

**COMMON COUNCIL
OF THE
CITY OF GREEN BAY, WISCONSIN**

December 17, 2013

Resolution No. 12

**An Initial Resolution Authorizing the Sale and Issuance of
Taxable General Obligation Community Development Bonds;
and Certain Related Details**

RECITALS

The Common Council (the “**Governing Body**”) of the City of Green Bay, Wisconsin (the “**City**”) makes the following findings and determinations:

1. The City is currently in need of funds to provide financial assistance to blight elimination, slum clearance, community development, redevelopment, and urban renewal programs and projects under Sections 66.1105, 66.1301 to 66.1329 and 66.1331 to 66.1337 of the Wisconsin Statutes, including, but not limited to, financing (i) separate developer grants to provide for the construction of mixed-use residential and retail facilities within the City’s Tax Incremental Districts No. 5 and 13, and (ii) a developer grant to provide renovations to a historic hotel within the City’s Tax Incremental District No. 13 (collectively, the “**Project**”).

2. The Governing Body deems it in the best interests of the City that the funds needed for the Project be borrowed, pursuant to the provisions of Chapter 67 of the Wisconsin Statutes, on the terms and conditions set forth below.

RESOLUTIONS

The Governing Body resolves as follows:

Section 1. Initial Resolution Authorizing the Issuance of Bonds.

Under and by virtue of the provisions of Chapter 67 of the Wisconsin Statutes, the City shall issue its negotiable, taxable general obligation community development bonds in a principal amount not to exceed \$7,500,000 (the “**Bonds**”) to finance the Project; *provided, however,* that the Bonds shall be sold and issued in whole or in part from time to time in such amount or amounts as shall be within the limits provided by law.

Section 2. Publication of Notice.

Notice of the adoption of this resolution, in the form attached hereto as Exhibit A, shall be published within 15 days after the adoption of this resolution in the official newspaper of the City as a class 1 notice under Chapter 985 of the Wisconsin Statutes. The City Clerk shall

obtain proof, in affidavit form, of such publication and shall compare the notice as published with the form attached hereto to confirm that no mistake was made in the publication.

Section 3. Authorization of Sale of Bonds.

The Bonds shall be sold to a purchaser to be determined by competitive sale (the "Purchaser").

Section 4. Preparation of Official Statement and Notice of Sale.

The Mayor, the City Clerk, and the Finance Director of the City (in consultation with the City's financial advisor, Robert W. Baird & Co. Incorporated) are each hereby authorized and directed to cause an initial offering document for the Bonds (the "Official Statement") to be prepared and distributed to any banks, underwriters, investment houses, or the like deemed to be advisable, and enclose with the Official Statement a "Notice of Sale" and a "Bid Form". The Mayor and the City Clerk are each hereby authorized, on behalf of the City, to approve the form of Official Statement and authorize it to be deemed final as of its date for purposes of Securities and Exchange Commission Rule 15c2-12(b)(1)), and to supply copies of the Official Statement upon request.

The Clerk is hereby further authorized and directed to cause notice of the sale of the Bonds to be (i) provided to *The Bond Buyer* for inclusion in its complimentary section for the publication of such notices, and (ii) posted in the same locations in the City that the City routinely posts notices for its official business.

Section 5. Bids for Bonds.

Written bids for the sale of the Bonds shall be received by the City on the date fixed in the Notice of Sale, on which date such bids shall be publicly opened and read. The Governing Body reserves the right, in its discretion, to waive any informality in any bid, to reject any or all bids without cause, and to reject any bid which it determines to have failed to comply with the terms of the Notice of Sale.

Section 6. Further Actions.

The issuance of the Bonds shall be subject to the condition that the Governing Body has adopted a resolution to award the sale of the Bonds to the Purchaser, to approve the purchase contract (the "Bond Purchase Agreement"), to fix the interest rate or rates on the Bonds in accordance with the Bond Purchase Agreement, to provide for the form of the Bonds, to set forth any early redemption provisions, to levy taxes to pay the principal of and interest on the Bonds as required by law, to designate a fiscal agent for the Bonds, and to take such further action as may be necessary or expedient to provide for the preparation, execution, issuance, delivery, payment, and cancellation of the Bonds.

Section 7. Severability of Invalid Provisions.

In case any one or more of the provisions of this resolution shall for any reason be held to be illegal or invalid, such illegality or invalidity shall not affect any other provisions of this resolution.

Section 8. Authorization to Act.

The officers of the City, attorneys for the City, or other agents or employees of the City are hereby authorized to do all acts and things required of them by this resolution for the full, punctual, and complete performance of all of the provisions of this resolution.

Section 9. Prior Actions Superseded.

All prior resolutions, rules, ordinances, or other actions, or parts thereof, of the Governing Body in conflict with the provisions of this resolution shall be, and the same are hereby, rescinded insofar as they may so conflict.

Section 10. Effective Date.

This resolution shall take effect upon its adoption and approval in the manner provided by law.

Adopted: December 17, 2013

Approved: December __, 2013

Mayor

Clerk

EXHIBIT A

**NOTICE TO ELECTORS
OF THE CITY OF GREEN BAY, WISCONSIN
RELATING TO THE ISSUANCE OF TAXABLE BONDS**

Notice is hereby given that on December 17, 2013, the Common Council of the City of Green Bay, Wisconsin (the "City") adopted an initial resolution under and pursuant to the provisions of Chapter 67 of the Wisconsin Statutes authorizing the issuance of negotiable, taxable general obligation community development bonds of the City in a principal amount not to exceed \$7,500,000 to provide financial assistance to blight elimination, slum clearance, community development, redevelopment, and urban renewal programs and projects under Sections 66.1105, 66.1301 to 66.1329 and 66.1331 to 66.1337 of the Wisconsin Statutes, including, but not limited to, financing (i) separate developer grants to provide for the construction of mixed-use residential and retail facilities within the City's Tax Incremental Districts No. 5 and 13, and (ii) a developer grant to provide renovations to a historic hotel within the City's Tax Incremental District No. 13.

If within 30 days after the adoption of the forgoing resolution there is filed in the office of the City Clerk a petition for referendum on the resolution conforming to the requirements of Section 8.40 of the Wisconsin Statutes, signed by electors numbering at least 10% of the votes cast in the City for governor at the last general election, then the resolution shall not be effective unless adopted by a majority of the City's electors voting at such referendum. If no such petition is so filed with respect to the foregoing resolution, then the resolution shall be effective without a referendum.

Publication Date: December __, 2013

/s/ Kris A. Teske
City Clerk

COMMON COUNCIL OF
CITY OF GREEN BAY, WISCONSIN

RESOLUTION NO. 2013 - 13

**FINAL RESOLUTION REGARDING
INDUSTRIAL DEVELOPMENT REVENUE BOND FINANCING
FOR TMT HOLDINGS LLC PROJECT**

BE IT RESOLVED by the Common Council of the City of Green Bay, Wisconsin (the "Issuer"), as follows:

Section 1 Recitals.

1.01 Under Wisconsin Statutes, Section 66.1103, as amended (the "Act"), the Issuer is authorized and empowered to issue revenue bonds to finance eligible costs of qualified "projects" (as defined in the Act), and to enter into "revenue agreements" (as defined in the Act) with "eligible participants" (as defined in the Act).

1.02 Pursuant to an Initial Resolution duly adopted on November 5, 2013, the Issuer expressed its intention to issue industrial development revenue bonds of the Issuer in an amount not to exceed \$3,000,000 (the "Bonds") to finance a project on behalf of TMT Holdings LLC, a Wisconsin limited liability company, and/or a limited liability entity to be formed, consisting of the (i) acquisition of land, (ii) construction of an approximately 34,000 square foot facility (the "Facility") located at 2530 South Hemlock Road in the City of Green Bay, Wisconsin, to be owned by TMT Holdings LLC and used by H&CS, LLC, a Wisconsin limited liability company, to manufacture conveyors and custom designed equipment, (iii) acquisition and installation of equipment at the Facility, and (iv) payment of certain professional costs and costs of issuance (collectively, the "Project"). Notice of adoption of the initial resolution adopted on November 5, 2013 was published as provided in the Act, and no petition requesting a referendum upon the question of issuance of the revenue bonds has been filed.

1.03 Pursuant to Wisconsin Statutes, Section 66.1103, as amended, the Issuer may finance a project which is located entirely within the geographic limits of the Issuer.

1.04 Drafts of the following documents have been submitted to this Common Council and are ordered filed in the office of the City Clerk:

- (a) a Bond Agreement (the "Bond Agreement"), proposed to be entered into among the Issuer, TMT Holdings LLC, H&CS, LLC, a Wisconsin limited liability company, and Hart Design & Mfg., Inc., a Wisconsin corporation (collectively, the

“Borrower”), BMO Harris Bank N.A., as trustee (the “Trustee”) and BMO Harris Bank N.A., as original purchaser (the “Original Purchaser”);

(b) a Promissory Note from the Borrower to the Issuer, and assigned by the Issuer to the Trustee; and

(c) a No Arbitrage Certificate.

Section 2 Findings and Determinations.

It is hereby found and determined that:

(a) based on representations of the Borrower, the Project constitutes a “project” authorized by the Act;

(b) a public hearing has been duly held on December 17, 2013 in accordance with the provisions of Section 147(f) of the Internal Revenue Code of 1986, as amended, at which residents of the City of Green Bay, Wisconsin were given an opportunity to be heard in regard to the proposed issuance of the Bonds and the nature and location of the proposed Project;

(c) the purpose of the Issuer's financing costs of the Project, is and the effect thereof will be, to promote the public purposes set forth in the Act;

(d) it is desirable that a series of revenue bonds in the aggregate principal amount not to exceed \$3,000,000 be issued by the Issuer upon the terms set forth in the Bond Agreement, under the provisions of which the Issuer's interest in the Bond Agreement (except for certain rights as provided therein) and the loan repayments will be assigned to the Trustee as security for the payment of principal of, and interest on, and premium, if any, on, all the Bonds outstanding under the Bond Agreement;

(e) the loan payments provided for in the Bond Agreement, and the formula set out for revising those payments under the Bond Agreement as required under the Act, are sufficient to produce income and revenue to provide for prompt payment of principal of, and interest on, and premium, if any, on, Bonds issued under the Bond Agreement when due; the amount necessary in each year to pay the principal of, and interest on, the Bonds is the sum of the principal of, and interest on, the Bonds due in such year, whether on a stated payment date, a redemption date, or otherwise; the Bond Agreement provides that the Borrower shall provide for the maintenance of the Project in good repair, keeping it properly insured; and

(f) under the provisions of the Act, the Bonds shall be limited obligations of the Issuer, and the Bonds do not constitute an indebtedness of the Issuer, within the meaning of any state constitutional or statutory provision, and do not constitute nor give rise to a charge against the Issuer's general credit or taxing powers or a pecuniary liability of the Issuer.

Section 3 Approvals and Authorizations; Authentication of Transcript.

3.01 This resolution shall constitute the approval of the Bonds within the meaning of Section 147(f) of the Internal Revenue Code of 1986, as amended, and the Bonds are hereby approved. There is hereby approved the issuance by the Issuer of its industrial development revenue bonds (specifically, the Bonds) in an aggregate principal amount not to exceed \$3,000,000 for the purpose of financing the Project.

The Issuer shall proceed to issue its Industrial Development Revenue Bonds, Series 2014 (TMT Holdings LLC Project), in the aggregate principal amount not to exceed \$3,000,000, in the form and upon the terms set forth in the Bond Agreement, which terms, including without limitation, interest rates, redemption provisions and maturity, are for this purpose incorporated in this resolution and made a part hereof. The terms are hereby approved without further action by the Issuer, and the Mayor and City Clerk are authorized and directed to execute and deliver the documents listed in Section 1.04 herein, which are hereby approved, together with such subsequent changes as may be requested and approved by bond counsel and the Issuer's attorney, and such other documents, agreements, instruments or certificates as are deemed necessary or desirable by the Issuer's attorney and bond counsel, including an Internal Revenue Service Form 8038.

The Mayor and the City Clerk are authorized and directed to execute and seal the Bonds as prescribed in the Bond Agreement and to deliver them to the Trustee (together with a certified copy of this resolution and any other documents required by the Bond Agreement) for authentication by the Trustee and delivery to the original purchaser. Officers of the Issuer are authorized to take all actions as may be required on the part of the Issuer to carry out, give effect to, and consummate the transactions contemplated by the Bond Agreement.

3.02 The publication in the official newspaper of the Issuer of the notice for the public hearing referred to in Section 2(b) of this resolution, and such notice of public hearing as so published, are hereby ratified.

3.03 The Issuer hereby elects to have the provisions of Section 144(a)(4)(A) of the Internal Revenue Code of 1986, as amended, apply to the Bonds.

3.04 The Mayor and the City Clerk and other officers of the Issuer are authorized to prepare and furnish to the Trustee and bond counsel certified copies of all proceedings and records of the Issuer relating to the Bonds, and such other affidavits and certificates as may be required by the Trustee and bond counsel to show the facts relating to the legality and marketability of the Bonds as such facts appear from the books and records in the officers' custody and control or as otherwise known to them.

3.05 The approval hereby given to the various documents referred to in this resolution includes the approval of such additional details therein as may be necessary and appropriate for their completion and such modifications thereto, deletions therefrom and additions thereto as may be approved by the Issuer's attorney and bond counsel. The execution of any document by the appropriate officer or officers of the Issuer herein

authorized shall be conclusive evidence of the approval by the Issuer of such document in accordance with the terms hereof.

3.06 BMO Harris Bank N.A. shall initially assume and perform the duties of Trustee.

3.07 Notice of sale of the Bonds, in the form attached hereto as Exhibit A, shall be published in the official newspaper of the Issuer as a class 1 notice under Chapter 985 of the Wisconsin Statutes as soon as practicable following the closing and funding of the Bonds.

3.08 The Bonds shall be limited obligations of the Issuer payable by it solely from revenues and income derived by or for the account of the Issuer from or for the account of the Borrower pursuant to the terms of the Bond Agreement. As security for the payment of the principal of, premium, if any, and interest on the Bonds, the Issuer shall pledge and assign to the Trustee all of its right, title and interest in and to the trust estate described in the Bond Agreement.

3.09 All reasonable fees and expenses of the Issuer, including attorneys' fees, in connection with the Bond Agreement, the Project, or the Bonds, shall be paid from the proceeds of the Bonds or by the Borrower.

Passed and adopted at a regular meeting of the Common Council of the City of Green Bay, Wisconsin this 17th day of December, 2013.

APPROVED:

James J. Schmitt, Mayor

ATTEST:

Kris Teske, City Clerk

FINAL PAYMENTS RESOLUTION
December 17, 2013

BY THE COMMON COUNCIL OF THE CITY OF GREEN BAY, RESOLVED:

That the City Clerk be and is hereby instructed to draw FINAL ORDERS in favor of the following contractors for their projects in the amounts listed as follows:

1. CHERRY STREET PARKING RAMP ELEVATOR VENTILATION SYSTEM

Tweet Garot Mechanical, Inc.

TOTAL AMOUNT EARNED:	\$ 99,500.00
LESS AMOUNT RETAINED:	<u>\$ 0.00</u>
	\$ 99,500.00
LESS AMOUNT PREVIOUSLY PAID:	<u>\$ 94,525.00</u>
AMOUNT DUE THIS ESTIMATE:	\$ 4,975.00

ACCOUNT NUMBERS

430-50-505-581-55201-000000-000-64023: \$4,975.00

PO #105359

2. TILLEMAN BRIDGE LIGHTPOLE REPLACEMENT

Northern Electric, Inc.

TOTAL AMOUNT EARNED:	\$ 163,768.25
LESS AMOUNT RETAINED:	<u>\$ 0.00</u>
	\$ 163,768.25
LESS AMOUNT PREVIOUSLY PAID:	<u>\$ 0.00</u>
AMOUNT DUE THIS ESTIMATE:	\$ 163,768.25

ACCOUNT NUMBERS

401-50-500-501-55107-000000-000-64043: \$163,768.25

PO #105486

Adopted _____, 2013

Approved _____, 2013

Mayor

ATTEST:

City Clerk

mms

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**RESOLUTION APPROVING TEMPORARY
LIMITED EASEMENTS (TLEs)
FOR MONROE AVENUE
FROM CASS STREET TO MAIN STREET
December 17, 2013**

BY THE COMMON COUNCIL OF THE CITY OF GREEN BAY, RESOLVED:

To approve the following Temporary Limited Easements (TLE):

MONROE AVENUE – CASS STREET TO MAIN STREET PROJECT ID. # 1481-07-21

Harpere, Inc Parcel 2	\$250.00	TLE
Richard A. Kime Parcel 3	\$250.00	TLE
North Trails Charity, LLC Parcel 6	\$250.00	TLE
Drake C Senn & Teresa L Biuzek-Senn Parcel 7	\$250.00	TLE

Adopted _____, 2013

Approved _____, 2013

Mayor

ATTEST:

City Clerk

jld

**RESOLUTION APPROVING THE
PARKING LEASE AGREEMENT WITH
CAMERA CORNER/CONNECTING POINT
December 17, 2013**

BY THE COMMON COUNCIL OF THE CITY OF GREEN BAY, RESOLVED:

To approve the Camera Corner/Connecting Point parking lease agreement for 24 parking stalls at a rate of \$25 per stall per month, with a five year initial lease with allowance of two (2) 5-year extensions in Lot MM and authorize the Mayor and the City Clerk to sign.

Adopted _____, 2013

Approved _____, 2013

Mayor

ATTEST:

City Clerk

jld

**RESOLUTION APPROVING THE DRAFT
T&M COLLECTABLES
HOLD HARMLESS AGREEMENT
December 17, 2013**

BY THE COMMON COUNCIL OF THE CITY OF GREEN BAY, RESOLVED:

To approve the request by T&M Collectables on behalf of Gary R. and Sandra K. Van Sistine for an Air Rights Easement to allow the installation of a flag-mounted sign above the S. Broadway right-of-way at 824 S. Broadway, subject to execution of a hold harmless agreement, filing the required insurance with Risk Management, and authorize the Mayor and the City Clerk to sign; future requests should be vetted through the local business improvement district should one exist in the area.

