluation, and determination of the City 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 and may provide floodway lines. The flood hazard areas are designated as unnumbered and numbered A Zones. Flood insurance study maps form the basis for both the regulatory and the insurance aspects of the National Flood Insurance Program.

(23) Floodplain - That land which has been or may be hereafter covered by flood water during the regional flood. The floodplain includes the floodway and the flood fringe, and may include other designated floodplain areas for regulatory purposes.

(24)Floodplain Island - A natural geologic land formation within the floodplain that is surrounded, but not covered, by flood water during the regional flood.

(25)Floodplain Management - The full range of public policy and action for insuring 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.

(26)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.

(27)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.

(28)Flood Protection Elevation - An elevation of two (2) feet of freeboard above the water surface profile associated with the regional flood. (Also see: Freeboard.)

(29) Floodway - The channel of a river or stream and those portions of the floodplain adjoining the channel required to carry the regional flood discharge.

(30)Floodway Encroachment Lines - Represent the limits of obstruction to flood flows. These lines are designated on both sides of, and generally parallel to, the channel of a river or stream. They are established by assuming that the area landward (outside of the encroachment lines) will ultimately be developed in such a way that it will not convey flood flows, but the development will not cause an increase to regional flood elevations upstream. It is assumed that any development riverward of these lines will cause an obstruction and will require a detailed analysis to determine its effect on the regional flood elevations upstream.

(31)Freeboard - Represents a factor of safety usually expressed in terms of a certain amount of feed above a calculated flood level, 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 aggradation of the river or stream bed.

(31m)Habitable Structure - Any structure or portion thereof used or designed for human habitation.

(32)Hearing Notice - Publication or posting meeting the requirements of Ch. 985, Wis. Stats., Class 1 notice is the minimum required for appeals: published once at least one week (7 days) before the hearing. Class 2 notice is the minimum required for all zoning ordinances and amendments including map amendments: published twice, once each week consecutively, the last at least one week (7 days) before the hearing. Local ordinances or bylaws may require additional notice, exceeding these minimums.

(33)High Flood Damage Potential - Damage that could result from flooding that includes any danger to life or health or any significant economic loss to a structure or building and its contents.

(33m)Historic Structure - Any structure that is either:

a.Listed individually in the National Register of Historic Places or preliminarily determined by the Secretary of the Interior as meeting the requirements for individual listing on the National Register.

b.Certified or preliminarily determined by the Secretary of the Interior as contributing to the historical significance of a registered historic district preliminarily determined by the Secretary to qualify as a registered historic district;

c.Individually listed on a state inventory of historic places in states with historic preservation programs 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 by the Secretary of the Interior in states without approved programs.

(34)Human Habitation - A human residence or dwelling.

(35)Increase in Regional Flood Height - A calculated upward rise in the regional flood elevation, equal to or greater than 0.01 foot, resulting in 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.

(36)Land Use - Any nonstructural use made of unimproved or improved real estate. (Also see Development.)

(37)Mobile Home or Manufactured Home - A structure transportable in one or more sections, which is built on a permanent chassis and designed to be used with or without a permanent foundation when connected to the required utilities. For the purpose of this Chapter it does not include recreational vehicles or travel trailers.

(37m)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 vehicles."

(38)Municipality or Municipal - The City governmental units enacting, administering and enforcing this zoning Ordinance/Chapter.

(39)Navigable Waters - Lake Superior, Lake Michigan, all natural inland lakes within Wisconsin, and all streams, ponds, sloughs, flowages and other waters within the territorial limits of this state, including the Wisconsin portion of boundary waters, which are navigable under the laws of this state. The Wisconsin Supreme Court has declared 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. [Muench v. Public Service Commission, 261 Wis. 492(1952) & DeGayner and Co., Inc. v. Department of Natural Resources, 70 Wis. 2d 936 (1975)].

(39g)NAVD or North American Vertical Datum – Elevations referenced to mean sea level datum, 1988 adjustment.

(39m)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 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.

(40)NGVD or National Geodetic Vertical Datum - Elevations referenced to mean sea level datum, 1929 adjustment.

(41)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 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.)

(42)Nonconforming Use - A nonconforming use is an existing lawful use or accessory use of a structure, 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.)

