

Planning Department

W240N3065 Pewaukee Road
Pewaukee, WI 53072
(262) 691-0770 Fax (262) 691-1798

PLAN COMMISSION MEETING NOTICE AND AGENDA

Thursday, July 20, 2023

6:00 PM

Common Council Chambers
W240 N3065 Pewaukee Rd., Pewaukee, WI 53072

-
1. Call to Order and Pledge of Allegiance
 2. Discussion and Action Regarding Approval of the March 16th, 2023, April 20th, 2023, and May 18th, 2023 Meeting Minutes
 3. Discussion and Action Regarding a Hobby Kennel License Request by Katie Smith to Keep Four to Six Dogs on Her Property Located at W226 N2521 Oakwood Lane (PWC 0915132)
 4. Discussion and Action Regarding a Recommendation to the Common Council for a Conditional Use Permit for The Inn Bed and Breakfast Located at N4 W22496 Bluemound Road (PWC 0963998)
 5. Discussion and Action Regarding a Recommendation to the Common Council for a Conditional Use Permit and Site and Building Plans for Steny's Lake Country for Property Located at N29 W24483 Watertown Road for the Purpose of Operating a Restaurant and Bar (PWC 0922987001)
 6. Discussion and Action Regarding a Conceptual Review for Carity Land Corporation for a Proposed Condominium Development on Property Located at N18 W22670 Watertown Road (PWC 0958990006)
 7. Discussion and Action and Public Hearing Regarding an Amendment to Section 17.0435 F-1 Floodplain District, Creation of a New Floodplain Ordinance Section, and Adoption of the Updated Flood Insurance Study and Flood Insurance Rate Maps
 8. Adjournment

Ami Hurd
Deputy Clerk

7/13/2023

NOTICE

It is possible that members of other governmental bodies of the municipality may be in attendance to gather information that may form a quorum. At the above stated meeting, no action will be taken by any governmental body other than the governmental body specifically referred to above in this notice.

Any person who has a qualifying disability under the Americans with Disabilities Act that requires the meeting or materials at the meeting to be in an accessible format must contact the City Planner, Nick Fuchs, at (262) 691-6007 three business days prior to the meeting so that arrangements may be made to accommodate your request.

**CITY OF PEWAUKEE
PLAN COMMISSION AGENDA ITEM 2.**

DATE: July 20, 2023

DEPARTMENT: Planning

PROVIDED BY:

SUBJECT:

Discussion and Action Regarding Approval of the March 16th, 2023, April 20th, 2023, and May 18th, 2023 Meeting Minutes

BACKGROUND:

FINANCIAL IMPACT:

RECOMMENDED MOTION:

ATTACHMENTS:

Description

3.16.23 minutes

4.20.23 minutes

5.18.23 minutes

In attendance:

Mayor S. Bierce, Alderwoman C. Brown, D. Linsmeier, and C. Wunder.

Also in attendance:

City Planner & Community Development Director N. Fuchs, Administrator S. Klein, Department of Public Works Director M. Wagner, and Deputy Clerk A. Hurd.

1. Call to Order and Pledge of Allegiance

Chairman Bierce called the meeting to order at 6:00pm and requested everyone stand for the Pledge of Allegiance.

2. Discussion and Action Regarding a Recommendation to the Common Council for a Conditional Use Permit for Keith Tubin for Property Located at N37 W26745 Kopmeier Drive for the Purpose of Constructing a Boathouse (PWC 0894014)

Mr. Fuchs stated this was a new application, as the property owner previously submitted an application in 2022 but it was denied by the Common Council. There have been no changes since the original submittal and the boathouse is still 84 square feet. The owner has agreed to replace the metal siding with wood or composite material and has agreed to remove the existing impervious surface to stay under the maximum allowed lot coverage for the property. Mr. Fuchs recommended approval.

A motion was made and seconded (C. Brown, C. Wunder) to approve the Conditional Use Permit for Keith Tubin. Motion Passed: 4-For, 0-Against.

3. Discussion and Action Regarding a Recommendation to the Common Council for a Conditional Use Permit for Mark and Jodi Olson for Property Located at N27 W27204 Woodland Drive for the Purpose of Constructing a Boathouse (PWC 0933136)

Mr. Fuchs stated this was an application for a 140 square foot boathouse. Staff recommended the conditions that the boathouse be five feet from the side property line and five feet from the ordinary high-water mark. Currently, the plans show the boathouse 2.9 feet from the property line. Mr. Fuchs also recommended the plan and permit go through the Building Department, and approval of the Conditional Use Permit would be contingent upon the mitigation plan being approved. He recommended approval of the Conditional Use Permit.

Commissioner Brown noted the boathouse would have to be moved over in order to comply with the ordinance. She also mentioned the narrative states the boathouse will be no taller than 10 feet, yet the plans show the front is 11.8 feet. Ms. Olson noted that she did not change the narrative after the plans were changed. Mr. Fuchs noted the maximum height would be 15 feet.

Chairman Bierce stated he did not like the design of the boathouse and the solid walls.

Ms. Olson noted that the home on the property was a modern two-year-old house that was black and tan, and the boathouse will be the same color.

Commissioner Brown felt this was more of a shed than a boathouse. According to the narrative, this boathouse is planned to house outdoor furniture and a lawnmower, not boating-related equipment. She felt it was more for entertainment with the rolling door on the back end versus the front end.

Mr. Fuchs clarified the definitions of a boathouse and a boat and noted what was needed to be stored in the boathouse.

Chairman Bierce felt windows would be a nice addition to break up the sides. He felt there should be more detail than a solid wall on each side. Ms. Olson did not see the problem with the design and felt it was modern, but not what everyone was used to.

A motion was made and seconded (D. Linsmeier, S. Bierce) to recommend approval of the Conditional Use Permit and have the applicants work with staff, contingent on approval of the mitigation plan and the City Planner approving the placement and final design of the boathouse.

Motion Failed: 2-For, 2-Against (C. Brown, C. Wunder).

Mr. Fuchs stated this would be up to the Common Council to approve, but the Plan Commission could separate out the mitigation plan. The applicants could also bring forth a new plan.

4. Discussion and Action Regarding a Mitigation Plan for Mark and Jodi Olson for Property Located at N27 W27204 Woodland Drive (PWC 0933136)

Action taken in Item #3.

5. Discussion and Action Regarding a Recommendation to the Common Council for a Conditional Use Permit and Site and Building Plans for Quattro Development/Higher Ground Education for Property Located on Highfield Court for the Purpose of Constructing a Childcare Facility (PWC 0906994)

Mr. Fuchs stated the request is for an 11,836 square foot Montessori school and includes two playground areas and a fence adjacent to Capitol Drive. Staff recommended that fencing be on the north side, which is the Highfield Court side of the property. There is also a 45-foot right-of-way reservation, and the applicant is requesting the City remove that reservation. Mr. Fuchs added that there is a condition related to the construction of a bell tower. There was a requirement for the property to the west to construct a bell tower within a certain time frame, and the applicant would like that responsibility removed from the previous Conditional Use Permit. The last condition is the standard approval of the final grading, erosion control, and storm water by the Engineering Department.

It was pointed out that this would be directly next door to the current childcare center on that road.

The applicant noted the classrooms exit directly to the playground, so it was critical to keep the distance down that the kids must travel between the playground and the classroom. He stated they would be increasing the landscape buffer on the south side so that it would be heavily screened from Capitol Drive. The fencing around the perimeter of the playgrounds would be wrought iron, and the dividing fences between each portion of the playground would be PVC vinyl fencing.

The applicant also pointed out that drop offs in the morning and pick ups in the afternoon are over a two-to-three-hour period, so it is not like a school where everyone is funneling in and out at one time.

Commissioner Brown was concerned about having two daycares right next to each other in a residential subdivision.

Brian Schultz (N36 W23835 Broken Hill Circle South) stated they have seen an increase in traffic since the first daycare was built and he felt people would cut through their neighborhood.

Greg Phelps (N37 W23840 Broken Hill Circle South) was concerned that the entrance and exits would funnel cars into their street. The likelihood of someone being injured is increased because of the volume of traffic.

Further discussion took place regarding traffic patterns in the area. Chairman Bierce felt a traffic study would need to be done, and the applicant stated they had no problem doing that.

Ms. Wagner stated she had a condition to add that there must be separate laterals on the property. It is currently set up as a shared lateral because it was originally one lot, but once the CSM split the property into two, it became a requirement to have separate laterals.

The applicant confirmed that they would have a traffic study completed and would request to be put on a future agenda.

6. Discussion and Action Regarding a Recommendation to the Common Council for a Conditional Use Permit for Better Cowork, LLC for Property Located at W239 N3490 Pewaukee Road for the Purpose of Developing a Shared Office Space (PWC 0907992)

Mr. Fuchs stated this proposal was for a coworking space, so there would be no exterior site modifications to the building. Businesses would operate on a membership basis and would not need to be reviewed by staff prior to occupying the building. A condition would be added to the Conditional Use Permit that the businesses would not have to file a Business Plan of Operation. Mr. Fuchs recommended approval.

The applicant stated most businesses will use the office like you would a gym. There are various places people can work within the shared office, such as a café, a lounge setting, or a desk. Most members are small businesses that give their employees flexibility. Most memberships are month to month, but they do also allow the purchase of a day pass. The applicant noted that most members will stay between six to nine months. Everything will be controlled by a key fob, and they will maintain records of anyone in the building. Most people will typically use the building between 7:00am and 7:00pm and it will be staffed with two full-time employees between 8:00am and 5:00pm.

A motion was made and seconded (D. Linsmeier, C. Brown) to approve the Conditional Use Permit for Better Cowork LLC. Motion Passed: 4-For, 0-Against.

7. Discussion and Action and Public Hearing for Andev Group, LLC to Rezone Vacant Land Located at the Northwest Corner of Golf Road and Meadowbrook Road from A-1 Agricultural, LC Lowland Conservancy, and F-1 Floodplain to Rm-3 Multi-Family Residential, LC Lowland Conservancy, and F-1 Floodplain for the Purpose of Developing the Courtyard at Pewaukee, a Community Based Residential Facility (PWC 0940999001)

Mr. Fuchs stated this was a proposal for a CBRF senior living facility that would consist of a total of 76 units, with 40 apartments for assisted living and 36 memory care units. The building is divided into two sections, and two courtyards are proposed within the interior of the building. The back of the building is towards Golf Road and there will be a detached accessory building that will house a

dumpster and other storage. Mr. Fuchs noted that the development would not extend Lakefield Drive, but the applicant would need to improve the temporary cul-de-sac. The City's typical cul-de-sac design would push it far into the property, so the applicant has requested another option. Mr. Fuchs recommended approval with the conditions that the accessory building not exceed 18 feet in height, as well as a condition that final grading, erosion control, and storm water be approved by the Engineering Department.

Chairman Bierce opened the public hearing at 7:02pm.

Dennis Kahn (N16 W27394 Riverland Drive) felt having the cul-de-sac finished would be better than the drive going through. He also felt by removing the brush and trees that he would have a view of the entire property. Mr. Kahn questioned the access onto Golf Road. Mr. Fuchs noted the County has seen the request, and although they have not officially approved it, they have not raised any objections or concerns at this point.

Lynne Voss (W273 N1525 Lakefield Drive) stated her home borders the tree line and she was under the impression that a certain amount of tree line and brush was going to be left. She was concerned about another senior living facility going up in the area. She questioned if all the buildable land was being used and she was concerned that at some point the applicants would come back to extend the building. Ms. Voss also had water concerns, as they have had water issues in the area. She did not want excess water from the site on her property. Ms. Voss then questioned the sewer and gas lines and questioned how those could be installed without disruption. She questioned if more trees would be knocked down.

Terry Brooks (W273 N1640 Lakefield Drive) stated he has four sump pumps in his house, and he was concerned about additional water coming onto his property. He questioned where the overflow water from the retention pond would go.

Gerald Glocka (W273 N1582 Lakefield Drive) questioned why such an enormous turnaround was needed. He felt it would change their entire living experience and requested it be toned down. The 300-foot buffer between the neighbors' lot lines and the edge of the building disappears if the end of Lakefield Drive is opened.

Ms. Wagner noted that the cul-de-sac will now be permanent, and therefore needs the proper turnaround on it. It needs to be a permanent cul-de-sac because Lakefield Drive is never going to go through. The original intent of the road was always planned to go out to Golf Road, which is why the temporary cul-de-sac was installed. She also stated the easement is a temporary easement and needs to become permanent. The standard design has the island in the center in order to hold snow, rather than put snow in everyone's driveway. Mr. Fuchs pointed out that the City was willing to work with the applicant as to how that design will look, as there are no homes on the end of the cul-de-sac.

George Galewski (W273 N1610 Lakefield Drive) stated he was concerned about the trees and he questioned how much brush would be between the lot line and the building. He questioned how close the pond would be to his lot line.

Brittany Meyer (W273 N1531 Lakefield Drive) stated there are young kids in the area and they do not have sidewalks, so keeping the road a dead end was extremely important to her. She was concerned about noise issues with ambulances. Ms. Meyer also noted that there would be light pollution in their backyard, as they already have too much light from the neighboring church.

Brett Estes (W275 N1555 Riverland Drive) felt property values would drop because of the change in zoning that does not match the adjacent land.

Katie Pontious (W273 N1565 Lakefield Drive) referred to the construction noise and questioned the plan for noise control. She stated she wanted something more modest for the cul-de-sac. She also referred to the light pollution from the church and felt this would be a lot of additional light pollution.

Representatives with the Andev Group stated it was their intent to leave the entire tree line exactly as it is. It was noted that 75 feet would be the bare minimum and will then go another ten feet from the property line. The building is 300 feet away from the property line. Mr. Fuchs pointed out that although there will not be a connection, there will be a new, permanent cul-de-sac put in, so there will be some clearing of trees in that area.

Mike Samuels, with the Andev Group, stated there are no plans to ever expand this development. It is their intent to divide the property and allow Lake Pewaukee Sanitary District to take control of the wetlands, and the Andev Group would be left with approximately half the acreage. That acreage would not support additional units.

Various discussions took place regarding the site plan as relates to building orientation, dumpster enclosures, parking, and lighting.

The representatives then discussed the level of care the residents will receive at the facility.

It was noted that the construction timeline was approximately one year from commencement.

Chairman Bierce closed the public hearing at 8:12pm.

Chairman Bierce felt the storm water was a huge concern. Ms. Wagner stated most of the water is draining away from the neighboring properties and draining to the north and a bit to the east. She did not believe this development would have an impact on the adjacent properties, as they are not changing the existing drainage pattern of this property.

Additional discussion took place regarding the cul-de-sac. Mr. Fuchs stated the current temporary cul-de-sac goes onto the private properties, so it would need to come out onto the applicant's property in order to get it within the right-of-way. Ms. Wagner noted that in order to make it a permanent cul-de-sac, the City would have to acquire the right-of-way, but those homes may not meet the zoning requirements of the front yard setback. The homeowners may not even want the City to acquire the right-of-way.

Mr. Fuchs suggested tabling the item to see what the impacts of the permanent cul-de-sac would be. They would work with the engineers to design a cul-de-sac that would accommodate the fire trucks.

A motion was made and seconded (C. Brown, C. Wunder) to table Items 7, 8, and 9 for further discussion on the cul-de-sac. Motion Passed: 4-For, 0-Against.

8. Discussion and Action Regarding a Recommendation to the Common Council for a Comprehensive Master Plan Amendment to Change the Year 2050 Land Use/Transportation Plan Use Designation for the City of Pewaukee for the Courtyard at Pewaukee for Vacant Land Located at the Northwest Corner of Golf Road and Meadowbrook Road from Low-Medium Density Residential and Floodplains, Lowland & Upland Conservancy and Other Natural Areas to High Density Residential and Floodplains, Lowland & Upland Conservancy and Other Natural Areas (PWC 0940999001)

Action taken in Item #7.

9. Discussion and Action Regarding the Site and Building Plans for Andev Group, LLC for Vacant Land Located at the Northwest Corner of Golf Road and Meadowbrook Road for the Purpose of Developing the Courtyard at Pewaukee, a Community Based Residential Facility (PWC 0940999001)

Action taken in Item #7.

10. Discussion Regarding the Community Development and Building Services Annual Report for 2022

Mr. Fuchs stated the report shows what was done in 2022, and contains goals for the departments.

11. Adjournment

A motion was made and seconded (D. Linsmeier, C. Brown) to adjourn the meeting at 8:49pm.

Motion Passed: 4-For, 0-Against.

Respectfully Submitted,

Ami Hurd
Deputy Clerk

In attendance:

Mayor S. Bierce, Alderwoman C. Brown, D. Kiser, D. Linsmeier, S. Sullivan, and C. Wunder.

Also in attendance:

City Planner & Community Development Director N. Fuchs, Administrator S. Klein, Department of Public Works Director M. Wagner, and Deputy Clerk A. Hurd.

1. Call to Order and Pledge of Allegiance

Chairman Bierce called the meeting to order at 6:00pm and requested everyone stand for the Pledge of Allegiance.

2. Discussion and Action Regarding Approval of the October 20, 2022 Meeting Minutes

A motion was made and seconded (C. Brown, C. Wunder) to approve the October 20, 2022 meeting minutes. Motion Passed: 5-For, 0-Against, 1-Abstain (D. Linsmeier).

3. Continued Discussion and Action Regarding a Request by Andev Group, LLC to Rezone Vacant Land Located at the Northwest Corner of Golf Road and Meadowbrook Road from A-1 Agricultural, LC Lowland Conservancy, and F-1 Floodplain to Rm-3 Multi-Family Residential, LC Lowland Conservancy, and F-1 Floodplain for the Purpose of Developing the Courtyard at Pewaukee, a Community Based Residential Facility (PWC 0940999001) (Public hearing opened and closed at the 3/16/23 Plan Commission meeting)

Mr. Fuchs stated this development was before the Plan Commission at the March 16th meeting. Discussions at that meeting were related to the cul-de-sac and the termination of Lakefield Drive. The applicant has provided a cul-de-sac design that is acceptable to both the Department of Public Works and the Fire Department. They have also submitted a revised landscape plan with plantings to help screen and mitigate the loss of a portion of the tree line. It was noted that two additional units were added, for a total of 78 units. Mr. Fuchs recommended approval of the development.

Commissioner Brown noted the cul-de-sac is permanently on the development's land, but they need to figure out how the temporary cul-de-sac will be reestablished as private property. Mr. Fuchs noted it would be the developer's responsibility to return it back to green space for the property owners.

A motion was made and seconded (D. Linsmeier, C. Brown) to approve the Rezoning, Comp Plan Amendment, and the Site and Building Plans for the Andev Group, LLC. Motion Passed: 5-For, 1-Against (S. Bierce).

4. Continued Discussion and Action Regarding a Recommendation to the Common Council for a Comprehensive Master Plan Amendment to Change the Year 2050 Land Use/Transportation Plan Use Designation for the City of Pewaukee for the Courtyard at Pewaukee for Vacant Land Located at the Northwest Corner of Golf Road and Meadowbrook Road from Low-Medium Density Residential and Floodplains, Lowland & Upland Conservancy and Other Natural Areas to High

Density Residential and Floodplains, Lowland & Upland Conservancy and Other Natural Areas (PWC 0940999001) (Originally discussed at the 3/16/23 Plan Commission meeting)

Action taken in Item #3.

5. Continued Discussion and Action Regarding the Site and Building Plans for Andev Group, LLC for Vacant Land Located at the Northwest Corner of Golf Road and Meadowbrook Road for the Purpose of Developing the Courtyard at Pewaukee, a Community Based Residential Facility (PWC 0940999001) (Originally discussed at the 3/16/23 Plan Commission meeting)

Action taken in Item #3.

6. Discussion and Action Regarding the Site & Building Plans for Common Transportation Located at W233 N2095 Ridgeview Parkway for the Purpose of Adding Loading Docks to the Building and Reconfiguring the North Parking Area to Accommodate Overnight Parking of Semi Trailers (PWC 0953986003)

Mr. Fuchs stated this is currently a vacant building. Common Transportation is looking to add seven new loading docks on the west side of the building and an overhead door on the north side of the building. As far as site changes, the applicant would remove and modify some parking lot islands to create a truck parking area on the north side of the parking lot. Mr. Fuchs recommended approval. He noted the property is zoned M4, and it is up to the Plan Commission to determine if sufficient screening is provided.

Bill Langhoff, representing Common Transportation, stated the parking is a combination of semi-trailers and box trucks, and they will be in the u-shaped cove on the far north side of the property. There would be some trailers parked in the traditional truck docks on the west elevation of the building.

Commissioner Kiser was concerned about trucks parking and running all night long. It was pointed out that these were local delivery drivers and not over-the-road drivers. Commissioner Kiser felt it would need to be policed or else trucks would park there for the night. Commissioner Brown recommended putting cameras on the building so there would not be 24-hour parking, as well as putting up “no overnight parking” signs. The applicant confirmed that he would put up signs and cameras if that was going to stop him from getting approval. Chairman Bierce added that there should be enough foliage to cover up the trailers. Commissioner Kiser also suggested safety security lights that dim if there's no movement.

A motion was made and seconded (D. Kiser, C. Wunder) to approve the Site and Building Plans for Common Transportation with City staff approving the signage and lighting. Motion Passed: 6-For, 0-Against.

7. Discussion and Action Regarding the Site and Building Plans for Fox River Congregational Church Located at N34 W23575 Capitol Drive For the Purpose of Constructing a Building Addition to the Existing Church (PWC 0907999001)

Mr. Fuchs stated this was a two-story building addition of approximately 4,000 square feet. The addition will consist of CMU to match the existing building. The applicant is proposing some additional landscaping, including plantings, and retaining walls around the building addition. Mr. Fuchs recommended approval.

A motion was made and seconded (D. Kiser, D. Linsmeier) to approve the Site and Building Plans for Fox River Congregational Church. Motion Passed: 6-For, 0-Against.

8. Discussion and Action Regarding a Conceptual Review for Bubbles Foam Farm for a Multi-Use Development on Vacant Land Located at W240 N2687 Pewaukee Road (PWC 0924995)

Mr. Fuchs stated this is located at the southwest corner of Pewaukee Road and Watertown Road. The conceptual site plan includes a car wash, gas station/convenience store, drive-thru restaurant, and a multi-tenant retail and office building.

Jon Kutz, representing Bubbles Foam Farm, stated the main focus of the development would be Bubbles Foam Farm, and nothing else is planned for the site yet. The intent would be to screen the car wash through berming and strategic landscaping.

Chairman Bierce noted there was no retail in that area, and he wanted to keep it that way.

Commissioner Linsmeier felt the biggest issue was the ingress and egress, especially the drive on the south side of the property. Mr. Kutz was under the impression that a traffic study would need to be provided.

Commissioner Brown was concerned about what the car buildup would look like on Pewaukee Road with cars waiting to get into the wash. She was more concerned with what they don't have in that area and what else they would potentially put there, since it is so close to residential properties. Ms. Brown felt there was a lot of land left in the corner, and they would want to develop it. She did not want the Plan Commission to be pressured into approving something.

Mr. Kutz pointed out that the car wash would not be a long wait, so there would not be a pile up of cars, especially because the car wash is subscription-based.

Chairman Bierce questioned the decibel levels of the car wash. Mr. Kutz stated there are decibel readers on both the dryers and the vacuums, as they make the most noise. He felt below 50 was usually acceptable as not obnoxious. He noted the car wash was not a 24-hour operation, so it would not be running at night.

Further discussion took place regarding the traffic in the area.

No action was taken.

9. Discussion and Action Regarding a Request by Lake Pewaukee Sanitary District to Construct Two Generator Buildings Located at W265 N2989 Peterson Drive and W276 N2697 Rocky Point Road (PWC 0930004 & PWC 0934045)

Mr. Fuchs stated Lake Pewaukee Sanitary District was proposing two generator buildings at lift stations 9 and 12. Both buildings are approximately 204 square feet and 11 feet in height. City staff has no objections to the location of the buildings and LPSD is working with City staff on the necessary easement documents. Mr. Fuchs recommended approval.

Tom Koepp with LPSD stated these buildings would match the other buildings they have done in the past, but they will also meet with the homeowners next door and match the building to the color of their homes if they wish.

A motion was made and seconded (D. Kiser, C. Brown) to approve the generator buildings for Lake Pewaukee Sanitary District. Motion Passed: 6-For, 0-Against.