Adopted _____, 2013

Approved _____, 2013

Mayor

ATTEST:

City Clerk

jld

RESOLUTION EXTENDING FOR 12 MONTHS
THE CONDITIONAL-USE APPROVAL IN
THE 2900 BLOCK OF ST. ANTHONY DRIVE
(ZP 12-52)

December 17, 2013

BY THE COMMON COUNCIL OF THE CITY OF GREEN BAY:

On December 11, 2012, the Common Council adopted a conditional-use approval to allow for a semi-public use in a Public Institutional (PI) District on the following described property in the 2900 block of St. Anthony Drive:

LOT 1 OF 58 CSM 243 BNG PRT OF GOVT LOTS 4 & 5 & BNG PRT
OF NW1/4 SE1/4 ALL IN SEC 27 T24N R21E

Pursuant to Section 12-205(g), Green Bay Municipal Code, construction on this property has not begun within 12 months of the granting of this conditional-use permit, and an extension of the conditional-use permit is required.

NOW, THEREFORE, BE IT RESOLVED that pursuant to the recommendation of the Plan Commission on December 10, 2013, the conditional-use approval shall be extended an additional 12 months, and the conditional previously established shall continue to apply:

a. This Conditional Use Permit authorizes 52 units of veterans housing defined by or consistent with applicant's tax credit application to Wisconsin Housing and Economic Development Authority (WHEDA). The conditions of approval shall be no more restrictive than those set forth by WHEDA, and shall establish a preference for filling the units with veterans and include the presence of supportive programming. There shall be no expansion of the use without Plan Commission and City Council approval.

b. This Conditional Use Permit also acknowledges the future plans for 30 units of veterans transitional housing as an integral component of the site. Implementation of the transitional housing is subject to necessary approvals including Plan Commission and City Council approval of the operational plan and conceptual building plan at such time that the future phase moves forward.

c. Compliance is required with all applicable regulations of the Green Bay Municipal Code, including site plan approval and necessary building and demolition permits.

d. Development of the site (including drives, parking areas, paths, and building construction) shall be consistent with the general intent of the conceptual site plan and building rendering provided to the Plan Commission. Minor modifications are expected, but significant changes are subject to approval by the Plan Commission and City Council.

e. It should be understood that there are additional development requirements contained in the Zoning Code that will apply to this site. This includes requirements for landscaping, lighting, trash enclosure screening, and the like.

f. This Conditional Use Permit approval is subject to final agreement between the developer and the Brown County Housing Authority as to the allocation of project-based housing vouchers.

g. This Conditional Use Permit approval is subject to disposition of the land by Brown County and approval of a land division to facilitate conveyance of the parcel.

h. The height of the building is approved consistent with the conceptual rendering.

Adopted _____

Approved _____

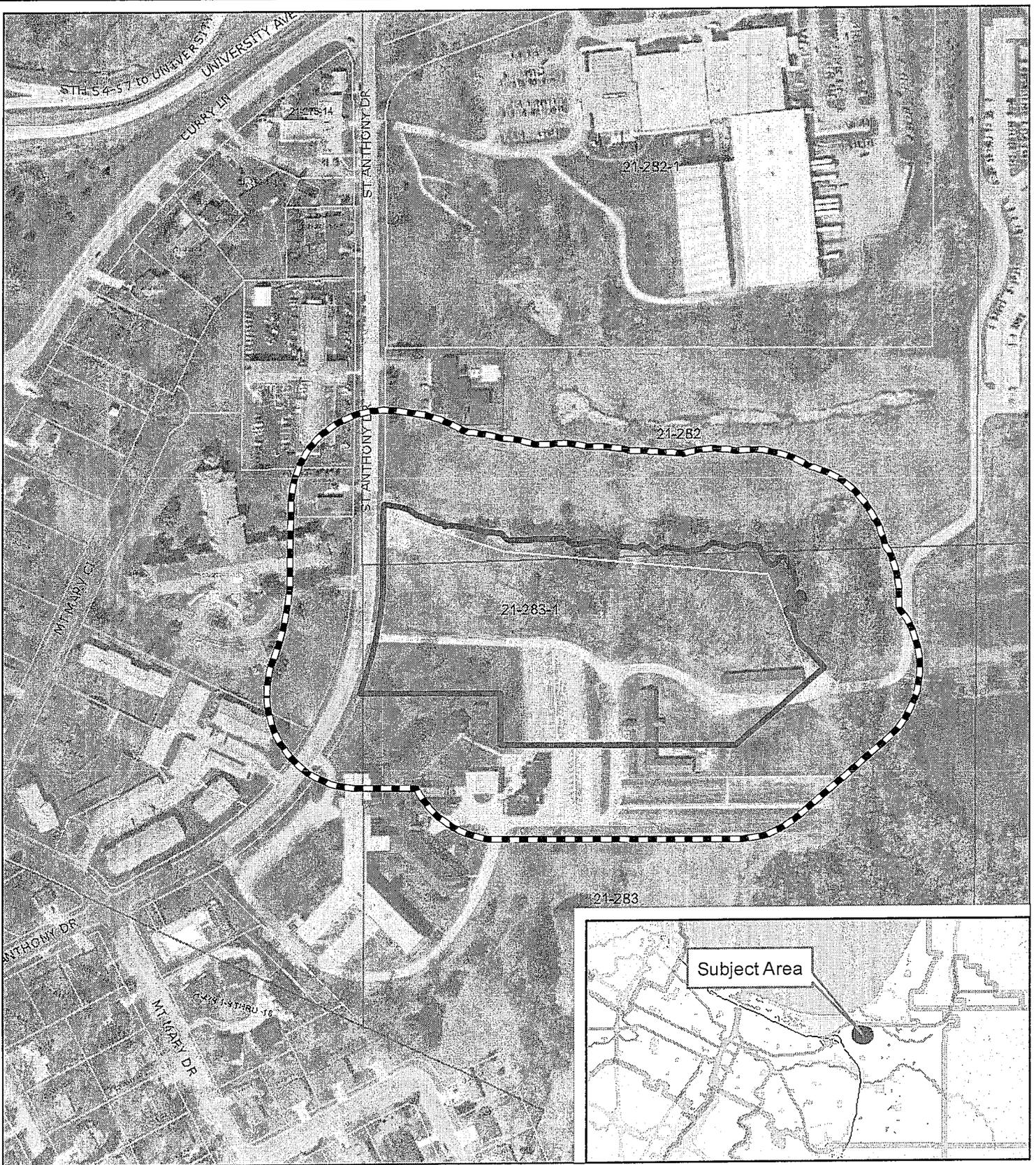
Mayor

Clerk

bc

Attachment – Map

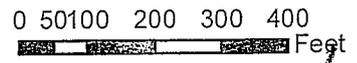
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Notification Area

Legend

-  200' Notification Area
-  Subject Area



**Zoning Petition (ZP 12-52)
Conditional Use Permit Request
For Veteran's Housing (Semi-Public Use) in PI District at 2900
Block of St. Anthony Drive**

*This is a compilation of records and data located in various City of Green Bay offices and is to be used for reference purposes only. City of Green Bay is not responsible for any inaccuracies or unauthorized use of the information contained within. No warranties are implied.
Map prepared by City of Green Bay Planning Department.
NPS, Nov 2013. X:\Planning\City\ZP Maps\2012\ZP 12-52*

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GENERAL ORDINANCE NO. 24-13

AN ORDINANCE
REPEALING CHAPTER 20,
GREEN BAY MUNICIPAL CODE,
RELATING TO AIR POLLUTION CONTROL,

THE COMMON COUNCIL OF THE CITY OF GREEN BAY DOES ORDAIN AS
FOLLOWS:

SECTION 1. Chapter 20, Green Bay Municipal Code, is hereby repealed.

SECTION 2. All ordinances, or parts of ordinances, in conflict herewith are hereby
repealed.

SECTION 3. This ordinance shall take effect on and after its passage and publication.

Dated at Green Bay, Wisconsin this _____ day of _____, 2014.

APPROVED:

Mayor

ATTEST:

Clerk

JLM:bc

Attachment – Ch. 20, GBMC

12/17/13

CHAPTER 20

AIR POLLUTION CONTROL

- 20.01 Definitions
- 20.02 Ringelmann Chart Adopted
- 20.03 Department of Air Pollution Control
- 20.04 Duties of the Heating and Ventilating Inspector
- 20.05 Establishment of Rules and Regulations
- 20.06 Installation Permits, Operating Permits, and Certificates of Operation
- 20.07 Coordination of Municipal Regulations
- 20.08 Fees
- 20.09 Entrance to Premises
- 20.10 Reporting of Sales and Purchases
- 20.11 Dust Separators and Smoke Indicators
- 20.12 Disposal of Dust
- 20.13 Contaminants
- 20.14 Emission: Limits and Measurements
- 20.15 Sealing of Equipment
- 20.16 Persons Liable
- 20.20 General Penalty

20.01 **DEFINITIONS.** The following definitions shall be applied in the interpretation and enforcement of this chapter.

(1) **AIR CONTAMINANT.** Any waste discharged from fuel burning equipment, internal combustion engines, premises, open fires, stacks, or from any other source which results in air pollution to a degree causing injury, detriment, nuisance, or annoyance to any considerable number of person or to the public or which endangers the comfort, repose, health, or safety of any such persons or the public or which causes or has a tendency to cause injury or damage to business or property. Air contaminants include, without limiting by enumeration, any other specific detriments, dust or dust clouds emanating from parking lots, drivers, and service areas or arising as a result of the operation and parking of vehicles on a surface other than blacktop, concrete or the equivalent. Equivalent means the surfacing with road oil or soil cement in accordance with specifications approved by the Director of Public Works and the Heating and Ventilating Inspector.

(2) **BUILDING FIRES.** "A new fire being built" means a fresh fire being started and does not mean the replenishing of an existing fuel bed with additional fuel.

(3) **CERTIFICATE OF OPERATION.** A certificate issued by the Inspector authorizing the use of any fuel burning equipment for the period indicated, after it has been determined that it can be operated in compliance with this chapter.

(4) **CLEANING FIRES.** "When the firebox is being cleaned out" means the period during which the fuel bed, including ash and clinker, is being completely removed from the grate surface. Such operation may be done by cleaning portions of the grate at different times. This phrase does not mean the act of shaking the grates to remove ash or individual clinkers from the fuel bed.

(5) **DEPARTMENT.** The Department of Air Pollution Control of the City.

(6) **DUST.** Gas-borne or air-borne particles larger than one micron in mean diameter.

(7) **DUST SEPARATING EQUIPMENT.** Any device for separating dust from the gas medium in which it is carried.

(8) **EMISSION.** Emission into the open air.

(9) **FUEL BURNING EQUIPMENT.** Any furnace, incinerator, refuse burning equipment, dust separating equipment, boiler, apparatus, device, mechanism, stack, chimney, or structure used in the process of burning fuel or other combustible material.

(10) **FUMES.** Gases or vapors that are of such character as to create an unclean, destructive, or unhealthful condition.

(11) **INSPECTOR.** The Heating and Ventilating Inspector (Air Pollution Control Inspector) of the City.

(12) **INSTALLATION PERMIT.** A permit issued by the Inspector authorizing the construction, installation, alteration, or repair of any fuel burning equipment in accordance with plans and specifications approved by him.

(13) **INTERNAL COMBUSTION ENGINE.** Any engine in which the combustion of a gaseous, liquid, or pulverized solid fuel takes place within one or more cylinders.

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(14) MECHANICAL FIRING. Firing through the use of mechanical equipment such as burners, stoker, or other approved firing devices.

(15) OPEN FIRE. Any fire wherein the products of combustion are emitted into the open air and are not directed thereto through a stack or chimney.

(16) OPERATING PERMIT. A permit issued by the Inspector authorizing the use of any fuel burning equipment for test purposes to determine whether it can be operated in compliance with this chapter. (See Certificate of Operation.)

(17) RAILROAD LOCOMOTIVE. Any railroad locomotive or railroad vehicle using a liquid, solid, or pulverized solid fuel.

(18) RINGELMANN CHART. The standard by which the shade or density of smoke is measured, published by the United States Bureau of Mines.

(19) SMOKE. All gaseous products of combustion, together with carbon, soot, fly ash, and all other particulate solids in combustion gases in sufficient density to be observable.

(20) SEAL OR SEALING EQUIPMENT. A device installed by the Inspector to prevent use of fuel burning equipment operating in violation of this chapter.

(21) SOOT. Agglomerated particles consisting essentially of carbonaceous materials.

(22) STACK OR CHIMNEY. Stack, chimney, flue, conduit, or opening arranged for the emission into the open air of smoke, dust, cinders, soot, fumes, noxious gases, or wastes.

(23) TECHNICAL ENGINEER. A person qualified by law to practice professional engineering or one qualified for full membership in the American Society of Mechanical Engineers.

20.02 RINGELMANN CHART ADOPTED. The Ringelmann Chart, published by the United States Bureau of Mines, is adopted by reference and made a part of this chapter as though set out in full. Such chart shall be the reference by which the shade or density of smoke shall be measured.

20.03 DEPARTMENT OF AIR POLLUTION CONTROL.

(1) CREATED. There is created a Department of Air Pollution Control of the City.

(2) HOW CONSTITUTED. The membership of the department of Air Pollution Control shall consist of:

(a) The Heating and Ventilating Inspector, who shall be appointed by the Mayor, subject to confirmation by the Council, for a term of two years commencing on May 1 in the year in which appointed; and

(b) Such inspectors and other employees as may, in the opinion of the Council, be necessary for the proper performance of the work of the Department. Such inspectors and employees shall be appointed by the Inspector and shall be paid such salaries as may be fixed by the Council.

20.04 **DUTIES OF THE HEATING AND VENTILATING INSPECTOR.** The Heating and Ventilating Inspector shall be responsible for the administration of smoke and other air pollution regulations of the City and shall have the following duties:

(1) **ISSUANCE OF PERMITS, CERTIFICATES, AND NOTICES.**

(a) Installation Permits. The examination of the application and plans for the construction, installation, or alteration of any fuel burning equipment or any equipment pertaining thereto and, if found to meet the requirements of the rules and regulations, the issuance of an installation permit.

(b) Operating Permits and Certificates of Operation. The inspection of the installation of all equipment for which a permit has been issued and, if found that the work is completed in accordance with the rules and regulations, the issuance of an operating permit and thereafter, when operation is demonstrated to comply with the provisions of this chapter, the issuance of a certificate of operation.

(c) Notices. The issuance of any notice required under the provisions of this chapter.

(2) **MAINTENANCE RECORDS.** The Inspector shall keep in the office of the Department of Air Pollution Control all applications made and a complete record thereof, as well as all permits and certificates issued. The Inspector shall keep a record of all smoke observations on all stacks and generally of the work done by the Department. All such records shall be open for inspection by the public at all reasonable times.

(3) **INSPECTIONS.** The investigation of complaints and the making of inspections and observation of smoke conditions.

(4) **EDUCATION.**

(a) Smoke Reduction. The publication and dissemination of information on methods of smoke reduction.

(b) Scientific and Other Societies. The enlistment of the cooperation of civic, technical, scientific, and educational societies.

(5) **NEW REGULATIONS.** The preparation and presentation to the Council for consideration of such rules and regulations necessary for the effective enforcement of the provisions of this chapter. See §20.05, Green Bay Municipal Code.

20.05 ESTABLISHMENT OF RULES AND REGULATIONS. The Inspector may prepare and present to the Council for consideration rules and regulations for the installation and operation of fuel-burning equipment and all other devices susceptible to use in a non-complying manner as to the kind of fuel to be used for various types of equipment and as to necessary auxiliary devices to aid in meeting the requirements of this chapter. When adopted by the Council, such rules and regulations shall have the force and effect of ordinances. The Council, upon recommendation of the Inspector, may from time to time alter, amend, or rescind such rules and regulations and promulgate such additional rules and regulations as are deemed advisable. Such rules and regulations as may be prepared, revised, amended, or rescinded shall be made effective 30 days after their publication in the official newspaper of the City.

20.06 INSTALLATION PERMITS, OPERATING PERMITS, AND CERTIFICATES OF OPERATION.

(1) OPERATING PERMITS.

(a) Required. No person shall construct, install, reconstruct, or alter any fuel-burning equipment or any equipment pertaining thereto for use with the City until an application, including suitable plans and specifications of the fuel-burning equipment and structures or buildings used in connection therewith, has been filed by such person or an agent in the office of the Inspector and has been approved by an inspector and an installation permit issued for such construction, installation or alteration.

(b) Information to be Supplied. Such plans and specifications shall show the form and dimensions of the fuel-burning equipment, in particular the proposed boiler, furnace, fuel burner, stack, and ducts, together with the description and dimensions of the building or part thereof in which such fuel-burning equipment is to be located, including the means provided for admitting air for combustion. The character of the fuel to be used, the maximum quantity of such fuel to be burned per hour, the operating requirements, and the use to be made of such fuel-burning equipment shall be stated.

(c) Exceptions.

1. Maintenance or repair which does not change the capacity of such fuel-burning equipment and which does not involve any change in the method of combustion or affect the emission of smoke, dust, or fumes therefrom may be made without an installation permit.

2. Emergency repairs other than repairs specified in par. (c)1, above, may be made prior to the application for an installation permit if serious consequences may result if such repairs are deferred. When such repairs are made, the person responsible shall notify the Inspector on the first business day after the emergency occurred and file an application for an installation permit if directed to do so by the Inspector.

(d) Issuance. An application shall be approved or rejected within 10 days after it is filed in the office of the Inspector. Upon the approval of the application and upon the payment of the prescribed fees, the Inspector shall issue a permit for the construction, installation, or alteration of such fuel-burning equipment.

(e) Deviations from Plans to be Approved. No construction, installation, reconstruction, or alteration shall be made which is not in accordance with the plans, specifications, and other pertinent information upon which the installation permit was issued without the written approval of the Inspector.

(f) Violations.

1. Work to be Stopped. Violation of the provisions of the installation permit shall be sufficient cause for the Inspector to order all work stopped. The Inspector may seal the installation. No further work shall be done until the Inspector is assured that the condition in question will be corrected and that the work will proceed in accordance with the installation permit.

2. Seal. No person shall violate the seal of any fuel-burning equipment that has been sealed at the direction of the Inspector unless authorized by the Inspector in writing to do so.

(g) Lapse. If construction, installation, reconstruction, or alteration is not started within one year of the date of the installation permit, such permit shall lapse and become void and all fees shall be forfeited unless an extension of time is warranted and granted by the Inspector.

(2) OPERATING PERMIT. No person shall operate or cause to be operated any new or altered fuel-burning equipment or any equipment pertaining thereto for which an installation permit was required or was issued until an inspection has been made by the Inspector and an operating permit issued. The Inspector may seal any equipment in operation for which an operating permit was not obtained as required by this chapter.

(3) CERTIFICATE OF OPERATION. After an operating permit has been issued and it is demonstrated to the satisfaction of the Inspector that the fuel-burning equipment can be operated in compliance with this chapter, a certificate of operation shall be issued by the Inspector. Such certificate shall be kept posted on or near the installation for which it was issued. A certificate of operation cannot be issued on equipment until the person required to procure the certificate of operation complies with this chapter.