(43)Obstruction to Flow - Any development which physically blocks the conveyance of flood waters such that this development by itself or in conjunction with any future similar development will cause an increase in regional flood height.

(44)Official Floodplain Zoning Map - That map, adopted and made part of this Chapter, which has been approved by the Department of Natural Resources and FEMA.

(45)Open Space Use - Those uses having a relatively low flood damage potential and not involving structures.

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

(47)Person - An individual, or group of individuals, corporation, partnership, association, municipality or state agency.

(48)Planning Agency - The municipal planning commission, agency, committee or a board of

public land commissioners of the municipality's governing body created under Sec. 62.23(1), Wis. Stats., which acts on matters pertaining to planning and zoning.

(49)Private Sewage System - A sewage, treatment and disposal system serving a single structure with a septic tank and soft absorption field located on the same parcel as the structure. This term also means an alternative sewage system approved by the Department of Commerce including a substitute for the septic tank or soil absorption field, a holding tank, a system serving more than one structure or a system located on a different parcel than the structure.

(50)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.

(50m)Reasonably Safe From Flooding - Means base flood waters will not inundate the land or damage structures to be removed from the special flood hazard area and that any subsurface waters related to the base flood will not damage existing or proposed buildings.

(51)Regional Flood - A flood determined to be representative of large floods known to have generally occurred in Wisconsin and which may be expected to occur on a particular stream

because of like physical characteristics. The flood frequency of the regional flood is once in every 100 years. This means that in any given year, there is a 1% chance that the regional flood may occur or be exceeded in any given year, and if depicted on the FIRM, the RFE is equivalent to the BFE. During a typical 30-year mortgage period, the regional flood has a 26% 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.

(52)Shorelands - Lands within the following distances from the ordinary highwater 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.

(53)Shoreland-Wetland District - The zoning district, created in this zoning Chapter, comprised of shorelands that are designated as wetlands on the wetlands inventory maps which have been adopted and made a part of this Chapter.

(53m)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.

(54)Storage Capacity of a Floodplain - The volume of space above an area of floodplain that can be occupied by flood water of a given stage at a given time, regardless of whether the water is moving.

(55)Structure - Any man-made object with form, shape and utility, either permanently or temporarily attached to, placed upon or set into the ground, stream bed or lake bed, which includes, but is not limited to, such objects as roofed and walled buildings, gas or liquid storage tanks, bridges, dams and culverts.

(55m)Subdivision - Has the meaning given in s. 236.02(12, Wis. Stats.

(55r)Substantial Damage - Damage of any origin sustained by a structure, whereby the cost of restoring the structure to its pre-damaged condition would equal or exceed 50 percent of the equalized assessed value of the structure before the damage occurred.

(56)Substantial Improvement - Any repair, reconstruction, or improvement of a structure, the cost of which equals or exceeds fifty (50%) percent 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 are solely necessary to assure safe living conditions, or

b.any alteration of a structure or site documented as deserving preservation by the Wisconsin State Historical Society or listed on the National Register of Historic Places. Ordinary maintenance repairs are not considered structural repairs, modifications or additions; such ordinary maintenance repairs include internal and external painting, decorating, paneling and the replacement of doors, windows,

and other nonstructural components. (For purposes of this definition, "substantial improvement" is considered to occur when the first alteration of any wall, ceiling, floor, or other structural part of the building commences, whether or not that alteration affects the external dimensions of the structure.)

(57)Unnecessary Hardship - That 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.

(58)Variance - An authorization granted by the 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 the Chapter or allow construction not protected to the flood protection elevation.

(58m)Violation - The failure of a structure or other development to be fully compliant with the floodplain zoning ordinance. A structure or other development without required permits, lowest floor elevation documentation, floodproofing, certificates or required floodway encroachment calculations is presumed to be in violation until such time as that documentation is provided.

(59)Watershed - The entire region or area contributing runoff or surface water to a particular watercourse or body of water.

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

(60m)Well - An excavation opening in the ground made by digging, boring, drilling, driving or other methods, to obtain groundwater regardless of its intended use.

(61)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.

(62)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.