10. Discussion and Action Regarding a Two-Lot Certified Survey Map for the City of Pewaukee Department of Public Works for Properties Located at W225 N3131 Duplainville Road and W224 N3297 Duplainville Road for the Purpose of the Reconfiguration of Lot Lines for the New DPW Facility (PWC 0911993006 & PWC 0911989001)

Mr. Fuchs stated this was a two lot Certified Survey Map for the new DPW facility site and a portion of the Quad Graphics site that was purchased by the City. Mr. Fuchs noted the CSM meets all of the land division standards and requirements, and he recommended approval.

A motion was made and seconded (D. Kiser, C. Wunder) to approve the Certified Survey Map for the new DPW facility. Motion Passed: 6-For, 0-Against.

11. Adjournment

A motion was made and seconded (D. Kiser, C. Wunder) to adjourn the meeting at 6:56pm. Motion Passed: 6-For, 0-Against.

Respectfully Submitted,

Ami Hurd
Deputy Clerk

In attendance:

Mayor S. Bierce, Alderwoman C. Brown, D. Linsmeier, T. Janka, and C. Wunder.

Also in attendance:

City Planner & Community Development Director N. Fuchs, Administrator S. Klein, and Department of Public Works Director M. Wagner.

1. Call to Order and Pledge of Allegiance

Chairman Bierce called the meeting to order at 6:00pm and requested everyone stand for the Pledge of Allegiance.

2. Discussion and Action Regarding Approval of the November 17th, 2022 and January 19th, 2023 Meeting Minutes

A motion was made and seconded (C. Brown, D. Linsmeier) to approve the November 17th, 2022 and January 19th, 2023 meeting minutes. Motion Passed: 5-For, 0-Against.

3. Discussion and Action Regarding a Recommendation to the Common Council for a Conditional Use Permit and Site and Building Plans for Quattro Development/Higher Ground Education for Property Located on Highfield Court for the Purpose of Constructing a Childcare Facility (PWC 0906994)

Mr. Fuchs stated this item was before the Plan Commission at the March 16th meeting and was tabled following concerns from the Broken Hill subdivision residents regarding traffic. The school has a maximum occupancy of 152 children and a maximum of 15 full-time employees. The site is approximately two acres, and the single-story building is approximately 11,836 square feet. There are two playgrounds, one on the south side adjacent to Capitol Drive and one on the north side adjacent to Highfield Court. Both are fenced in with a six-foot wrought iron fence. Mr. Fuchs noted there was a condition listed in the staff report to locate the playground areas and any other accessory structure or amenities on the north side of the building, as opposed to being visible from Capitol Drive. He noted that the daycare to the east does have a fence adjacent to Capitol Drive. Mr. Fuchs stated the applicant did provide a traffic impact analysis, and he recommended approval of the Conditional Use and Site and Building Plans.

Discussion took place regarding the traffic impact analysis.

Commissioner Brown felt there was a need for this in the area, and she did like the look of the building, but she felt the location was not right, especially considering there is already a daycare right next door.

John Bieberitz with Traffic Analysis and Design stated he prepared the traffic study, and he gave some background about the report and broke down the information contained in the report.

The Commissioners were in agreement that they were concerned about the traffic situation in the area and could not get onboard with this development.

A motion was made and seconded (C. Brown, D. Linsmeier) to recommend denial of the Conditional Use Permit and Site and Building Plans. Motion Passed: 5-For, 0-Against.

4. Discussion and Action Regarding a Certified Survey Map for Wildeck, Inc. for Property Located on East North Street in the City of Waukesha for the Purpose of Dedicating the West Half of East North Street that is Currently Highway Right-Of-Way

Mr. Fuchs stated the majority of the property on the Certified Survey Map is within the City of Waukesha, except for .67 acres that is within the City of Pewaukee.

Brian Griebel with VJS Construction stated Wildeck is the tenant of the building, and no improvements are happening on the singular parcel that lies within the City. It is part of Waukesha's requirement to dedicate some of the land back in the right-of-way of Highway F, or East North Street.

A motion was made and seconded (C. Brown, D. Linsmeier) to recommend approval of the Certified Survey Map for Wildeck, Inc. Motion Passed: 5-For, 0-Against.

5. Discussion and Action and Public Hearing for Regal Development LLC to Rezone Property Located at N29 W22817 Marjean Lane from Rs-5 Single-Family Residential to B-3 General Business for the Purpose of Constructing a 50-Unit Self-Storage Facility (PWC 0914976)

Mr. Fuchs stated the request was for a 50-unit self-storage facility on a .88-acre parcel. The B-3 zoning was the best option for this development, as opposed to the M-1 district, which has a two-acre minimum lot size. A Conditional Use is required for a storage facility use in the B-3 zoning district. Mr. Fuchs noted there was a condition in the staff report requiring the fence to be aluminum and a maximum of six feet in height. Other conditions include final approval of grading, drainage, and erosion control. Mr. Fuchs recommended approval.

Chairman Bierce opened the public hearing.

Todd Vogelsang (N29 W22232 Kathryn Court) stated everything else in the area is zoned M-2 except for the residential. Mr. Fuchs explained the various zoning district differences. Mr. Vogelsang questioned if the fire trucks would be able to get into the area and he questioned if there would be adequate lighting. He also stated the property was the highest point in the area and did not want the water to run. Ms. Wagner stated they have not seen the storm water management plan yet.

Chairman Bierce closed the public hearing at 7:04pm.

The applicant discussed the proposed lighting plan. He noted that he could add additional lighting on the drive. Additional discussion took place about the lighting as relates to the nearby residential area.

A motion was made and seconded (C. Brown, T. Janka) to approve the Rezoning, Conditional Use, and Site and Building Plans for Regal Development, LLC contingent upon Engineering review of the drainage and Fire Chief review. Motion Passed: 5-For, 0-Against.

6. Discussion and Action Regarding a Recommendation to the Common Council for a Conditional Use Permit and Site and Building Plans for Regal Development LLC for Property Located at N29 W22817 Marjean Lane for the Purpose of Constructing a 50-Unit Self-Storage Facility (PWC

0914976)

Action taken in Item #5.

7. Adjournment

A motion was made and seconded (C. Brown, C. Wunder) to adjourn the meeting at 7:15pm. Motion
Passed: 5-For, 0-Against.

Respectfully Submitted,

Ami Hurd
Deputy Clerk

**CITY OF PEWAUKEE
PLAN COMMISSION AGENDA ITEM 3.**

DATE: July 20, 2023

DEPARTMENT: Planning

PROVIDED BY:

SUBJECT:

Discussion and Action Regarding a Hobby Kennel License Request by Katie Smith to Keep Four to Six Dogs on Her Property Located at W226 N2521 Oakwood Lane (PWC 0915132)

BACKGROUND:

FINANCIAL IMPACT:

RECOMMENDED MOTION:

ATTACHMENTS:

Description

Smith kennel license application

Kennel license ordinance

CITY OF PEWAUKEE

KENNEL LICENSE APPLICATION

PART 1: Purpose of License

☐ **Commercial Kennel** (Please check all that apply)

- | | | | |
|--|---|--|--|
| ☐ Boarding Dogs | ☐ Foster Care | ☐ Day Care | ☐ Grooming |
| ☐ Training | ☐ Buying & Selling of Dogs | ☐ Breeding or Stud Purposes | ☐ Raising Dogs for Sale (3) or more litters |

☒ **Hobby Kennel** (Please check all that apply)

- | | | | |
|--|---|--|--|
| ☒ Household Pets | ☒ Non-Commercial Foster Care | ☐ Non-Commercial Grooming | ☐ Non-Commercial Training |
| ☐ Non-Commercial Boarding | ☐ Non-Commercial Breeding or Stud Purposes | ☐ Occasional Raising Dogs for Sale – No more than (2) litters | |

PART 2: Applicant Information

First Name: Katie	Middle Initial: A	Last Name: Smith
Address: 1626 N 521 Oakwood Lane		
City: Pewaukee	State: WI	Zip Code: 53186
Home Phone: N/A		Cell Phone: 262-720-1638
Email Address: kasmith0614@gmail.com		

PART 3: Kennel Information

Attach Sketch or survey with Dimensions of Kennel and Distance to Principal Structure and Any On-Site Water Supply Systems

Name of Kennel if Applicable: N/A	
Physical Address of Kennel if Different from Above: N/A	
Type of Principal Building: ②	Size of Principal Building: ②
Number of Acres: .34	Zoning of Property: Residential
Months of Operation: n/a	Hours of Operation: N/A
Number of Dogs to be Boarded: N/A	Number of Dogs Estimated to be Sold Annually: ②
Type of Kennel Enclosure: n/a	Size of Enclosure: NO Enclosure
Source and Location of Water Supply: inside home, or hose from house	Place for Keeping Food & Medicine: Basement
Fenced Area Location: See Plat Survey	Fence Measurement & Height: Electronic Fencing System
Security: we live at residents	Noise Suppression: our dogs are outside with us



BIRRENKOTT SURVEYING

P.O. Box 237
1677 N. Bristol Street
Sun Prairie, WI. 53590
Phone (608) 837-7463
Fax (608) 837-1081

PLAT OF SURVEY

SURVEYOR'S CERTIFICATE:

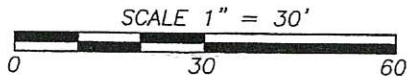
I, Chris K. Casson, hereby certify that this survey is in compliance with the Wisconsin Administrative Code, Chapter A-E7. I also certify that I have surveyed and mapped the lands described hereon and that the map is a correct representation in accordance with the information provided and is correct to the best of my knowledge and belief.

Chris K. Casson

Chris. K Casson
Wisconsin Professional Land Surveyor No. S-3264.

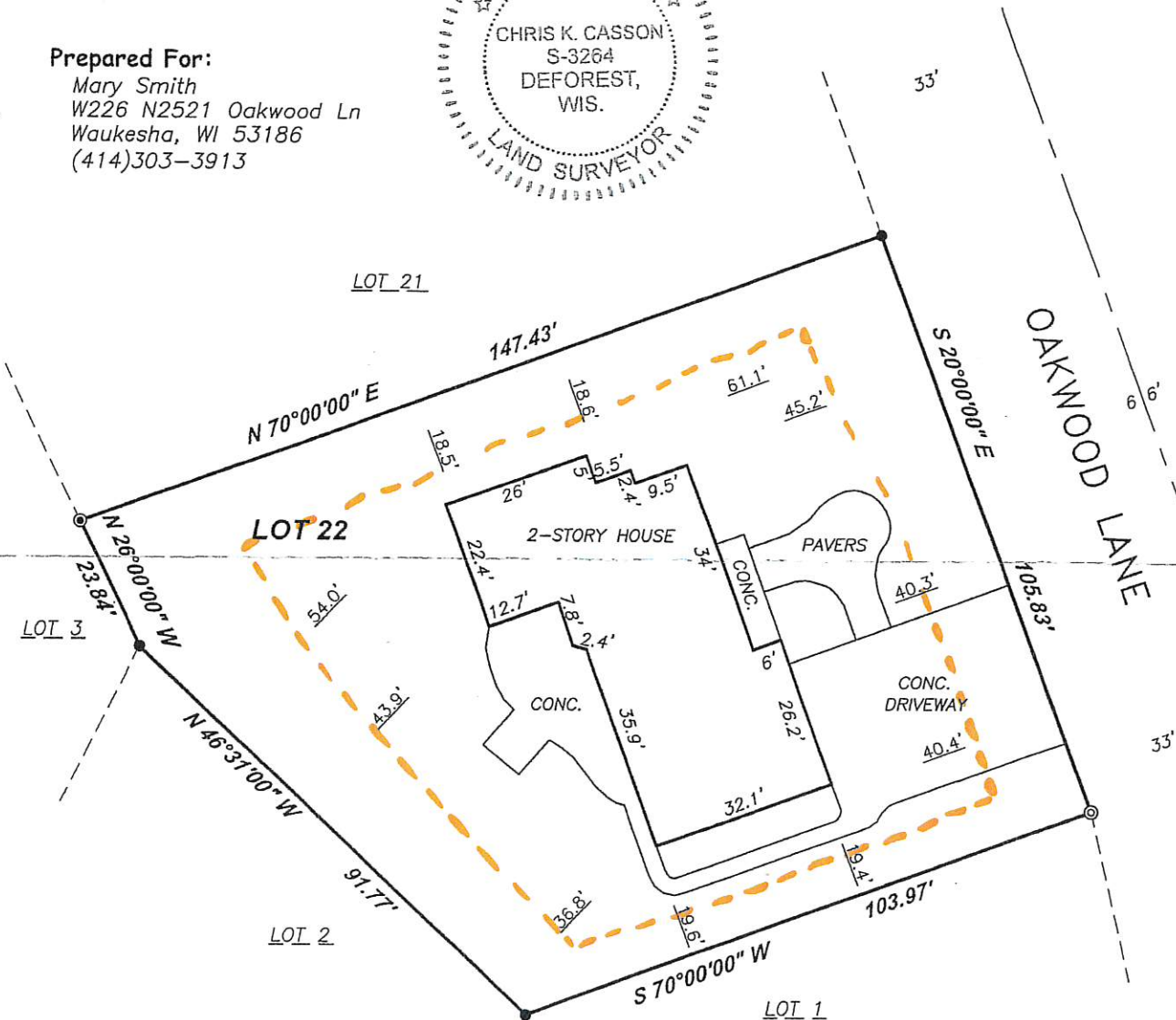
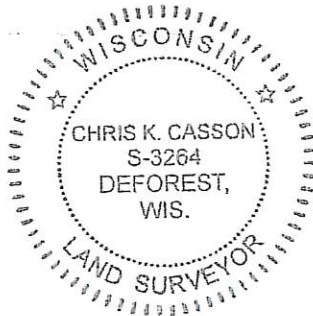
Description:

LOT 22, SPRINGDALE ESTATES ADDITION
NO. 4 BLOCK-20, LOCATED IN THE
SW1/4, SE1/4 OF SECTION 13, T7N,
R19E, CITY OF WAUKESHA, WAUKESHA
COUNTY, WISCONSIN.



Prepared For:

Mary Smith
W226 N2521 Oakwood Ln
Waukesha, WI 53186
(414)303-3913



Dog Guard of WI electronic fencing System.

Legend:

- = Found 3/4" Iron Pipe
- ⊙ = Found 1" Iron Pipe
- ⊗ = Found 2" Iron Pipe

Dated: October 28, 2022
Surveyed: T.A.S.
Drawn: S.A.S.
Checked: C.K.C.
Approved: C.K.C.
Field book:
Comp. File: J:\2022\CARLSON
Office Map No. 220749

 Bearings referenced to the
South line of Lot 22, platted
bearing S 70°00'00" W

Notes:

This survey is subject to any and all easements and agreements both recorded and unrecorded.

The disturbance of a survey stake by anyone is in violation of Section 236.32 of Wisconsin Statutes.

Wetlands, if present have not been delineated.

This survey shows visible, above-ground improvements only. No guarantee is made for below-ground structures.

Date of survey: September 27, 2022.

SHEET 1 OF 1

3. TOURIST CABINS PROHIBITED

No premises in the City of Pewaukee shall be used for the purpose of operating tourist cabins.

4. HOTELS REGULATED

No hotels as herein defined shall be permitted to be erected or used for habitation of humans within the City of Pewaukee without first obtaining a permit therefore from the City Clerk as hereinafter provided.

5. HOTEL PERMITS

Applications for hotel permits shall be made to the City Clerk upon forms to be provided for that purpose. No permit shall be issued unless such building complies in every respect with the statutes of the State of Wisconsin relating to hotels and restaurants and also complies with the rules and regulations of the Wisconsin State Department of Health and Social Services relating to hotels and tourists rooming houses. A license fee as shall be established from time to time by resolution of the Common Council shall be paid at the time of making the application, said fee to run from July 1 of each year to June 30 of the succeeding year. A fee for any fraction of the license year shall likewise be as established from time to time by resolution of the Common Council. (Rep. & Rec. 06-17)

6. REGULATION BY THE CITY COMMON COUNCIL

a. The owner and operator of any hotel within the City of Pewaukee shall at the time of registration of each guest require the driver of any motor vehicle using such premises to produce for inspection his driver's license. Permanent record shall be kept by the operator of each hotel of the registration of each guest assigned accommodations upon said premises and the license number of each motor vehicle used by such guest in connection with such accommodations.

b. The records of each such hotel relating to registration and use of said premises shall be open for inspection to members of the City Common Council the City Clerk and the City Building Inspector at all reasonable times.

11.05 DOG LICENSES, KENNELS AND REGULATION OF ANIMALS.

(Rep. & Recr. 09-20, 13-08)

(1) - ADOPTION OF STATE STATUTES.

Except as otherwise specifically provided in this Code, the current and future statutory provisions of Chapter 174, Wisconsin Statutes describing and defining regulations with respect to dogs, exclusive of any provisions therein relating to penalties to be imposed are adopted and by reference made a part of this Code as if fully set forth herein. Any act required to be performed or prohibited by any current or future statute incorporated herein by reference is required or prohibited by this Section. Any further additions, amendments, revisions or modifications of the current or future statutes incorporated herein are intended to be made part of this Code in order to secure uniform statewide regulation of dogs.

(2) - DEFINITIONS

In this section the following terms mean:

"Boarding" means the care and housing of an animal whether on a temporary, short-term basis such as during the day, or for longer periods of time.

"Commercial Kennel" means any premises used for raising, breeding, boarding, training, grooming or foster care of animals for remuneration or other commercial purposes, including raising and selling of three (3) or more litters of animals per year.

"Farm Animals" means animals that are commonly raised or kept in an agricultural enterprise for purposes of breeding, animal by-products or beasts of burden.

"Foster Care" means temporarily boarding animals until they can be permanently placed with an owner, whether for compensation or not. Typically these animals have been injured, rescued or are overflow from a shelter.

"Hobby Kennel" means any premises with four (4) or more dogs five (5) or more months of age, 6 or more other animals, or a combination of 6 or more dogs and animals, as household pets or for non-commercial purposes such as raising, breeding, boarding, training, grooming, foster care and the occasional raising and selling of not more than two (2) litters of animals per year.

"Other Animals" means animals, insects or arachnids kept for companionship rather than food or utility.

(3) - ANIMAL REGULATIONS

(a) It shall be unlawful to keep farm animals in any zoning district except the A-1 and A-2 Districts or the Rs-1 District, which requires a conditional use permit, as set forth in sections 17.0403, 17.0404 & 17.0405 of the City Zoning Ordinance.

(b) Prohibited Animals:

1. Poisonous Animals, Arachnids or Insects.

It shall be unlawful to keep any animal, arachnid or insect that is known to have a bite, sting, secretion or other physical action that may cause sickness, injury or death to humans or other animals, with the exception of honey bees which may be kept in the A-1 or A-2 Zoning Districts.

2. Vicious animals.

It shall be unlawful to keep a vicious animal within the City. A visual confirmation or written documentation that an animal has bitten, attacked, killed or injured any person, killed or maimed other animals or is a wild animal known for its potential viciousness shall constitute a prima facie showing that such an animal is vicious.

3. Wild or exotic animals.

No person shall keep, maintain or have in possession or control any alligators, bears, cheetas, coyotes, crocodiles, cougars, elephants, gamecocks or other fighting birds, hippopotami, hyenas, jaguars, leopards, lions, lynx, non-human primates, ocelots, tigers, wolves, or any hybrid of these animals.

(c) Animals Running at Large

It shall be unlawful for animals to run at-large any place within the City. An animal will be considered running at-large if it is on property without the consent of the owner or occupant of that property and not under the control of the owner or some other person. Any animal running at-large shall be confined at any pound designated by the City Common Council upon capture by the Humane Welfare Animal Society or law enforcement personnel.

(d) Animal Excrement and Food Waste Disposal.

1. Animal Waste Removal "off premises"

The person having physical possession of animals shall immediately remove and properly dispose in a sanitary manner all excrement deposited by any animal on any property not under the control of the person having physical possession of the animal at the time.

2. Animal and Food Waste Removal “on-premises”

It is unlawful to allow animal excrement and/or food waste to accumulate on private property to a level which is detrimental to the health, safety or welfare of persons, animals or property and is declared to be a public nuisance. The accumulation of animal excrement and/or food waste shall be deemed detrimental to health, safety or welfare when there is sufficient quantity on the subject private property to generate detectable odors off the subject private property, or has accumulated in such proportion as to be visually offensive or be attractive to insects and vermin.

(e) Barking or Howling Dogs or Loud Noises Made by Other Animals.

No person shall allow a dog or other animal to make loud noises or excessive sound to such an extent or at unusual hours that the noise unreasonably disturbs any neighbor.

(4) DOG AND KENNEL LICENSES REQUIRED. Except as in (b)1. below, licenses are required and will be granted by the Common Council or the Clerk and issued by the Clerk as follows:

(a) Dog License Tax. The owner of every dog which is five (5) months of age on January 1 of any year, or five (5) months of age within the license year, shall annually on or before the date the dog becomes five (5) months of age pay the dog license tax and obtain a license, except as provided in §174.054, Wis. Stats. The license and tag can be obtained from the City Clerk, after presenting proof of rabies immunization, unless exempt as allowed under §95.21(9)(d), Wis. Stats. Tags shall be attached to a collar which shall be kept on the dog at all times, except during competition, training, hunting, actively herding or controlling livestock if the dog is under control of the owner, or if the dog is securely confined indoors. Multiple dog licenses can be obtain per §174.053, Wis. Stats.

(b) Kennel Licenses

1. No license is required for six (6) or fewer animals.

2. Hobby Kennel. A hobby kennel license is required for:

- four (4) or more dogs five (five) months of age or older kept on a premises within the City as household pets or for non-commercial purposes including raising, breeding, boarding, training, grooming, foster care and the occasional raising and selling of not more than two (2) litters of animals per year; or

- six (6) or more animals, or a combination of dogs five months of age or older and other animals kept outside on a premises within the City or with constant access to the outside.

Hobby kennels are allowed only in the A-1, A-2, Rs-1, Rs-2, Rs-3, Rs-4, Rs-5, Rs-6, Rs-7, Rd-1, Rd-2 and B-3 zoning districts.

3. Commercial Kennel. A commercial kennel license is required when one (1) or more animals are kept on a premises within the City for commercial purpose of raising, breeding, boarding, training, or grooming, including raising and selling of three (3) or more litters of animals, “day care” facilities, and foster care. Commercial kennels are allowed only in the A-1, A-2, B-3, B-5, B-6, M-1, M-2, M-3, M-4 & M-6 zoning districts.

(c) Kennel License Application. Application forms are available from and must be filed with the Clerk containing the following information:

1. Type of kennel license requested (Hobby or Commercial).
2. Address of property on which the kennel is to be located.
3. Size and zoning of premises.

4. Type of animals
5. Maximum number of animals to be kept at the kennel at any time.
6. Type and size of principal buildings.
7. The type of kennel enclosure(s), if any, including:
 - i. Size of enclosure(s).
 - ii. Fenced area location and size, if any
 - iii. Source and location of water supply.
 - vi. Place for keeping of food/medicine.
 - v. Sanitary maintenance plan, including provision for collection, storage and disposal of excrement, food waste and other liquid or solid waste.
8. Noise suppression.
9. Methods of security.
10. Hours of operation, if commercial kennel.

(d) License fees and late fees shall be established from time to time by resolution of the Common Council.

(e) Kennels are subject to site plan review as well as architectural and business plan of operation review, as necessary, by the Plan Commission per §17.0207 of the Pewaukee Code.

(5) KENNEL REGULATIONS.

In order to keep the dogs/animals in a healthful and sanitary condition and the minimum requirements shall be as follows:

(a) An enclosed, insulated shelter at least three (3) feet in height shall be made accessible to every animal on the premises no less than eight (8) square feet in floor area for each animal. Such shelters shall be kept clean and free of vermin and shall be ventilated to allow movement of air and heated during cold weather. In addition, such enclosure shall be provided with a window or skylight. Such shelter, if separate from the principle or accessory buildings on the premises, shall be placed so as to meet the yard setback requirements of the zoning ordinance.

(b) Fenced 'runs' or enclosures. Fenced enclosures, if erected, shall be constructed so that the animals cannot escape and shall be visually screened from the general public and, specifically, from the direction of neighboring residences and businesses. Such screening may include a permanent wood or fabric screening in combination with the fence material, or may be composed of dense evergreen planting, adjacent to and outside the fenced enclosure. The fence shall meet the maximum fence height requirements of the City zoning ordinance and may not be placed in the street yard setback areas of the premises as set forth in the City zoning ordinance. The fenced enclosure shall be large enough to accommodate the number of animals licensed for the premises without crowding.

(c) Food and waste. Leftover food and animal waste shall be removed each day from the kennel or fenced enclosures and stored in sealed containers, which are located a minimum of 50 feet from any neighboring residence, surface water and water supply until such time as it can be disposed of properly.