(4) NON-COMPLIANCE NOT APPROVED BY ISSUANCE. The issuance by the Inspector of any installation permit, operating permit, or certificate of operation shall not exempt the person to whom such permit or certificate was issued or who is in possession of the same from prosecution for the emission of smoke, dust, cinders, soot, fumes, noxious gases, or waste prohibited by this chapter.

(5) APPEAL. Any person who has been refused a permit or certificate under this section shall be entitled to a hearing on such refusal before the Inspector, who shall provide procedures by which such appeal shall be heard.

(6) EXCEPTION. This section shall not apply to locomotives or one-family residences.

20.07 COORDINATION OF MUNICIPAL REGULATIONS. No permit for the erection, construction, or alteration of any building, plant, or structure related in any manner to fuel-burning equipment shall be issued by any department of the City until the Inspector has first issued a permit covering that portion of the work subject to this chapter to be used in the building, plant, or structure or unless the inspector determines the plans submitted will permit the subsequent installation of facilities adequate for compliance with this chapter.

20.08 FEES. The Inspector shall not issue any permits or certificates or inspect any furnaces or other fuel-burning equipment or devices until the fees enumerated in the rules and regulations have been paid to the Department of Air Pollution Control. Such department shall daily pay over all fees received by it to the City Treasurer, taking a receipt therefor.

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20.09 **ENTRANCE TO PREMISES.** No person shall interfere with the Inspector or other Department Inspectors in the performance of their duty by refusing them entrance to the premises pursuant to §§66.12 and 66.123, Wis. Stats., at reasonable hours upon identification.

20.10 **REPORTING OF SALES AND PURCHASES.**

(1) All persons engaged in the business of selling fuel-burning equipment shall report to the Inspector the sale of such equipment to be installed within the City. Every person purchasing such equipment shall give to the buyer a signed written statement setting forth the street and house number address of the building in which such equipment is to be installed. Such report shall be delivered by the seller to the Inspector within seven days after such sale and shall contain the name and address of the purchaser.

(2) The Inspector may demand at any time and shall be furnished with a true and correct report showing in detail the equipment purchased and the name and address of the person purchasing such equipment, together with the address of the building in which such equipment is to be installed.

(3) The provisions of this section shall not apply to wholesale transactions made for the purpose of resale.

20.11 **DUST SEPARATORS AND SMOKE INDICATORS.**

(1) **DUST SEPARATORS.** Excepting standby equipment used in emergencies for a total of no more than 10 percent in any one year, all installations using pulverized fuel burners, spreader-type stokers, or other similar solid-fuel suspension burning type of equipment shall be provided with approved dust-separating equipment. Dust-separating equipment installed subsequent to April 18, 1950, shall have a dust-separating efficiency of not less than 85 percent; dust separating equipment installed prior to April 18, 1950, shall have a dust separating efficiency of not less than 75 percent. The Inspector shall be notified of any emergency referred to in this subsection within 12 hours after the occurrence thereof.

(2) **SMOKE INDICATORS.** All newly-constructed or reconstructed solid or liquid fuel-burning plants having more than 300 sq. ft. of boiler heating surface (30 h.p.), or its equivalent, shall be equipped with smoke indicators, mirrors, or similar devices approved by the Inspector to enable the firemen to observe the top of the stack where it is not readily visible from the boiler room without the use of such devices. In plants where a fireman is not in constant attendance in the boiler room, the smoke indicator shall be of a type which will sound an alarm or flash a signal to attract the attention of the fireman. Any existing plant which emits unlawful smoke may be required to install such an indicating device.

(3) **EXCEPTIONS.** The provisions of this section shall not apply to locomotives or steamships.

20.12 **DISPOSAL OF DUST.**

(1) Dust from dust separating equipment and from other sources in any installation which is not to be reclaimed shall be moistened and hauled in an approved manner to a City dump or other approved point of disposal. If the dust is to be reclaimed, it shall be handled in a manner satisfactory to the Inspector.

(2) This section shall not apply to railroad locomotives or steamships.

20.13 CONTAMINANTS. No person shall cause or permit to be emitted into the open air any air contaminant from any device, nor shall any person cause or permit to be blown into the open air any air contaminant from any dust-borne material.

20.14 EMISSION: LIMITS AND MEASUREMENT.

(1) GENERAL.

(a) Ordinary Operation. No person shall cause or permit to be emitted into the open air from any stack or chimney, fuel-burning equipment, internal combustion engine, premises, open fire, or any other source smoke the shade or density of which is equal to or greater than No. 2 of the Ringelmann Chart, except smoke the shade or density of which is equal to but does not exceed No. 2 of the Ringelmann Chart may be emitted for a period or periods not to exceed two minutes in any 30-minute period, and except when the firebox is being cleaned out or a new fire is being built therefor or when such a breakdown of equipment occurs that such emission is not reasonably preventable.

(b) Clean-Outs and New Fires. When the firebox is being cleaned out, or flues are being blown, or a new fire in being built therein, smoke the shade or density of which is equal to but does not exceed No. 2 of the Ringelmann Chart may be emitted into the open air for a period or aggregate of periods not exceeding nine minutes in any 60-minute period, or smoke of a density equal to but not exceeding No. 3 on the Ringelmann Chart may be emitted into the open air for a period or aggregate of periods not exceeding five minutes in any 60-minute period. When flues are being blown on boilers exceeding 100,000 lb. of stem per hour, smoke equal to No. 2 on the Ringelmann Chart may be emitted for a period or aggregate of periods not exceeding 16 minutes in any single period of 120 minutes. The emissions of smoke permitted in this paragraph shall be in the alternative and not cumulative. No person shall cause or permit to be emitted into the open air during the cleaning out of a firebox or the building of a new fire therein smoke the shade or density of which exceeds the limits permitted by this paragraph nor for a longer period than herein permitted.

(2) LOCOMOTIVES.

(a) In Service or Ready for Service. Smoke the shade or density of which is unlimited may be emitted into the open air from any railroad locomotive in service or ready for service for a period or aggregate of periods not to exceed 45 second in any three-minute period. During the remainder of such three-minute period, smoke the shade or density of which is equal to but does not exceed No. 2 of the Ringelmann Chart may be emitted. No person shall cause or permit to be emitted into the open air from any railroad locomotive in or ready for service smoke the shade or density of which exceeds the limits permitted by the provisions of this paragraph, except when such a breakdown of equipment occurs that such emission is not reasonably preventable.

(b) Clean-Outs and New Fires. When a firebox is being cleaned out or a new fire is being built in a railroad locomotive, smoke the shade or density of which is equal to but not greater than No. 2 of the Ringelmann Chart may be emitted into the open air for a period or aggregate of periods not to exceed nine minutes in any 60-minute period, or smoke the shade or density of which is unlimited may be emitted into the open air for a period or aggregate of periods not exceeding five minutes in any 60-minute period. Emission of smoke as permitted by the provisions of this paragraph shall be in the alternative and not cumulative. No person shall cause or permit to be emitted into the open air from any railroad locomotive while the firebox thereof is being cleaned out or a new fire is being built therein smoke the shade or density of which exceeds the limits permitted by this paragraph nor for longer periods than herein permitted.

(3) STEAMSHIPS.



(a) When Navigating or Maneuvering. While navigating or maneuvering in the river inside the City, a steamship may emit into the open air smoke the shade or density of which is unlimited for a period or an aggregate of periods not to exceed three minutes in any 15-minute period. During the remainder of such 15 minutes, smoke the shade or density of which is less than No. 2 of the Ringelmann Chart may be emitted. No steamship shall emit and no person shall cause or permit to be emitted into the open air from any steamship situated as herein set forth smoke the shade or density of which exceeds the limits permitted by this paragraph nor for longer periods than herein permitted. The provisions of this section shall not apply to any ship making its first call at the Port of Green Bay in any calendar year.

(b) Steamships Docked. When any steamship is docked within the City [except as provided in paragraphs (c) and (d)], it may emit smoke the shade or density of which is less than No. 2 of the Ringelmann Chart, except during the last 15 minutes before such steamship leaves such dock, such steamship may emit smoke the shade or density of which does not exceed No. 3 of the Ringelmann Chart for a period or aggregate of periods not to exceed three minutes, provided that such permitted emission shall not be cumulative to the emission permitted by paragraph (d). No steamship shall emit and no person shall cause or permit to be emitted into the open air from any steamship situated as above set forth smoke the shade or density of which exceeds the limits permitted by this paragraph nor for longer periods than herein permitted.

(c) Self-Unloading Steamship. Steamships equipped with self-unloading machinery which is operated by power from the main power plant of such steamship may, while docked in the City and while such self-unloading machinery is actually and necessarily operating in the discharge of cargo, emit smoke the shade or density of which is unlimited for three minutes in any 12-minute period. During the remainder of such 12-minute period, such steamship so equipped and while so operated may emit smoke the shade or density of which is less than No. 2 of the Ringelmann Chart. No steamship so equipped and while so operated shall emit and no person shall cause or permit to be emitted into the open air from such steamship smoke the shade or density of which exceeds the limits permitted by this paragraph.

(d) Clean-Outs and New Fires. When a firebox is being cleaned out or a new fire is being built therein in a steamship or tugboat, or when such steamship or tugboat is undergoing inspection by a Marine Inspector in accordance with regulations of the United States Coast Guard, such steamship or tugboat may emit into the open air smoke the shade or density of which does not exceed No. 2 of the Ringelmann Chart for a period or aggregate of periods not to exceed nine minutes in any 60-minute period or smoke the shade or density of which is unlimited for a period or aggregate of periods not to exceed five minutes in any 60-minute period. The emission of smoke permitted in this paragraph shall be in the alternative and not cumulative. No steamship shall emit and no person shall cause or permit to be emitted into the open air from any steamship while its firebox is being cleaned out or a new fire is being built therein, or a Marine Inspector's inspection is being made, smoke the shade or density of which exceeds the limits permitted by the provisions of this paragraph nor for a longer period of time than is herein permitted.

(4) TUGBOATS.

(a) When Navigating or Maneuvering Under Own Power. While navigating or maneuvering under its own power in the river inside the City and not engaged in towing a steamship, a tugboat may emit into the open air smoke the shade or density of which is unlimited for a period or aggregate of periods not to exceed three minutes in any 15-minute period. During the remainder of such 15-minute period, smoke the shade or density of which is less than No. 2 of the Ringelmann Chart may be emitted. No tugboat shall emit and no person shall cause or permit to be emitted into the open air from any tugboat situated as set forth smoke the shade or density of which exceeds the limits permitted by this paragraph nor for a longer period than herein permitted.

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(b) When Towing Steamships. When a tugboat is towing a steamship within the City, it may emit smoke the shade or density of which is unlimited for a period or aggregate periods not to exceed three minutes in any 12-minute period. During the remainder of such 12-minute period, smoke the shade or density of which is less than No. 2 of the Ringelmann Chart may be emitted. No tugboat shall emit and no person shall cause or permit to be emitted into the open air from any tugboat situated as set forth smoke the shade or density of which exceeds the limits permitted in this paragraph nor for a longer period than herein permitted.

(c) Whiled Docked. While docked in the City inside the river, a tugboat may emit into the open air smoke the shade or density of which is unlimited for a period or aggregate of periods not to exceed three minutes in any 15-minute period. During the remainder of such 15-minute period, smoke the shade or density of which is less than No. 2 of the Ringelmann Chart may be emitted. These permitted emissions shall not be cumulative to the emissions permitted by paragraph (d). No tugboat shall emit and no person shall cause or permit to be emitted into the open air from a tugboat situated as set forth smoke the shade or density of which exceeds the limits permitted by this paragraph nor for longer periods than herein permitted.

(5) LIMITATION ON DUST EMISSION.

(a) Except when blowing flues as permitted in §20.14(1)(b), Green Bay Municipal Code, no person shall cause or permit to be emitted into the open air from any fuel-burning equipment, or to pass any convenient measuring point in the stack, dust in the gases to exceed 0.85 lb. per 1,000 lbs. of gases, adjusted to 12 percent CO content for the products of combustion.

(b) No person shall cause or permit to be discharged from any industrial process, manufacturing operation, material handling, or any other source dust in the gases or air to exceed 0.85 lb. per 1,000 lbs. of the gases, except in no case shall more than 15 percent of the total dust measured before entering the dust-separating device be emitted into the atmosphere.

(6) ASCERTAINMENT OF DUST QUANTITY.

(a) The quantity of dust or solids in the gases shall be determined according to the Test Code for Dust-Separating Apparatus Society of Mechanical Engineers, 1941, which is made a part of this chapter by reference.

(b) This subsection shall not apply to railroad locomotives or steamships.

20.15 SEALING OF EQUIPMENT.

(1) NOTIFICATION AND HEARING.

(a) Any person who has been notified of three or more violations of this chapter in respect to the emission of smoke, dust, cinders, soot, fumes, noxious gases, or waste within any consecutive 12-month period shall be notified to show cause before the Inspector on a day certain, not less than 10 days from the date of notice, why the equipment causing such violation shall not be sealed. If the person so notified is not the owner of the equipment, such notice shall also be given to such owner or to the agent of such owner. The notice herein provided for may be given by registered mail directed to the last known address of the person to be notified, with return receipt of address required; or if the person's whereabouts is unknown, by posting a notice on or near the premises at which such violations have occurred. The person so notified may appear at such hearing and be heard. If the Inspector finds upon such hearing that adequate corrective means and methods have not been employed to correct such violation, the Inspector shall seal the equipment until such

time as an installation permit and operating permit, as provided under this chapter, have been applied for and issued for such equipment.

(2) SEAL. No person shall violate the seal on any fuel-burning equipment that has been sealed at the direction of the Inspector, unless authorized by the Inspector in writing to do so.

20.16 **PERSONS LIABLE.**

(1) All persons owning, operating, or in charge or control of any equipment who shall cause, permit, or participate in any violation of this chapter, either as proprietors, owners, lessees, tenants, managers, superintendents, constructors, installers, mechanics, repairmen, captains, janitors, engineers, firemen, or otherwise, shall be individually and collectively liable for any penalties imposed by this chapter.

(2) The Inspector may institute complaints against all persons violating this chapter.

20.20 **GENERAL PENALTY.** Any person who shall violate any provision of this chapter or any rule, regulation, or order made hereunder shall be subject to a penalty as provided in §40.05, Green Bay Municipal Code. The unlawful emission of smoke, dust, cinders, soot, fumes, noxious gases, or waste from each stack shall constitute a separate offense.

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GENERAL ORDINANCE NO. 25-13

AN ORDINANCE
AMENDING CHAPTER 9,
GREEN BAY MUNICIPAL CODE,
RELATING TO SOLID WASTE
COLLECTION AND DISPOSAL

THE COMMON COUNCIL OF THE CITY OF GREEN BAY DOES ORDAIN AS FOLLOWS:

SECTION 1. Chapter 9, Green Bay Municipal Code, is hereby amended. A copy of the changes to Chapter 9 is attached hereto.

SECTION 2. All ordinances, or parts of ordinances, in conflict herewith are hereby repealed.

SECTION 3. This ordinance shall take effect on and after its passage and publication.

Dated at Green Bay, Wisconsin this _____ day of _____, 2014.

APPROVED:

Mayor

ATTEST:

Clerk

bc

Attachment – Amendments to Ch. 9, GBMC

12/17/13

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SOLID WASTE COLLECTION AND DISPOSAL

9.01 **DEFINITIONS.** (Rep. & Rec. GO 47-03) The following definitions shall apply in the interpretation and enforcement of this chapter.

- (1) **DEPARTMENT.** The Department of Public Works.
- (2) **PERSON.** Any individual, household, group of individuals, contractor, firm, corporation, partnership, association, state, county, city, village, township, sanitary district, or other government corporation.
- (3) **CITY.** The City of Green Bay.
- (4) **NON-RESIDENTIAL PROPERTIES.** Commercial, retail, industrial, institutional, manufacturing, and governmental facilities and properties.
- (5) **SOLID WASTE.** Solid waste consisting of garbage, refuse, and other discarded, ~~or salvageable,~~ and recyclable material, including waste material resulting from domestic use, public service activities, commercial, manufacturing, and industrial operations. Solid waste consists of the following categories:
 - (a) **Residential Waste.** Garbage, refuse, ashes, and other waste generated from typical residential activity. This type of waste ~~including~~ includes, but is not limited to, metal, ~~glass,~~ paper, cardboard, plastic, cans, bottles, wood, rags, ~~plastic,~~ rubber, glass, cloth, ~~eans,~~ bottles, litter, leaves, shrubbery, tree trimming, branches, trunks and stumps, grass clippings, brush, and small quantities of construction and/or demolition waste, which are either recycled or disposed of.
 - (b) **Commercial Waste.** Wastes resulting from the operation of business enterprises including, but not limited to, offices, stores, restaurants, and similar businesses.
 - (c) **Industrial Waste.** Wastes resulting from industrial processes and operations.
 - (d) **Manufacturing Waste.** Waste resulting from manufacturing processes and operations.
 - (e) **Garbage.** Waste resulting from the handling, cooking, processing, preparation, serving, storage, and consumption of food, including animal, fish, fowl, fruits, vegetables, or other matter which is subject to decomposition, decay, putrefaction, and the generation of offensive and noxious gases or odors.
 - (f) **Refuse.** Miscellaneous combustible and noncombustible, non-recyclable waste material resulting from residential and commercial activities including, but not limited to, cans, bottles, plastic, papers, ashes, glass, lawn and garden waste, metals, rubber, street waste, wood, cloth, litter, leaves, shrubbery, brush, and cardboard.
 - (g) **Bulky Waste.** Discarded articles of such size ~~as are~~ that do not fit in the collection cart not normally collected with residential waste including, but not limited to, appliances, large furniture items, bicycles, exercise equipment, play equipment, and other household items ~~plumbing fixtures, windows, and doors,~~ but all of which would be considered residential wastes.
 - (h) **Construction and/or Demolition Waste.** Waste resulting from building construction or

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demolition, alteration, or repair, including excavated material, remodeling, and other waste such as windows, doors, drywall, framing and roofing material, flooring, cabinets and counter tops, concrete, stone, asphalt, sod, earth, dirt, and brick, except as indicated in §9.01(5)(a), Green Bay Municipal Code.

(i) Hazardous and/or Toxic Wastes. Waste material or substances which during normal storage or handling may be a potential cause of harm, sickness, or death, such as explosives, petroleum products, medical or pharmaceutical materials, corrosive chemicals, poisonous or pathogenic substances, pesticide chemicals, radioactive materials, toxic materials, and all other similar harmful substances whether in solid, liquid, or gaseous form.