§10-6-120 (2m), (2p), (4m), (8g), (15m), (31m), (33m), (60m) - Created: Ord. 1030, 5/25/10
Chapter 6 Recreated: Ord. 1014, 5/8/07

CHAPTER 7

One- and Two-Family Dwellings Energy Conservation

§ 10-7-1Purpose of Chapter

§ 10-7-2State Energy Conservation Code Adopted

§ 10-7-3Building Code Department

§ 10-7-4Building Inspector

§ 10-7-5Building Permit Required

§ 10-7-6Building Permit Fees

§ 10-7-7Penalties

§ 10-7-8Severability

SEC. 10-7-1 PURPOSES OF CHAPTER.

(a)To exercise jurisdiction over the construction and inspection of new dwellings in regard to energy conservation.

(b)To provide on-site inspection performed by persons certified by Department of Industry, Labor and Human Relations (DILHR).

(c)To establish and collect fees to defray cost; and

(d)To provide remedies and penalties for violations.

SEC. 10-7-2 STATE ENERGY CONSERVATION CODE ADOPTED.

Title 10, Chapter 7 of the City Code of General Ordinances is hereby created to read as follows: Chapter Ind 22, Wisconsin Administrative Code, Energy Conservation Standards Chapter of the One- and Two-Family Dwelling Code, as adopted and effective December 1, 1978, and all amendments thereto, is adopted and incorporated in this Municipal Code by reference.

SEC. 10-7-3 BUILDING CODE DEPARTMENT.

(a)The Building Code Department of the City shall be created by the Mayor. The administrative authority shall be a State certified building inspector so designated by the appointing authority subject to confirmation.

(b)The appointing authority shall be the Mayor of the City subject to confirmation by the Common Council.

SEC. 10-7-4 BUILDING INSPECTOR.

There is hereby created the position of Building Inspector who shall administer and enforce this Chapter (Energy Conservation Code) who shall be certified by DILHR as specified by Section 101.66(2), Wis. Stats. This appointment is subject to confirmation by City Council.

Cross-reference: Section 2-3-10.

SEC. 10-7-5 BUILDING PERMIT REQUIRED.

No person shall build or cause to be built any one- or two-family dwelling without first obtaining a building permit for such dwelling. Such building permit shall be of the form prescribed and furnished by the City. A copy of each permit issued shall be filed with the Building Inspector.

SEC. 10-7-6 BUILDING PERMIT FEES.

The fees shall be determined by City Council.

SEC. 10-7-7 PENALTIES.

The Council shall provide for the enforcement of the Chapter and all other laws and ordinances relating to buildings by means of the withholding of building permits, imposition of forfeitures and injunctive action. Any person violating this Code shall be subject to a forfeiture in

the amount of One Thousand (\$ 1,000.00) Dollars and injunctive relief in accordance with Chapter 62.23(9), Wis. Stats.

SEC. 10-7-8 SEVERABILITY.

If any section, clause, provision or portion of this ordinance or Wisconsin Administrative Code Chapter Ind 22 is adjudged unconstitutional or invalid by a court of competent jurisdiction, the remaining provisions shall not be affected thereby.

CHAPTER 8

Fences

- § 10-8-1 Prohibited Fences
- § 10-8-2 Fence Permit; Fee
- § 10-8-3 Restrictions; Conditions
- § 10-8-4 Special Purpose Fences
- § 10-8-5 Height Determination
- § 10-8-6 Nonconforming Fences
- § 10-8-7 Swimming Pool Fences Regulated

SEC. 10-8-1 PROHIBITED FENCES.

(a) No fence shall be constructed, erected, reconstructed, rebuilt or replaced which exceeds seven (7) feet in height.

(b) No electrically charged or other inherently dangerous fence shall be permitted, nor any barbed wire or chicken wire fence in a non-industrial area.

SEC. 10-8-2 FENCE PERMIT; FEE.

No fence shall be constructed, erected, reconstructed, rebuilt or replaced without first obtaining a permit therefor from the Building Inspector. The fee for such permit shall be Three (\$ 3.00) Dollars.

SEC. 10-8-3 RESTRICTIONS; CONDITIONS.

(a) Within a residential district lying adjacent to or abutting another residential district, no fence exceeding six (6) feet in height shall be erected, constructed or maintained except as set forth in Section 10-8-63 below.