(d) For an animal foster care home, there shall be a building a minimum of 1,800 square feet in area.

(e) Animal-to-premises area ratio.

1. Minimum of 15,000 square feet for 4 animals plus 10,000 square feet for each additional animal.

2. More than 8 animals – minimum of 60,000 square feet plus 12,000 square feet for each additional animal over 8.
3. Day care. Minimum parcel size as noted in (e)1. plus a building having a minimum of 1,000 square feet of area plus 90 square feet of building area for each prospective animal to be cared for.

11.06 PEDDLERS, CANVASSERS, SOLICITORS AND TRANSIENT MERCHANTS.

1. LICENSE REQUIRED (Rep. & Rec. 09-05)

No direct seller shall engage in direct sales with the City without first obtaining a license from the Clerk in compliance with the provisions of this Section. (Rep. & Rec. 09-21)

1.5 DEFINITIONS

For the purposes of this Section, the following terms shall have the following meanings:

- a. "Direct Seller." Any individual who, for himself or herself, or for a partnership, association, corporation or other entity, sells or takes sales orders for the later delivery of goods or services at any location other than the permanent business place or residence of such individual, partnership, association, corporation or other entity, and shall include, but not be limited to, peddlers, solicitors, canvassers, and transient merchants. The sale of goods or services includes transactions in which donations are required or anticipated by the direct seller for the retention of goods, services or any item by a donor or prospective customer.
- b. "Permanent Merchant." A direct seller who, for at least one twelve (12) month period immediately prior to the consideration of the application of this Section to such merchant, has continuously operated an established place of business in the City or has continuously resided in the City and now does business from his or her residence.
- c. "Goods." Includes, but is not limited to, personal property of any kind and shall include goods or items provided incidental to services offered or sold.
- d. "Charitable Organization." Includes, but is not limited to, a benevolent, philanthropic, patriotic or eleemosynary person, partnership, association, corporation, or other entity, or one purporting to be such.

2. EXEMPTIONS (Rep. & Rec. 09-05)

The following shall be exempt from the provisions of this Section relative to the requirement of first obtaining a license:

- a. Any person delivering newspapers, fuel, dairy products or bakery goods to regular customers on established routes.
- b. Any person selling goods at wholesale to dealers in such goods.
- c. Any person selling agricultural products which such person has grown.
- d. Any permanent merchant or employee thereof who takes orders away from the established place of

**CITY OF PEWAUKEE
PLAN COMMISSION AGENDA ITEM 4.**

DATE: July 20, 2023

DEPARTMENT: Planning

PROVIDED BY:

SUBJECT:

Discussion and Action Regarding a Recommendation to the Common Council for a Conditional Use Permit for The Inn Bed and Breakfast Located at N4 W22496 Bluemound Road (PWC 0963998)

BACKGROUND:

FINANCIAL IMPACT:

RECOMMENDED MOTION:

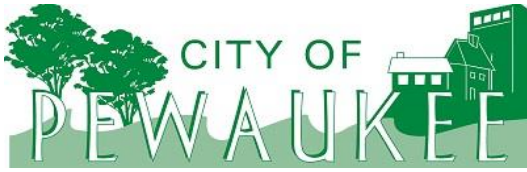
ATTACHMENTS:

Description

The Inn staff report 7.20.23

The Inn narrative

The Inn draft Conditional Use Permit



Office of the Planner & Community Development Director
W240 N3065 Pewaukee Road
Pewaukee, Wisconsin 53072
Phone (262) 691-0770 Fax (262) 691-1798
fuchs@pewaukee.wi.us

REPORT TO THE PLAN COMMISSION

Meeting of July 20, 2023

Date: 7/5/2023

Project Name: The Inn Bed & Breakfast Conditional Use

Project Address/Tax Key No.: N4W22496 Bluemound Rd./PWC 0963998

Applicant: JOHN CAMERON AND KAREN MILLER

Property Owner: JOHN CAMERON AND KAREN MILLER

Current Zoning: B-3 General Business

2050 Land Use Map Designation: Manufacturing/Fabrication/Warehousing

Use of Surrounding Properties: B-4 to the west, Bluemound Rd to the south, and M-2 to the north and east.

Project Description/Analysis:

City staff recently became aware of a bed and breakfast use upon property located at N4W22496 Bluemound Road and reached out to the property owner requesting that they apply for the necessary permits and approvals needed for such a use. As such, the applicant has filed a Conditional Use application to operate the Inn bed & breakfast.

The subject property is just over 2-acres and contains various uses including a single-family residential home, Jack's café, Just a Little Bit Country Antique Store, and now the Inn bed and breakfast. The Inn is furnished in authentic 1800's style New England antiques and furniture. The operations of the Inn include three bedrooms, a small kitchen, dining room and living room which are all located within the original 1850's farmhouse. Additionally, there is a fourth bedroom located in the summer kitchen, which is a separate, adjacent building. There are no current plans for signage or site improvements.

Recommendation:

Staff recommends a motion to approve the Conditional Use application to operate a Bed & Breakfast establishment located at N4W22496 Bluemound Road, subject to the business owner obtaining a City of Pewaukee Hotel/Motel License from the City Clerk's Office as well as any other applicable government license deemed necessary in order for the use to be in compliance with local, county, and state regulations.

PETITION FOR CONDITIONAL USE

I, Karen Miller-Cameron, petition the City of Pewaukee to use the original 1850's farmhouse, located at N4 W22496 Bluemound Rd, Waukesha, Wisconsin for a Bed & Breakfast Inn with colonial historic lodging. The farmhouse was previously used for my antiques & retail shop since 1995. I downsized my shop & by moving the business to a smaller single level building on our property which is located across from Jack's Café, owned by my husband, John Cameron & myself. I want to preserve the past with this fine historic structure & put it to good use for the enjoyment of folks visiting our community and keep the history alive.

The wonderful farmhouse has 3 bedrooms. A tavern room/small kitchen (in the original kitchen area), a dining room and a living room are shared areas for guests. A very small building adjacent to the farmhouse, which I additionally used for retail, is the 4th unit for guests. It was originally the summer kitchen for the farmhouse. Due to this building being a house for 173 years, there was little to do but to put beds in the sleeping areas. The Inn completes the wonderful historic property that I refer to as the Olde Homestead for the enjoyment of our guests & the community. The Inn is furnished authentically in 1800's style New England antiques & furniture to create a step back in time by my shop, Just A Little Bit Country, which I have owned since 1984.

There are no further lighting plans or landscaping other than the usual replacement of shrubs or planting of flowers because that has already been done, maintained and improved where needed for the past 28 years that we have owned the property. No additional signage is to be done. Pictures of exterior are included with this petition.

Thank you,

Karen Miller-Cameron

N4W22496 Bluemound Rd

Waukesha, WI 53186

TheInn1850@gmail.com

414-915-7565

Date of this notice: 03-29-2021

Employer Identification Number:
86-2901674

Form: SS-4

Number of this notice: CP 575 G

For assistance you may call us at:
1-800-829-4933

OLDE HOMESTEAD LLC
KAREN LEE MILLER-CAMERON SOLE MBR
N4W22496 BLUEMOUND RD
WAUKESHA, WI 53186

IF YOU WRITE, ATTACH THE
STUB AT THE END OF THIS NOTICE.

WE ASSIGNED YOU AN EMPLOYER IDENTIFICATION NUMBER

Thank you for applying for an Employer Identification Number (EIN). We assigned you EIN 86-2901674. This EIN will identify you, your business accounts, tax returns, and documents, even if you have no employees. Please keep this notice in your permanent records.

When filing tax documents, payments, and related correspondence, it is very important that you use your EIN and complete name and address exactly as shown above. Any variation may cause a delay in processing, result in incorrect information in your account, or even cause you to be assigned more than one EIN. If the information is not correct as shown above, please make the correction using the attached tear off stub and return it to us.

A limited liability company (LLC) may file Form 8832, *Entity Classification Election*, and elect to be classified as an association taxable as a corporation. If the LLC is eligible to be treated as a corporation that meets certain tests and it will be electing S corporation status, it must timely file Form 2553, *Election by a Small Business Corporation*. The LLC will be treated as a corporation as of the effective date of the S corporation election and does not need to file Form 8832.

To obtain tax forms and publications, including those referenced in this notice, visit our Web site at www.irs.gov. If you do not have access to the Internet, call 1-800-829-3676 (TTY/TDD 1-800-829-4059) or visit your local IRS office.

IMPORTANT REMINDERS:

- * Keep a copy of this notice in your permanent records. **This notice is issued only one time and the IRS will not be able to generate a duplicate copy for you.** You may give a copy of this document to anyone asking for proof of your EIN.
- * Use this EIN and your name exactly as they appear at the top of this notice on all your federal tax forms.
- * Refer to this EIN on your tax-related correspondence and documents.

If you have questions about your EIN, you can call us at the phone number or write to us at the address shown at the top of this notice. If you write, please tear off the stub at the bottom of this notice and send it along with your letter. If you do not need to write us, do not complete and return the stub.

Your name control associated with this EIN is OLDE. You will need to provide this information, along with your EIN, if you file your returns electronically.

Thank you for your cooperation.



WISCONSIN DEPARTMENT OF REVENUE
PO BOX 8902
MADISON, WI 53708-8902

Contact Information:

2135 RIMROCK RD PO BOX 8902
MADISON, WI 53708-8902
ph: 608-266-2776 fax: 608-224-5761
email: DORBusinessTax@wisconsin.gov
website: revenue.wi.gov

Letter ID L1305674448

KAREN MILLER-CAMERON
N4 W22496 BLUEMOUND RD
WAUKESHA WI 53186

Wisconsin Department of Revenue Seller's Permit

Legal/real name: KAREN MILLER-CAMERON
Business name: THE INN
N4W22496 BLUEMOUND RD
WAUKESHA WI 53186-1621

- This certificate confirms you are registered with the Wisconsin Department of Revenue and authorized in the business of selling tangible personal property and taxable services.
- You may not transfer this permit.
- This permit must be displayed at the place of business and is not valid at any other location.
- If your business is not operated from a fixed location, you must carry or display this permit at all events.

Tax Type	Account Type	Account Number
Sales & Use Tax	Seller's Permit	456-1024079668-03

**A COVENANT
REGARDING THE ISSUANCE OF A
CONDITIONAL USE PERMIT
BY THE
CITY OF PEWAUKEE**

**TAX KEY NUMBER(S)
OR PARCEL(S) INVOLVED:** **CONDITIONAL USE
PERMIT:
NO. CUP-23-7-2**

PWC 0963998

LEGAL DESCRIPTION:

CERT SURV 71 VOL 1/93 PT S1/2 SEC 25 T7N R19E COM AT
INTERSEC HWY CTR LI & S1/4 LI AT PT 1611.96 FT N OF S1/4
COR S88°36'W 76.66 FT N 410 FT N88°36'E 241 FT S 377 FT
S88°36'W 164.54 FT S 33 FT TO BGN EX HWY EX R1069/162
R2090/138

**PERSON(S), AGENT(S) OR CORPORATION(S) PETITIONING
FOR PERMIT:**

The Inn Bed & Breakfast/Karen Miller-Cameron

Recording area

Name & Return Address

City of Pewaukee
W240N3065 Pewaukee Rd
Pewaukee, WI 53072

WHEREAS, It is understood by all parties to this covenant that Section 62.23 of WIS. Statutes prescribes the legal basis for the granting of a conditional use permit by a City and Chapter 17 of the City Codes and Ordinances provides for the issuance of such permits as well as the standards by which all such uses will be measured; and,

WHEREAS, The City Plan Commission has held a meeting on July 20, 2023; has reviewed the various elements of the petitioner's proposal; and has recommended that a Conditional Use Permit be granted to the above-named petitioner for the property/parcel identified above; and,

WHEREAS, The City Common Council held a public hearing meeting on August 7, 2023.

NOW, THEREFORE, let it be known that the City Common Council, by its action on August 7, 2023 has, hereby, granted a Conditional Use Permit for the following use(s):

Operating a bed and breakfast on the Jack's Café property.

FURTHER, such approved use of the above designated parcel(s) are hereby allowed based on the following conditions being continually met:

No conditions.

The parties hereto, namely the City of Pewaukee and the Equitable Owner of the property for which this conditional use has been sought, set their signatures or the signatures of their representatives below, thereby agreeing to the provisions and conditions set forth in this covenant.

Attest:

Signature of equitable owner

Date

Kelly Tarczewski
City Clerk

Steve Bierce
Mayor, City of Pewaukee

Date

State of Wisconsin
County of Waukesha

Signed or attested before me on _____, 2023 by Steve Bierce, Mayor and Kelly Tarczewski, Clerk.

(Seal)

Ami Hurd
My Commission expires _____

This instrument was drafted by Ami Hurd, Deputy Clerk

**CITY OF PEWAUKEE
PLAN COMMISSION AGENDA ITEM 5.**

DATE: July 20, 2023

DEPARTMENT: Planning

PROVIDED BY:

SUBJECT:

Discussion and Action Regarding a Recommendation to the Common Council for a Conditional Use Permit and Site and Building Plans for Steny's Lake Country for Property Located at N29 W24483 Watertown Road for the Purpose of Operating a Restaurant and Bar (PWC 0922987001)

BACKGROUND:

FINANCIAL IMPACT:

RECOMMENDED MOTION:

ATTACHMENTS:

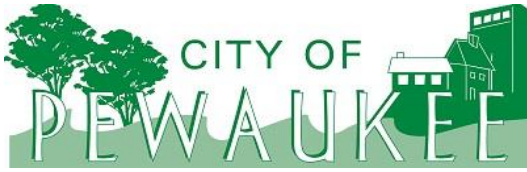
Description

Steny's staff report 7.20.23

Steny's revised narrative

Steny's revised site & building plans

Steny's draft Conditional Use Permit



Office of the Planner & Community Development Director
W240 N3065 Pewaukee Road
Pewaukee, Wisconsin 53072
Phone (262) 691-0770 Fax (262) 691-1798
fuchs@pewaukee.wi.us

REPORT TO THE PLAN COMMISSION

Meeting of July 20, 2023

Date: 7/7/2023

Project Name: Steny's Lake Country Conditional Use and Site & Building Plans

Project Address/Tax Key No.: N29W24483 Watertown Rd./PWC 0922987001

Applicant: JEROME STENSTRUP

Property Owner: JEROME STENSTRUP

Current Zoning: B-6 Mixed Use

2050 Land Use Map Designation: Retail/Service Commercial

Use of Surrounding Properties: E. Wisconsin Ave to the north, Creekside subdivision to the east, A-2 to the south and west.

Project Description/Analysis:

The applicant, Jerome Stenstrup, submitted a Conditional Use Application and Site & Building Plans for a proposed bar and restaurant at the former Boomer's bar located at N29W24483 Watertown Road. The subject property is zoned B-6 Mixed Use Business District and designated as Retail/Service Commercial on the City's Year 2050 Land Use/Transportation Plan map.

Steny's is proposing a restaurant and bar with a focus on sports that will be a family-oriented establishment. The applicant projects a capacity of 250 people and anticipates 1,000 customers per week. Additionally, Steny's will create over 50 jobs. Lastly, the applicant estimates that the project value will \$750,000.

Conditional Use

The former business at this location, Boomers, received approval of a Conditional Use Grant in 2002 and a Business Plan of Operation was also issued in 2012. In accordance with Section 17.0209c., as the use has been discontinued for a period greater than 12 months, Steny's is required to apply for a new Conditional Use Permit.

The B-6 District refers to the B-4 and B-5 districts regarding uses. The B-6 District allows, as a Conditional Use, "Any retail, service or office use that is compatible with those uses listed above as determined by the Plan Commission." It can be noted that the B-5 District allows restaurants with no drive-thrus as a Permitted Use. Staff finds that a Conditional Use is appropriate as the proposed use is a bar and restaurant with outdoor activities.

The applicant has considered a drive through or drive-up window; however, are not moving forward with it at this time. If considered in the future, the drive-thru would be subject to an amendment to the conditional use along with approval of a Site & Building Plan Review Application.

Steny's will be open seven days a week and will run a volleyball league with games 5 nights a week from April to September. Games are anticipated to start at 6:00 p.m. and end at 10:00 p.m. Staff recommends the following hours of operation. Lighting related to any outdoor activities shall be shut off within 30 minutes following the end of the activity.

Indoor bar and restaurant:

- Sunday through Thursday – 10:00 a.m. to 2:00 a.m.
- Friday and Saturday – 10:00 a.m. to 2:30 a.m.

Outdoor volleyball and events:

- Daily - 10:00 a.m. to 10:00 p.m.

Outdoor dining, drinking, and music

- Sunday through Thursday – 10:00 a.m. to 9:00 p.m.
- Friday and Saturday – 10:00 a.m. to 10:00 p.m.

Site Plan

The subject property is 112,603 square feet and the project will result in a slight increase of greenspace due to proposed site improvements and building addition. The existing greenspace area is 42,021 square feet and the proposed greenspace area is 42,121 square feet. The applicant is removing various impervious surfaces around the site totaling 3,949 square feet in order to create new pervious surface.

The existing building is 5,772 square feet and the proposed addition is 3,286 square feet for a total building size of 9,058 square feet. The site changes include having one entrance in the center of the front that is only accessible via ramp, a new kitchen buildout on the west side of the building, expansion of dinning/bar area, new bathrooms, and removal of two existing volleyball courts. Staff would also like to note that the upstairs will continue to be used as an office space. For the two existing volleyball courts, staff recommends that the two volleyball courts being removed are returned to greenspace.

There are no changes proposed to access and the site will remain accessible from Watertown Road.

Parking

The parking lot consists of 121 spaces of which five are accessible with one being van accessible. Staff finds the existing parking to be sufficient for the proposed use. Besides the van accessible space, the rest of the parking spaces are 10' x 18' (180 square feet), which is in compliance with Zoning Code standards.

There may be overnight bus or shuttle parking onsite. As such, staff recommends that the location of bus parking onsite shall be diagramed on the site plan for Planning Staff review and approval. Parking of buses shall not be done in a manner to serve as signage.

Architecture

The proposed building exterior consists of fiber cement siding and split-face masonry to match the existing. The dumpsters will be enclosed in a galvanized steel pipe frame with wood horizontal space boards stained to match the building's exterior materials.

Landscaping

The applicant submitted a Landscape Plan which increases the number of plantings along Watertown Road as well as along the front of the building. Three planting beds that run parallel to Watertown Road consist of shrubs such as Russian Sage, Happy Returns Day Lilly and Firewitch Dianthus. A planter that lines the front of the building consists of Endless Summer Crush Hydrangea, Crimson Queen Japanese Maple, and Annabelle Hydrangea.

Lighting

The applicant is not proposing any changes to the existing lighting. Staff finds the existing lighting is sufficient for the use and site.

Utilities

Public sewer and water are available and will serve the development.

Recommendation:

A motion to recommend approval of the Conditional Use Permit for the proposed bar and restaurant upon property bearing Tax Key No. PWC 0922987001, subject to the condition within this report.

and

A motion to approve the Site & Building Plans for the building addition and site improvements upon property bearing Tax Key No. PWC 0922987001, subject to the conditions contained within this report.

Steny's Lake Country
N29W24483 Watertown Rd, Pewaukee, WI 53072

Steny's Lake Country is a restaurant and bar with a focus on sports. The driving forces of this business will include offerings of scratch made bar food, a sought-after beer selection, the capability of viewing sporting events on multiple televisions and outdoor volleyball leagues during the warmer months. Steny's will also be very family orientated catering to the demographic in Pewaukee and surrounding areas. We project the capacity will hold 250 people at a time. In a typical week, we project that 1,000+ customers will come in and out of our doors.

Hours of operation are the following:
Sunday through Thursday 11am – 2am
Friday and Saturday 11am – 2:30am

Our kitchen will be open from 11am to 11pm daily.

Just as the former bar Boomers had in the past, Steny's Lake Country plans on hosting outdoor volleyball leagues on the existing courts between the months of April and September. Leagues will run 5 nights a week Monday through Friday. Game times will start at 6pm and will go no later than 10pm at night for the respect of the neighbors and to abide by the noise ordinance. Any outdoor events that may occur in the back of the building, such as volleyball tournaments, will begin no earlier than 10am and go to no later than 10pm

We anticipate to use the field and potentially part of the parking lot for live music, community events and sport leagues/tournaments in the future. The use of lighting and music associated with these outdoor activities will begin no earlier than 10 am and go no later than 10pm.

Steny's Lake Country will be a positive influence on the community providing the following:

- 50+ job opportunities
- Updating and improving an existing structure in the community
- Providing another option for food and entertainment from a current successful business brand.
- Gathering place for large parties of families, friends and coworkers.

The current site will be updated and improved with a new kitchen build out on the west end of the building. There will be an addition onto the south end of the building for a larger dining/bar area. The existing bathrooms have been demolished and we plan to make them larger and include 3 woman's stalls, 2 men's stalls and 3 urinals. The main entrance will be moved to a more centralized point of the bar and will include a wheelchair accessible ramp for an improved and more inclusive entrance.

The tentative development schedule will include the following steps:

- Construction of installing the structure of the flooring and walls

- Installation of a NFPA13 sprinkler system, kitchen hoods, and fixtures such as toilets and urinals.
- Interior design of flooring, walls and serving stations including the physical bar.
- Installation of video surveillance and all other audio video components such as televisions.

We project that from start to finish it will take 5 to 6 months to complete construction as well as implement all other details needed to run our business. Our goal is to be fully operating between the months of December of 2023 and January of 2024.

We estimate that the project value of the building will be \$750,000.

Site Information

Site area -112,603 sf - 2.59 acres
Building area
Existing Building area 5,772 sf
Proposed Addition area 3,286 sf
Total proposed building area 9,058 sf

Building area Information

Existing Building area 5,772 sf
Proposed Addition area 3,286 sf
Total proposed building size (existing and proposed) 9,058 sf

Parking spaces

124 Parking spaces (Total including accessible)

Typical space is 9'-0" wide x 20'-0" deep = 180 SF

ADA parking space sizes are in compliance with ADA guidelines.