(j) Nauseous and/or Offensive Wastes. Those wastes that are unwholesome or have an unpleasant smell or are otherwise nauseous and/or offensive, such as manure, filth, slops, carcasses, carrion, meat, fish, entrails, hides and hide scrapings, paint, kerosene, oily or greasy substances, and objects that may cause injury to any person or animal or damage to vehicles such as barbed wire, briar thorns, or similar materials.

(k) Sewage Plant Refuse. Debris collected on the primary screens of the sewage treatment plant consisting of sticks, rags, etc.

(l) Recyclable Waste. That portion of miscellaneous combustible and noncombustible waste material resulting from residential and commercial activities that can be recovered through processes to regain that material for human use including, but not limited to, the following:

1. Yard Waste. Yard waste means leaves, grass clippings, garden debris, and brush, including clean woody vegetative material no greater than 6" in diameter. This term does not include stumps, roots, or shrubs with intact root balls.

2. Paper. That portion of paper which remains in substantially original condition at the time of disposal so that material is suitable for commercial-grade recycling. Paper does include the paper commonly used in the production of newsprint, magazines, books, and other physical media for written materials, cardboards, and other container boards. Paper is not suitable for recycling purposes when in a state which makes separation unreasonable or unduly expensive ~~for reasons which include, but are not limited to, the following:~~

~~_____ a. Because the paper has been~~has been put to another use, such as wrappings for ~~other wastes~~items that soiled the paper, and is thus rendering it unfit for commercial recycling; ~~and~~

~~_____ b. The paper is no longer flat and folded to the approximate dimensions of its original condition.~~

3. Major Appliances. Major appliances are residential or commercial air conditioner, clothes dryer, clothes washer, dishwasher, freezer, microwave oven, oven, refrigerator, stove, furnace, boiler, dehumidifier, or water heater.

4. Co-mingled. Co-mingled recyclables are glass bottles and jars which contain a food or beverage product, aluminum beverage cans, plastic containers made of polyethylene terephthalate (PET) or high density polyethylene (HDPE), and steel and bi-metal cans which contained a food or beverage product.

5. Waste tire. Waste tire means a tire that is no longer suitable for its original purpose because of wear, damage or defect.

(m) Mobile Home Park. As defined in Wisconsin Statutes §66.0435, means any plot or plots of ground upon which two or more units, occupied for dwelling or sleeping purposes are located, regardless of whether a charge is made for the accommodation.

(6) SOLID WASTE DISPOSAL OPERATION. The site, facility, operating practices, and maintenance thereof for the utilization, processing, or final disposal of solid waste including, but not limited to, sanitary landfill, incineration, composting, reduction, shredding, compression, salvage, and resource recovery.

(7) SANITARY LANDFILL. A method of disposing of solid waste on land without creating nuisances or hazards to public health or safety, but utilizing the principles of engineering to confine the solid waste to the smallest practical volume, and by covering it with a layer of earth at the conclusion of each day's operation or at such more frequent intervals as may be necessary.

(8) COLLECTING AND TRANSPORTING SERVICE. A municipal or privately-operated agency, business, or service for collecting or transporting solid waste for disposal purposes.

(9) CONDOMINIUM. (Cr. GO 13-11) A residential property which is subject to the provisions of Ch. 703, Wis. Stats, and governed by a declaration or bylaw that requires all units to be owner-occupied.

9.02 SOLID WASTE COLLECTION REGULATIONS. (Rep. & Rec. GO 47-03), (Amd. GO 8-13)

(1) (Amd. GO 59-04) Residential and commercial waste shall be collected by the Department from all properties, provided such waste is properly handled, prepared, contained, stored, and located in conformance with this subchapter and rules and regulations established and publicized by the Director of Public Works. Waste-Refuse collection shall be provided once per week at no charge for a maximum of four 32-gallon containers or equal volume per property or two 32-gallon containers or equal volume per dwelling unit, whichever is greater. The garbage cart must be one which was purchased from the City. All refuse must fit inside the garbage cart with the lid fully-closed. Refuse placed outside the garbage cart will not be collected.

(2) (Amd. GO 59-04) Recyclable waste to include co-mingled and paper shall be collected by the Department for all residential properties, up to and including six dwelling units, provided such waste is properly separated, handled, prepared, contained, stored, and located in conformance with this subchapter and rules and regulations established and publicized by the Director of Public Works. Recycling is mandatory, and residents will be required to comply with recycling regulations. Curbside recycling waste collection shall be provided once every two weeks to each household. There is no limit on the number of recycling carts collected at each residence. The recycling cart must be one which was purchased from the City. Recycling waste shall be placed out for collection separate from other solid waste on the regular refuse collection day. All recycling waste must fit inside the recycling cart with the lid fully-closed. Recycling waste placed outside the recycling cart will not be collected.

(3) Special Assessment for Extra Solid Waste Pickup.

(a) In those instances where the periodic solid waste pickup is not followed by residents or property owners, the Director of Public Works, or his designee, is hereby authorized, when scheduling time

permits, to dispatch City crews to remove the following: (a) solid waste, (b) tires, (c) batteries, (d) waste oil, (e) yard waste, (f) electronic waste, (g) construction, remodeling and demolition waste. (h) bulky waste. or (i) other items that are placed out for collection that would not normally be collected. Any items removed are subject to removal charges noted below and any cost of disposal.

(b) The costs of such removal shall be the hourly rate (including fringe benefits) per employee dispatched, plus truck charges and administration fees, for the time spent collecting such solid waste from the time of dispatch to the time the truck returns to the municipal garage. There shall be a three-tenths hour minimum charge for such dispatch. Should City crews be dispatched at a time to collect such solid waste items which requires the City to incur overtime, the appropriate hourly rate will be charged (whether time and one-half or double time).

(c) Should the property owner fail to pay such charge as invoiced within 30 days of the date of the invoice, the same shall become a lien upon the property as provided in §66.0627, Wis. Stats., and §9.02(8), Green Bay Municipal Code, on behalf of the City of Green Bay and carrying such interest as has been determined by the Common Council.

(d) The City will schedule two (2) bulky waste collection periods annually during which residents will not be charged. During these periods, the City will collect up to two (2) cubic yards of bulky waste per residence placed outside of a trash cart. At all other times, the above rules shall apply.

(e) The City will schedule four (4) overflow waste collection periods annually during which residents will not be charged. During these periods, the City will collect up to four (4) 32-gallon bags of waste per residence placed outside of a trash cart. At all other times, the above rules shall apply.

(4) Separation of Recyclable Waste.

(a) The following recyclable materials from single family and 2 to 6 unit residences, multifamily dwellings and non-residential facilities and properties shall be separated from solid waste:

1. lead acid batteries
2. major appliances
3. waste oil
4. yard waste
5. aluminum containers
6. bi-metal containers
7. corrugated paper or other container board
8. foam polystyrene packaging
9. glass containers
10. magazines

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11. newspaper
12. office paper
13. rigid plastic containers made of PETE, and HDPE
14. rigid plastic containers made of PVC, LDPE, PP, PS, and other resins or multiple resins
15. steel containers
16. waste-tires
17. electronic waste or E-waste.

(b) Separation Requirements Exempted. The separation requirements of 9.02(4)(a) do not apply to the following:

1. Occupants of single family and 2 to 6 unit residences, multiple-family dwellings and non-residential facilities and properties that send their solid waste to a processing facility licensed by the Wisconsin Department of Natural Resources that recovers the materials specified in 9.02(4)(a) from solid waste in as pure a form as is technically feasible.

2. Solid waste which is burned as a supplemental fuel at a facility if less than 30% of the heat input to the facility is derived from solid waste burned as supplemental fuel.

3. A recyclable waste item specified in 9.02(4)(a)1. through 15. for which a variance has been granted by the Department of Natural Resources under § 159.11(2m), Wisconsin statutes, or § NR 544.14, Wisconsin Administrative Code.

(5)(a) Recyclable waste shall not be collected by the City from buildings containing seven or more dwelling units. Owners of these buildings shall be responsible to provide collection and disposal of recyclable waste which was banned January 1, 1995, from landfills as provided in 1989 Wisconsin Act 335.

Items included in 1989 Wisconsin Act 335 are: aluminum containers, corrugated paper or other container board, foam polystyrene packaging, glass containers, magazines, or other material printed on similar paper, newspaper or other material printed on newsprint, office paper, rigid plastic containers, steel containers, bi-metal steel/aluminum containers for carbonated and malt beverages.

All owners or designated agents of ~~these rented and leased residential properties buildings~~ are required to do all the following:

1. Notify tenants in writing at the time of renting or leasing the dwelling and at least semiannually thereafter about the established recycling program.

2. Provide adequate, separate containers to tenants for the separation of recyclable waste included in the 1995 ban.

3. Provide for the collection and recycling of recyclable materials separated from solid waste by the

tenants, and the delivery of the materials to a recycling facility.

4. Notify tenants of reasons to reduce and recycle solid waste, which materials are collected, how to prepare the materials in order to meet processing requirements, collection methods or sites, locations and hours of operation and a contact person, including a name, address and telephone number.

All owners of these buildings are required to comply with State Statutes which ban the items listed above from landfilling and incineration beginning January 1, 1995.

(b) The requirements specified in 9.02(5)(a) do not apply to the owners or designated agents of multi-family dwellings if the solid waste generated within the dwellings is treated at a processing facility licensed by the Department of Natural Resources that recovers for recycling the materials specified in 9.02(4)(a)5. through 15. from solid waste in as pure a form as is technically feasible.

(6)(a) Recyclable waste shall not be collected by the City from non-residential facilities and properties. Owners of these buildings shall be responsible to provide collection and disposal of recyclable waste which was banned January 1, 1995, from landfills as provided in 1989 Wisconsin Act 335.

(b) Recycling laws apply ~~not only to both~~ residential properties ~~but also and~~ non-residential facilities and properties. All non-residential facilities or properties are required to separate the materials subject to §159.67, Wis. Stats., which bans said material from landfills on January 1, 1995.

(c) Owners or designated agents of non-residential facilities and properties shall do all of the following to the materials specified in 9.02(4)(a)5. through 15.:

1. Notify in writing, at least semi-annually, all users, tenants and occupants of the properties about the established recycling program.

2. Provide adequate, separate containers for the collection of recyclable materials.

3. Provide for the collection of the materials separated from the solid waste by the users, tenants and occupants and the delivery of the materials to a recycling facility.

4. Notify users, tenants and occupants of reasons to reduce and recycle, which materials are collected, how to prepare materials in order to meet the processing requirements, collection methods or sites, locations and hours of operation, and a contact person or company, including a name, address, and telephone number.

(d) The requirements specified in 9.02(6)(b) do not apply to the owners or designated agents of non-residential facilities and properties if the solid waste generated within the facility or property is treated at a processing facility licensed by the Department of Natural Resources that recovers for recycling the materials specified in 9.02(4)(a)5. through 15. from solid waste in as pure a form as is technically feasible.

(7) The Director of Public Works is hereby authorized to control the collection, removal, and hauling of solid waste in the City in conformity with the following administrative regulations:

(a) Solid Waste not Collected by the City. (Amd. GO 59-04)

1. Industrial waste.

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2. Manufacturing waste.
3. Hazardous and/or toxic wastes.
4. Nauseous and/or offensive waste.
5. Sewage plant refuse.
6. Batteries.
7. Tires.
8. Waste oil.
9. Medical and infectious waste.

(b) Preparation. (Amd. GO 59-04)

1. Residential solid and commercial waste including miscellaneous refuse may be mixed and placed in a common container. Yard waste and recyclables are prohibited from being mixed with other waste.

2. Residential or commercial refuse and garbage shall be wrapped, packaged, and/or bundled and drained of any liquid.

3. Recyclable material such as glass, plastic bottles, tin, paper, cardboard and aluminum cans shall be co-mingled and placed in one container.

4. To the greatest extent practicable, the recyclable materials separated from solid waste shall be clean and kept free of contaminants such as food, product residue, oil or grease, or other non-recyclable materials.

5. Branches, limbs, and cuttings from trees shall be cut in ~~less than 3~~ 3-foot to 8-foot lengths and must be at least 1/2" in diameter when set out for collection. No brush will be picked up by the City when generated from vacant property or new building construction or from any contracted job. If said brush is not disposed of properly by the owner or contractor, the City will dispose of it and charge the property owner the actual cost.

6. Bulky waste will be picked up by a special collection crew. All amounts collected will be charged a fee except as designated in 9.02(3)(d) above. Said fee is to be a charge per cubic yard and will be established by resolution annually by the City Council. Items placed out due to periodic change of tenancy (move outs) from residences shall be charged for said service and proper disposal.

7. Hot cinders, ashes, or any smoldering embers shall not be placed in any collection container. Cold ashes shall not be placed in cardboard or paper containers, but shall only be placed in sealed/tied plastic bags ~~for~~ of a type and composition suitable for handling and disposal.

(c) Container - Garbage and Refuse.

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~~1. The cost of all garbage containers provided by the City shall be at a charge established by resolution. One (1) tipper cart shall be provided to each property, with a maximum capacity of 96 gallons. All containers must be purchased from the City. One-way disposable plastic bags are preferred, made of polyethylene, plastic material with a securing twist tie, consisting of a minimum of 1-1/2 mil. thickness.~~

~~2. If plastic bags are not used, the container shall be durable, rust resistant, non-absorbent, watertight, rodent proof, and easily cleaned with close-fitting fly-tight cover. The container shall be made of metal or plastic only, having adequate handles or bails attached to the outside of the container to facilitate handling.~~

~~3. The total weight of the container and contents shall not be more than 50 pounds.~~

~~4. The container shall be no greater than 32-gallon capacity.~~

~~25. All containers for the storage of solid waste shall be maintained in such a manner as to prevent the creation of a nuisance to public health and safety.~~

~~36. Any container deemed defective or otherwise inadequate by the Director of Public Works shall be replaced within one week's time following notification by the City.~~

~~47. Any defective container not replaced subsequent to the notification shall result in the issuance of a citation.~~

(d) Container - Recycling.

1. The cost of all recycling containers provided by the City shall be at a charge established by resolution. A minimum of one container is required at each residential unit as long as there are no more than six such units in a building. All containers must be purchased from the City.

2. All containers for the storage of recyclable waste shall be maintained in such a manner as to prevent the creation of a nuisance to public health and safety.

3. Any container deemed defective or otherwise inadequate by the Director of Public Works shall be replaced within one week's time following notification by the City.

4. Any defective container not replaced subsequent to the notification shall result in the issuance of a citation.

(e) Storage and Collection. (Amd. GO 13-11)

1. The owner and/or occupant of any premises shall be responsible for proper and sanitary storage, separation and preparation of all solid waste accumulated at that premises until collected by the collecting and transporting service.

2. Mobile Home Park and Condominium Waste. On the scheduled day of collection, mobile home park and condominium solid waste shall be properly prepared and placed at the curbline of the adjacent public street. No collection will be made on private property or in alleys.

a. The property owner and lessee, if applicable, shall provide the City with an indemnification and

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hold harmless agreement protecting the City from any and all liability for coming upon such private property, in a form to be approved by the City Attorney's Office, and

- b. The property owner shall also maintain a policy of liability insurance, the terms and limits of which shall be determined by the City Insurance Department, in which the City of Green Bay shall be named as an additional insured, protecting it from any and all liability for coming upon said property.
- c. City collection vehicles are able to enter and leave the private property while proceeding in a forward motion, the private driveways or streets are of an adequate width to safely accommodate City collection vehicles and the solid waste is placed out for collection in an open area readily accessible for collection.
- a.d. If waste stored on private property is not disposed of properly, the City will see that proper disposal is made and charge the property owner the actual cost of said disposal.

3. Residential Waste. Waste materials shall be stored in a manner which protects them from wind, rain, and other inclement weather conditions. Residential waste shall be placed in a garbage cart and placed at the curb a minimum of 4 feet from regular recycling waste for collection. Residential waste shall be properly prepared and placed at the curbline. Pickups shall not be made on residential, private property, or in the alley adjoining residential property except for mobile home parks and condominiums as defined above. Pickups shall not be made in the alley adjoining residential property. No collection shall be made on private property except for mobile home parks and condominiums as defined above.

4. Recyclable Waste. Recyclable materials shall be stored in a manner which protects them from wind, rain, and other inclement weather conditions. Recyclable wastes shall be placed in a recycling cart and placed at the curb a minimum of 4 feet from regular solid waste for collection. Recyclable waste collection shall be made on the same day as regular solid waste collection. Pickups shall not be made on residential, private property, or in the alley adjoining residential property except for mobile home parks and condominiums as defined above.

5. Mobile Home Park and Condominium Waste. Waste from mobile home parks and condominiums shall be considered residential waste and shall be stored and collected under the provisions of §9.02(7)(e)2, Green Bay Municipal Code.

6. Any solid waste, when placed out for collection, shall be out by 6:00 A.M. from June 1 through August 31 and shall be out by 7:00 A.M. from September 1 through May 31 on the scheduled day of collection, but shall not be placed out more than 12 hours before collection day and shall be removed not more than 12 hours after collection day. Solid waste for collection shall be placed along the curb line immediately adjacent to the property which has generated the solid waste. Failure to comply may result in the issuance of a citation.

7. Items too large or otherwise unsuitable for storage containers shall be stored in a nuisance-free manner consistent with regulations established by the Director of Public Works.

8. All solid waste placed out for collection becomes City property upon being collected.

9. (Rep. & Rec. GO 43-04) Garbage, recycling, or refuse containers shall be stored during the time period between collection days in the following locations:

a. Garbage, recycling or refuse carts shall not be stored within 15' of the public right-of-way.

b. Garbage, recycling ~~or~~ and refuse carts shall not be stored on any street side of a building unless the cart is completely screened from view of an observer located at the public right-of-way.

c. Garbage, recycling, ~~or~~ and refuse carts shall be stored in the backyard, garage, or any other convenient discreet location.

d. All collection containers must be stored with the lids ~~securely~~ completely closed.

e. Do not store carts near a furnace, grill or any other heat source.