(b) Where a residential district lies adjacent to or abuts a non-residential district, no fence exceeding seven (7) feet in height shall be erected, constructed or maintained along that portion of the lot line lying adjacent to or abutting a non-residential district. Any district not

designated as a residential district shall be considered a non-residential district, including schools, churches, institutions and the like.

(c) In any non-residential area, fences shall be of such type and construction that shall allow people outside the fence to see through it without hindrance. In an industrial area where barbed wire is used, the lowest strand shall be a minimum of six (6) feet above the grade.

(d) In the public interest and for snow plowing purposes, no fence, barrier or other structure shall be erected, built or placed nearer than three (3) feet from any alley lot line. This provision shall not apply to structures which have a different setback as established by the zoning code.

(e) All fences hereafter erected or constructed shall provide openings for a passage of air equivalent to twenty-five (25%) percent of the surface area of the fence and shall have the structural components thereof facing the side of the property for and on which the same are erected. In residential areas where privacy is desired, fences with less than such twenty-five (25%) percent open spacing may be erected provided such fences may not extend farther forward than the main rear line of such residence.

(f) On any corner lot where a front or side yard is required or provided, no building, fence, hedge or other obstruction more than two (2) feet in height shall be placed so as to interfere with clear vision from one street to another or alley across the corner.

(g) In any residential district or area or on any lot or premises the principal use of which is for residential purposes, no fence shall extend nearer to the street than the front line of the building or the front setback line as set forth in the zoning code for residential districts, whichever is nearer.

(h) In any residential district or area or on any lot or premises the principal use of which is for residential purposes, no lengthwise fence or other lengthwise barrier or obstruction shall be erected, placed, installed or re-installed in any area where there is a distance between main residential buildings of ten (10) feet or less.

§10-8-3(a) - Amended: Ord. 986, 07/24/01

SEC. 10-8-4 SPECIAL PURPOSE FENCES.

Fences for swimming pools, confining dogs, etc. shall not exceed six (6) feet in height, and shall be no larger than necessary for such purpose and shall conform to the building setbacks of this Title.

SEC. 10-8-5 HEIGHT DETERMINATION.

The height of any fence erected under this Chapter shall be determined by the measurement from the uppermost point of the fence to the existing ground level of the property.

SEC. 10-8-6 NONCONFORMING FENCES.

Any fence which existed at the time of adoption of this Code of Ordinances, which does not conform with the provisions thereof, shall not be altered or enlarged without making the entire fence conform with the provisions of this Chapter.

SEC. 10-8-7 SWIMMING POOL FENCES REGULATED.

(a)FENCING REQUIRED. No swimming pool shall be used, constructed, erected or maintained in any district unless the said swimming pool, or the property on which it is located,

shall be surrounded by a fence or a wall not less than four (4) feet in height above the ground which shall have a gate with a lock so as to prevent uncontrolled access by children to the pool water.

(b)DEFINITION. A swimming pool is defined as any below ground enclosure of water to include, but not be limited to, a natural or man-made tank or pool of sufficient size, depth or height to enclose water at any point of greater than 1-1/2 feet in depth.

CHAPTER 9

Fair and Open Housing

§ 10-9-1 Declaration of Policy

Sec. 10-9-1 DECLARATION OF POLICY.

The Common Council of the City of Neillsville recognizes its responsibilities under Section 106.50, Wisconsin Statutes, as amended, and endorses the concepts of fair and open housing for all persons and prohibition of discrimination therein.

(a)The Common Council of the City of Neillsville hereby adopts Section 106.50, Wisconsin Statutes and all subsequent amendments thereto.

(b)The officials and employees of the City of Neillsville shall assist in the orderly prevention and removal of all discrimination in housing within the City of Neillsville by implementing the authority and enforcement procedures set forth in Section 106.50, Wisconsin Statutes, as amended.

(c)The Municipal Clerk shall maintain forms for complaints to be filed under Section 106.50, Wisconsin Statutes, as amended, and shall assist any person alleging a violation thereof in the City of Neillsville to file a complaint thereunder with the Wisconsin Department of Work Force Development, Equal Rights Division, for enforcement of Section 106.50, Wisconsin Statutes, as amended.

Chapter 9-Amended: Ord. 1010, 8/23/05