Greenspace area Information

Total site area
112,603 SF

Existing greenspace area
42,021 - 37.3%

Proposed greenspace area
42,171 - 37.5%

Impervious area Information

Existing Total impervious area
70,582 SF
Existing Impervious ratio (70582/112603) = .627 (62.7%)

Impervious area being added by building addition and walkways
3799 SF

Existing impervious area being removed
290 SF Area 1
287 SF Area 2
408 SF Area 3
2585 SF Area 4
379 SF Area 5
3949 SF Total

Proposed impervious area
70,432 SF
Proposed Impervious ratio (70432/112603) = .625 (62.5%)

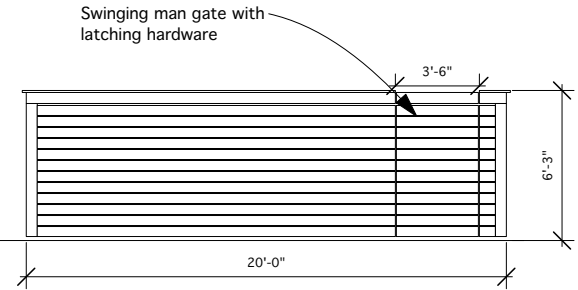
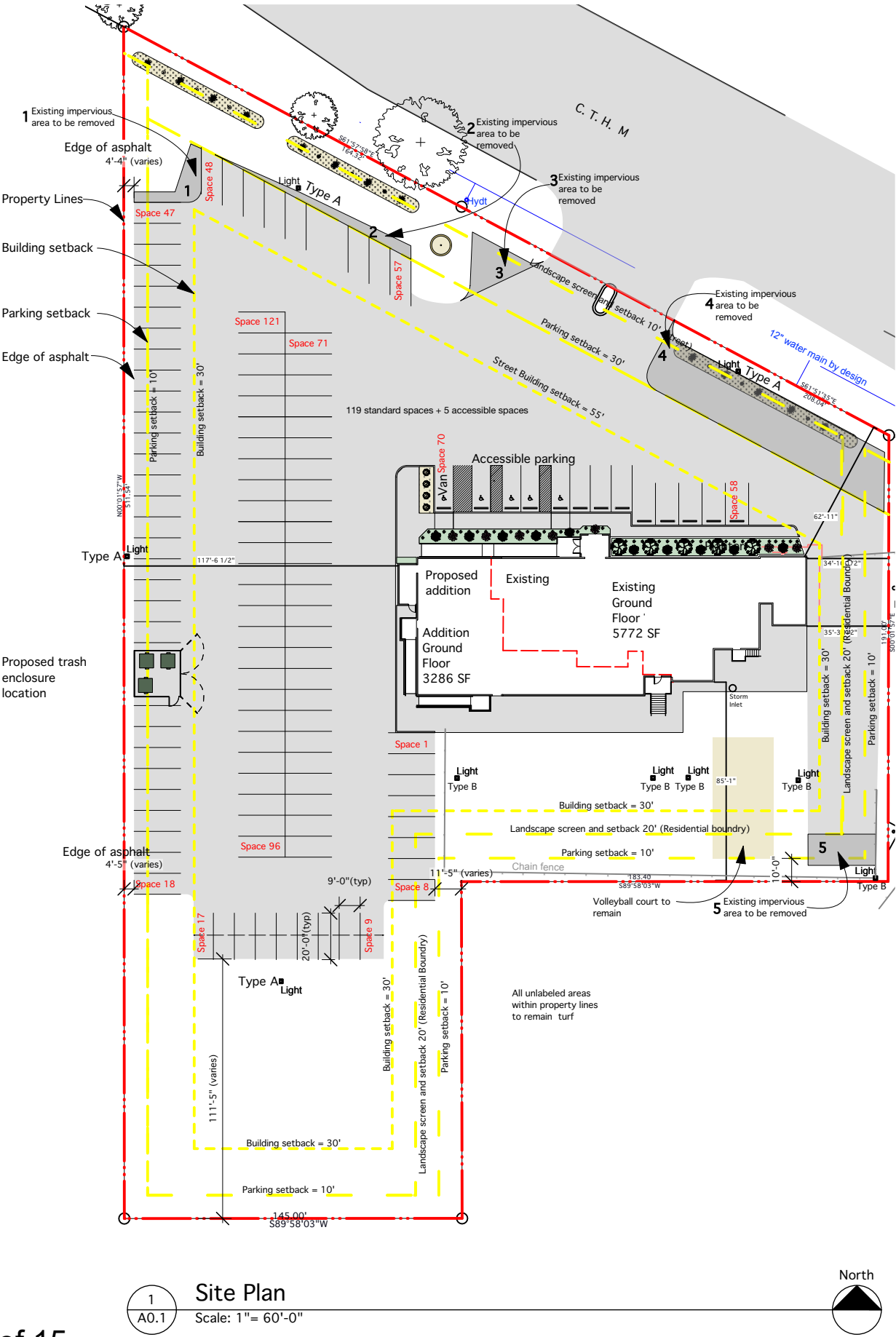
ADA Parking calculation

119 Parking spaces (Total non-accessible)

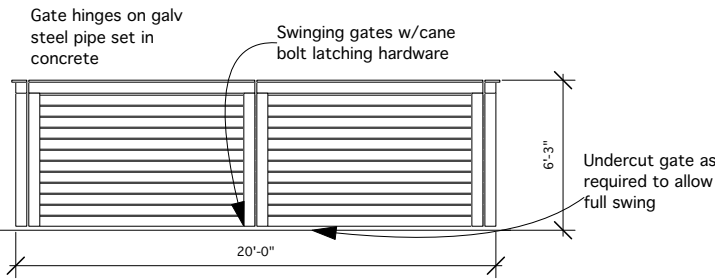
From table 11.06.1
5 accessible spaces required
1 of the 5 accessible spaces is required to be a van accessible space

Exterior Lighting - all existing site lighting to remain

Existing exterior light fixtures:
at parking perimeter (type A) top of lighting element 25'-0"
at volleyball courts (type B) top of lighting element 20'-0"



2
A0.1
Trash Enclosure - south elevation
Scale: 1"= 30'-0"
north and west similar



3
A0.1
Trash Enclosure - east elevation
Scale: 1/4"= 1'-0"

Trash enclosure description - Galvanized steel pipe frame with wood horizontal spaced boards (5" exp and 1/2" space) stained to match main building siding. Cornerboard wood trim and top trim to match main building

Michael Garber
Architecture LLC
855 East Birch Avenue
Whitefish Bay, Wisconsin
53217
tel: 414.748.3290
email:
mikegarber@wi.rr.com

PROJECT

Steny's Lake Country
N29 W24483
Watertown Rd,
Pewaukee, WI 53072

OWNER

Steny's Lake Country
Real Estate LLC
N29 W24483
Watertown Rd,
Pewaukee, WI 53072

CONTRACTOR

DATE
5/15/2023
Revised 7/6/2023

PROJECT NUMBER
189723

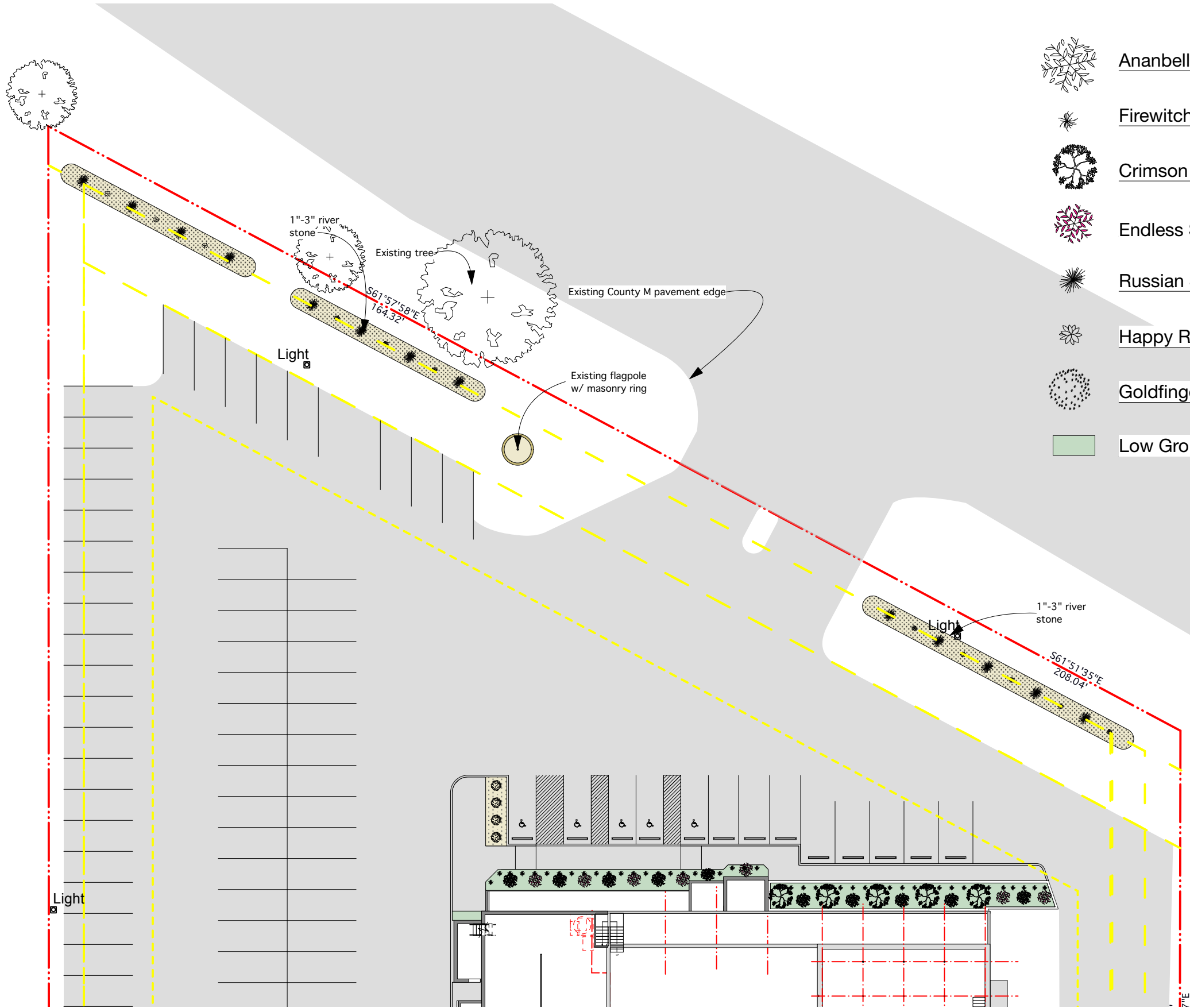
SEAL

SHEET TITLE

Site Plan

SHEET NUMBER

A0.1



Anabelle Hydrangea



Firewitch dianthus



Crimson Queen Japanese maple



Endless Summer Summer Crush Hydrangea



Russian Sage



Happy Returns Day lilly



Goldfinger Potentilla



Low Gro sumac



Michael Garber
Architecture LLC

855 East Birch Avenue
Whitefish Bay, Wisconsin
53217
tel: 414.748.3290

email:
mikegarber@wi.rr.com

PROJECT

Steny's Lake Country

N29 W24483
Watertown Rd,
Pewaukee, WI 53072

OWNER

Steny's Lake Country

Real Estate LLC
N29 W24483
Watertown Rd,
Pewaukee, WI 53072

CONTRACTOR

DATE

6/22/2023

Revised 7/6/2023

PROJECT NUMBER

189723

SEAL

SHEET TITLE

Plan

SHEET NUMBER

L1.0

Copyright © 2023 Michael Garber Architecture LLC, Inc.
All Rights Reserved

1
L1.0

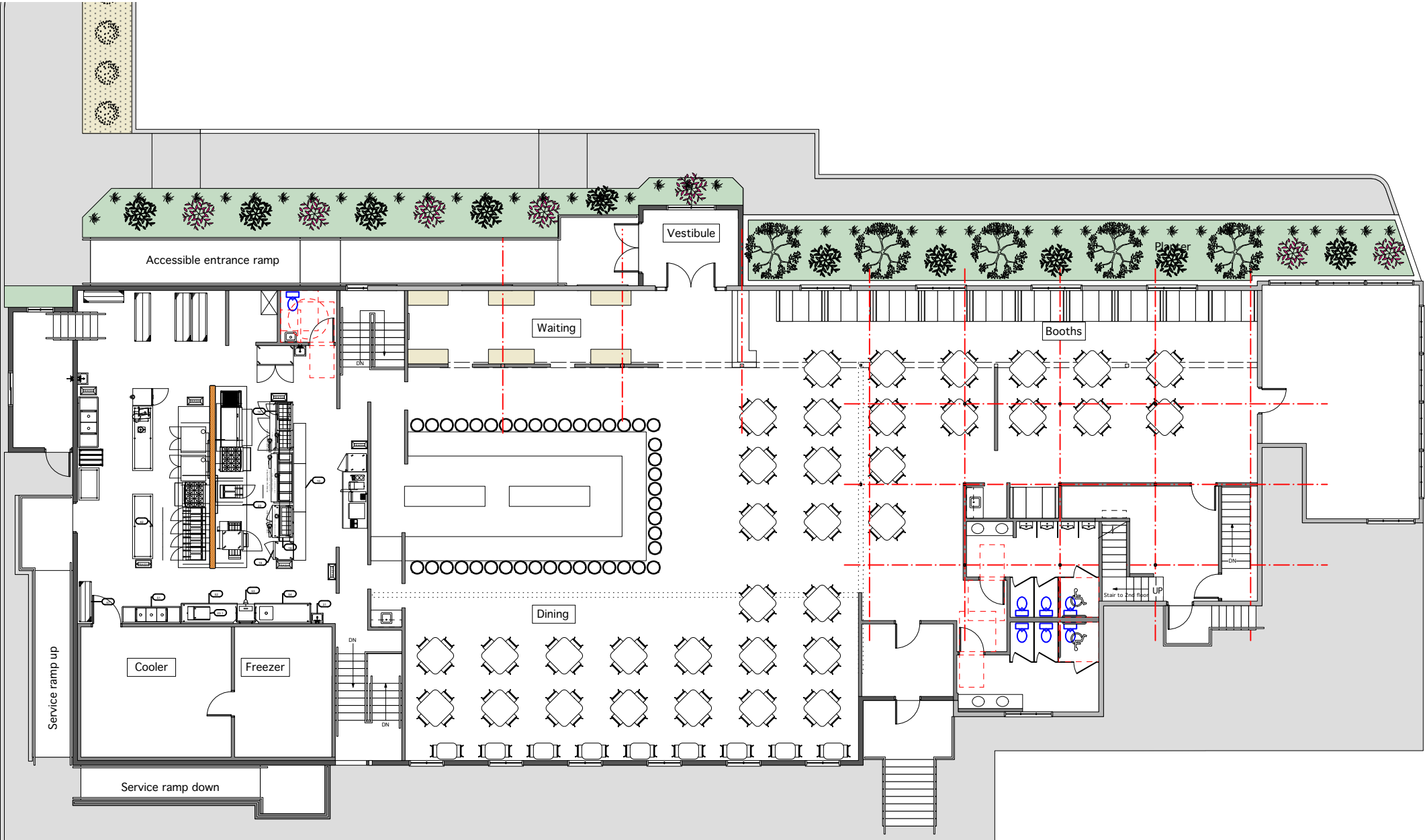
Landscape Plan (North half of lot shown)

Scale: 1/16" = 1'-0"

Page 8 of 15

North





1
A1.0

Floor Plan
Scale: 1/16" = 1'-0"



Michael Garber
Architecture LLC
855 East Birch Avenue
Whitefish Bay, Wisconsin
53217
tel: 414.748.3290
email:
mikegarber@wi.rr.com

PROJECT

Steny's Lake Country
N29 W24483
Watertown Rd,
Pewaukee, WI 53072

OWNER

Steny's Lake Country
Real Estate LLC
N29 W24483
Watertown Rd,
Pewaukee, WI 53072

CONTRACTOR

DATE
6/10/2023
Revised 7/6/2023

PROJECT NUMBER
189723

SEAL

SHEET TITLE

Plan

SHEET NUMBER

A1.0

Michael Garber
Architecture LLC
855 East Birch Avenue
Whitefish Bay, Wisconsin
53217
tel: 414.748.3290
email:
mikegarber@wi.rr.com

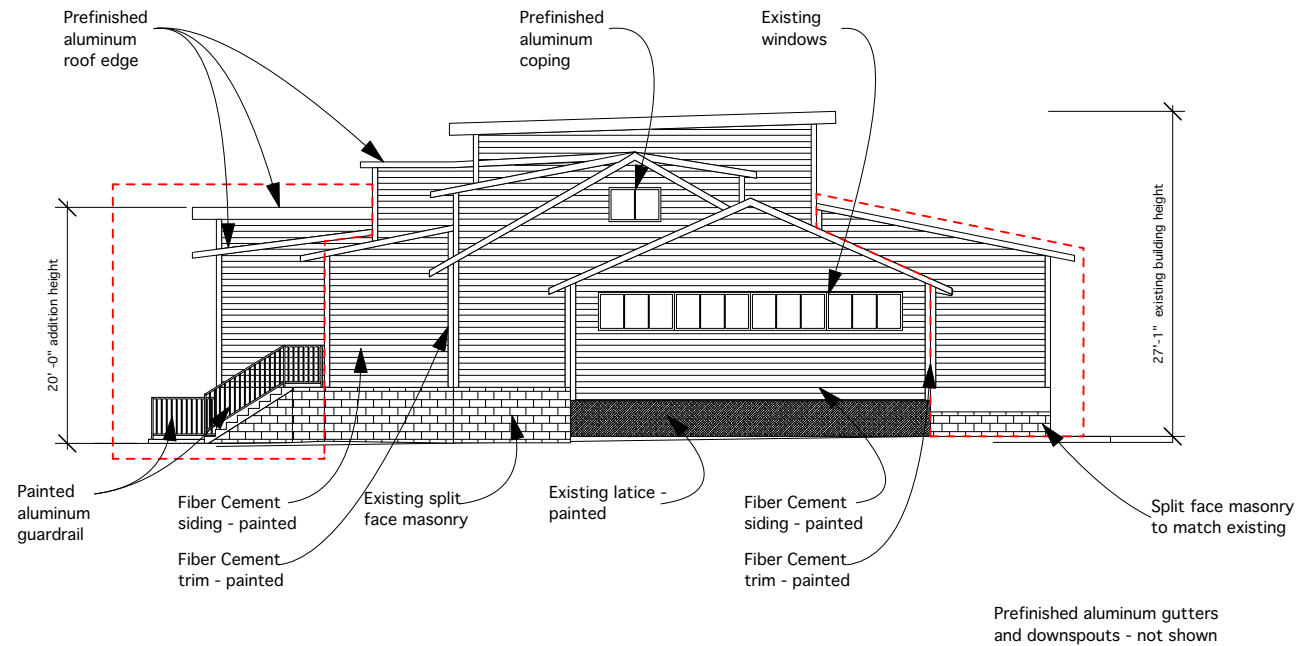
PROJECT

Steny's Lake Country
N29 W24483
Watertown Rd,
Pewaukee, WI 53072

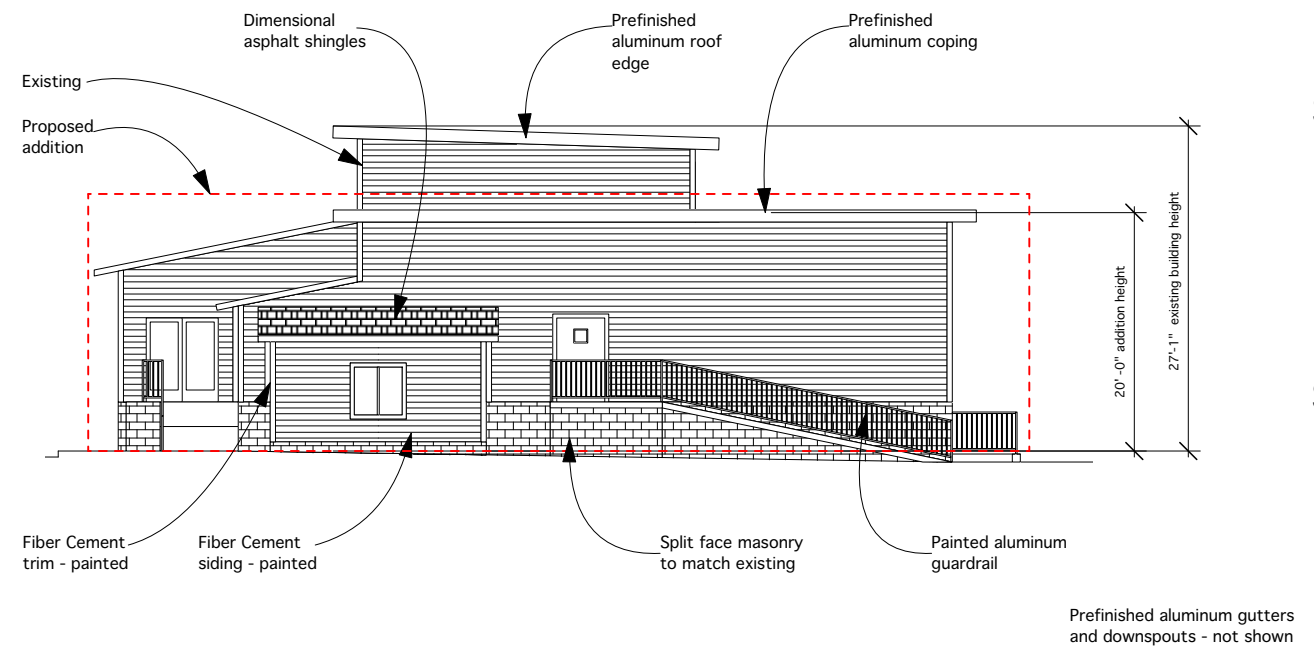
OWNER

Steny's Lake Country
Real Estate LLC
N29 W24483
Watertown Rd,
Pewaukee, WI 53072

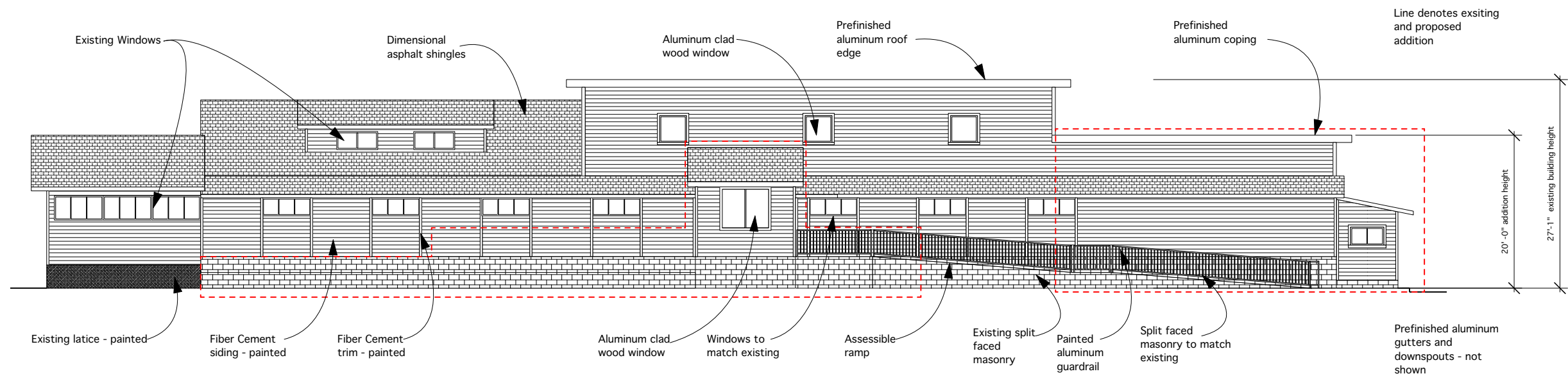
CONTRACTOR



2
A3.0
East Elevation
Scale: 1/16"= 1'-0"



3
A3.0
West Elevation
Scale: 1/16"= 1'-0"



1
A3.0
North Elevation
Scale: 1/16"= 1'-0"

DATE
5/15/2023
Revised 7/6/2023

PROJECT NUMBER
189723

SEAL

SHEET TITLE

Exterior Elevations

SHEET NUMBER

A3.0

Michael Garber
Architecture LLC

855 East Birch Avenue
Whitefish Bay, Wisconsin
53217
tel: 414.748.3290

email:
mikegarber@wi.rr.com

PROJECT

Steny's Lake Country

N29 W24483
Watertown Rd,
Pewaukee, WI 53072

OWNER

Steny's Lake Country

Real Estate LLC
N29 W24483
Watertown Rd,
Pewaukee, WI 53072

CONTRACTOR

DATE

5/5/2023
Revised 7/6/2023

PROJECT NUMBER

189723

SEAL

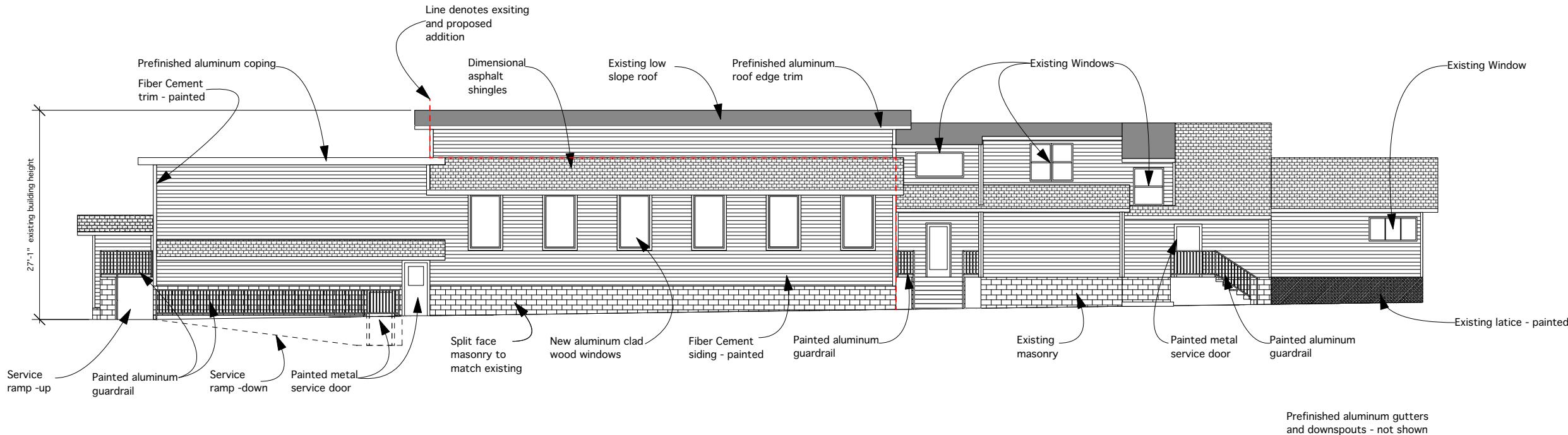
SHEET TITLE

South Elevation

SHEET NUMBER

A3.1

Copyright © 2023 Michael Garber Architecture LLC, Inc.
All Rights Reserved



1

South Elevation

Scale: 1/16"= 1'-0"





- Friday and Saturday – 10:00 a.m. to 2:30 a.m.