10. There shall be no variance from this section without the prior approval of the Director of Public Works therefore.

11. Any garbage, recycling, yard waste, or refuse container stored in violation of this chapter, irrespective of the provisions of §9.02(7)(e)9. above, shall be subject to the following:

a. The Director of Public Works shall have the authority to order that any exterior storage of garbage, recyclables, or refuse be enclosed in a structure if, in his determination, the storage of such garbage, recyclables, or refuse is unsanitary or creates or tends to create a nuisance to public health or safety.

b. In determining whether an exterior storage structure shall be required under this section, the Director of Public Works shall take into account the location of the waste storage, its proximity to residential areas, the likelihood of human exposure or contact with the waste storage areas, and the type of waste being stored. These considerations are to be deemed illustrative and not exclusive.

c. All structures ordered under this section shall be at least three sided and constructed of opaque materials sufficient to ensure the waste is impervious to view from the exterior of the three sides. The walls of the structure shall be of a height equal to 1' taller than the garbage or refuse receptacle, but in no event in excess of 6' in height, and shall be maintained in a neat and orderly manner.

d. Any person aggrieved by such an order by the Director of Public Works to enclose said waste containers shall have the opportunity to bring such order before the Improvement and Service Committee for its review within 30 days of the issuance of the order.

(8) All charges by the City of Green Bay for early set-out as defined in §9.02(7)(e)6 and bulk pickups must be paid by within 30 days after billing date or said charge will become a lien on the property according to §66.0627, Wis. Stats., and will be added to that year's taxes with interest.

9.04 SOLID WASTE DISPOSAL. (Rep. & Rec. GO 47-03)

(1) Following collection, all solid waste shall be disposed of under the direction of the Director of Public Works in a manner approved by him with the concurrence of the Brown County Solid Waste Authority in conformance with the State Department of Natural Resources, Solid Waste Disposal Standards under terms approved by the Council.

(2) Prohibitions on Disposal of Recyclable Wastes Separated for Recycling. No person may dispose of in a solid waste disposal facility or burn in a solid waste treatment facility any of the materials specified in §9.02(4)(a)1. through 15., Green Bay Municipal Code, which have been separated for recycling, except:

(a) waste tires may be burned with energy recovery in a solid waste treatment facility, and

(b) microwave ovens may be disposed of in a landfill after the capacitor has been removed.

(3) No person shall burn any solid waste outdoors at any time within the City.

(4) No person in the City shall deposit, throw, place, or leave any solid waste upon any street, court, lane, alley, business, square, public enclosure, vacant lot, house yard, body of water, or any public place except in a container herein required. No person shall upset or turn over the contents of any waste containers in any street, alley, and other public place. No person shall remove any waste from containers on private premises without the consent of occupant, owner, or lessee of the premises, and no person shall remove any waste from a container which has been set out on public right-of-way for collection. No person shall remove any waste from public trash receptacles placed on public property.

(5) DISPOSAL OF CONSTRUCTION AND/OR DEMOLITION WASTE. (Amd. GO 59-04) All construction and/or demolition waste shall be disposed of ~~by a builder or contractor~~ at the Brown County Landfill Site or other licensed landfill site except as indicated in §9.02(4)(a), Green Bay Municipal Code. If collected by the City, rules contained in 9.02(3) shall apply. ~~Construction and/or demolition waste generated by a residential owner from his or her residential property shall be collected as long as the waste does not exceed 3 cubic yards. If the waste exceeds 3 cubic yards, the owner will be charged for the entire cost of collection for yardage over 3. Collection of construction and/or demolition waste greater than 3 cubic yards will take place in seven calendar days from the date of verbal notice or written notice to the owner.~~

Excavated material consisting of sand, clay, or other earth and broken concrete, brick, or rubble free of debris may be used for filling private property as herein provided. Prior to placing fill material, the owner of the property shall apply to the Director of Public Works for a permit to conduct the filling operation. The property owner shall cover the fill material with at least 6" of dirt and grade and level the site. When such property owner neglects to do so after sufficient notice, the Director of Public Works shall do the required work. The expense thereof shall be charged against the property involved and may be placed on the City tax roll as previously agreed by such property owner.

(6) DISPOSAL OF INDUSTRIAL AND/OR MANUFACTURING WASTE. Industrial and/or manufacturing waste shall be disposed of by the owner or occupant at the Brown County Landfill Site or other licensed landfill site.

(7) DEAD ANIMALS.

(a) Small Animals. The owner or custodian of dead dogs, cats, and other animals weighing less than

100 pounds shall notify the Humane officer, who shall arrange to have such animals removed.

(b) Large Animals. The owner or custodian of dead animals weighing over 100 pounds shall be required to deliver such dead animals to the Brown County Landfill Site at ~~his~~their own cost. Dead animals weighing over 100 pounds shall be brought to the Brown County Landfill Site promptly after death. If any owner or custodian of a dead animal refuses to bring such animal to the Brown County Landfill Site within 24 hours after death thereof, the Director of Public Works may arrange for the collection and disposal of such animal; and all costs of collection, including truck service and any other expense, shall be charged against ~~him~~them as a special tax and collected in the same manner as other taxes are collected.

(8) DISPOSAL OF ANIMAL OFFAL AND OTHER OFFENSIVE WASTES. Animal offal, the droppings from pet animals, manure, and night-soil shall not be collected by the ~~City collection service~~. It shall be the responsibility of the owner of such animals to dispose of such wastes in a sanitary and responsible manner.

(9) DISPOSAL OF INFECTIOUS MATERIAL. The removal of wearing apparel, bedding, or other refuse from homes or other places where highly infectious or contagious diseases have prevailed shall be performed under the supervision of the Director of Public Works or his representative. Such refuse shall not be placed in containers for regular collection with normal solid waste.

(10) EXPLOSIVE MATERIAL. No person shall place or deposit any explosive material such as dynamite, dynamite caps, shotgun shells, rifle cartridges, gun powder, gasoline, or similar material in a container for collection or disposal at any dumping grounds, private or municipal. It shall be the responsibility of the owner of such items to dispose of such wastes in a safe and legal manner. Contact the Department of Public Works Sanitation Division for proper disposal procedure.

(11) DOUBT OF PROPER DISPOSAL. When any person is in doubt as to the proper preparation, handling, and disposal of any type of solid waste, ~~he~~they shall ~~communicate with~~contact the Department of Public Works ~~Sanitation Division~~ for information concerning ~~such~~safe, legal and proper handling and disposal.

9.05 DIRECTOR OF PUBLIC WORKS MAY MAKE RULES. (Rep. & Rec. GO 47-03)

The Director of Public Works shall make reasonable rules for the regulation and administration of this subchapter as may be found necessary for the proper storage, collection, removal, and disposal of solid waste in the City. Collection schedules for all areas of the City shall be prepared and advertised so that all persons will know the correct collection day. Such rules shall be available for public inspection at the office of the Director of Public Works.

9.06 ENFORCEMENT. (Rep. & Rec. GO 47-03)

(1) The Director of Public Works shall enforce the provisions of this subchapter and see that all violations are promptly abated and a citation issued if necessary. The Chief of Police shall give attention throughout the City of any violation of this subchapter and promptly report to the Director of Public Works in writing every violation within the City which come to their knowledge.

(2) SPECIAL PENALTIES. If the owner, occupant, or lessee of any premises neglects or refuses to clean up and remove from such premises all solid waste when so ordered by the Director of Public Works, such owner, occupant, or lessee shall be liable to maximum penalty as provided by §9.07, Green Bay

Municipal Code. If such accumulation occurs on any street, alley, or public thoroughfare, such solid waste may be collected under the direction of the Director of Public Works, and the entire cost thereof shall be assessed against the abutting property. If said cost is not paid within 30 days, it will be added to the taxes as a lien on the property according to §66.0627, Wis. Stats.

(3) FAILURE TO COMPLY.

(a) The Director of Public Works may refuse to furnish collection service of solid waste to any person not complying and refusing to comply with this subchapter and the rules and regulations made by the Director of Public Works for the collection and disposal of solid waste.

(b) When services for the collection of solid waste have been withdrawn by the Director of Public Works from any person for failure to comply with such rules and regulations, resulting in an accumulation of solid waste on his premises which is offensive or a public nuisance, that person may be prosecuted under any ordinances of the City regulating the same.

9.07 **PENALTY**. (Amd. GO 8-94) Any person who violates any provisions of this subchapter or who shall fail or refuse to obey any order issued hereunder shall be subject to a forfeiture. Such forfeiture shall be not less than \$10 nor more than \$2,000, together with the costs of such action. Upon default or refusal to pay such forfeiture, such person shall be imprisoned for not more than 60 days. Each day of violation, disobedience, omission, neglect, or refusal shall be a separate offense. This section shall not preclude the City from maintaining any appropriate action to prevent or remove a violation of this chapter.

GENERAL ORDINANCE NO. 26-13

AN ORDINANCE
AMENDING CHAPTER 13-1300,
GREEN BAY MUNICIPAL CODE,
RELATING TO FLOODPLAIN
OVERLAY DISTRICT
(TA 13-03)

THE COMMON COUNCIL OF THE CITY OF GREEN BAY DOES ORDAIN AS FOLLOWS:

SECTION 1. Chapter 13-1300, Green Bay Municipal Code, is hereby amended. A copy of the changes to Chapter 13-1300 is attached hereto.

SECTION 2. All ordinances, or parts of ordinances, in conflict herewith are hereby repealed.

SECTION 3. This ordinance shall not take effect until a public hearing is held thereon as provided by Section 13-204, Green Bay Municipal Code, and the adoption and publication of this ordinance.

Dated at Green Bay, Wisconsin this _____ day of _____, 2014.

APPROVED:

Mayor

ATTEST:

Clerk

PN:bc

Attachment – Amendments to Ch. 13-1300, GBMC

12/17/13

CHAPTER 13-1300. FLOODPLAIN OVERLAY DISTRICT

SECTION 1. STATUTORY AUTHORIZATION, FINDINGS OF FACT, STATEMENT OF PURPOSE, TITLE AND DEFINITION

13-1301. Statutory authorization. This ordinance is adopted pursuant to the authorization in Wis. Stats. 62.23, and the requirements of 87.30, Stats.

13-1302. Finding of fact. Uncontrolled development and use of the floodplains **and** rivers, ~~or streams~~ of this municipality would impair the public health, safety, convenience, general welfare and tax base.

13-1303. Statement of purpose. This ordinance is intended to regulate floodplain development to:

- (a) Protect life, health and property;
- (b) Minimize expenditures of public funds for flood control projects;
- (c) Minimize rescue and relief efforts undertaken at the expense of the taxpayers;
- (d) Minimize business interruptions and other economic disruptions;
- (e) Minimize damage to public facilities in the floodplain;
- (f) Minimize the occurrence of future flood blight areas in the floodplain;
- (g) Discourage the victimization of unwary land and homebuyers;
- (h) Prevent increases in flood heights that could increase flood damage and result in conflicts between property owners; and
- (i) Discourage development in a floodplain if there is any practicable alternative to locate the activity, use or structure outside of the floodplain.

13-1304. Title. This ordinance shall be known as the Floodplain Zoning Ordinance for the City of Green Bay, Wisconsin.

13-1305. Definitions. Unless specifically defined, words and phrases in this ordinance shall have their common law meaning and shall be applied in accordance with their common usage. Words used in the present tense include the future, the singular number includes the plural and the plural number includes the singular. The word "may" is permissive, "shall" is mandatory and is not discretionary.

A ZONES - Those areas shown on the Official Floodplain Zoning Map which would be inundated by the regional flood. These areas may be numbered or unnumbered A Zones. The A Zones may or may not be reflective of flood profiles, depending on the availability of data for a given area.

AH ZONE - See "AREA OF SHALLOW FLOODING".

AO ZONE - See "AREA OF SHALLOW FLOODING".

ACCESSORY STRUCTURE OR USE - A facility, structure, building or use which is accessory or incidental to the principal use of a property, structure or building.

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

AREA OF SHALLOW FLOODING – A designated AO, AH, AR/AO, AR/AH, or VO zone on a community's Flood Insurance Rate Map (FIRM) with a 1 percent or greater annual chance of flooding to an average depth of 1 to 3 feet where a clearly defined channel does not exist, where the path of flooding is unpredictable, and where velocity flood may be evident. Such flooding is characterized by ponding or sheet flow.

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

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

BUILDING - See STRUCTURE.

BULKHEAD LINE - A geographic line along a reach of navigable water that has been adopted by a municipal ordinance and approved by the Department pursuant to s. 30.11, 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 ordinance.

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.

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

CERTIFICATE OF COMPLIANCE - A certification that the construction and the use of land or a building, the elevation of fill or the lowest floor of a structure is in compliance with all of the provisions of this ordinance.

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

CRAWLWAYS OR 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.

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

DEPARTMENT - The Wisconsin Department of Natural Resources.

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

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.

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

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

~~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.~~

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

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

FLOOD or FLOODING - A general and temporary condition of partial or complete inundation of normally dry land areas caused by one of the following conditions:

- (a) The overflow or rise of inland waters,
- (b) The rapid accumulation or runoff of surface waters from any source,
- (c) The inundation caused by waves or currents of water exceeding anticipated cyclical levels along the shore of Lake Michigan or Lake Superior, or
- (d) The sudden increase caused by an unusually high water level in a natural body of water, accompanied by a severe storm, or by an unanticipated force of nature, such as a seiche, or by some similarly unusual event.

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

FLOODFRINGE - That portion of the floodplain outside of the floodway which is covered by flood waters during the regional flood and associated with standing water rather than flowing water.

FLOOD HAZARD BOUNDARY MAP - A map designating approximate flood hazard areas. Flood hazard areas are designated as unnumbered A-Zones and do not contain floodway lines or regional flood elevations. This map forms the basis for both the regulatory and insurance aspects of the National Flood Insurance Program (NFIP) until superseded by a Flood Insurance Study and a Flood Insurance Rate Map.

FLOOD INSURANCE STUDY - A technical engineering examination, evaluation, and determination of the local flood hazard areas. It provides maps designating those areas affected by the regional flood and provides both flood insurance rate zones and base flood elevations and may provide floodway lines. The flood hazard areas are designated as numbered and unnumbered A-Zones. Flood Insurance Rate Maps,

that accompany the Flood Insurance Study, form the basis for both the regulatory and the insurance aspects of the National Flood Insurance Program.

FLOODPLAIN - Land which has been or may be covered by flood water during the regional flood. It includes the floodway and the floodfringe, and may include other designated floodplain areas for regulatory purposes.

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

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

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

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

FLOOD PROTECTION ELEVATION - An elevation of two feet of freeboard above the water surface profile elevation designated for the regional flood. (Also see: FREEBOARD.)

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

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

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

HABITABLE STRUCTURE - Any structure or portion thereof used or designed for human habitation.

HEARING NOTICE - Publication or posting meeting the requirements of Ch. 985, Stats. For appeals, a Class 1 notice, published once at least one week (7 days) before the hearing, is required. For all zoning ordinances and amendments, a Class 2 notice, published twice, once each week consecutively, the last at least a week (7 days) before the hearing. Local ordinances or bylaws may require additional notice, exceeding these minimums.

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.

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

HISTORIC STRUCTURE - Any structure that is either:

- (a) Listed individually in the National Register of Historic Places or preliminarily determined by the Secretary of the Interior as meeting the requirements for individual listing on the National Register,
- (b) Certified or preliminarily determined by the Secretary of the Interior as contributing to the historical significance of a registered historic district or a district preliminarily determined by the Secretary to qualify as a registered historic district,
- (c) Individually listed on a state inventory of historic places in states with historic preservation programs 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.

INCREASE IN REGIONAL FLOOD HEIGHT - A calculated upward rise in the regional flood elevation, equal to or greater than ~~0.01~~ **0.00** foot, based on a comparison of existing conditions and proposed conditions which is directly attributable to development in the floodplain but not attributable to manipulation of mathematical variables such as roughness factors, expansion and contraction coefficients and discharge.

LAND USE - Any nonstructural use made of unimproved or improved real estate. (Also see DEVELOPMENT.)

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

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

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

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

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

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

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

MOBILE RECREATIONAL VEHICLE – 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."

MODEL, CORRECTED EFFECTIVE – A hydraulic engineering model that corrects any errors that occur in the Duplicate Effective Model, adds any additional cross sections to the Duplicate Effective Model, or incorporates more detailed topographic information than that used in the current effective model.

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

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

MODEL, EXISTING (PRE-PROJECT) – A modification of the Duplicate Effective Model or Corrected Effective Model to reflect any man made modifications that have occurred within the floodplain since the date of the effective model but prior to the construction of the project for which the revision is being requested. If no modification has occurred since the date of the effective model, then this model would be identical to the Corrected Effective Model or Duplicate Effective Model.

MODEL, REVISED (POST-PROJECT) – A modification of the Existing or Pre-Project Conditions Model, Duplicate Effective Model or Corrected Effective Model to reflect revised or post-project conditions.

MUNICIPALITY or MUNICIPAL - The county, city or village governmental units enacting, administering and enforcing this zoning ordinance.

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

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

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

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

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

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

OFFICIAL FLOODPLAIN ZONING MAPS - Those maps, adopted and made part of this ordinance, as described in chapter 13-1307, which have been approved by the Department and FEMA based on the ~~Brown County Flood Insurance Study (FIS), dated August 18, 2009, volume numbers 55009CV001A, 55009CV002A, and 55009CV003A.~~

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

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.

PERSON - An individual, or group of individuals, corporation, partnership, association, municipality or state agency.

PRIVATE SEWAGE SYSTEM - A sewage treatment and disposal system serving one structure with a septic tank and soil absorption field located on the same parcel as the structure. It also means an alternative sewage system approved by the Department of 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.

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.

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~~ **floodplain** and that any subsurface waters related to the base flood will not damage existing or proposed buildings.

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

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

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

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

SUBDIVISION - Has the meaning given in s. 236.02(12), Wis. Stats.

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.

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

UNNECESSARY HARDSHIP - Where special conditions affecting a particular property, which were not self-created, have made strict conformity with restrictions governing areas, setbacks, frontage, height or density unnecessarily burdensome or unreasonable in light of the purposes of the ordinance.

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

VIOLATION - 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.

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

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.

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

SECTION 2. GENERAL PROVISIONS

13-1306. Areas to be regulated. This ordinance regulates all areas that would be covered by the regional flood or base flood as shown on the Flood Insurance Rate Map (FIRM) or other maps approved by DNR. Base flood elevations are derived from the flood profiles in the Flood Insurance Study (FIS) and are shown as AE, A1-30, and AH Zones on the FIRM. Other regulatory zones are displayed as A and AO zones. Regional Flood Elevations (RFE) may be derived from other studies. If more than one map or revision is referenced, the most restrictive information shall apply.

~~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.~~

13-1307. Official maps & revisions. The boundaries of all floodplain districts are designated as floodplains or A-Zones on the maps listed below. Any change to the base flood elevations (BFE) in the Flood Insurance Study (FIS) or on the Flood Insurance Rate Map (FIRM) must be reviewed and approved by the DNR and FEMA before it is effective. No changes to regional flood elevations (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 Planning Department for the City of Green Bay. If more than one map or revision is referenced, the most restrictive information shall apply. ~~A, AE, AH, AO or A1-30 on the maps based on the Flood Insurance Study (FIS) listed below. Any change to the base flood elevations (BFE) or any changes to the boundaries of the floodplain or floodway in the FIS or on the Flood Insurance Rate Map (FIRM) must be reviewed and approved by the DNR and FEMA through the Letter of Map Change process (see s. 10 Amendments) before it is effective. No changes to 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 City of Green Bay Community Services Agency. If more than one map or revision is referenced, the most restrictive information shall apply.~~

(a) OFFICIAL MAPS : Based on the FIS: (*select one or more of the following map citations that apply to your community; contact your DNR office if you have questions, or go to <http://store.msc.fema.gov> to access the FEMA Map Store*)

1. Flood Insurance Rate Map (FIRM), panel number **550022**, dated **August 18, 2009 and March 17, 2014**; with corresponding profiles that are based on the Flood Insurance Study (FIS) dated **March 17, 2014, Volume Numbers 55009CV001B, 5009CV002B, and 5009CV003B**;
2. Flood Hazard Boundary Map (FHBM), panel number:

~~Brown County Flood Insurance Rate Map (FIRM), panel numbers (~~55009C0142F~~ **55009C0142G**, ~~55009C0144F~~ **55009C0144G** dated **March 17, 2014**; ~~55009C0161F~~, ~~55009C0162F~~, ~~55009C0163F~~, ~~55009C0164F~~, ~~55009C0166F~~, ~~55009C0167F~~, ~~55009C0168F~~, ~~55009C0169F~~, ~~55009C0183F~~, ~~55009C0184F~~, ~~55009C0186F~~, ~~55009C0187F~~, ~~55009C0188F~~, ~~55009C0189F~~, ~~55009C0191F~~, ~~55009C0192F~~, ~~55009C0193F~~, ~~55009C0194F~~, ~~55009C0215F~~, ~~55009C0232F~~, ~~55009C0251F~~, ~~55009C0252F~~, ~~55009C0256F~~, ~~55009C0257F~~, ~~55009C0276F~~, ~~55009C0277F~~, ~~55009C0281F~~, and ~~55009C0282F~~)~~ dated August 18, 2009; with corresponding profiles that are based on the FIS.

Approved by: The DNR and FEMA

- (b) **OFFICIAL MAPS:** Based on other studies. Any maps referenced in this section must be approved by the DNR and be more restrictive than those based on the FIS at the site of the proposed development. *(The following are examples of other types of maps you may need to adopt.)*

1. 100-Year Dam Failure Floodplain Map, dated (fill in map date), prepared by (fill in contractor.)
Approved by: The DNR
2. Letter of Map Revision (case number and date):

~~OFFICIAL MAPS:~~ Based on the Brown County Flood Insurance Study (FIS), dated August 18, 2009, volume numbers 55009CV001A, 55009CV002A, and 55009CV003A.

- (a) ~~Brown County Flood Insurance Rate Map (FIRM), panel numbers (55009C0142F, 55009C0144F, 55009C0161F, 55009C0162F, 55009C0163F, 55009C0164F, 55009C0166F, 55009C0167F, 55009C0168F, 55009C0169F, 55009C0183F, 55009C0184F, 55009C0186F, 55009C0187F, 55009C0188F, 55009C0189F, 55009C0191F, 55009C0192F, 55009C0193F, 55009C0194F, 55009C0215F, 55009C0232F, 55009C0251F, 55009C0252F, 55009C0256F, 55009C0257F, 55009C0276F, 55009C0277F, 55009C0281F, and 55009C0282F) dated August 18, 2009; with corresponding profiles that are based on the FIS.~~

SECTION 3. ESTABLISHMENT OF FLOODPLAIN ZONING DISTRICTS

- 13-1309. Districts defined.** The regional floodplain areas are divided into three districts as follows:
- (a) The Floodway District (FW) is the channel of a river or stream and those portions of the floodplain adjoining the channel required to carry the regional floodwaters **and are contained within AE Zones as shown on the FIRM.**
 - (b) The Floodfringe District (FF) is that portion ~~of the floodplain between the regional flood limits and the floodway~~ **between the regional flood limits and the floodway and displayed as AE Zones on the FIRM.**
 - (c) The General Floodplain District (GFP) is those areas that ~~have been or may be covered by floodwater during the regional flood~~ **may be covered by floodwater during the regional flood and does not have a BFE or floodway boundary determined, including A, AH, and AO zones on the FIRM.**

13-1310. 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 Section 10. 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 the standards of chapter 13-1341(c) 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 chapter 13-1345 (f).

13-1311. 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 (2) feet above the regional or base flood elevation, the fill is contiguous to land outside the floodplain, and the map is amended pursuant to Section 10.

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).

13-1312. Compliance. Any development or use within the areas regulated by this ordinance shall be in compliance with the terms of this ordinance, and other applicable local, state, and federal regulations.

13-1313. Municipalities and state agencies regulated. Unless specifically exempted by law, all cities, villages, towns, and counties are required to comply with this ordinance and obtain all necessary permits. State agencies are required to comply if s. 13.48(13), Stats., applies. The construction, reconstruction, maintenance and repair of state highways and bridges by the Wisconsin Department of Transportation is exempt when s. 30.2022, Stats., applies.

13-1314. Abrogation and greater restrictions.

- (a) This ordinance supersedes all the provisions of any municipal zoning ordinance enacted under Wis. Stats. 61.23, which relate to floodplains. If another ordinance is more restrictive than this ordinance, that ordinance shall continue in full force and effect to the extent of the greater restrictions, but not otherwise.
- (b) This ordinance is not intended to repeal, abrogate or impair any existing deed restrictions, covenants or easements. If this ordinance imposes greater restrictions, the provisions of this ordinance shall prevail.

13-1315. Interpretation. In their interpretation and application, the provisions of this ordinance are the minimum requirements liberally construed in favor of the governing body and are not a limitation on or repeal of any other powers granted by the Wisconsin Statutes. If a provision of this ordinance, required by ch. NR 116, Wis. Adm. Code, is unclear, the provision shall be interpreted in light of the standards in effect on the date of the adoption of this ordinance or in effect on the date of the most recent text amendment to this ordinance.

13-1316. Warning and disclaimer of liability. The flood protection standards in this ordinance are based on engineering experience and scientific research. Larger floods may occur or the flood height may be increased by man-made or natural causes. This ordinance does not imply or guarantee that non-floodplain areas or permitted floodplain uses will be free from flooding and flood damages. Nor does this ordinance create liability on the part of, or a cause of action against, the municipality or any officer or employee thereof for any flood damage that may result from reliance on this ordinance.

13-1317. Severability. Should any portion of this ordinance be declared unconstitutional or invalid by a court of competent jurisdiction, the remainder of this ordinance shall not be affected.

13-1318. Annexed areas for cities and villages. The Brown 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 44 CFR 59-72, 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.

SECTION 4. GENERAL STANDARDS APPLICABLE TO ALL FLOODPLAIN DISTRICTS

13-1319. 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~~ **and** anchored to prevent flotation, collapse, or lateral movement of the structure resulting from hydrodynamic and hydrostatic loads; be constructed with **flood-resistant** 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,~~ **to minimize flood damages and to ensure that utility and mechanical equipment is designed and/or located so as to prevent water from entering or accumulating within the equipment during conditions of flooding.**

Subdivisions shall be reviewed for compliance with the above standards. All subdivision proposals (including manufactured home parks) shall include regional flood elevation and floodway data for any development that meets the subdivision definition of this ordinance and **all other requirements in s. 13-1339(b). Adequate drainage shall be provided to reduce exposure to flood hazards and all public utilities and facilities, such as sewer, gas, electrical, and water systems are located and constructed to minimize or eliminate flood damages .**

13-1320 Hydraulic and hydrologic analyses.

(a) ~~Except as allowed in par. (e) below,~~ No floodplain development shall:

- (1) Obstruct flow, defined as development which blocks the conveyance of floodwaters by itself or with other development, increasing regional flood height; or
- (2) Increase regional flood height due to floodplain storage area lost, ~~which equals or exceeds 0.01 foot.~~

(b) The Zoning Administrator shall deny permits if it is determined the proposed development will obstruct flow or increase regional flood heights ~~0.01 foot or more,~~ based on the officially adopted FIRM or other adopted map, unless the provisions of **s. 10 par. (e)** are met.

~~(c) Obstructions or increases equal to or greater than 0.01 foot may only be permitted if amendments are made to this ordinance, the official floodplain zoning maps, floodway lines and water surface profiles, in accordance with Section 10.~~

~~**Note:** This section refers to obstructions or increases in base flood elevations as shown on the officially adopted FIRM or other adopted map. Any such alterations must be reviewed and approved by FEMA and the DNR.~~

13-1321 Watercourse alterations. No land use permit to alter or relocate a watercourse in a mapped floodplain shall be issued until the local official has notified in writing all adjacent municipalities, the Department and FEMA regional offices and required the applicant to secure all necessary state and federal permits. **The standards of s. 13-1320 must be met and the flood carrying capacity of any altered or relocated watercourse shall be maintained.**

As soon as is practicable, but not later than six months after the date of the watercourse alteration or relocation **and pursuant to s. 10, Amendments, the community shall apply for a Letter of Map Revisions (LOMR) from FEMA. Any such alterations must be reviewed and approved by FEMA and DNR through the LOMC process.** ~~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.~~

13-1322. 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 **floodplain zoning ordinance are made according to s. 10, Amendments** ~~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.~~

13-1323. 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. (d) - to remain in compliance with all applicable regulations, including those of the state Department of Health Services and all other applicable regulations.
- (f) Only camping units **that are fully licensed, if required, and ready for highway use** are allowed.
- (g) The camping units ~~may~~ **shall** not occupy any site in the campground for more than 180 consecutive days, at which time the camping unit must be removed from the floodplain for a minimum of 24 hours.
- (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 Section 5 or Section 6 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 floodproofed to the flood protection elevation.

SECTION 5. FLOODWAY DISTRICT (FW).

13-1324. Applicability. This section applies to all floodway areas on the floodplain zoning maps and those identified pursuant to chapter 13-1334.

13-1325. Permitted Uses. The following open space uses are allowed in the floodway district and the floodway areas of the general floodplain district, if they are not prohibited by any other ordinance; they meet the standards in chapters 13-1326 and 13-1327; and all permits or certificates have been issued according to chapter 13-1339:

- (a) Agricultural uses, such as: farming, outdoor plant nurseries, horticulture, viticulture and wild crop harvesting.
- (b) Nonstructural industrial and commercial uses, such as loading areas, parking areas and airport landing strips.
- (c) Nonstructural recreational uses, such as golf courses, tennis courts, archery ranges, picnic grounds, boat ramps, swimming areas, parks, wildlife and nature preserves, game farms, fish hatcheries, shooting, trap and skeet activities, hunting and fishing areas and hiking and horseback riding trails, subject to the fill limitations of chapter 13-1326 (d).
- (d) Uses or structures accessory to open space uses, or classified as historic structures that comply with chapters 13-1326 and 13-1327.
- (e) Extraction of sand, gravel or other materials that comply with chapter 13-1326 (d).
- (f) Functionally water-dependent uses, such as docks, piers or wharves, dams, flowage areas, culverts, navigational aids and river crossings of transmission lines, and pipelines that comply with chs. 30 and 31, Stats.
- (g) Public utilities, streets and bridges that comply with chapter 13-1326 (c).

13-1326. Standards for developments in floodway areas.

- (a) General
 - (1) Any development in floodway areas shall comply with Section 4 and have a low flood damage potential.
 - (2) Applicants shall provide the following data to determine the effects of the proposal according to chapter 13-1320.
 - a. A cross-section elevation view of the proposal, perpendicular to the watercourse, showing if 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 if the project will increase flood elevations upstream or downstream 0.01 foot or more, based on the data submitted for par. (2) above.
- (b) Structures. Structures accessory to permanent open space uses or functionally dependent on a waterfront location may be allowed by permit if the structures comply with the following criteria:
 - (1) The structure is not designed for human habitation and does not have a high flood damage potential **and is constructed to minimize flood damage.**
 - (2) **Shall have a minimum of two openings on different walls having a total net area not less than one square inch for every square foot of enclosed area, and the bottom of all such openings being no higher than one foot above grade. The openings shall be equipped with screens, louvers, or other coverings or devices provided that they permit the automatic entry and exit of floodwaters.**
 - (3) It must be anchored to resist flotation, collapse, and lateral movement;
 - (4) Mechanical and utility equipment must be elevated or floodproofed to or above the flood protection elevation; and
 - (5) It must not obstruct flow of flood waters or cause any increase in flood levels during the occurrence of the regional flood.
- (c) Public utilities, streets, and bridges. Public utilities, streets and bridges may be allowed by permit, if:
 - (1) Adequate floodproofing measures are provided to the flood protection elevation; and

- (2) Construction meets the development standards of chapter 13-1320.
- (d) Fills or deposition of materials. Fills or deposition of materials may be allowed by permit, if:
- (1) The requirements of chapter 13-1320 are met;
 - (2) No material is deposited in the navigable ~~channel~~ **waters** unless a permit is issued by the Department pursuant to ch. 30, Stats., and a permit pursuant to s. 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 or bulkheading; and
 - (4) The fill is not classified as a solid or hazardous material.

13-1327. Prohibited uses. All uses not listed as permitted uses in chapter 13-1325 are prohibited, including the following uses:

- (a) Habitable structures, structures with high flood damage potential, or those not associated with permanent open-space uses;
- (b) Storing materials that are buoyant, flammable, explosive, injurious to property, water quality, or human, animal, plant, fish or other aquatic life;
- (c) Uses not in harmony with or detrimental to uses permitted in the adjoining districts;
- (d) Any private or public sewage systems, except portable latrines that are removed prior to flooding and systems associated with recreational areas and Department-approved campgrounds that meet the applicable provisions of local ordinances and ch. ~~COMM 83~~ **SPS 383**, Wis. Adm. Code;
- (e) Any public or private wells which are used to obtain potable water, except those for recreational areas that meet the requirements of local ordinances and chs. NR 811 and NR 812, Wis. Adm. Code;
- (f) Any solid or hazardous waste disposal sites;
- (g) Any wastewater treatment ponds or facilities, except those permitted under s. NR 110.15(3)(b), Wis. Adm. Code;
- (h) Any sanitary sewer or water supply lines, except those to service existing or proposed development located outside the floodway which complies with the regulations for the floodplain area occupied.

SECTION 6. FLOOD FRINGE DISTRICT (FF).

13-1328. Applicability. This section applies to all floodfringe areas shown on the floodplain zoning maps and those identified pursuant to chapter 13-1334.

13-1329. Permitted and conditional uses. Any structure, land use, or development is allowed in the floodfringe district if the standards in chapter 13-1330 are met, the use is not prohibited by this or any other ordinance or regulation and all permits or certificates specified in chapter 13-1339 have been issued.

13-1330 Standards for development in the flood fringe areas. All of the provisions of chapter 13-1320 shall apply, in addition to the following requirements, according to the use requested. **Any existing structure in the floodfringe must meet the requirements of s. 8, Nonconforming Uses.**

- (a) Residential uses. **Any structure, including a manufactured home, which is to be newly constructed or moved into the floodfringe, shall meet or exceed the following standards. Any existing structure in the floodfringe must meet the requirements of s. 8 Nonconforming Uses;**
 - (1) The elevation of the lowest floor, excluding the basement or crawlway, shall be at or above the flood protection elevation (which is a point 2 feet above the regional flood elevation) on

fill, **unless the requirements of 13-1300(a)(2) can be met.** The fill elevation shall be 1 foot or more above the regional flood elevation extending at least 15 feet beyond the limits of the structure. In addition, the side slopes of fill placed for the purpose of elevating structures shall meet the following requirements.

- a. The side slopes of a fill area shall be tapered back to the grade of the neighboring property at a maximum 3:1 slope.
 - b. A minimum two foot wide stormwater drainage area shall be constructed and maintained as such along the entire length of the side lot lines.
 - c. If adequate space does not exist for 3:1 side slopes and the required stormwater drainage, then a retaining wall with a maximum height of two feet may be incorporated into the side slope. In such cases, the required two foot stormwater drainage area shall be maintained and the slopes of remaining fill areas shall not exceed 3:1.
 - d. Retaining walls shall be constructed of durable, decorative materials and shall be maintained in good repair.
- (3) ~~(7)~~ The basement floor elevation shall not be more than five (5) feet below the regional flood elevation.
- (4) **The basement or crawlway floor may be placed at the regional flood elevation if it is dry floodproofed to the flood protection elevation. No basement or crawlway floor is allowed below the regional flood elevation;**
- (5) **Contiguous dryland access shall be provided from a structure to land outside of the floodplain, except as provided in subd. (d).**
- (6) **In developments where existing street or sewer line elevations make compliance with subd. (c) impractical, the municipality may permit new development and substantial improvements where roads are below the regional flood elevation, if:**
- a. **The municipality has written assurance from police, fire and emergency services that rescue and relief will be provided to the structure(s) by wheeled vehicles during a regional flood event; or**
 - b. **The municipality has a DNR-approved emergency evacuation plan.**
- (b) **Accessory uses. Accessory structures shall be constructed on fill with the lowest floor at or above the regional flood elevation.**

~~(b) 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 chapter 13-1326 (b) (1),(2),(3) and (4) and chapter 13-1330 (e).~~
- (c) **Commercial uses.** Any commercial structure which is erected, altered or moved into the floodfringe area shall meet the requirements of chapter 13-1330 (a). Subject to the requirements of chapter 13-1330 (e), storage yards, surface parking lots and other such uses may be placed at lower elevations if an adequate warning system exists to protect life and property.
- (d) **Manufacturing and industrial uses.** Any manufacturing or industrial structure which is erected, altered or moved into the floodfringe area ~~shall be protected to the flood protection elevation using fill, levees, floodwalls, or other floodproofing measures in chapter 13-1343~~ **shall have the lowest floor elevated to or above the flood protection elevation or meet the floodproofing standards in chapter 13-1343.** Subject to the requirements of chapter 13-

- 1330 (e), storage yards, surface parking lots and other such uses may be placed at lower elevations if an adequate warning system exists to protect life and property.
- (e) Storage of materials. Materials that are buoyant, flammable, explosive, or injurious to property, water quality or human, animal, plant, fish or aquatic life shall be stored at or above the flood protection elevation or floodproofed in compliance with chapter 13-1343. Adequate measures shall be taken to ensure that such materials will not enter the water body during flooding.
 - (f) Public utilities, streets and bridges. All utilities, streets and bridges shall be designed to be compatible with comprehensive floodplain development plans; and
 - (1) When failure of public utilities, streets and bridges would endanger public health or safety, or where such facilities are deemed essential, construction ~~of and substantial improvements to such facilities may only be permitted if they are floodproofed in compliance with chapter 13-1343 to the flood protection elevation~~ or **repair of such facilities shall only be permitted if they are designed to comply with chapter 13-1343;**
 - (2) Minor roads or non-essential utilities may be constructed at lower elevations if they are designed to withstand flood forces to the regional flood elevation.
 - (g) Sewage systems. All on-site sewage disposal systems shall be ~~floodproofed, pursuant to chapter 13-1343 to~~ **minimize or eliminate infiltration of flood water into the system, pursuant to chapter 13-1343,** to the flood protection elevation and shall meet the provisions of all local ordinances and ch. ~~COMM 83 SPS 383,~~ Wis. Adm. Code.
 - (h) Wells. All wells shall be ~~floodproofed, pursuant to chapter 13-1343, to the flood protection elevation~~ **designed to minimize or eliminate infiltration of flood waters into the system, pursuant to chapter 13-1343, to the flood protection elevation** and shall meet the provisions of chs. NR 811 and NR 812, Wis. Adm. Code.
 - (i) Solid waste disposal sites. Disposal of solid or hazardous waste is prohibited in floodfringe areas.
 - (j) Deposition of materials. Any deposited material must meet all the provisions of this ordinance.
 - (k) Manufactured homes.
 - (1) 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.
 - (2) In existing manufactured home parks, all new homes, replacement homes on existing pads, and substantially improved homes shall:
 - a. have the lowest floor elevated to the flood protection elevation; and
 - b. be anchored so they do not float, collapse or move laterally during a flood
 - (3) 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 chapter 13-1330 (a).
 - (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 chapter 13-1330 (k) (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.