Outdoor volleyball and events:

- Daily - 10:00 a.m. to 10:00 p.m.

Outdoor dining, drinking, and music

- Sunday through Thursday – 10:00 a.m. to 9:00 p.m.
- Friday and Saturday – 10:00 a.m. to 10:00 p.m.

2. Lighting related to any outdoor activities shall be shut off within 30 minutes following the end of the activity.
3. Staff recommends that the two volleyball courts being removed are returned to greenspace.
4. Staff recommends that the location of bus parking onsite shall be diagrammed on the site plan for Planning Staff review and approval. Parking of buses shall not be done in a manner to serve as signage.

The parties hereto, namely the City of Pewaukee and the Equitable Owner of the property for which this conditional use has been sought, set their signatures or the signatures of their representatives below, thereby agreeing to the provisions and conditions set forth in this covenant.

Attest:

Signature of equitable owner

Date

Kelly Tarczewski
City Clerk

Steve Bierce
Mayor, City of Pewaukee

Date

State of Wisconsin
County of Waukesha

Signed or attested before me on _____, 2023 by Steve Bierce, Mayor and Kelly Tarczewski, Clerk.

(Seal)

Ami Hurd
My Commission expires _____

This instrument was drafted by Ami Hurd, Deputy Clerk

**CITY OF PEWAUKEE
PLAN COMMISSION AGENDA ITEM 6.**

DATE: July 20, 2023

DEPARTMENT: Clerk/Treasurer

PROVIDED BY:

SUBJECT:

Discussion and Action Regarding a Conceptual Review for Carity Land Corporation for a Proposed Condominium Development on Property Located at N18 W22670 Watertown Road (PWC 0958990006)

BACKGROUND:

FINANCIAL IMPACT:

RECOMMENDED MOTION:

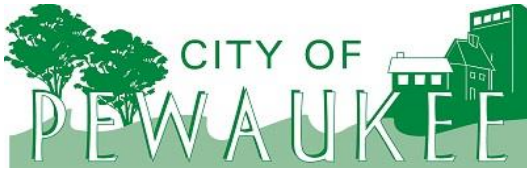
ATTACHMENTS:

Description

Carity conceptual review staff report 7.20.23

Carity conceptual plan narrative

Carity conceptual plans



Office of the Planner & Community Development Director
W240 N3065 Pewaukee Road
Pewaukee, Wisconsin 53072
Phone (262) 691-0770 Fax (262) 691-1798
fuchs@pewaukee.wi.us

REPORT TO THE PLAN COMMISSION

Meeting of July 20, 2023

Date: 7/7/2023

Project Name: Carity Land Corp. Conceptual Review

Project Address/Tax Key No.: N18W22670 Watertown Rd./PWC 0958990006

Applicant: Carity Land Corporation

Property Owner: Marincic Family LLC

Current Zoning: A-2 Agricultural District and LC Lowland Conservancy District

2050 Land Use Map Designation: Medium Density Residential (6,500 Sq. Ft. – 1/2 Ac./D.U.) and Flood Plains, Lowland & Upland Conservancy, and other natural areas

Use of Surrounding Properties: Single-family residential to the north and east and agricultural land to the south and west

Project Description/Analysis

The applicant submitted conceptual plans for Plan Commission review of a proposed condominium development upon two properties located at approximately N18W22670 Watertown Road. The properties are located at the northwest corner of North Avenue and Watertown Road and both properties are currently used for agricultural purposes. The easternmost property is vacant, and the westernmost property contains a single-family home. There is also an environmental corridor and wetland area that runs east/west and divides the sites into two halves.

The proposed development consists of 104 owner-occupied units within 23 four-family buildings and 6 two-family buildings. More specifically, the northern portion of the site includes 2 two-family condos and 14 four-family condo buildings, and the southern half of the property includes 4 two-family condos and 9 four-family condo buildings. Each condo unit includes a two-car attached garage with storage above.

The total acreage of the two sites is about 33.8 acres. This results in a gross density of about 3.08 units per acre and a net density of approximately 4.37 units per acre. Note net density only counts 20% of the wetland area, but does include other portions of the environmental corridor. In total, the site contains roughly 10 acres of environmental corridor and wetland area.

The conceptual plan illustrates building locations, exterior parking areas, a public and private road layout, and potential storm water pond locations. It also includes a clubhouse and swimming pool on the southern portion of the site. Additionally, the plan includes a landscaped buffer yard adjacent to the existing single-family homes along Elmwood Drive.

The subject properties are currently zoned A-2 Agricultural District and LC Lowland Conservancy District. The net density will have to be confirmed, but assuming it is six units per acre or less, the Rm-

1 District would accommodate this development. Note that wetland and natural resource areas would be zoned or remained zoned as LC District.

The future land use designation is Medium Density Residential (6,500 Sq. Ft. – 1/2 Ac./D.U.) and Flood Plains, Lowland & Upland Conservancy, and other natural areas. Based upon the standard of 6,500 square feet per dwelling unit, 226 units is the maximum allowed under the Medium Density designation. At 104 units, the project does not require a Comprehensive Master Plan Amendment.

Access

The northern portion of the site will be accessed from Elmwood Drive and the southern portion from North Avenue. There is an existing 66-foot-wide strip of right-of-way extending from Elmwood Drive between two existing single-family properties, which was dedicated to the City via CSM No. 9269.

Overall, the development is accessible via a public roadway that extends from North Avenue north to Elmwood Drive as indicated above. The public street connects the north and south development areas; however, that road will require WDNR approvals as it will impact wetlands.

In at least one instance, there are multiple driveway openings directly abutting each other. Staff recommends either a shared drive or greater separation between driveway openings.

The applicant is also requesting three private cul-de-sacs. As public utilities will be located within these private drives, Engineering Department staff would prefer that these be public streets as well. Alternatively, the applicant is requesting that easements be provided to allow for any necessary access and maintenance. It is recommended that the Plan Commission discuss these alternatives as part of this Conceptual Review.

Finally, it should be considered whether a cross access connection should be planned for the properties to the west. This development could potentially plan for a connection for when future development occurs on the adjacent property.

Rm-1 Conditional Use PUD Development Standards

The Rm-1 District allows for condominiums as a planned unit development (PUD) through a conditional use per Section 17.0414. The proposed development shall meet the standards of Section 17.0414c.(1-5) which are below. Staff comments are in bold indicating whether certain standards are met.

- (1) The minimum PUD development area shall be 25 acres.

The subject properties have an area of 33.8 acres.

- (2) The minimum PUD lot or space area shall not be less than 0.33 acre with not less than 4,840 square feet per dwelling unit.

As a condominium development, buildings are not located on individual lots. The proposed “space area” for each building appears greater than 0.33 acres; however, this must be confirmed once a scalable site plan is provided.

4,840 square feet of space per dwelling unit requires a minimum area of 19,360 square feet for the 4-unit buildings. Again, this will be confirmed upon submittal of more detailed plans.

(3) The minimum average PUD lot or space width shall be 80 feet per detached three or four-unit structure and 20 feet for each unit of a townhouse or attached condominium complex.

This standard appears to be met.

(4) The minimum PUD building height and size shall be the same as required for permitted principal uses, however, the yard requirements as set forth in 'f' 1 and 3 below may be reduced by 30 percent.

Building height and size are anticipated to be met.

The yard requirements referenced above are related to the front yard and rear yard setbacks. The Rm-1 District requires a 35-foot front or street yard setback and a 35-foot rear yard setback. If a 30% reduction were allowed, both the front and rear setbacks could be no less than 24.5 feet.

The conceptual plans show a minimum 20-foot front yard setback and 35-foot rear yard setback. The front yard setbacks must be revised to comply with the 24.5 foot minimum, which could be achieved by reducing the rear yard setbacks.

(5) No detached principal structure shall be located closer than 40 feet to another structure within the development. Yards adjacent to exterior property lines shall not be less than those required for permitted principal uses.

The conceptual plan shows all buildings at least 40-feet apart.

Parking

The Rm-1 District also contains the parking requirement below.

g. Parking Space

There shall be a minimum of two and one-half (2-1/2) 200-square-foot off-street parking spaces provided for each residential unit, of which at least two (2) must be located in a garage as defined in sub-section 17.1402 (Also see Section 17.0600)

As each unit will contain a two-car attached garage and parking available on the driveway in front of the garage, this standard is met.

The applicant is also proposing parking in front of the clubhouse on the main street that runs through the development. Staff recommends removing this parking from the front and moving it either to the side or rear, or in a manner where cars will not back up directly onto a public street.

Signage

Note that per Section 17.0705(b) Permanent Subdivision/Development Identification Sign shall be “no more than six (6) feet in height; constructed of wood, metal and/or masonry; and, of a design which will be compatible with the landscape and shall state only the name and address of the subdivision. Such signs and their location, height and size shall be reviewed and approved by the Plan Commission and/or the City Planner prior to issuance of a permit.”

Process

As currently designed, it is anticipated that the project will require a Rezoning, Conditional Use Permit, and a Site & Building Plan Review Application. Staff review of Condominium Plat is anticipated as well.

Recommendation

No action required.

Staff does not necessarily have a concern or any objections with a condominium development at this location or the proposed density of the project. Further comments or recommendations are anticipated related to the aesthetics of the development, site design and layout, and the quality of the structures. Lighting, landscaping, and other project elements will be further reviewed and considered once detailed plans are provided.

It is recommended that sufficient feedback be provided to allow the applicant to determine whether to proceed or not with detailed development plans and the required applications.

MARINCIC PROPERTY

PROPERTY NARRATIVE

N18 W 22670 Watertown Road

Pewaukee, WI 53072

The Marincic property consists of 32.45 ACRES of land located on the Northwest corner of Watertown Road and North Avenue in the City of Pewaukee, Wisconsin.

At the July 20, 2023 Plan Commission meeting, we are looking for Conceptual discussion from Staff and the Plan Commission. Our Proposal is as follows:

- Current Zoning : A-2 Agricultural Zoning
- Land use recommendation : 6.0 units per Acre (or 198 units)
- Proposed Zoning Request : Rm-1 Planned Unit Development (PUD)
- Proposed number of units : 104 total Owner occupied residential units
- Unit Ownership : Owner Occupied Condominiums
- Proposed Units Per Acre : 3.17 Dwelling Units Per Acre
- Building style : 23 - 4 Family Condominiums
: 6 - 2 family Condominiums
- Estimated Selling Price : \$500,000.00 per unit
- Preliminary floor plans : See Attached
- Preliminary Exterior Elevation : See Attached

SITE SPECIFICATIONS

- Public Right of Way : 60' wide as shown on plans
- Typical road section : 24' wide – back of curb – w/ Mountable curbs
- Building setbacks : 20' off of Public Right of Way
: 38' off of Interior roads
: 50' off of Elmwood drive side Property Line
: 35' off of all other Property lines
: 25' off of Wetlands
- Distance between : 40 distance between all Buildings

Slab on Grade Construction

Due to the high ground water table, this Site necessitates Slab on Grade Construction. To compensate for this condition, there will be stairs from the Garage to an upper Garage storage area creating approximately 650 square feet of storage.

DEVELOPMENT SCHEDULE

If we receive Conceptual Approval on July 20, 2023, we would submit a complete package to Staff immediately thereafter for the next Plan Commission meeting to schedule the appropriate Rezoning Public hearings.



CONCEPTUAL ARCHITECTURAL STYLE

ALTA/NSPS LAND TITLE SURVEY

PART OF THE NORTHEAST 1/4 AND SOUTHEAST 1/4 OF THE NORTHWEST 1/4 OF SECTION 24, TOWNSHIP 7 NORTH, RANGE 19 EAST, CITY OF PEWAUKEE, WAUKESHA COUNTY, WISCONSIN

NOTES:

- Bearings are referenced to the Wisconsin State Plane Coordinate System, South Zone. The North line of the Northwest 1/4 of Section 24, Township 7 North, Range 19 East, was used as North 87°52'04" West.
- Vertical Datum: NGVD29
Reference Benchmark: Northeast corner of the Northwest 1/4 of Section 24, Township 7 North, Range 19 East, Concrete monument w/ SEWRPC brass cap, Elevation = 834.26
- Field survey by JSD Professional Services, Inc on July 22 to 29, 2021.
- At the time of this survey the property is zoned A-2 w/LC Overlay, Agricultural District with Lowland Conservancy District, per the City of Pewaukee GIS Map, zoning layer.
A-2 building setbacks/restrictions City of Pewaukee Chapter 17 Zoning Code
Front/street setback: 50' from established right-of-way
Side/Rear setback: 25' (farm dwelling)
Side setback: 30' (detached farm building)
Rear setback: 50' (detached farm building)
Building max. height: 45' (except barns, elevators, grain dryers, and silos)
Floodplain: 75'
Wetland: 25'
- This ALTA/NSPS Land Title Survey was prepared and based on First American Title Insurance Company Commitment No. 100854, Commitment date February 5, 2021.

TABLE A ITEMS:

- Posted property address: N18W22670 Watertown Rd.
- At the time of this survey this property is located within Zone X (Areas determined to be outside the 0.2% annual chance floodplain) per FEMA map panel number 55133C0212G, effective date November 5, 2014.
- Property areas: Parcel A
Tax Key: PWC 0958-990-006
676,377 sq. ft. (15.5275 ac.) GROSS
663,469 sq. ft. (15.2312 ac.) NET
Parcel B
Tax Key: PWC 0958-990-006
794,055 sq. ft. (18.2290 ac.)
- At the time of this survey zoning letter was not provided to surveyor.
See General Note No. 6.
- At the time of this survey, the property has no designated striped parking stalls:
- Underground utility locations shown are based on field location markings by "Digger's Hotline". Ticket Nos. 2021XXXXXX and 2021XXXXXX with a start date of Aug. XX, 2021. Underground utility information is shown for informational purposes only, and is not guaranteed to be accurate or all inclusive. The Contractor/Owner is responsible for making his own determination as to the type and location of underground utilities as may be necessary to avoid damage thereto. Contractor/Owner shall call "Digger's Hotline" prior to the start of any construction activities.
- At the time of this survey there are no evidence of earth moving work or construction.
- At the time of this survey there was no observed evidence of recent street or sidewalk construction or repair.
- At the time of this survey, there has been a recent field delineation of wetlands conducted by a qualified specialist. Wetland shown on map based on wetland delineation report by Dave Meyer of Wetland & Waterway Consulting, LLC, dated January 14, 2020.

SCHEDULE B - SECTION II EXCEPTIONS

- 1, 6, 7, 8, 9, and 11 Shown if any.
- 2, 3, 4, 5, 10, 13, and 15 Not survey related.
- Permanent Easement Agreement recorded August 13, 1991, in Reel 13383, Image 1022, as Document No. 1667246.
- Right-of-Way Grant recorded February 2, 1994, in Reel 1875, Image 401, as Document No. 1934733.

LEGAL DESCRIPTION:

(Based on First American Title Insurance Company Commitment No. 100854, Commitment date February 5, 2021.)

Parcel A:
All that part of the Southwest 1/4 of Section 13 and the West 1/2 of Section 24, Township 7 North, Range 19 East, City of Pewaukee, formerly Town of Pewaukee, Waukesha County, Wisconsin, bounded and described as follows: Beginning at the Northeast corner of the Northeast 1/4 of the Southwest 1/4 of Section 24; thence South 00°15' East along the West 1/8 line, 40.56 feet; thence South 87°50' East, 622.07 feet to the center line of North Avenue; thence North 132°4' East, along said center line, 46.00 feet to an angle point, said point being on the West 1/4 line of Section 24; thence continuing along said centerline, North 17°59'19" East, 431.58 feet to the centerline intersection with County Trunk Highway "SS"; thence North 57°47'16" West along said centerline 114.04 feet to a point on the extension of a fence; thence North 00°40'51" West, along an existing fence, 2158.28 feet to a fence corner, said corner being 2.50 feet North 00°40'51" West of and North 87°23'27" West, 631.82 feet distance from the North 1/4 corner of Section 24; thence North 87°34'58" West, along an existing fence, 328.08 feet to a fence corner; thence South 00°40'52" West, along an existing fence 2635.29 feet to a fence corner; thence North 88°05'51" West, along existing fence, 338.13 feet to a place of beginning.

Excepting therefrom:
Parcels A, B, C and D of Certified Survey Map No. 2012 recorded January 11, 1974 in Volume 14 of Certified Survey Maps, Pages 95, 96 and 97 as Document No. 871532, in the office of the Register of Deeds for Waukesha County, Wisconsin, being a part of the Southwest 1/4 of Section 13 and the West 1/2 of Section 24, Township 7 North, Range 19 East, City of Pewaukee, formerly Town of Pewaukee, Waukesha County, Wisconsin.

Parcel B:
All that part of the East 1/2 of the Northwest 1/4 of Section 24, Township 7 North, Range 19 East, in the Town of Pewaukee, County of Waukesha, State of Wisconsin, bounded and described as follows:

Commencing at the Northeast corner of said Northwest 1/4 of Section 24; thence North 87°52'04" West along the North line of said 1/4 Section, 210.42 feet to the point of beginning of the lands to be described; thence continuing North 87°52'04" West, 421.40 feet to the East line of those described in Volume 1011, page 100, in the office of the Register of Deeds for Waukesha County; thence South 00°33'28" East along said East line, 2148.31 feet to the centerline of County Trunk Highway "SS"; thence South 88°15'59" along said centerline, 115.68 feet to the centerline of County Trunk Highway "M" (North Ave.); thence along the center line of County Trunk Highway "M" the following three courses, North 16°51'39" East, 229.79 feet to a point of curve; thence along the arc of a curve, 251.57 feet, center lies to the Southeast, radius is 404.598 feet, chord bears North 34°40'24" East, 247.94 feet; thence North 52°23'09" East, 114.13 feet; thence North 00°40'51" West, 1682.24 feet to the point of beginning. Excepting therefrom the Southerly 33 feet for road purposes for County Trunk Highway "SS" and County Trunk Highway "M".

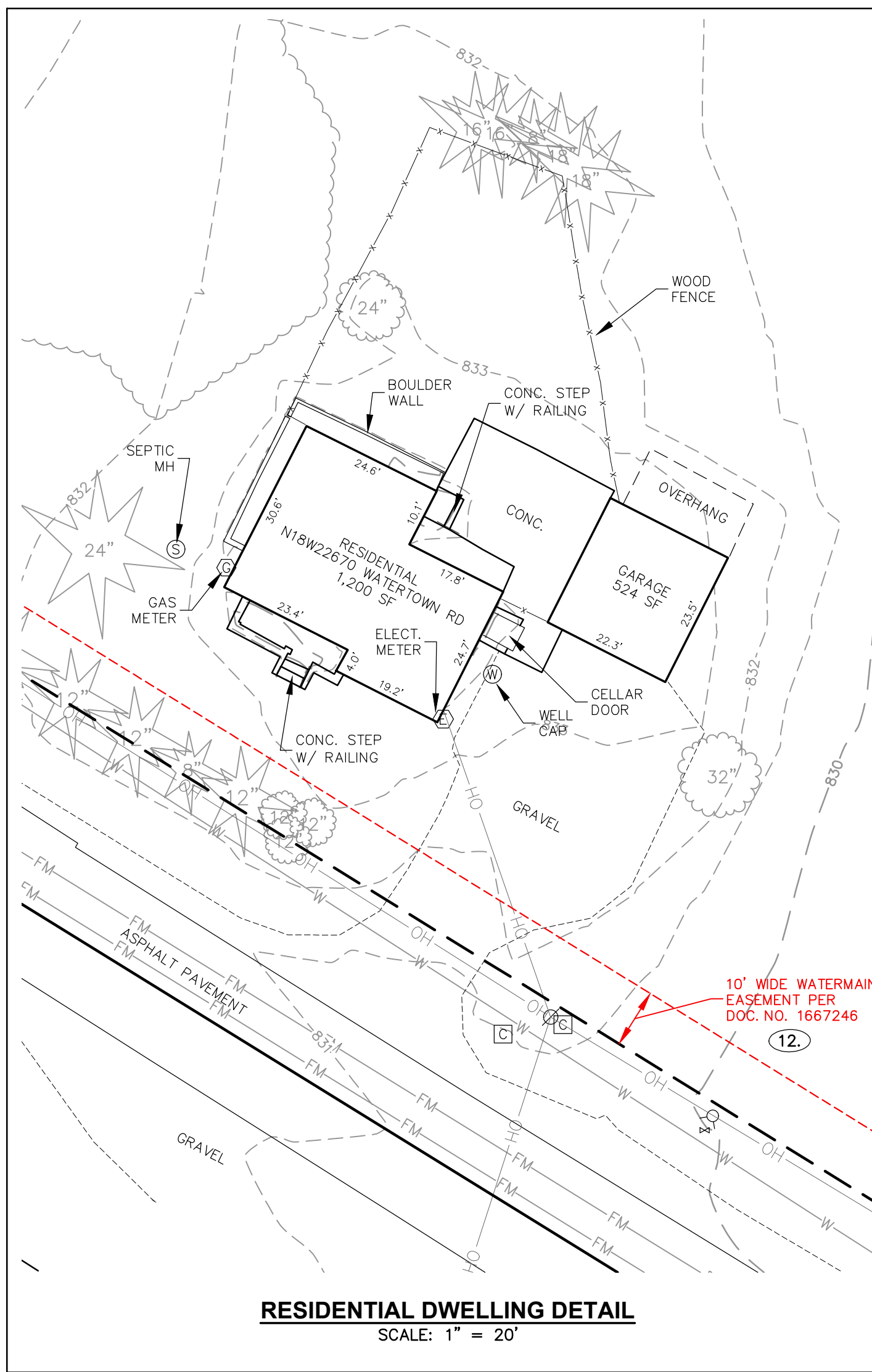
SURVEYOR'S CERTIFICATE:

To Interstate Partners LLC, Marincic Family LLC, and First American Title Insurance Company:

This is to certify that this map or plot and the survey on which it is based were made in accordance with the 2021 Minimum Standard Detail Requirements for ALTA/NSPS Land Title Surveys, jointly established and adopted by ALTA and NSPS, and includes Items 1, 2, 3, 4, 5, 6(a), 6(b), 7a, 7(b)(1), 8, 9, 11(a), 13, 16, and 17 of Table A thereof. The field work was completed on July 29, 2021.

Date of Map: _____

Rizal W. Iskandarsjach, P.L.S.
Professional Land Surveyor, S-2738
JSD Professional Services, Inc.
W238N1610 Busse Rd., Ste. 100
Waukesha, WI 53188
262-513-0666



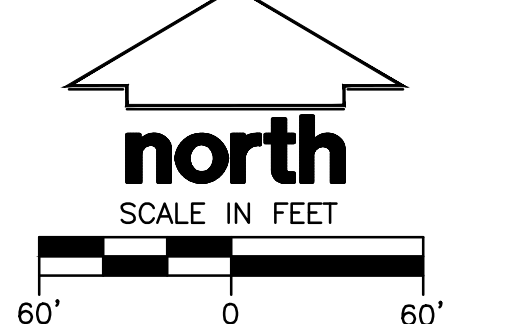
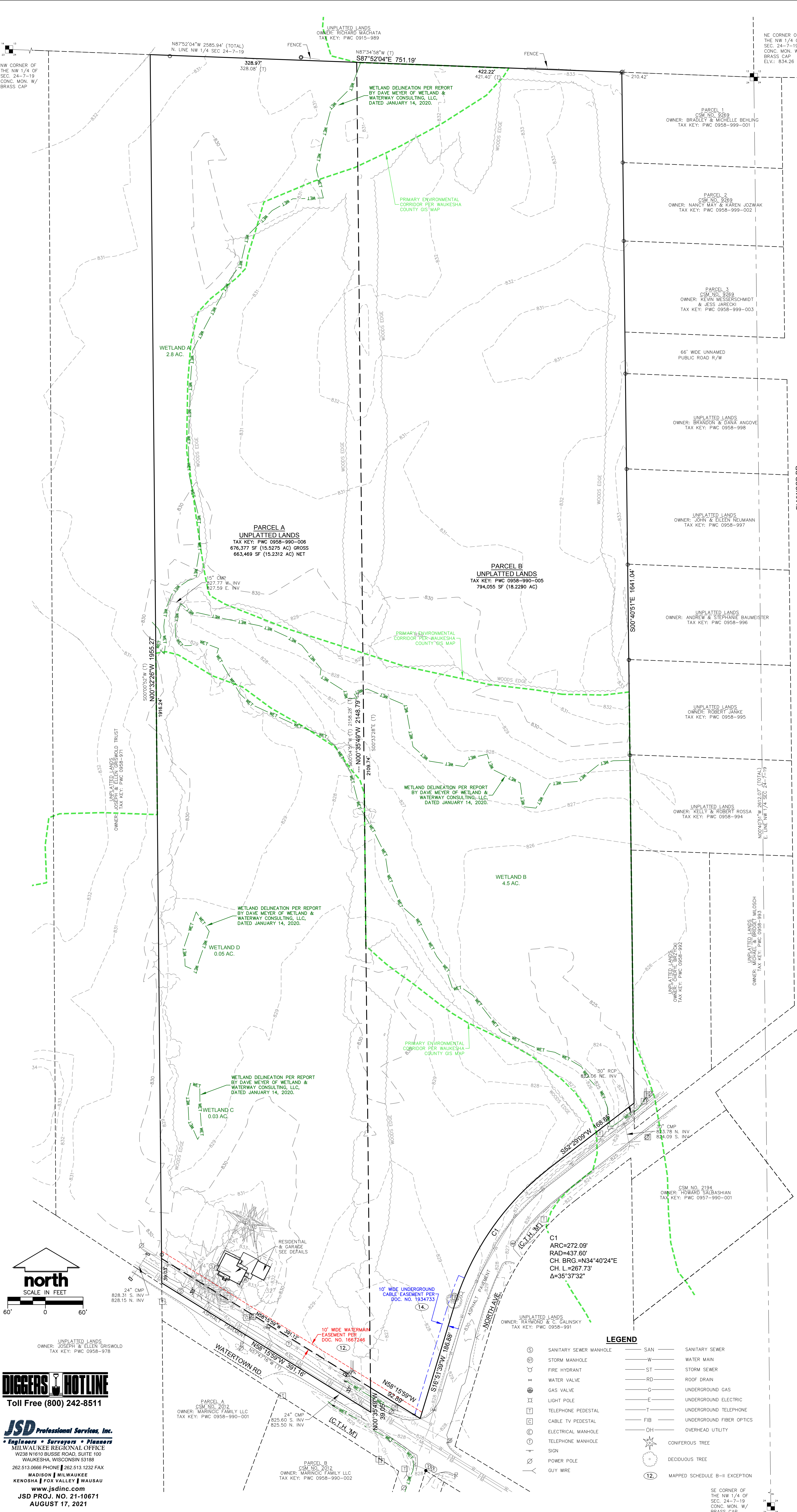
RESIDENTIAL DWELLING DETAIL

SCALE: 1" = 20'

LEGEND

- | | | | |
|---|------------------------|---------|--------------------------------|
| ⊙ | SANITARY SEWER MANHOLE | — SAN — | SANITARY SEWER |
| ⊙ | STORM MANHOLE | — W — | WATER MAIN |
| ⊙ | FIRE HYDRANT | — ST — | STORM SEWER |
| ⊙ | WATER VALVE | — RD — | ROOF DRAIN |
| ⊙ | GAS VALVE | — G — | UNDERGROUND GAS |
| ⊙ | LIGHT POLE | — E — | UNDERGROUND ELECTRIC |
| ⊙ | TELEPHONE PEDESTAL | — T — | UNDERGROUND TELEPHONE |
| ⊙ | CABLE TV PEDESTAL | — FIB — | UNDERGROUND FIBER OPTICS |
| ⊙ | ELECTRICAL MANHOLE | — OH — | OVERHEAD UTILITY |
| ⊙ | TELEPHONE MANHOLE | | |
| ⊙ | SIGN | | |
| ⊙ | POWER POLE | | |
| ⊙ | GUY WIRE | | |
| ⊙ | | ⊙ | CONIFEROUS TREE |
| ⊙ | | ⊙ | DECIDUOUS TREE |
| ⊙ | | ⊙ | MAPPED SCHEDULE B-II EXCEPTION |

SE CORNER OF THE NW 1/4 OF SEC. 24-7-19 CONC. MON. W/ BRASS CAP



UNPLATTED LANDS
OWNER: JOSEPH & ELLEN GRISWOLD
TAX KEY: PWC 0958-978

DIGGERS' HOTLINE
Toll Free (800) 242-8511

JSD Professional Services, Inc.
• Engineers • Surveyors • Planners
MILWAUKEE REGIONAL OFFICE
W238 N1610 BUSSE ROAD, SUITE 100
WAUKESHA, WISCONSIN 53188
262.513.0666 PHONE | 262.513.1232 FAX
MADISON | MILWAUKEE
KENOSHA | FOX VALLEY | WAUSAU
www.jsdinc.com
JSD PROJ. NO. 21-10671
AUGUST 17, 2021

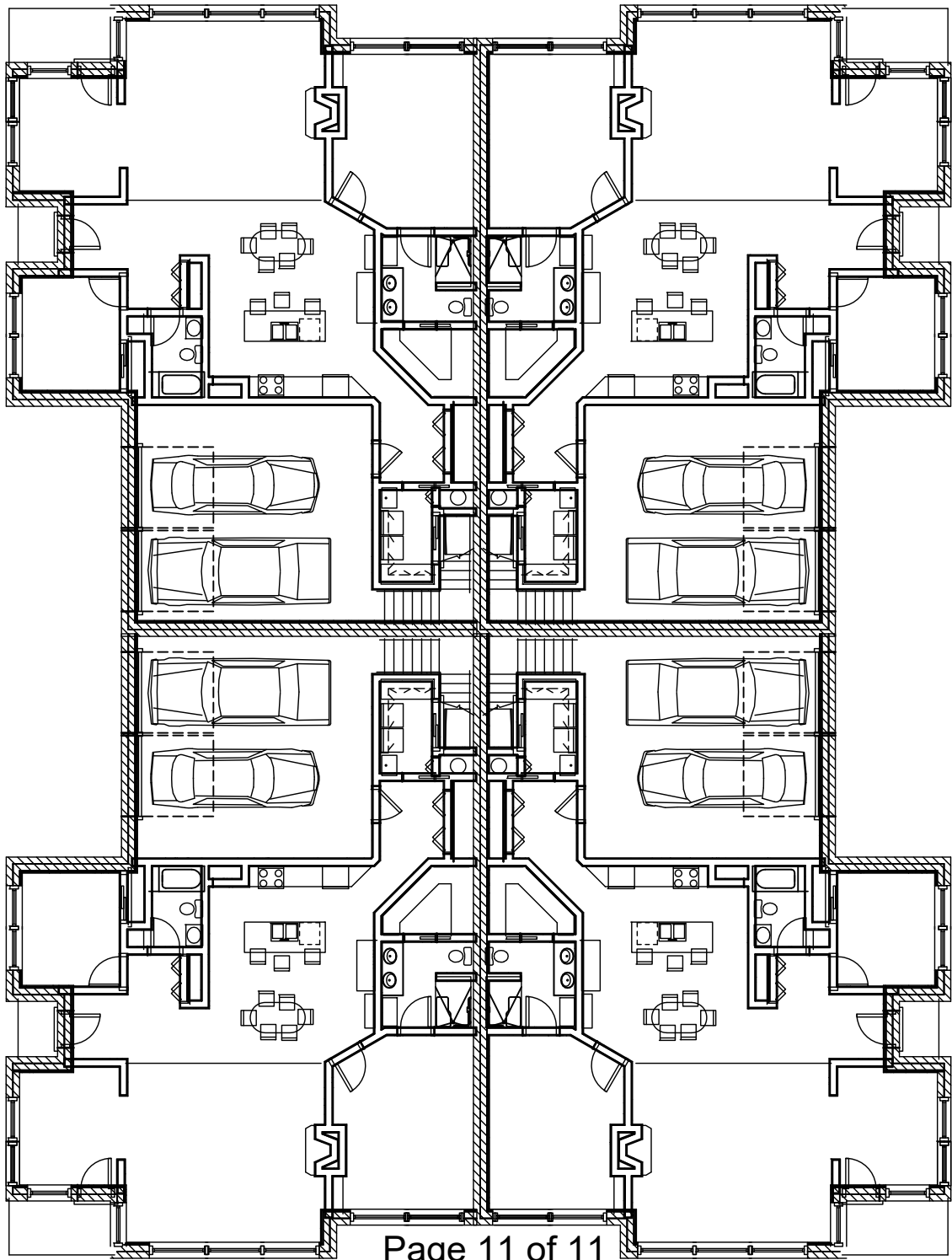
CARITY LAND CORPORATION

[illegible]

SCALE: 1" = 200' - 0" (11x17 print)

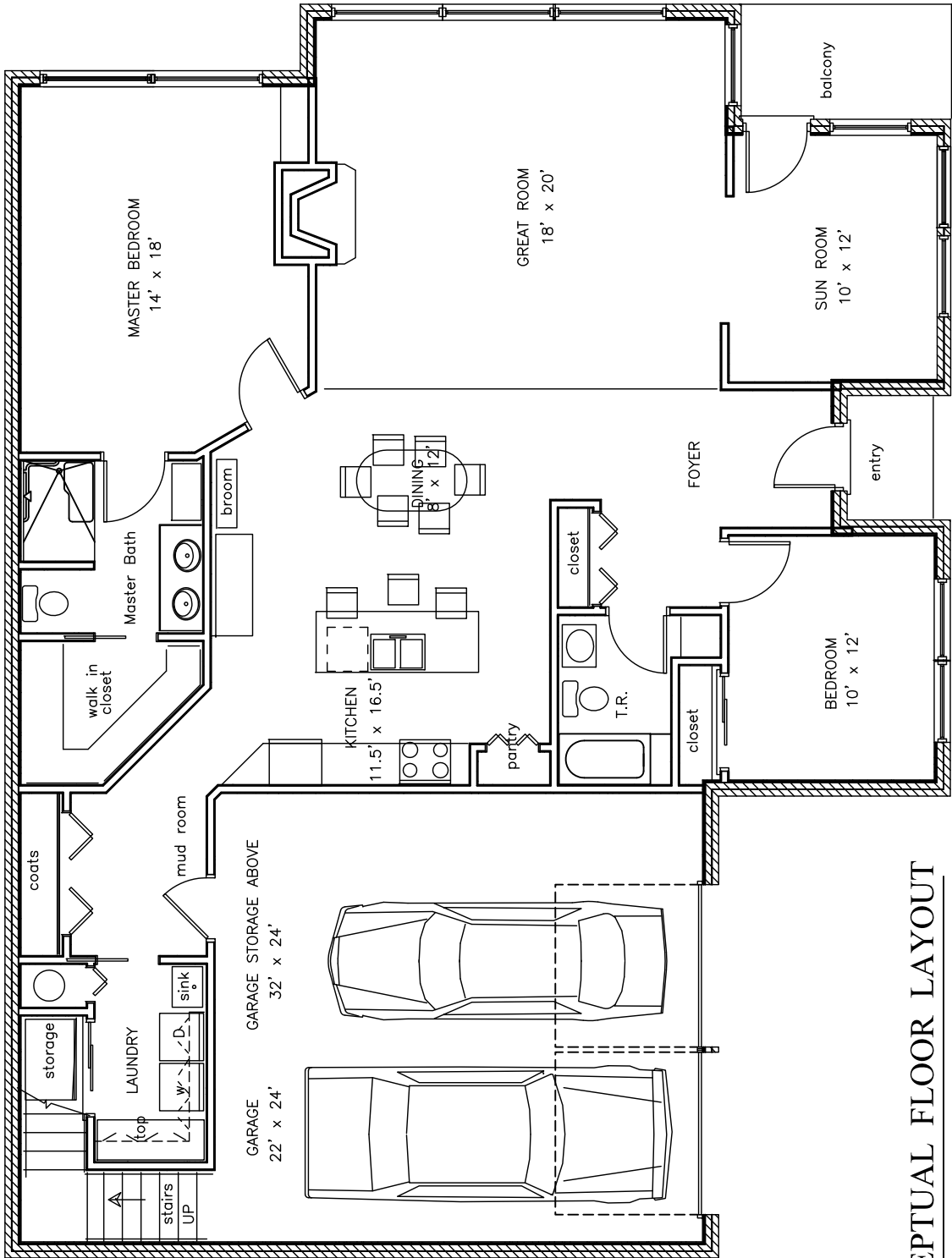
12720 W North Avenue Brookfield, Wisconsin 53005

MARINCIC PROPERTY N81 W22121 Watertown Road
Watertown Road and North Avenue Pewaukee, Wisconsin
June, 2023 3223



CONCEPTUAL FOUR FAMILY LAYOUT

NO SCALE



CONCEPTUAL FLOOR LAYOUT

SCALE: 1/8" = 1'-0" (11x17 print)

Carity Land Corporation

12720 W North Avenue Brookfield, Wisconsin 53005

MARINCIC PROPERTY N81 W22121 Watertown Road
Watertown Road and North Avenue Pewaukee, Wisconsin
June, 2023 3223

**CITY OF PEWAUKEE
PLAN COMMISSION AGENDA ITEM 7.**

DATE: July 20, 2023

DEPARTMENT: Planning

PROVIDED BY:

SUBJECT:

Discussion and Action and Public Hearing Regarding an Amendment to Section 17.0435 F-1 Floodplain District, Creation of a New Floodplain Ordinance Section, and Adoption of the Updated Flood Insurance Study and Flood Insurance Rate Maps

BACKGROUND:

FINANCIAL IMPACT:

RECOMMENDED MOTION:

ATTACHMENTS:

Description

Floodplain ordinance staff report 7.20.23

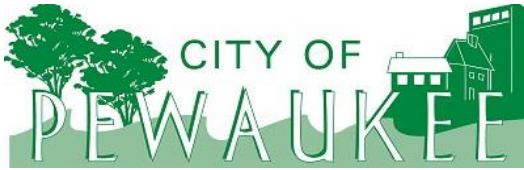
WI DNR floodplain ordinance ltr

Floodplain ordinance tracked changes

Floodplain ordinance DNR working draft

Act 175

Floodplain ordinance CRS



Office of the Planner & Community Development Director
W240 N3065 Pewaukee Road
Pewaukee, Wisconsin 53072
Phone (262) 691-0770
fuchs@pewaukee.wi.us

Fax (262) 691-1798

REPORT TO THE PLAN COMMISSION

Meeting of July 20, 2023

Date: July 7, 2023

Project Name: Adoption of updated Floodplain Ordinance

Project Address/Tax Key No.: City-wide

Applicant: City of Pewaukee

Introduction

As part of the recent Flood Insurance Rate Map changes, the City of Pewaukee is required to update our floodplain zoning ordinance. This must be completed by October 19, 2023. If a new ordinance is not adopted by this date, the City will be suspended from the National Flood Insurance Program.

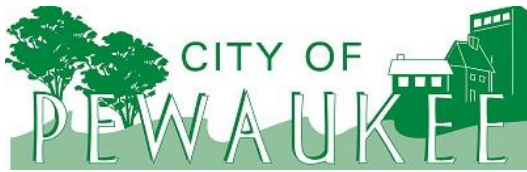
Staff has been working with the Wisconsin Department of Natural Resources on drafting a new ordinance. The City's current ordinance is substantially the same wording as the previous model ordinance and staff continues to recommend the adoption and use of the model ordinance.

The report will go into detail on the topics below, but it is important to note that the Plan Commission will be asked to consider and determine whether the following items should be included in the proposed ordinance. Again, further details on these items can be found in this report and attached within the Plan Commission packet.

1. Should the ordinance maintain a mitigation standard for filling within a floodplain? The current mitigation standard is 2:1.
2. Should the ordinance continue to require a minimum setback from the 100-year floodplain boundary of 75 feet?
3. Should the ordinance include or exclude Act 175 language (see attached WDNR Act 175 guidance)?
4. Should the ordinance include or exclude Community Rating System (CRS) language (see attached WDNR CRS At-A-Glance pdf)?

Analysis

Currently, the floodplain ordinance language is all contained within Section 17.0435, the F-1 Floodplain District. Staff is recommending that the new floodplain ordinance be adopted as a separate chapter of the Municipal Code or new section of the Zoning Code. The floodplain ordinance is a detailed document and staff feels that the zoning code is better organized and easier to administer with the floodplain ordinance separated out from the other zoning districts, opposed to the current organization.



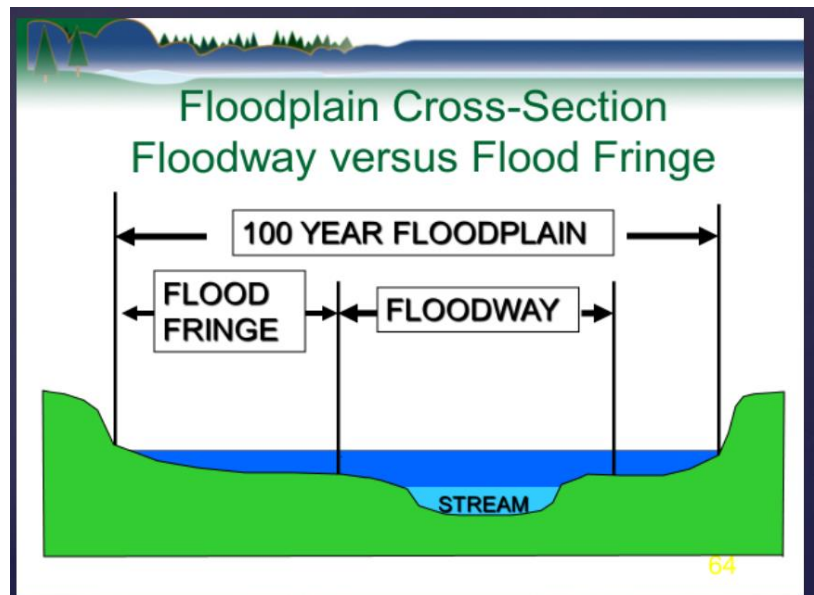
Office of the Planner & Community Development Director
W240 N3065 Pewaukee Road
Pewaukee, Wisconsin 53072
Phone (262) 691-0770
fuchs@pewaukee.wi.us

Fax (262) 691-1798

The new model ordinance has much of the same language as the City's floodplain ordinance and previous model ordinance.

The model ordinance establishes the Floodway District (FW), the Floodfringe District (FF), and the General Floodplain District (GFP) as well as a Flood Storage District. Each of these districts contain separate regulations, including allowed uses, development standards, and regulations for nonconforming structures and uses.

The City would continue to include all of these districts as mapped by FEMA within the F-1 District on the City's zoning map. Below is an image that illustrates the location of a Floodway and Floodfringe area within the general 100-year Floodplain.

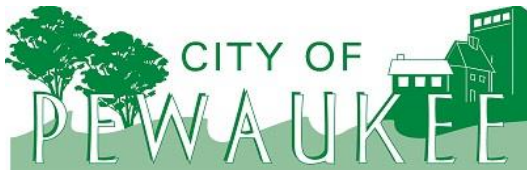


Note that Section 17.0435 F-1 Floodplain District would remain as a zoning district, but be revised to describe the intent of the zoning district and include a reference to the floodplain ordinance.

In general, staff finds the majority of changes to be minor in nature, unless further discussed within this report.

Mitigation and Floodplain Setback

Staff finds that the most significant standards the City has in place, which are not included in the model ordinance are the requirements for mitigation for filling within a floodplain and the requirement of a 75-foot setback from the 100-year floodplain boundary.



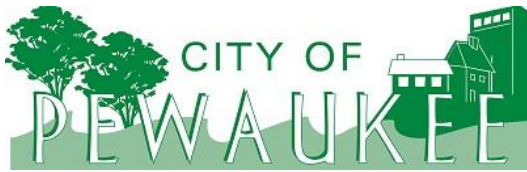
Office of the Planner & Community Development Director
W240 N3065 Pewaukee Road
Pewaukee, Wisconsin 53072
Phone (262) 691-0770 Fax (262) 691-1798
fuchs@pewaukee.wi.us

The mitigation standard is part of Section 17.0435e.(7) Removal of Lands from Floodplain, which is below for review.

In addition, no floodplain may be filled and no walled structure built within the SFHA or FSDs with the exception of the construction of public utility and transportation facilities required by a unit/agency of government, or an approved structure requiring water frontage which would require adherence to regulations as set forth in section 'l' of this subsection and by FEMA and NR116. Compliance with the provisions of this ordinance shall not be grounds for removing land from the F-1, Floodplain District unless:

- (a) Said land has been previously filled prior to the effective date of the adoption on this amendment so that the elevation of the lowest floor (including basement) of any existing or proposed walled structure or building is at least two feet above the base flood elevation;
- (b) The proposed filled land does not form an island and can be accessed from other surrounding lands without entering the F-1, Floodplain District;
- (c) **There is an area of land outside the F-1, Floodplain District but adjacent to the proposed filled land equal to at least two (2) times the areal extent and volume of the proposed filled area that is added to the F-1, Floodplain District based on plans approved by the City Plan Commission;**
- (d) The height of the downstream base flood is not increased by proposed fill; (e) The floodplain boundaries shown on all official maps are amended pursuant to section 'n' of this sub-section; and
- (e) A study is prepared and certified by a state registered professional engineer, establishing that:
 - i. The fill, lowest floor and floodproofing elevation shall have no effect upon the base flood elevation either upstream or downstream and are in compliance with this ordinance; or
 - ii. The fill, lowest floor and floodproofing elevations may have the effect of raising the base flood elevation either upstream or downstream if otherwise in compliance with this ordinance, in which case the property owner must also contact FEMA to request and receive an approved Conditional Letter of Map Revision (CLOMR) prior to issuance of any local permit(s); or
 - iii. The fill, lowest floor and floodproofing elevations may have the effect of lowering the base flood elevation either upstream or downstream and are otherwise in compliance with this ordinance, in which case the property owner must also contact FEMA to request and receive an approved Letter of Map Change (LOMC) prior to issuance of any local permit(s). Please also see sub- section 17.1108b and Appendix 5.

The 75-foot floodplain setback is contained within Section 17.0435f. and is below for review. This setback is also included in Section 17.0436c.(5) of the Shoreland Overlay District.



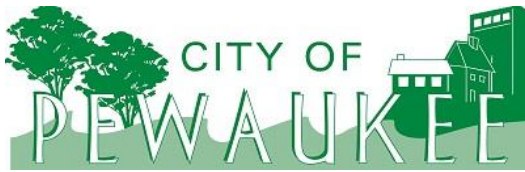
Office of the Planner & Community Development Director
W240 N3065 Pewaukee Road
Pewaukee, Wisconsin 53072
Phone (262) 691-0770 Fax (262) 691-1798
fuchs@pewaukee.wi.us

- (f) **No new walled buildings or structures, including manufactured mobile homes and walled enclosures, shall be allowed within or within a distance of 75 feet from the boundary of a base flood floodplain as defined herein except as set forth in sections ‘k(3)’ and ‘l(2)’ of this sub-section, and sub- section 17.0436.** All new construction and permitted structural improvements to existing buildings/structures within a floodplain shall be designed or modified so as to adequately anchor such structure or building to prevent flotation, collapse, or lateral movement resulting from hydrodynamic and hydrostatic loads; be constructed with materials resistant to flood damage; be constructed by methods and practices that minimize flood damages; and be constructed with electrical, heating, ventilation, plumbing, and air conditioning equipment and other service facilities designed and/or located so as to prevent water from entering or accumulating within the components during conditions of flooding.

In addition to the requirements of Chapter 18 (Land Division Ordinance) of City Codes and Ordinances, subdivision of land shall be reviewed for compliance with the above standards and no newly created building parcel less than ten (10) acres in size shall be located within a base flood floodplain. (see section ‘l (2)’ of this sub-section). 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. All proposed land development plans, including land divisions and manufactured mobile home parks shall include BFE data for any land division or development that meets the definition within this zoning ordinance or Chapter 18 of the City Codes and Ordinances. (See www.cityofpewaukee.us)

17.0436c.(5)

Structure Setbacks. No structure except necessary streets or access ways, utilities, navigational aids, piers and boat launch facilities, parking areas, approved boathouses, **and principal buildings shall be located within 75 feet of a designated 100 year recurrence interval (base flood) floodplain of any lake or navigable stream** or within 50 feet of an OHWM or officially designated wetland, unless there are existing principal use structures on adjoining parcels, in which case the setback from the OHWM or base flood elevation may be an average of setbacks on the adjoining parcels but no less than 35 feet. (See subsection 17.0435p for definition of ‘base flood’). In this subdivision, ‘principal building’ shall mean the main building or structure on a single lot or parcel of land and includes any attached garage or attached porch.