SECTION 7. GENERAL FLOODPLAIN DISTRICT (GFP).

13-1331. Applicability. The provisions for this district shall apply to all floodplains ~~for which flood profiles are not available or where flood profiles are available but floodways have not been delineated.~~ Floodway and floodfringe districts shall be delineated when adequate data is available mapped as A, AO, or AH zones.

13-1332. Permitted uses.

- (a) Pursuant to chapter 13-1334, it shall be determined whether the proposed use is located within ~~a~~ **the** floodway or floodfringe area.
- (b) Those uses permitted in floodway (chapter 13-1325) and floodfringe ~~areas~~ (chapter 13-1329) **districts** are allowed within the general floodplain district, according to the standards of chapter 13-1333, provided that all permits or certificates required under chapter 13-1339 have been issued.

13-1333. Standards for development in the general floodplain district. Section 5 applies to floodway areas, Section 6 applies to floodfringe areas. The rest of this ordinance applies to either district.

- (a) **In AO/AH Zones the structure's lowest floor must meet one of the conditions listed below whichever is higher:**

- (1) **at or above the flood protection elevation; or**
- (2) **two (2) feet above the highest adjacent grade around the structure; or**
- (3) **the depth as shown on the FIRM**

- (b) **In AO/AH zones, provide plans showing adequate drainage paths to guide floodwaters around structures.**

13-1334. 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 two copies of an aerial photograph or a plan which shows the proposed development with respect to the general floodplain district limits, stream channel, and existing floodplain developments, along with a legal description of the property, fill limits and elevations, building floor elevations and floodproofing measures; **and the flood zone as shown on the FIRM.**
- (b) Require the applicant to furnish any of the following information deemed necessary by the Department to evaluate the effects of the proposal upon flood height and flood flows, regional flood elevation and to determine floodway boundaries:

- (1) **A Hydrologic and Hydraulic Study as specified in s. 13.1339(a)(3).**

- (2) **Plan (surface view) showing elevations or contours of the ground; pertinent structure, fill or storage elevations; size, location and layout of all proposed and existing structures on the site; location and elevations of streets, water supply, and sanitary facilities; soil types and other pertinent information;**

(3) Specifications for building construction and materials, floodproofing, filling, dredging, channel improvement, storage, water supply and sanitary facilities.

- ~~(1) A typical valley cross-section showing the stream channel, 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 layout of all proposed and existing structures on the site; location and elevations of streets, water supply, and sanitary facilities; soil types and other pertinent information;~~
- ~~(3) Profile showing the slope of the bottom of the channel or flow line of the stream;~~
- ~~(4) Specifications for building construction and materials, floodproofing, filling, dredging, channel improvement, storage, water supply and sanitary facilities.~~
- (c) ~~Transmit one copy of the information described in pars. (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 chapter 13-1339 (b)(3) apply, the applicant shall provide all required information and computations to delineate floodway boundaries and the effects of the project on flood elevations.~~

SECTION 8. NONCONFORMING USES

13-1335. General.

- (a) Applicability. If these standards conform with s. 62.23(7)(h), Stats., they shall apply to all modifications or additions to any nonconforming use or structure and to the use of any structure or premises which was lawful before the passage of this ordinance or any amendment thereto.
- (b) The existing lawful use of a structure or its accessory use which is not in conformity with the provisions of this ordinance may continue subject to the following conditions:
 - (1) No modifications 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. **Maintenance is not considered a modification; this includes painting, decorating, paneling and other nonstructural components and the maintenance, repair or replacement of existing private sewage or water supply systems or connections to public utilities. Any costs associated with the repair of a damaged structure are not considered maintenance.**

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

- (2) If a nonconforming use or the use of a nonconforming structure is discontinued for 12 consecutive months, it is no longer permitted and any future use of the property, and any structure or building thereon, shall conform to the applicable requirements of this ordinance;
- (3) The municipality shall keep a record which lists all nonconforming uses and nonconforming structures, their present equalized assessed value, the cost of all modifications or additions which have been permitted, and the percentage of the structure's total current value those modifications represent;
- (4) No modification or addition to any nonconforming structure or any structure with a nonconforming use, which over the life of the structure would equal or exceed 50% of its present equalized assessed value, shall be allowed unless the entire structure is permanently changed to a conforming structure with a conforming use in compliance with the applicable requirements of this ordinance. Contiguous dry land access must be provided for residential and commercial uses in compliance with chapter 13-1330 (a). **The costs of elevating the lowest floor of a nonconforming building or a building with a nonconforming use to the flood protection elevation are excluded from the 50% provisions of this paragraph.**

~~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;~~

- ~~(5) Except as provided in 13-1335 (b)(6), 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.~~
- ~~(6) 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.~~
- ~~(7) 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 chapter 13-1326 (a), flood resistant materials are used, and construction practices and floodproofing methods that comply with chapter 13-1343 are used.~~

- (5) **No maintenance to any nonconforming structure or any structure with a nonconforming use, the cost of which would equal or exceed 50% of its present equalized assessed value, shall be allowed unless the entire structure is permanently changed to a conforming structure with a conforming use in compliance with the applicable requirements of this ordinance. Contiguous dry land access must be provided for residential and commercial uses in compliance with s. 13-1330(a).**

- (6) **If on a per event basis the total value of the work being done under (4) and (5) equals or exceeds 50% of the present equalized assessed value the work shall not be permitted unless the entire structure is permanently changed to a conforming structure with a conforming use in compliance with the applicable requirements of this ordinance. Contiguous dry land**

access must be provided for residential and commercial uses in compliance with s. 13-1330(a).

- (7) Except as provided in subd. (8), 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.
- (8) For nonconforming buildings that are substantially damaged or destroyed by a nonflood disaster, the repair or reconstruction of any such nonconforming building shall be permitted in order to restore it to the size and use in effect prior to the damage event, provided that the minimum federal code requirements below are met and all required permits have been granted prior to the start of construction.

a. Residential Structures

1. Shall have the lowest floor, ~~including basement~~, elevated to or above the base flood elevation using fill, pilings, columns, posts or perimeter walls. Perimeter walls must meet the requirements of s. 13-1343(b).
2. Shall be anchored to prevent flotation, collapse, or lateral movement of the structure resulting from hydrodynamic and hydrostatic loads, including the effects of buoyancy and shall be constructed with methods and materials resistant to flood damage.
3. Shall be constructed with electrical, heating, ventilation, plumbing and air conditioning equipment and other service facilities that are designed and/or elevated so as to prevent water from entering or accumulating within the components during conditions of flooding.
4. In A Zones, obtain, review and utilize any flood data available from a federal, state or other source.
5. In AO Zones with no elevations specified, shall have the lowest floor, ~~including basement~~, meet the standards in s. 13-1333(a).
6. In AO Zones, shall have adequate drainage paths around structures on slopes to guide floodwaters around and away from the structure.

b. Nonresidential Structures

1. Shall meet the requirements of s. 13-1335(b)(8)a,1-2 and 5-7.

2. Shall either have the lowest floor, ~~including basement~~, elevated to or above the regional flood elevation; or, together with attendant utility and sanitary facilities, shall meet the standards in s. 13-1343(a) or (b).
 3. In AO Zones with no elevations specified, shall have the lowest floor, ~~including basement~~, meet the standards in s. 13-1333(a).
- (c) 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. 13-1326(a), flood resistant materials are used, and construction practices and floodproofing methods that comply with s. 13-1343 are used. Repair or rehabilitation of historic structures shall be exempt from the development standards of s. 13-1335(b)(8)a if it is determined that the proposed repair or rehabilitation will not preclude the structure's continued designation as a historic structure and is the minimum necessary to preserve the historic character and design of the structure.

13-1336. Floodway Areas District.

- (a) No modification or addition shall be allowed to any nonconforming structure or any structure with a nonconforming use in a floodway area **district**, unless such modification or addition:
- (1) Has been granted a permit or variance which meets all ordinance requirements;
 - (2) Meets the requirements of chapter 13-1335;
 - (3) ~~Will~~ **Shall** not increase the obstruction to flood flows or regional flood height;
 - (4) Any addition to the existing structure shall be floodproofed, pursuant to chapter 13-1343, 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 floodproofed to or above the flood protection elevation; and
 - d. The use must be limited to parking, **building access** or limited storage.
- (b) No new on-site sewage disposal system, or addition to an existing on-site sewage disposal system, except where an addition has been ordered by a government agency to correct a hazard to public health, shall be allowed in a floodway area **district**. Any replacement, repair or maintenance of an existing on-site sewage disposal system in a floodway area shall meet the applicable requirements of all municipal ordinances, s. 13-1343(c) and ch. SPS 383 and ch. COMM 83, Wis. Adm. Code.
- (c) No new well or modification to an existing well used to obtain potable water shall be allowed in a ~~floodway area~~ **the floodway district**. Any replacement, repair or maintenance of an existing well in a floodway area shall meet the applicable requirements of all municipal ordinances, s. 13-1343(c) and chs. NR 811 and NR 812, Wis. Adm. Code.

13-1337. Floodfringe Areas District.

- (a) No modification or addition shall be allowed to any nonconforming structure or any structure with a nonconforming use unless such modification or addition has been granted a permit or variance by the municipality, and ~~the modification or addition shall be placed on fill or floodproofed to the flood protection elevation in compliance with the standards for that particular use in~~ **and meets the requirements of** chapter 13-1330(c), except where chapter 13-1337 (b) is applicable.
- (b) Where compliance with the provisions of chapter 13-1337 (a) would result in unnecessary hardship and only where the structure will not be used for human habitation or be associated with a high flood damage potential, the Board of Appeals, using the procedures established in chapter 13-1341, may grant a variance from those provisions of chapter 13-1337 (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 floor is allowed below the regional flood elevation for residential or commercial structures;
 - (2) Human lives are not endangered;
 - (3) Public facilities, such as water or sewer, will not be installed;
 - (4) Flood depths will not exceed two feet;
 - (5) Flood velocities will not exceed two feet per second; and
 - (6) The structure will not be used for storage of materials as described in chapter 13-1330(e).
- (c) ~~If neither the provisions of paragraphs (a) and (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 floodfringe, if the addition:~~
- (1) ~~Meets all other regulations and will be granted by permit or variance;~~
 - (2) ~~Does not exceed 60 square feet in area; and~~
 - (3) ~~In combination with other previous modifications or additions to the building, does not equal or exceed 50% of the present equalized assessed value of the building.~~
- (c) All new private sewage disposal systems, or addition to, replacement, repair or maintenance of a private sewage disposal system shall meet all the applicable provisions of all local ordinances, **13-1343(c)** and ch. ~~COMM 83~~ **SPS 383**, Wis. Adm. Code.
- (d) All new wells, or addition to, replacement, repair or maintenance of a well shall meet the applicable provisions of this ordinance, **s. 13-1343(c)** and ch. NR 811 and NR 812, Wis. Adm. Code.

SECTION 9. ADMINISTRATION

13-1338. Applicability. Where a Zoning Administrator, planning agency or a board of adjustment/appeals has already been appointed to administer a zoning ordinance adopted under ss. 62.23(7), Stats., these officials shall also administer this ordinance.

13-1339. Zoning Administrator.

- (a) The Zoning Administrator is authorized to administer this ordinance and shall have the following duties and powers:
- (1) Advise applicants of the ordinance provisions, assist in preparing permit applications and appeals, and assure that the regional flood elevation for the proposed development is shown on all permit applications.
 - (2) Issue permits and inspect properties for compliance with provisions of this ordinance, and issue certificates of compliance where appropriate.
 - (3) Inspect **and assess** all damaged floodplain structures ~~and perform a substantial damage assessment~~ to determine if substantial damage to the structures has occurred.
 - (4) Keep records of all official actions such as:

- a. All permits issued, inspections made, and work approved;
 - b. Documentation of certified lowest floor and regional flood elevations for floodplain development;
 - c. **Floodproofing certificates.**
 - d. Records of water surface profiles, floodplain zoning maps and ordinances, nonconforming uses and structures including changes, appeals, variances and amendments.
 - e. All substantial damage assessment reports for floodplain structures.
 - f. **List of nonconforming structures and uses.**
- (5) Submit copies of the following items to the Department Regional office:
- a. Within 10 days of the decision, a copy of any decisions on variances, appeals for map or text interpretations, and map or text amendments;
 - b. Copies of 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.
 - c. Copies of substantial damage assessments performed and all related correspondence concerning the assessments.

Note: Information on conducting substantial damage assessments is available on the DNR website – <http://dnr.wi.gov/org/water/wm/dsfm/flood/index.htm>

- (6) Investigate, prepare reports, and report violations of this ordinance to the municipal zoning agency and attorney for prosecution. Copies of the reports shall also be sent to the Department Regional office.
 - (7) Submit copies of text and map amendments and biennial reports to the FEMA Regional office.
- (b) Land Use Permit. A land use permit shall be obtained before any new development ~~or any structural repair or~~ **repair, modification or addition to an existing structure;** or change in the use of a building or structure, including sewer and water facilities, may be initiated. Application to the Zoning Administrator shall include:
- (1) General Information.
 - a. Name and address of the applicant, property owner and contractor;
 - b. Legal description, proposed use, and whether it is new construction or a modification;
 - (2) Site development plan. A site plan drawn to scale shall be submitted with the permit application form and shall contain:
 - a. Location, dimensions, area and elevation of the lot;
 - b. Location of the ordinary highwater mark of any abutting navigable waterways;
 - c. Location of any structures with distances measured from the lot lines and street center lines;
 - 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 as determined from the official floodplain zoning maps;
 - g. The elevation of the lowest floor of proposed buildings and any fill using the vertical datum from the adopted study – either National Geodetic Vertical Datum (NGVD) or North American Vertical Datum (NAVD);
 - h. Data sufficient to determine the regional flood elevation in NGVD or NAVD at the location of the development and to determine whether or not the requirements of Section 5 or Section 6 are met; and

- i. Data to determine if the proposed development will cause an obstruction to flow or an increase in regional flood height or discharge according to chapter 13-1320. This may include any of the information noted in chapter 13-1326 (a).
- ~~(3) Data requirements to analyze development. The applicant shall provide all survey data and computations required to show the effects of the project on flood heights, velocities and floodplain storage, for all subdivision proposals, as "subdivision" is defined in s. 236, Stats., and other proposed developments exceeding 5 acres in area or where the estimated cost exceeds \$125,000. The applicant shall provide:~~
 - a. ~~An analysis of the effect of the development on the regional flood profile, velocity of flow and floodplain storage capacity;~~
 - b. ~~A map showing location and details of vehicular access to lands outside the floodplain; and~~
 - c. ~~A surface drainage plan showing how flood damage will be minimized.~~

~~Note: The estimated cost of the proposal shall include all structural development, landscaping, access and road development, utilities, and other pertinent items, but need not include land costs.~~

(c) HYDRAULIC AND HYDROLOGIC STUDIES TO ANALYZE DEVELOPMENT
 All hydraulic and hydrologic studies shall be completed under the direct supervision of a professional engineer registered in the State. The study contractor shall be responsible for the technical adequacy of the study. All studies shall be reviewed and approved by the Department.

a. Zone A floodplains:

1. Hydrology

- i. The appropriate method shall be based on the standards in ch. NR 116.07(3), Wis. Admin. Code, *Hydrologic Analysis: Determination of Regional Flood Discharge*.

2. Hydraulic modeling

The regional flood elevation shall be based on the standards in ch. NR 116.07(4), Wis. Admin. Code, *Hydraulic Analysis: Determination of Regional Flood Elevation* and the following:

- i. determination of the required limits of the hydraulic model shall be based on detailed study information for downstream structures (dam, bridge, culvert) to determine adequate starting WSEL for the study.
- ii. channel sections must be surveyed.
- iii. minimum four foot contour data in the overbanks shall be used for the development of cross section overbank and floodplain mapping.
- iv. a maximum distance of 500 feet between cross sections is allowed in developed areas with additional intermediate cross sections required at transitions in channel bottom slope including a survey of the channel at each location.
- v. the most current version of HEC_RAS shall be used.

- vi. a survey of bridge and culvert openings and the top of road is required at each structure.
- vii. additional cross sections are required at the downstream and upstream limits of the proposed development and any necessary intermediate locations based on the length of the reach if greater than 500 feet.
- viii. standard accepted engineering practices shall be used when assigning parameters for the base model such as flow, Manning's N values, expansion and contraction coefficients or effective flow limits. The base model shall be calibrated to past flooding data such as high water marks to determine the reasonableness of the model results. If no historical data is available, adequate justification shall be provided for any parameters outside standard accepted engineering practices.
- ix. the model must extend past the upstream limit of the difference in the existing and proposed flood profiles in order to provide a tie-in to existing studies. The height difference between the proposed flood profile and the existing study profiles shall be no more than 0.00 feet.