Office of the Planner & Community Development Director
W240 N3065 Pewaukee Road
Pewaukee, Wisconsin 53072
Phone (262) 691-0770
fuchs@pewaukee.wi.us
Fax (262) 691-1798

For comparison purposes, below is a table that identifies other community's standards related to the requirement of mitigation and establishment of a setback from the floodplain boundary. Note that in June 2022, the City did amend the mitigation standard from 4:1 to 2:1.

Community	Mitigation ratio	Setback
City of Pewaukee	2:1	75 feet
Village of Hartland	State Model ORD	No setback
Village of Sussex	State Model ORD	15 feet
Town of Lisbon	State Model ORD	15 feet
City of Oconomowoc	State Model ORD	No setback
City of Muskego	State Model ORD	No setback
City of Waukesha	State Model ORD	No setback
City of Brookfield	State Model ORD	No setback
City of Monona	State Model ORD	No setback
City of Oak Creek	1.10:1	No setback
Village of Mount Pleasant	1:1	No setback
City of New Berlin	1:1	No setback

Act 175

Act 175 language can be added or excluded, and the proposed floodplain ordinance would meet federal standards regardless.

If the city wants any legal non-conforming structures removed if they become substantially damaged (by any means – not only flood) then it would be in the city's interest to leave the language out.

If the City wants currently existing legal non-conforming structures to remain, if they become substantially damaged, then it would be in the City's interest to keep the language in.

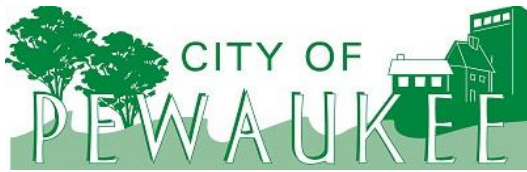
Attached is the DNR Act 175 guidance, which contains more details.

Community Rating System (CRS)

The Community Rating System is a voluntary FEMA floodplain program. The benefits of joining the program are that discounts on federal flood insurance premiums would be provided to City residents. In order to do this, there are higher floodplain zoning standards required such as having the lowest floor at the Base Flood Elevation (BFE), plus one foot, not just at the BFE.

If the City does not want to be a CRS member then these higher standards would not be included within the proposed ordinance.

Additional information about the CRS program, and other required activities are briefly described in the CRS attachment.



Office of the Planner & Community Development Director
W240 N3065 Pewaukee Road
Pewaukee, Wisconsin 53072
Phone (262) 691-0770
fuchs@pewaukee.wi.us

Fax (262) 691-1798

Recommendation

It is recommended that the Plan Commission provide direction to the following questions and make a recommendation of approval to the Common Council.

1. Should the ordinance maintain a mitigation standard for filling within a floodplain? The current mitigation standard is 2:1.
2. Should the ordinance continue to require a minimum setback from the 100-year floodplain boundary of 75 feet?
3. Should the ordinance include or exclude Act 175 language (see attached WDNR Act 175 guidance)?
4. Should the ordinance include or exclude Community Rating System (CRS) language (see attached WDNR CRS At-A-Glance pdf)?



Wednesday, April 26, 2023

The Honorable Mr. Steve Bierce, Mayor
City Of Pewaukee
W240N3065 PEWAUKEE RD
PEWAUKEE WI 53072-4044

Electronic delivery via email: mayor@pewaukee.wi.us

Subject: Ordinance adoption notice for City of Pewaukee. FEMA Community ID: 550192.

Dear Mr. Steve Bierce,

Recently, the City of Pewaukee received a Letter of Final Determination (LFD) date of October 19, 2023, from the Federal Emergency Management Agency (FEMA) notifying the City that updated Flood Insurance Rate Maps (FIRMs) and the Flood Insurance Study (FIS) for Waukesha County must be adopted into the local floodplain ordinance within six months. The City ordinance must be updated and approved by DNR and FEMA no later than **October 19, 2023, or your community will be suspended from the National Flood Insurance Program (NFIP).**

This letter, and the information listed below explain how to set up the ordinance and the ordinance adoption process. This information was provided as attachments to the same email that contained this letter.

- **FIRM and FIS Information** – lists out the FIRM panels, FIS numbers and the effective dates needed for the official maps section of the local floodplain ordinance.
- **Storage district maps for communities in Waukesha County** - Waukesha County, the cities of Brookfield, Delafield, Milwaukee, Muskego, New Berlin, Oconomowoc, Pewaukee, and Waukesha and villages of Big Bend, Chenequa, Elm Grove, Lac La Belle, Lannon, Menomonee Falls, Merton, Mukwonago, Nashotah, Oconomowoc Lake, Pewaukee, Summit and Sussex all have updated flood storage maps to add to their ordinance. DNR staff can assist with the wording in the ordinance. Local floodplain zoning staff from the affected communities can find and download copies of the updated flood storage map panels on the [DNR Risk Map Web page](#). When you click on the link, scroll to the Active Projects section and click on Milwaukee River Watershed. Then scroll to the bottom of the Waukesha County section to find the links to the flood storage maps. These maps need to be on file for regulatory purposes.
- **Checklist for standard model ordinance** – used to match local sections to state model sections, to ensure all applicable text is included. Completing this document is required if the local ordinance has language that varies from the state model. An editable version in Word format is attached.
- **WDNR current standard model ordinance** – to be used for the update of your community ordinance. The state standard model meets the minimum requirements of the NFIP and Chapter NR116, Wisconsin Administrative Code. An editable version in Word format is attached.
- [Adopting an ordinance](#)- a step-by-step guide quick guide outlining the adoption process.
- [Checklist for ordinance updates](#)– a checklist describing what is needed for the ordinance adoption process and to receive the DNR approval.
- **Ordinance adoption timeline** – an outline of steps, with timeframe for each, to receive the DNR approval before the FEMA deadline.

DNR staff are prepared to assist you in the ordinance review and adoption process, provide example public notices and explain state and federal regulatory requirements. Communities are encouraged to have DNR staff review the draft local floodplain ordinance well before the ordinance is presented to the local governing body for adoption in order to ensure

compliance with the NFIP and Chapter NR116, Wisconsin Administrative Code. We advise you to start on this process as soon as possible to allow for the time necessary to complete the adoption process and to allow for any unintentional delays. FEMA will not permit extensions beyond the October 19, 2023, deadline. **If the ordinance is not legally adopted by the community and approved by the DNR and FEMA, the community will be immediately suspended from the NFIP.**

The federal consequences of being suspended from the NFIP are:

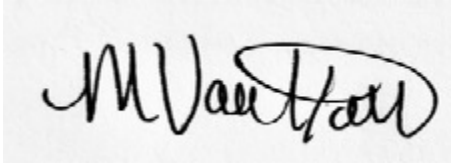
1. No resident will be able to purchase a federal flood insurance policy. Those that may have had policies will no longer have coverage after the current policy renewal date, however no flood claims would be paid out until the community rejoins the program.
2. Federal officers and agencies are prohibited from approving any financial assistance for acquisition, construction, repair, or maintenance purposes in an area of special flood hazard in the community.
3. Public facilities and citizen owned structures, during a federally declared flood disaster, are not eligible for the full assistance that normally would be available to communities that are members of the NFIP.
4. The community cannot apply for a Letter of Map Revision (LOMR) or a Letter of Map Revision based on fill (LOMR-F) because they cannot sign the community acknowledgement form because it would no longer be a participant in the NFIP. This would affect development potential in the community.

The process for amending a local floodplain ordinance is:

- **Ordinance amendment draft (recommended)**- submit draft ordinance to your DNR Floodplain Management contact for review 2-4 weeks prior to the public hearing to ensure it is compliant with the minimum standards of the NFIP and Chapter NR116, Wisconsin Administrative Code before adoption. We advise the Community to adopt the DNR model as it does meet current minimum standards for the NFIP and Chapter NR116. However, the community may be more restrictive than the minimum standards, if desired.
- **Notice of public hearing (Class2)** - the publication or posting of a public hearing notice for two consecutive weeks with the final notice being published or posted **no less than seven (7) days** prior to the public hearing. It is critical that the notice is published/posted correctly because if it is not, it may not be valid, and the community would be required to go through the adoption process again.
- **Decision of governing body**- once an amended floodplain ordinance has been adopted, please submit the following information in electronic format PDF to your DNR Floodplain Management contact within ten (10) days after adoption:
 1. A certified copy of the adopted ordinance.
 2. An affidavit of publication of the notice of public hearing from the newspaper with the notice. If the notice was posted, a notarized affidavit by the local official (usually the clerk) stating that the notice of public hearing was posted in three public places (with date and location), together with the notice, or posted in one public place and placed electronically on the municipality internet site per s. 985.02(2)(a).
 3. An affidavit of publication of the notice of the enacted ordinance from the newspaper with the notice. If the notice was posted, a notarized affidavit by the local official (usually the clerk) stating that the notice of public hearing was posted in three public places (with date and location), together with the notice, or posted in one public place and placed electronically on a municipality internet site per s. 985.02(2)(a).
- Upon receipt DNR staff will review the documents to issue the approval and coordinate the FEMA approval for the community.

If you have any questions concerning this letter or need further information on the ordinance adoption process or the Wisconsin model ordinance, please reach out to the Floodplain Management Program contact identified in the email sent to you.

Sincerely,

A handwritten signature in black ink, reading "M Van Horn". The signature is written in a cursive style with a large, sweeping "M" and a stylized "H".

Mia Van Horn
Floodplain Zoning Ordinance Coordinator
Wisconsin Department of Natural Resources
Madison office

Copy To : Mr. Nick Fuchs - City Of Pewaukee, via fuchs@pewaukee.wi.us
 Kelly Tarczewski - City Of Pewaukee, via TARCZEWSKI@PEWAUKEE.WI.US
 Michelle Hase, DNR Floodplain Engineer, Waukesha Office. Michelle.hase@wisconsin.gov

Amend 17.0435 F-1, Floodplain District

17.0435 F-1, FLOODPLAIN DISTRICT. (Rep. & Rec. 08-12, 12-12, 14-14)

The F-1, Floodplain District is intended to preserve in essentially open space and natural land use, through land use zoning regulation, lands which are unsuitable for intensive development purposes due to poor natural soil conditions and periodic flood inundation and shall include all land and water area lying within the designated Special Flood Hazard Area (SFHA) which encompasses the delineated forecast 100 - year recurrence interval (one percent chance in a year) floodplain as shown on Federal Emergency Management Agency (FEMA) maps (also called the 'regional flood' or 'base flood') and those land and water areas designated by FEMA as zones A, A1-30, AE, AH, or AO on the Flood Insurance Rate Maps (FIRMs)-'Zone A' areas. Also included within the F-1, Floodplain are those areas adjacent to the base flood designated by the Wisconsin Department of Natural Resources (WisDNR) as Flood Storage Districts (FSDs). The proper regulation of these areas will serve to maintain and improve water quality, prevent flood damage, protect wildlife habitat, and prohibit the location of walled structures, as defined within the Floodplain Ordinance ~~herein~~, on lands, which are generally not suitable for such use due to possible flooding.

The F-1, Floodplain District includes the Floodway District (FW), Floodfringe District (FF), and the General Floodplain District (GFP) as defined within the Floodplain Ordinance, Section 17.1500, and are subject to those regulations.

a. FINDING OF FACT

~~Uncontrolled development and use of the floodplains and rivers of the City would impair the public health, safety, convenience, general welfare and tax base.~~

b. STATEMENT OF PURPOSE

~~This ordinance is intended to regulate floodplain development to:~~

- ~~(1) Protect life, health and property;~~
- ~~(2) Minimize expenditures of public funds for flood control projects;~~
- ~~(3) Minimize rescue and relief efforts undertaken at the expense of the taxpayers;~~
- ~~(4) Minimize business interruptions and other economic disruptions;~~
- ~~(5) Minimize damage to public facilities in the floodplain;~~
- ~~(6) Eliminate the occurrence of future flood blight areas in the floodplain;~~
- ~~(7) Eliminate the victimization of unwary land and homebuyers;~~
- ~~(8) Prevent increases in flood heights that could increase flood damage and result in conflicts between property owners; and~~
- ~~(9) Eliminate development in a floodplain, recognizing that there may be existing developed land lying within the delineated F-1, Floodplain District and there may be the need to locate public utilities or streets within the F-1, Floodplain District.~~

c. TITLE

~~This sub-section of the City Zoning Ordinance shall be commonly known as~~

Formatted: Indent: Left: 1.27", Right: 0.16", No bullets or numbering

Formatted: Indent: Left: 1.27", No bullets or numbering

Formatted: Table Paragraph, Right, Indent: Left: 1.27", Tab stops: 0.33", Left

Formatted: Right, Indent: Left: 1.27", Space Before: 0.05 pt, No bullets or numbering

Formatted: Table Paragraph, Right, Indent: Left: 1.27", Tab stops: 0.54", Left

Formatted: Right, Indent: Left: 1.27", Space Before: 0.5 pt, No bullets or numbering

Formatted: Table Paragraph, Right, Indent: Left: 1.27", Tab stops: 0.54", Left

Formatted: Right, Indent: Left: 1.27", No bullets or numbering

Formatted: Table Paragraph, Right, Indent: Left: 1.27", Space Before: 0.05 pt, Tab stops: 0.54", Left

Formatted: Right, Indent: Left: 1.27", No bullets or numbering

Formatted: Table Paragraph, Right, Indent: Left: 1.27", Tab stops: 0.54", Left

Formatted: Right, Indent: Left: 1.27", Space Before: 0.55 pt, No bullets or numbering

Formatted: Table Paragraph, Right, Indent: Left: 1.27", Tab stops: 0.54", Left

Formatted: Right, Indent: Left: 1.27", No bullets or numbering

Formatted: Table Paragraph, Right, Indent: Left: 1.27", Tab stops: 0.54", Left

Formatted: Right, Indent: Left: 1.27", Space Before: 0.5 pt, No bullets or numbering

Formatted: Table Paragraph, Right, Indent: Left: 1.27", Tab stops: 0.52", Left

Formatted: Right, Indent: Left: 1.27", Space Before: 0.05 pt, No bullets or numbering

Formatted: Table Paragraph, Right, Indent: Left: 1.27", Right: 0.08", Tab stops: 0.53", Left

Formatted: Table Paragraph, Right, Indent: Left: 1.27", No bullets or numbering

Formatted: Table Paragraph, Right, Indent: Left: 1.27", Right: 0.25", Space Before: 0 pt, Tab stops: 0.48", Left

the 'Floodplain Ordinance' for the City of Pewaukee, Wisconsin.

d. STATUTORY AUTHORIZATION

This sub-section of the City Zoning Ordinance is adopted pursuant to the authorization in Sections 62.23 and 97.30 of Wisconsin Statutes as well as Ch. NR 116 of the Wisconsin Administrative Code which is included as Appendix 5 in this zoning ordinance.

Formatted: Highlight

Formatted: Indent: Left: 1.27", No bullets or numbering

Formatted: Indent: Left: 1.27"

e. GENERAL PROVISIONS

(1) 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 such as the WisDNR Flood Storage Districts (FSDs). Base flood elevations (BFE) 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.

(2) OFFICIAL MAPS & REVISIONS

The boundaries of the SFHA are designated on the maps listed in (3) below. Any change to the BFE or any changes to the boundaries of the floodplain or floodway in the FIS or on the FIRM must be reviewed and approved by the DNR and FEMA through the Letter of Map Change process (see 17.0435t Amendments) before it is effective. No changes to RFE's on non-FEMA maps shall be effective until approved by the DNR. These maps, profiles and revisions are on file in the City Planning, Public Works or Building Inspection offices at Pewaukee City Hall and may also be available in the Waukesha County Park and Land Use Department offices in the Courthouse. If more than one map or revision is referenced for the same area, the most restrictive information shall apply.

(3) OFFICIAL MAPS AND PROFILES: Based on the FIS:

Official FIRMs and Profiles Encompassing the City of Pewaukee are FIRM panel numbers: 55133C0181G, 55133C0182G, 55133C0183G, 55133C0184G, 55133C0191G, 5133C0192G, 55133C0201G, 55133C0202G, 55133C0203G, 55133C0204G, 55133C0206G, 55133C0208G, 55133C0211G, 55133C0212G, 55133C0213G, 55133C0214G, 55133C0216G dated November 5, 2014; with corresponding profiles that are based on the Flood Insurance Study (FIS) dated February 9, 2014, and numbered: 55133CV001C, 55133CV002C, 55133CV003C. (Approved by: WisDNR and/or FEMA)

(4) MAPS BASED ON OTHER STUDIES:

Flood Storage Map. Also included within the City's F-1, Floodplain District, are the flood storage districts as depicted on Waukesha County Wisconsin Flood Storage District Map Panels 3, 5 and 6, based on a WisDNR study dated November 5, 2014. Prepared and Approved by WisDNR.

(5). ESTABLISHMENT OF FLOODPLAIN ZONING DISTRICT

The F-1, Floodplain as defined in this City Zoning Ordinance includes: All land and water area lying within the boundary of the SFHA as defined above plus any FSD.

Formatted: Indent: Left: 1.27", No bullets or numbering

Formatted: Indent: Left: 1.27"

Formatted: Right, Indent: Left: 1.27", Right: 0.09", No bullets or numbering

Formatted: Indent: Left: 1.27"

Formatted: Highlight

Formatted: Right, Indent: Left: 1.27", No bullets or numbering

Formatted: Table Paragraph, Right, Indent: Left: 1.27", Tab stops: 0.63", Left

Formatted: Indent: Left: 1.27"

Formatted: Justified, Indent: Left: 1.27", Right: 0.58", Space Before: 4.65 pt

Formatted: Indent: Left: 1.27"

Formatted: Left, Indent: Left: 1.27"

Formatted: Indent: Left: 1.27", First line: 0", Right: 0"

Formatted: Indent: Left: 1.27"

(6) LOCATING FLOODPLAIN BOUNDARIES

Discrepancies between boundaries on the official floodplain zoning map and actual field conditions shall be resolved using the criteria in (a) or (b) below. If a significant difference exists, the map shall be amended according to section 17.0435t Amendments. 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 section 17.1007 and the criteria in (a) and

Formatted: Body Text, Indent: Left: 1.27", No bullets or numbering, Tab stops: Not at 0.56"

Formatted: Indent: Left: 1.27", Right: 0"

~~(b) below. Where the flood profiles are based on established base flood elevations from a FIRM, FEMA must approve any map amendment or revision pursuant to section 'I' Amendments of this sub-section.~~

~~(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 for projects, the location of the boundary shall be determined by the map scale.~~

(7) REMOVAL OF LANDS FROM FLOODPLAIN

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

~~In addition, no floodplain may be filled and no walled structure built within the SFHA or FSDs with the exception of the construction of public utility and transportation facilities required by a unit/agency of government, or an approved structure requiring water frontage which would require adherence to regulations as set forth in section 'I' of this subsection and by FEMA and NR116. Compliance with the provisions of this ordinance shall not be grounds for removing land from the F-1, Floodplain District unless:~~

~~(a) Said land has been previously filled prior to the effective date of the adoption on this amendment so that the elevation of the lowest floor (including basement) of any existing or proposed walled structure or building is at least two feet above the base flood elevation;~~

~~(b) The proposed filled land does not form an island and can be accessed from other surrounding lands without entering the F-1, Floodplain District;~~

~~(c) There is an area of land outside the F-1, Floodplain District but adjacent to and on the same property as the proposed filled land equal to at least four (4) times the areal extent and volume of the proposed filled area that is added to the F-1, Floodplain District based on plans approved by the City Plan Commission;~~

~~(d) The height of the downstream base flood is not increased by proposed fill; (e) The floodplain boundaries shown on all official maps are amended pursuant to~~

~~section 'n' of this sub-section; and~~

~~(f) A study is prepared and certified by a state registered professional engineer, establishing that:~~

~~i. The fill, lowest floor and floodproofing elevation shall have no effect upon the base flood elevation either upstream or downstream and are in compliance with this ordinance; or~~

~~ii. The fill, lowest floor and floodproofing elevations may have the effect of raising the base flood elevation either upstream or downstream if otherwise in compliance with this ordinance, in which case the property owner must also contact FEMA to request and receive an approved Conditional Letter of Map Revision (CLOMR) prior to issuance of any local permit(s); or~~

~~iii. The fill, lowest floor and floodproofing elevations may have the effect of lowering the base flood elevation either upstream or downstream and are otherwise in compliance with this ordinance, in which case the property owner must also contact FEMA to request and receive an approved Letter of Map Change (LOMC) prior to issuance of any local permit(s). Please also see sub-~~

Formatted: Indent: Left: 1.27", Space Before: 0.5 pt, No bullets or numbering

Formatted: Table Paragraph, Indent: Left: 1.27", Right: 0.26", Tab stops: 0.56", Left

Formatted: Indent: Left: 1.27", No bullets or numbering

Formatted: Table Paragraph, Indent: Left: 1.27", Right: 0.09", Tab stops: 0.9", Left

Formatted: Indent: Left: 1.27", Space Before: 0.55 pt, No bullets or numbering

Formatted: Table Paragraph, Indent: Left: 1.27", Right: 0.29", Tab stops: 0.86", Left

Formatted: Table Paragraph, Indent: Left: 1.27", Tab stops: 0.61", Left

Formatted: Table Paragraph, Indent: Left: 1.27", Right: 0.41", Tab stops: 0.61", Left

Formatted: Highlight

Formatted: Indent: Left: 1.27"

Formatted: Indent: Left: 1.27", No bullets or numbering

Formatted: Indent: Left: 1.27"

Formatted: Indent: Left: 1.27", No bullets or numbering

Formatted: Left, Indent: Left: 1.27", No bullets or numbering

Formatted: Highlight

section 17.1108b and Appendix 5.

DRAFT

(8) 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.

(9) 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) of Wisconsin Statutes applies. The construction, reconstruction, maintenance and repair of state highways and bridges by the Wisconsin Department of Transportation is exempt when s.30.2022 of Wisconsin Statutes applies.

(10) ABROGATION AND GREATER RESTRICTIONS

(a) This ordinance supersedes all the provisions of any City ordinance enacted under s. 62.23 or s.87.30 of Wisconsin Statutes, which relate to floodplains. A more restrictive ordinance shall continue in full force and effect to the extent of the greater restrictions, but not otherwise.

(b) This 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.

(11) INTERPRETATION

In their interpretation and application, the provisions of this ordinance are the minimum requirements liberally construed in favor of the City and are not a limitation on or repeal of any other powers granted by the Wisconsin Statutes. If a provision of this ordinance or 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.

(12) WARNING AND DISCLAIMER OF LIABILITY

The flood protection standards in this ordinance are based on engineering experience and scientific research related to a 100 year recurrence interval flood event (one percent change in any year). 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. This ordinance does not create liability on the part of, or a cause of action against, the city or any officer or employee thereof for any flood damage that may result from reliance on this ordinance.

(13) 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.

(14) ANNEXED AREAS

The Waukesha County floodplain zoning provisions in effect on the date of annexation of town lands shall remain in effect and shall be enforced by the city for all annexed areas until the city adopts and enforces an ordinance which meets the requirements of ch. NR 116, Wis. Adm. Code and 44 CFR 59.72, *National Flood Insurance Program* (NFIP). These annexed lands are described on the city's official zoning map. County floodplain zoning provisions are incorporated by reference for the purpose of administering this section and are on file in the office of the city zoning administrator. All plats or maps of annexation shall show the regional or base flood elevation and the floodway location.