3. Mapping

A work map of the reach studied shall be provided, showing all cross section locations, floodway/floodplain limits based on best available topographic data, geographic limits of the proposed development and whether the proposed development is located in the floodway.

- i. If the proposed development is located outside of the floodway, then it is determined to have no impact on the regional flood elevation.
- ii. If any part of the proposed development is in the floodway, it must be added to the base model to show the difference between existing and proposed conditions. The study must ensure that all coefficients remain the same as in the existing model, unless adequate justification based on standard accepted engineering practices is provided.

b. Zone AE Floodplains

1. Hydrology

If the proposed hydrology will change the existing study, the appropriate method to be used shall be based on ch. NR 116.07(3), Wis. Admin. Code, *Hydrologic Analysis: Determination of Regional Flood Discharge*.

2. Hydraulic model

The regional flood elevation shall be based on the standards in ch. NR 116.07(4), Wis. Admin. Code, *Hydraulic Analysis: Determination of Regional Flood Elevation* and the following:

i. Duplicate Effective Model

The effective model shall be reproduced to ensure correct transference of the model data and to allow integration of the revised data to provide a continuous FIS model upstream and downstream of the revised reach. If data from the effective model is available, models shall be generated that duplicate the FIS profiles and the elevations shown in the Floodway Data Table in the FIS report to within 0.1 foot.

ii. Corrected Effective Model.

The Corrected Effective Model shall not include any man-made physical changes since the effective model date, but shall import the model into the most current version of HEC-RAS for Department review.

iii. Existing (Pre-Project Conditions) Model.

The Existing Model shall be required to support conclusions about the actual impacts of the project associated with the Revised (Post-Project) Model or to establish more up-to-date models on which to base the Revised (Post-Project) Model.

iv. Revised (Post-Project Conditions) Model.

The Revised (Post-Project Conditions) Model shall incorporate the Existing Model and any proposed changes to the topography caused by the proposed development. This model shall reflect proposed conditions.

v. All changes to the Duplicate Effective Model and subsequent models must be supported by certified topographic information, bridge plans, construction plans and survey notes.

vi. Changes to the hydraulic models shall be limited to the stream reach for which the revision is being requested. Cross sections upstream and downstream of the revised reach shall be identical to those in the effective model and result in water surface elevations and topwidths computed by the revised models matching those in the effective models upstream and downstream of the revised reach as required. The Effective Model shall not be truncated.

3. Mapping

Maps and associated engineering data shall be submitted to the Department for review which meet the following conditions:

i. Consistency between the revised hydraulic models, the revised floodplain and floodway delineations, the revised flood profiles, topographic work map, annotated FIRMs and/or Flood Boundary Floodway Maps (FBFMs), construction plans, bridge plans.

ii. Certified topographic map of suitable scale, contour interval, and a planimetric map showing the applicable items. If a digital version of the map is available, it may be submitted in order that the FIRM may be more easily revised.

iii. Annotated FIRM panel showing the revised 1% and 0.2% annual chance floodplains and floodway boundaries.

iv. If an annotated FIRM and/or FBFM and digital mapping data (GIS or CADD) are used then all supporting documentation or metadata must be included with the data submission along with the Universal Transverse Mercator (UTM) projection and State Plane Coordinate System in accordance with FEMA mapping specifications.

v. The revised floodplain boundaries shall tie into the effective floodplain boundaries.

vi. All cross sections from the effective model shall be labeled in accordance with the effective map and a cross section lookup table shall be included to relate to the model input numbering scheme.

vii. Both the current and proposed floodways shall be shown on the map. viii. The stream centerline, or profile baseline used to measure stream distances in the model shall be visible on the map.

- (4) Expiration. All permits issued under the authority of this ordinance shall expire ~~1 year after issuance unless extended by the Zoning Administrator~~ **no more than 180 days after issuance. The permit may be extended for a maximum of 180 days for good and sufficient cause.**
- (c) Certificate of Compliance. No land shall be occupied or used, and no building which is hereafter constructed, altered, added to, modified, repaired, rebuilt or replaced shall be occupied until a certificate of compliance is issued by the Zoning Administrator, except where no permit is required, subject to the following provisions:
- (1) The certificate of compliance shall show that the building or premises or part thereof, and the proposed use, conform to the provisions of this ordinance;
 - (2) Application for such certificate shall be concurrent with the application for a permit;
 - (3) If all ordinance provisions are met, the certificate of compliance shall be issued within 10 days after written notification that the permitted work is completed;
 - (4) The applicant shall submit a certification signed by a registered professional engineer, architect or land surveyor that the fill, lowest floor and floodproofing elevations are in compliance with the permit issued. Floodproofing measures also require certification by a registered professional engineer or architect that floodproofing measures meet the requirements of chapter 13-1343.
- (d) 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.~~ **Prior to obtaining a floodplain development permit, the applicant must secure all necessary permits from federal, state, and local agencies, including, but not limited to, those required by the U.S. Army Corps of Engineers under s. 404 of the Federal Water Pollution Control Act, Amendments of 1972, 33 U.S.C. 1344.**
- ~~(e) Compliance. Where the information in this section is required to be provided, that information will be gathered by the applicant complying with the building permit requirements of Chapter 15, the site plan requirements of Chapter 13, and the stormwater requirements of Chapter 30 of the Green Bay Municipal Code.~~

13-1340. Zoning Agency.

- (a) The Planning Department shall:

- (1) oversee the functions of the office of the Zoning Administrator; and
 - (2) review and advise the Governing body on all proposed amendments to this ordinance, maps and text.
- (b) This zoning agency shall not:
- (1) grant variances to the terms of the ordinance in place of action by the Zoning Board of Appeals; or
 - (2) amend the text or zoning maps in place of official action by the Governing body.

13-1341. Zoning Board of Appeals. The Zoning Board of Appeals, created under s. 62.23(7)(e), Stats., is hereby authorized or shall be appointed to act for the purposes of this ordinance. The Board shall exercise the powers conferred by Wisconsin Statutes and adopt rules for the conduct of business. The Zoning Administrator may not be the secretary of the Board.

- (a) Powers and duties. The Zoning Board of Appeals shall:
- (1) Appeals - Hear and decide appeals where it is alleged there is an error in any order, requirement, decision or determination made by an administrative official in the enforcement or administration of this ordinance.
 - (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 ordinance standards.
- (b) Appeals to the Board.
- (1) Appeals to the board may be taken by any person aggrieved, or by any officer or department of the municipality affected by any decision of the Zoning Administrator or other administrative officer. Such appeal shall be taken within 30 days unless otherwise provided by the rules of the board, by filing with the official whose decision is in question, and with the board, a notice of appeal specifying the reasons for the appeal. The official whose decision is in question shall transmit to the board all records regarding the matter appealed.
 - (2) Application Materials
 - a. When applying for a variance, the applicant shall provide site and building plans in sufficient detail to allow the Board to evaluate whether the criteria for granting a variance can be met.
 - b. When a variance to the minimum floodproofing standards established by chapter 13-1326 or 13-1330 is requested, in addition to the plans and certifications submitted by a registered professional engineer or architect under chapter 13-1343, the following shall also be prepared by a qualified professional (e.g., surveyor, engineer, architect, other construction professional, etc.) and submitted by the applicant.
 1. The basic anticipated drainage pattern that would be expected to provide positive drainage throughout the subject area.
 2. How surface drainage would reach storm sewers within the road right-of-way or any other available stormwater facilities.
 3. Whether back yard drains or sewers would be required.
 4. Design details for the side slopes of fill areas that are treated in any way other than by grading to a slope no steeper than 3:1 (e.g., retaining walls, terracing, etc.).
 - (3) Notice and hearing for appeals including variances.
 - a. Notice - The board shall:
 1. Fix a reasonable time for the hearing;
 2. Publish adequate notice pursuant to Wisconsin Statutes, specifying the date, time, place and subject of the hearing;

3. Assure that notice shall be mailed to the parties in interest and the Department Regional office at least 10 days in advance of the hearing.
- b. Hearing - Any party may appear in person or by agent. The board shall:
 1. Resolve boundary disputes according to chapter 13-1341 (a) (2).
 2. Decide variance applications according to chapter 13-1341 (a) (3).
 3. Decide appeals of permit denials according to chapter 13-1342.
- (4) Decision: The final decision regarding the appeal or variance application shall:
 - a. Be made within a reasonable time;
 - b. Be sent to the Department Regional office within 10 days of the decision;
 - c. Be a written determination signed by the chairman or secretary of the Board;
 - d. State the specific facts which are the basis for the Board's decision;
 - e. Either affirm, reverse, vary or modify the order, requirement, decision or determination appealed, in whole or in part, dismiss the appeal for lack of jurisdiction or grant or deny the variance application;
 - f. Include the reasons for granting an appeal, describing the hardship demonstrated by the applicant in the case of a variance, clearly stated in the recorded minutes of the Board proceedings.
- (c) Boundary disputes. The following procedure shall be used by the Board in hearing disputes concerning floodplain district boundaries:
 - (1) If a floodplain district boundary is established by approximate or detailed floodplain studies, the flood elevations or profiles shall prevail in locating the boundary. If none exist, other evidence may be examined.
 - (2) In all cases, the person contesting the boundary location shall be given a reasonable opportunity to present arguments and technical evidence to the Board.
 - (3) If the boundary is incorrectly mapped, the Board should inform the Planning Department or the person contesting the boundary location to petition the governing body for a map amendment according to chapters 13-1345 and 13-1346.
- (d) Variance.
 - (1) The Board may, upon appeal, grant a variance from the standards of this ordinance if an applicant convincingly demonstrates that:
 - a. Literal enforcement of the ordinance provisions will cause unnecessary hardship;
 - b. The hardship is due to adoption of the floodplain ordinance and unique property conditions, not common to adjacent lots or premises. In such case the ordinance or map must be amended;
 - c. The variance is not contrary to the public interest; and
 - d. The variance is consistent with the purpose of this ordinance in chapter 13-1303.
 - (2) 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.
 - (3) A variance shall not:
 - a. Grant, extend or increase any use 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. Allow actions without the amendments to this ordinance or map(s) required in chapter 13-1345.
 - f. Allow any alteration of an historic structure, including its use, which would preclude its continued designation as an historic structure.
 - g. Deviate from the fill area side slope requirements found in Chapter 13-1330(a)(1)a-d. These standards provide sufficient flexibility as adopted. If a lot is too small to provide the reasonable side slopes required by this ordinance, then other alternatives should be pursued such as acquiring additional property, modifying the design of the habitable structures, or coordinating construction with neighboring properties to raise the finished grade of several lots.
- (4) When a floodplain variance is granted, the Board shall notify the applicant in writing that it may increase flood insurance premiums and risks to life and property. ~~A copy shall be maintained with the variance record~~ **risk to life and property and flood insurance premiums could increase up to \$25.00 per \$100.00 of coverage. A copy shall be maintained with the variance record.**

13-1342. To review appeals of permit denials.

- (a) The Planning Department (chapter 13-1340) or Zoning Board of Appeals shall review all data related to the appeal. This may include:
 - (1) Permit application data listed in chapter 13-1339 (b).
 - (2) Floodway/floodfringe determination data in chapter 13-1334.
 - (3) Data listed in chapter 13-1326 (a) (2) where the applicant has not submitted this information to the Zoning Administrator.
 - (4) Other data submitted with the application, or submitted to the Zoning Board of Appeals with the appeal.
- (b) For appeals of all denied permits the Zoning Board of Appeals shall:
 - (1) Follow the procedures of chapter 13-1341;
 - (2) Consider recommendations from the City departments of Inspections, Planning, and Engineering; and
 - (3) Either uphold the denial or grant the appeal.
- (c) For appeals concerning increases in regional flood elevation the Board shall:
 - (1) Uphold the denial where the Zoning Board of Appeals 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 all appropriate legal arrangements are made with all adversely affected property owners **as per the requirements of s. 10 Amendments; and**
 - (2) Grant the appeal where the Zoning Board of Appeals 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.

13-1343. Floodproofing Standards for Nonconforming Structures or Uses.

- (a) ~~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. Such plans and certifications shall be submitted for review at the time of permit or variance application.~~
- (b) ~~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.~~
- (e) Floodproofing measures could include:
- ~~(1) Reinforcing walls and floors to resist rupture or collapse caused by water pressure or floating debris.~~
 - ~~(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.~~
- (a) No permit or variance shall be issued for a non-residential structure designed to be watertight below the regional flood elevation until the applicant submits a plan certified by a registered professional engineer or architect that the floodproofing measures will protect the structure or development to the flood protection elevation and submits a FEMA Floodproofing Certificate. Such plans and certifications shall be submitted for review at the time of permit or variance application.
- (b) For a structure designed to allow the entry of floodwaters, no permit or variance shall be issued until the applicant submits a plan either:
- (1) certified by a registered professional engineer or architect; or
 - (2) meets or exceeds the following standards:
 - a. a minimum of two openings having a total net area of not less than one square inch for every square foot of enclosed area subject to flooding;
 - b. the bottom of all openings shall be no higher than one foot above grade; and
 - c. openings may be equipped with screens, louvers, valves, or other coverings or devices provided that they permit the automatic entry and exit of floodwaters.
- (c) Floodproofing measures shall be designed, as appropriate, to:
- (1) Withstand flood pressures, depths, velocities, uplift and impact forces and other regional flood factors;
 - (2) Protect structures to the flood protection elevation;
 - (3) Anchor structures to foundations to resist flotation and lateral movement; and
 - (4) Minimize or eliminate infiltration of flood waters.
 - (5) Minimize or eliminate discharges into flood waters.

13-1344. Public Information.

- (a) Place marks on structures to show the depth of inundation during the regional flood.
- (b) All maps, engineering data and regulations shall be available and widely distributed.
- (c) All real estate transfers should show what floodplain zoning district any real property is in.

SECTION 10. AMENDMENTS

Obstructions or increases may only be permitted if amendments are made to this ordinance, the official floodplain zoning maps, floodway lines and water surface profiles, in accordance with s. 8.1.

In AE Zones with a mapped floodway, no obstructions or increases shall be permitted unless the applicant receives a Conditional Letter of Map Revision from FEMA and amendments are made to this ordinance, the official floodplain zoning maps, floodway lines and water surface profiles, in accordance with s. 13-1345. Any such alterations must be reviewed and approved by FEMA and the DNR.

In A Zones increases equal to or greater than 1.0 foot may only be permitted if the applicant receives a Conditional Letter of Map Revision from FEMA and amendments are made to this ordinance, the official floodplain maps, floodway lines, and water surface profiles, in accordance with s. 13-1345.

13-1345. General. The governing body ~~may~~ **shall** change or supplement the floodplain zoning district boundaries and this ordinance in the manner provided ~~by law in s. 13-1346.~~ Actions which require an amendment **to the ordinance and/or submittal of a Letter of Map Change (LOMC)** include, but are not limited to, the following:

- ~~(a) Any change to the official floodplain zoning map, including the floodway line or boundary of any floodplain area.~~
- ~~(b) Correction of discrepancies between the water surface profiles and floodplain zoning maps.~~
- ~~(c) Any fill in the floodplain which raises the elevation of the filled area to a height at or above the flood protection elevation and is contiguous to land lying outside the floodplain.~~
- ~~(d) Any fill or floodplain encroachment that obstructs flow, increasing regional flood height 0.01 foot or more.~~
- ~~(e) Any upgrade to a floodplain zoning ordinance text required by s. NR 116.05, Wis. Adm. Code, or otherwise required by law, or for changes by the municipality.~~
- ~~(f) All channel relocations and changes to the maps to alter floodway lines or to remove an area from the floodway or the floodfringe that is based on a base flood elevation from a FIRM requires prior approval by FEMA.~~

- (a) Any fill or floodway encroachment that obstructs flow causing any increase in the regional flood height;**
- (b) Any change to the floodplain boundaries and/or watercourse alterations on the FIRM;**
- (c) Any changes to any other officially adopted floodplain maps listed in 1.5 (2)(b);**
- (d) Any floodplain fill which raises the elevation of the filled area to a height at or above the flood protection elevation and is contiguous to land lying outside the floodplain;**

- (e) Correction of discrepancies between the water surface profiles and floodplain maps;
- (f) Any upgrade to a floodplain zoning ordinance text required by s. NR 116.05, Wis. Adm. Code, or otherwise required by law, or for changes by the municipality; and
- (g) All channel relocations and changes to the maps to alter floodway lines or to remove an area from the floodway or the floodfringe that is based on a base flood elevation from a FIRM requires prior approval by FEMA.

Note: Consult the FEMA web site - www.fema.gov - for the map change fee schedule.

13-1346. Procedures. Ordinance amendments may be made upon petition of any interested party according to the provisions of s. 62.23, Stats. Such petitions shall include all necessary data required by chapters 13-1334 and 13-1339 (b). **The Land Use Permit shall not be issued until a Letter of Map Revision is issued by FEMA for the proposed changes.**

- (a) The proposed amendment shall be referred to the Planning Department for a public hearing and recommendation to the governing body. The amendment and notice of public hearing shall be submitted to the Department Regional office for review prior to the hearing. The amendment procedure shall comply with the provisions of s. 62.23, Stats.
- (b) No amendments shall become effective until reviewed and approved by the Department.
- (c) **All persons petitioning for a map amendment that obstructs flow causing any increase in the regional flood height shall obtain flooding easements or other appropriate legal arrangements from all adversely affected property owners and notify local units of government before the amendment can be approved by the governing body.**
- ~~(e) All persons petitioning for a map amendment that obstructs flow, increasing regional flood height 0.01 foot or more, shall obtain flooding easements or other appropriate legal arrangements from all adversely affected property owners and notify local units of government before the amendment can be approved by the governing body.~~
- ~~(d) For amendments in areas with no water surface profiles, the Planning Department or Zoning Board of Appeals shall consider data submitted by the Department, the Zoning Administrator's visual on-site inspections and other available information. (See chapter 13-1310.)~~

SECTION 11. ENFORCEMENT AND PENALTIES

13-1347. General. Any violation of the provisions of this ordinance by any person shall be unlawful and shall be referred to the municipal attorney who shall expeditiously prosecute all such violators. A violator shall, upon conviction, forfeit to the municipality a penalty of not less than \$ 10.00 and not more than ~~\$500.00~~ **\$50.00**, together with a taxable cost of such action. Each day of continued violation shall constitute a separate offense. Every violation of this ordinance is a public nuisance and the creation may be enjoined and the maintenance may be abated by action at suit of the municipality, the state, or any citizen thereof pursuant to s. 87.30, Stats.