Formatted: Indent: Left: 0.06", Right: 0.14"

Formatted: Table Paragraph, Indent: Left: 0.06", Hanging: 0.27", Line spacing: Exactly 12.55 pt, Numbered + Level: 1 + Numbering Style: 1, 2, 3, ... + Start at: 6 + Alignment: Left + Aligned at: 0.33" + Indent at: 0.56", Tab stops: 0.6", Left

Formatted: Indent: Left: 0.06"

Formatted: Table Paragraph, Indent: Left: 0.06", Hanging: 0.27", Space Before: 0.55 pt, Line spacing: Exactly 12.6 pt, Numbered + Level: 1 + Numbering Style: 1, 2, 3, ... + Start at: 6 + Alignment: Left + Aligned at: 0.33" + Indent at: 0.56", Tab stops: 0.6",

Formatted: Table Paragraph

Formatted: Table Paragraph, Indent: Left: 0.33", Hanging: 0.36", Tab stops: 0.69", Left + Not at 1"

Formatted: Table Paragraph, Indent: Hanging: 0.36"

Formatted: Table Paragraph, Indent: Left: 0.33", Hanging: 0.36", Right: 0", Numbered + Level: 1 + Numbering Style: 1, 2, 3, ... + Start at: 6 + Alignment: Left + Aligned at: 0.33" + Indent at: 0.56", Tab stops: 0.69", Left

Formatted: Table Paragraph, Indent: Hanging: 0.36", Space Before: 0 pt

Formatted: Table Paragraph, Indent: Left: 0.33", Hanging: 0.36", Right: 0", Numbered + Level: 1 + Numbering Style: 1, 2, 3, ... + Start at: 6 + Alignment: Left + Aligned at: 0.33" + Indent at: 0.56", Tab stops: 0.69", Left

f. GENERAL STANDARDS APPLICABLE TO ALL FLOODPLAIN DISTRICTS (Also see section 17.0200 of this ordinance)

The City Plan Commission and planning staff shall review all applications for land development or land division pursuant to City codes and ordinances to determine whether proposed buildings and building sites will be reasonably safe from flooding. No new walled buildings or structures, including manufactured mobile homes and walled enclosures, shall be allowed within or within a distance of 75 feet from the boundary of a base flood floodplain as defined herein except as set forth in sections 'k(3)' and 'l(2)' of this sub-section, and sub-section 17.0436. All new construction and permitted structural improvements to existing buildings/structures within a floodplain shall be designed or modified so as to adequately anchor such structure or building to prevent flotation, collapse, or lateral movement resulting from hydrodynamic and hydrostatic loads; be constructed with materials resistant to flood damage; be constructed by methods and practices that minimize flood damages; and be constructed with electrical, heating, ventilation, plumbing, and air conditioning equipment and other service facilities designed and/or located so as to prevent water from entering or accumulating within the components during conditions of flooding.

In addition to the requirements of Chapter 18 (Land Division Ordinance) of City Codes and Ordinances, subdivision of land shall be reviewed for compliance with the above standards and no newly created building parcel less than ten (10) acres in size shall be located within a base flood floodplain. (see section 'l (2)' of this sub-section). 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. All proposed land development plans, including land divisions and manufactured mobile home parks shall include BFE data for any land division or development that meets the definition within this zoning ordinance or Chapter 18 of the City Codes and Ordinances. (See www.cityofpewaukee.us)

g. HYDRAULIC AND HYDROLOGIC ANALYSES

(1) No building or development shall:

- (a) Obstruct natural storm water flow, defined as development which blocks the conveyance of floodwaters by itself or with other development, causing any increase in the regional or base flood height; or
- (b) Cause any increase in the regional or base flood height due to floodplain storage area lost.

(2) The zoning administrator shall deny permits if it is determined the proposed development will obstruct flow or cause any increase in the regional or base flood height, based on the officially adopted FIRM or other adopted map, unless the provisions of section 't' Amendments of this sub-section are met.

h. 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 WisDNR (Department) and FEMA regional offices, and required the applicant to secure all necessary state and federal permits. The standards of section 'g' of this sub-section 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 section 't' Amendments of this sub-section, the City shall apply for a Letter of Map Revision (LOMR) from FEMA. Any such alterations must be reviewed and approved by FEMA and the WisDNR through the LOMC process.

Formatted: Table Paragraph

Formatted: Table Paragraph, Indent: Left: 0.27", First line: 0", Right: 0.16", Space Before: 0 pt, Numbered + Level: 2 + Numbering Style: 1, 2, 3, ... + Start at: 1 + Alignment: Left + Aligned at: 0.27" + Indent at: 0.54", Tab stops: 0.5", Left

i. CHAPTER 30, 31 of WISCONSIN STATUTES DEVELOPMENT

Approved development which requires a permit from the Department, under chs. 30 and 31 of Wisconsin Statutes, such as docks, piers, wharves, bridges, utilities, public streets/highways, culverts, dams and navigational aids, may be allowed if the necessary permits are obtained and any amendments to the floodplain zoning ordinance are made according to section 'l' Amendments of this sub-section.

j. PUBLIC OR PRIVATE CAMPGROUNDS

Public or private campgrounds, as defined herein, shall not be located within the F-1, Floodplain District.

Formatted: Highlight

k. PERMITTED USES IN THE F-1, FLOODPLAIN DISTRICT

The following open space uses are allowed in the F-1, Floodplain District if they are not prohibited by any other ordinance; they meet the standards in sections 'l' and 'm' of this sub-section; and, all permits or certificates have been issued according to section 'p(1)' of this sub-section.

- (1) Non-structural agricultural uses, such as: general farming, outdoor plant nurseries, horticulture, viticulture and wild crop harvesting.
- (2) Non-structural industrial and commercial uses, such as loading areas, parking areas and airport landing strips.
- (3) Non-structural 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 section 'l(5)' of this sub-section.
- (4) Uses or non walled structures accessory to open space uses, or classified as historic structures that comply with sections 'l' and 'm' of this sub-section.
- (5) Extraction of sand, gravel or other earth materials that comply with section 'l(5)' of this sub-section.
- (6) Functionally water dependent uses, such as docks, piers or wharves, dams, flowage areas, culverts, navigational aids as well as river crossings of transmission lines, and pipelines that comply with chs. 30 and 31 of Wisconsin Statutes.
- (7) Public utilities, streets/highways and bridges that comply with section 'l(4)' of this sub-section.

l. STANDARDS FOR DEVELOPMENT IN THE F-1, FLOODPLAIN DISTRICT

Any existing or proposed development within the SFHA and FSDs must adhere to the requirements of this ordinance.

(1) GENERAL

- (a) Any permitted development in the SFHA shall comply with section 'f' of this sub-section and have a low flood damage potential.
- (b) Applicants shall provide the following data to determine the effects of the proposal according to sections 'g' and 'q' of this sub-section:

- i. ~~A cross-section elevation view of the proposal, perpendicular to the watercourse, showing if the proposed development will obstruct flow; or~~
 - ii. ~~An analysis performed by a state registered professional engineer calculating the effects of the proposal on regional or base flood height.~~
- (c) ~~The zoning administrator shall deny the permit application if the project will cause any increase in the flood elevations upstream or downstream, based on the data submitted for (b) above.~~
- ~~(2) STRUCTURES~~
~~Structures accessory to permanent open space uses or functionally dependent on a waterfront location such as an approved boathouse or boat dock may be allowed by permit if the structures comply with all the following criteria:~~
- ~~(a) Not designed for human habitation, does not have a high flood damage potential and is constructed to minimize flood damage;~~
 - ~~(b) Has 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.~~
 - ~~(c) Must be anchored to resist flotation, collapse, and lateral movement;~~
 - ~~(d) Mechanical and utility equipment must be elevated or flood proofed above the flood protection elevation; and~~
 - ~~(e) Must not obstruct flow of flood waters or cause any increase in flood levels during the occurrence of the regional or base flood.~~
- ~~(3) FLOODPROOFING FOR NON-RESIDENTIAL STRUCTURES~~
~~Actions or measures designed to reduce or prevent flood damage must be taken for those buildings or structures which cannot be removed from the floodplain or, if substantially damaged, must be erected within the floodplain, including but not limited to the following: structural modification; installation of special equipment such as water extraction equipment; addition of operation and management safeguards; supplemental underpinning and reinforcement of floors; reinforcement of walls; sealing of doors and windows and other exterior openings; anchoring of buoyant tanks and material; erection of watertight bulkheads, windows and doors; waterproof treatment of exposed wood; elevation of flood vulnerable utilities and mechanical equipment; use of masonry construction with waterproof mortar; installation of submersible sump pumps; placement of backflow and automatic swing check valves; installation of wire reinforced glass; placement of drain plugs and flood drain pipes; and removal of anything that will float or be damaged by water or flood borne debris. These and any other floodproofing measures should be extended to at least two feet above the BFE. Most of the aforementioned measures require a building permit issued by the City Building Inspector. All floodproofing measures must be certified by a registered professional engineer or architect.~~
- ~~(4) PUBLIC UTILITIES, STREETS AND BRIDGES~~
~~Public utilities, streets and bridges may be allowed by permit, if:~~
- ~~(a) Adequate floodproofing measures are provided to the flood protection elevation; and~~

~~(b) Construction meets the development standards of section 'g' of this sub-section.~~

~~(5) FILL OR DEPOSITION OF MATERIALS~~

~~No floodplain may be filled and no walled structure built within the F-1, Floodplain as defined herein with the possible exception of the construction of required public utility and transportation facilities and structures requiring a waterfront location, which would require adherence to regulations as set forth in section 'l' of this subsection and by FEMA and NR116. Compliance with the provisions of this ordinance shall not be grounds for removing land from the F-1, Floodplain District. PLEASE SEE SUBSECTION 17.0435e(7), ABOVE as well as subsection 17.1108b and Appendix 5.~~

~~m. PROHIBITED USES~~

~~All uses not listed as permitted uses in section 'k' of this sub-section are prohibited, including the following uses:~~

- ~~(1) Walled structures, structures with high flood damage potential, or those not associated with permanent open-space uses, including mobile homes and recreation vehicles;~~
- ~~(2) Stored materials that are buoyant, flammable, explosive, injurious to property, water quality, or human, animal, plant, fish or other aquatic life;~~
- ~~(3) Uses not in harmony with or detrimental to uses permitted in the adjoining zoning districts;~~
- ~~(4) Any private or public on-site wastewater treatment/disposal system, 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. SPS 383 of the Wisconsin Administrative Code;~~
- ~~(5) 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 of the Wisconsin Administrative Code;~~
- ~~(6) Any solid, liquid, or hazardous waste disposal sites;~~
- ~~(7) Any wastewater treatment ponds or facilities, except those permitted under s. NR 110.15(3)(b) of the Wisconsin Administrative Code;~~
- ~~(8) Any sanitary sewer or water supply lines, except those to service existing or proposed development located outside the floodway which complies with the regulations set forth herein;~~
- ~~(9) Storm water management retention or detention ponds;~~
- ~~(10) Any use requiring excavation or grading except those uses listed in section 'g' of this sub-section;~~
- ~~(11) Storage of materials such as compost, mulch, gravel, soil, fill (clean or unclean).~~

~~n. FLOOD STORAGE DISTRICT (FSDs) OF THE F-1, FLOODPLAIN~~

~~A 'FSD' is that portion of the floodplain where storage of floodwaters has been taken into account and is relied upon to reduce the regional or base flood discharge. The FSD protects the flood storage areas and assures that any development in the storage areas will not decrease the effective flood storage capacity which would cause higher flood elevations.~~

(1) APPLICABILITY

The provisions of this section apply to all areas within the FSDs, as shown on the official floodplain zoning maps.

(2) PERMITTED USES

Any use or development which occurs in a flood storage district must meet the applicable requirements in section 'I' of this sub-section.

~~e. — NON-CONFORMING STRUCTURES AND USES IN THE F-1 FLOODPLAIN DISTRICT~~ If these standards conform to s. 62.23(7)(h) of Wisconsin Statutes, 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.

(1) GENERAL

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:

(a) — 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, structural repair, rebuilding or replacement of any such existing use, structure or accessory structure or use. Maintenance is not considered a modification and 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.

For the purposes of this subsection of the zoning ordinance, 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 a modification or addition. The roof of the structure may extend over a portion of the deck in order to provide safe ingress and egress to the principal structure.

(b) — If a nonconforming use or the use of a nonconforming structure is discontinued for 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;

(c) — The city 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;

(d) — 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 section 'I' of this sub-section. The cost of elevating the lowest floor of a nonconforming building or a building with a nonconforming use to the flood protection elevation is excluded from the 50% provisions of this paragraph;

Formatted: Indent: Left: 0.58", Right: 0.79"

Formatted: Body Text, Left, Indent: Left: 0.58", Right: 0.79", No bullets or numbering, Tab stops: Not at 0.3"

Formatted: Indent: Left: 0.58", Right: 0.79"

Formatted: Body Text, Indent: Left: 0.58", Right: 0.79", No bullets or numbering, Tab stops: Not at 0.56"

Formatted: Right: 0.79"

Formatted: Indent: Left: 0.58", Right: 0.79", Space Before: 0 pt

Formatted: Body Text, Indent: Left: 0.58", Right: 0.79", No bullets or numbering, Tab stops: Not at 0.92"

Formatted: Indent: Left: 0.58", Right: 0.79"

Formatted: Body Text, Indent: Left: 0.58", Right: 0.79", No bullets or numbering, Tab stops: Not at 0.98"

Formatted: Indent: Left: 0.58", Right: 0.79"

Formatted: Body Text, Indent: Left: 0.58", Right: 0.79", No bullets or numbering, Tab stops: Not at 0.97"

Formatted: Indent: Left: 0.58", Right: 0.79", Space Before: 0 pt

Formatted: Body Text, Indent: Left: 0.58", Right: 0.79", No bullets or numbering, Tab stops: Not at 0.98"

(e) — 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 section 'I' of this sub-section.

(f) — If on a per event basis the total value of the work being done under (d) and (e) 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 section 'I' of this sub-section.

(g) — Except as provided in section 'I' of this sub-section, 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 current equalized assessed value.

(h) — For nonconforming buildings that are substantially damaged or destroyed by a non-flood event, 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 requirements below are met and all required permits have been granted prior to the start of construction.

(2) — RESIDENTIAL STRUCTURES

(a) — Structures 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 section 'o(4)' of this sub-section.

(b) — Structures shall be anchored to prevent flotation, collapse, or lateral movement of the structure resulting from hydrodynamic and hydrostatic loads, including the effects of buoyancy and shall be constructed with methods and materials resistant to flood damage.

(c) — Structures shall be constructed with electrical, heating, ventilation, plumbing and air conditioning equipment and other service facilities designed and/or elevated so as to prevent water from entering or accumulating within the components during conditions of flooding.

(d) — Owners of structures in the SFHA must obtain, review and utilize any flood data available from a federal, state or other source.

(e) — Structures in the SFHA with no elevations specified, shall have the lowest floor, including basement, meet the standards in section 'I' of this sub-section and adequate drainage paths or swales shall be placed around the structures on slopes to guide flood waters around and away from the structure without being diverted to adjacent properties without permission.

Formatted: Body Text, Indent: Left: 0.58", Right: 0.79", No bullets or numbering, Tab stops: Not at 0.98"

Formatted: Indent: Left: 0.58", Right: 0.79", Space Before: 0 pt

Formatted: Body Text, Indent: Left: 0.58", Right: 0.79", No bullets or numbering, Tab stops: Not at 0.94"

Formatted: Indent: Left: 0.58", Right: 0.79"

Formatted: Body Text, Indent: Left: 0.58", Right: 0.79", No bullets or numbering, Tab stops: Not at 0.98"

Formatted: Indent: Left: 0.58", Right: 0.79"

Formatted: Body Text, Indent: Left: 0.58", Right: 0.79", No bullets or numbering, Tab stops: Not at 0.98"

Formatted: Indent: Left: 0.58", Right: 0.79"

Formatted: Body Text, Indent: Left: 0.58", Right: 0.79", No bullets or numbering, Tab stops: Not at 0.56"

Formatted: Indent: Left: 0.58", Right: 0.79"

Formatted: Body Text, Indent: Left: 0.58", Right: 0.79", Space Before: 0 pt, No bullets or numbering, Tab stops: Not at 1"

Formatted: Indent: Left: 0.58", Right: 0.79"

Formatted: Body Text, Indent: Left: 0.58", Right: 0.79", No bullets or numbering, Tab stops: Not at 1.04"

Formatted: Indent: Left: 0.58", Right: 0.79"

Formatted: Body Text, Indent: Left: 0.58", Right: 0.79", No bullets or numbering, Tab stops: Not at 1.03"

Formatted: Indent: Left: 0.58", Right: 0.79"

Formatted: Body Text, Indent: Left: 0.58", Right: 0.79", No bullets or numbering, Tab stops: Not at 1.06"

Formatted: Indent: Left: 0.58", Right: 0.79", Space Before: 0 pt

Formatted: Body Text, Indent: Left: 0.58", Right: 0.79", No bullets or numbering, Tab stops: Not at 1.06"

(3) NON-RESIDENTIAL STRUCTURES

(a) Structures shall meet the requirements of section 'o(2) a-e' of this sub-section.

(b) Structures shall either have the lowest floor, including basement, elevated to or above the regional or base flood elevation; or, together with attendant utility and sanitary facilities, shall meet the standards in section 'o(4)(a) and o(4)(b)' of this sub-section. A registered professional engineer or architect must certify that the perimeter walls shall be constructed so as to protect the structure.

(c) Structures in AO Zones with no elevations specified, shall have the lowest floor, including basement, meet the standards in section 'I' of this sub-section.

(4) FLOODPROOFING STANDARDS FOR NONCONFORMING STRUCTURES OR USES - NON-RESIDENTIAL STRUCTURES

(a) No permit or variance shall be issued for a non-residential structure designed to be watertight below the regional or base 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.

(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:

- i. certified by a registered professional engineer or architect; or
- ii. meets or exceeds the following standards:

- 1. 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;
- 2. the bottom of all openings shall be no higher than one foot above grade; and
- 3. 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:

- i. Withstand flood pressures, depths, velocities, uplift and impact forces and other regional flood factors;
- ii. Protect structures to the flood protection elevation;
- iii. Anchor structures to foundations to resist flotation and lateral movement;
- iv. Minimize or eliminate infiltration of flood waters; and
- v. Minimize or eliminate discharges into flood waters.

Formatted: Indent: Left: 0.58", Right: 0.79", Space Before: 0 pt

Formatted: Body Text, Indent: Left: 0.58", Right: 0.79", Space Before: 0 pt, No bullets or numbering, Tab stops: Not at 0.6"

Formatted: Indent: Left: 0.58", Right: 0.79"

Formatted: Body Text, Indent: Left: 0.58", Right: 0.79", Space Before: 0 pt, No bullets or numbering, Tab stops: Not at 1"

Formatted: Indent: Left: 0.58", Right: 0.79", Space Before: 0 pt

Formatted: Body Text, Indent: Left: 0.58", Right: 0.79", No bullets or numbering, Tab stops: Not at 1"

Formatted: Indent: Left: 0.58", Right: 0.79"

Formatted: Body Text, Indent: Left: 0.58", Right: 0.79", No bullets or numbering, Tab stops: Not at 0.99"

Formatted: Indent: Left: 0.58", Right: 0.79", Space Before: 0 pt

Formatted

Formatted

Formatted

Formatted: Indent: Left: 0.58", Right: 0.79"

Formatted

Formatted

Formatted

Formatted: Indent: Left: 0.58", Right: 0.79"

Formatted

Formatted: Indent: Left: 0.58", Right: 0.79"

Formatted

Formatted: Indent: Left: 0.58", Right: 0.79"

Formatted

Formatted: Indent: Left: 0.58", Right: 0.79"

Formatted

Formatted: Indent: Left: 0.58", Right: 0.79"

Formatted

Formatted: Indent: Left: 0.58", Right: 0.79"

Formatted

Formatted: Indent: Left: 0.58", Right: 0.79"

Formatted

Formatted

Formatted

Formatted

Formatted

Formatted: Indent: Left: 0.58", Right: 0.79"

~~(5) OFFICIALLY DESIGNATED HISTORIC STRUCTURES~~

~~A nonconforming historic structure may be altered if: the alteration will not preclude the structure's continued designation as a historic structure; the alteration will comply with section 'I' of this sub-section; flood-resistant materials are used; and construction~~

Formatted: Body Text, Indent: Left: 0.58", Right: 0.79",
No bullets or numbering, Tab stops: Not at 0.61"

DRAFT

practices and floodproofing methods that comply with section 'o' of this sub-section are used. Repair or rehabilitation of historic structures shall be exempt from the development standards of section 'e(2)' of this sub-section 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.

~~(6) STRUCTURES IN A FLOOD STORAGE DISTRICT (FSD)~~

~~No modifications or additions shall be allowed to any nonconforming structure in a flood storage area unless the standards outlined in section 'n' of this sub-section are met.~~

~~p. ADMINISTRATION~~

~~(1) ZONING ADMINISTRATOR DUTIES AND POWERS (see 17.0203 & 17.1000)~~

~~The zoning administrator is authorized to administer this ordinance and shall have the following duties and powers:~~

~~(a) Attend all meetings of the Zoning Board of Appeals.~~

~~(b) Advise applicants of the ordinance provisions, assist in preparing permit applications and appeals, and assure that the regional or base flood elevation for the proposed development is shown on all permit applications.~~

~~(c) Issue permits and inspect properties for compliance with provisions of this ordinance and issue certificates of compliance where appropriate.~~

~~(d) Inspect and assess all damaged floodplain structures to determine if substantial damage to the structures has occurred.~~

~~(e) Keep records of all official actions such as:~~

- ~~i. All permits issued, inspections made, and work approved;~~
- ~~ii. Documentation of certified lowest floor and regional or base flood elevations;~~
- ~~iii. Issuance of Floodproofing Certificates.~~
- ~~iv. Water surface profiles, floodplain zoning maps and ordinances, nonconforming uses and structures including changes, appeals, variances and amendments.~~
- ~~v. All substantial damage assessment reports for floodplain structures.~~
- ~~vi. List of nonconforming structures and uses.~~

~~(f) Submit copies of the following items to the Department Regional office:~~

- ~~i. Within 10 days of the decision, a copy of any decisions on variances, appeals for map or text interpretations, and map or text amendments;~~
- ~~ii. Copies of case-by-case analyses and other required information including an annual summary of floodplain zoning actions taken.~~
- ~~iii. Copies of substantial damage assessments performed and all related correspondence concerning the assessments.~~

~~(g) Investigate, prepare reports, and report violations of this ordinance to the City Planner and City Attorney for prosecution. Copies of the reports shall also be sent to the Department Regional office.~~

Formatted: Indent: Left: 0.58", Right: 0.79", Space Before: 0 pt

Formatted: Body Text, Indent: Left: 0.58", Right: 0.79", No bullets or numbering, Tab stops: Not at 0.56"

Formatted: Indent: Left: 0.58", Right: 0.79"

Formatted: Highlight

~~(h) Submit copies of amendments to the FEMA Regional office.~~

~~(2) LAND USE PERMIT~~

~~A land use permit shall be obtained before any new development; repair, modification or addition to an existing structure; or change in the use of a building or structure, including sewer and water facilities, may be initiated. Application for a permit to the City planner or zoning administrator shall include:~~

~~(a) GENERAL INFORMATION~~

- ~~i. Name and address of the applicant, property owner and contractor;~~
- ~~ii. Legal description, proposed use, and whether it is new construction or a modification.~~

~~(b) A SITE DEVELOPMENT PLAN~~

~~A site development plan drawn to scale shall be submitted with the permit application form and shall contain:~~

- ~~i. Location, dimensions, area and elevation of the lot or parcel;~~
- ~~ii. Location of the ordinary high water mark (OHWM) of any abutting navigable waterways;~~
- ~~iii. Location of any structures with distances measured from the lot lines and street center lines;~~
- ~~iv. Location of any existing or proposed on-site sewage systems or private water supply systems;~~
- ~~v. Location and elevation of existing or future access roads;~~
- ~~vi. Location of floodplain and floodway limits as determined from the official floodplain zoning maps;~~
- ~~vii. The elevation of the lowest floor of proposed buildings and any fill using the vertical datum from the adopted study — either National Geodetic Vertical Datum (NGVD) or North American Vertical Datum (NAVD);~~
- ~~viii. Data sufficient to determine the regional or base flood elevation in NGVD or NAVD at the location of the development and to determine whether or not the requirements of sections 'k, l, or m' of this sub-section are met; and~~
- ~~ix. Data to determine if the proposed development will cause an obstruction to flow or an increase in regional or base flood height or discharge according to section 'g' of this sub-section. This may include any of the information noted in section '(1)' of this sub-section.~~

~~(3) EXPIRATION~~

~~For the purposes of this subsection of this ordinance all permits issued for floodplain development shall expire no later than 180 days after issuance. The permit may be extended for up to 180 day for good and sufficient cause.~~

~~(4) OTHER PERMITS~~

~~Prior to obtaining a land use permit the applicant must obtain permits from all other federal, state, county and city permitting agencies, including but not limited to: the~~

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

q. HYDRAULIC AND HYDROLOGIC STUDIES TO ANALYZE DEVELOPMENT

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

(1) ZONE A FLOODPLAIN AREA

(a) HYDROLOGY

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

(b) HYDRAULIC MODELING

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

(c) MAPPING

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

- i. If the development is located outside of the floodway, then it is determined to have no impact on the regional or base flood elevation.
- ii. If any part of the 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.

(2) ZONE AE FLOODPLAIN AREA

(a) 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 or Base Flood Discharge*.

(b) HYDRAULIC MODEL

The regional or base flood elevation shall be based on the standards in ch. NR 116.07(4), Wis. Admin. Code, *Hydraulic Analysis: Determination of Regional or base 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 stream 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 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 stream reach shall be identical to those in the effective model and

DRAFT

— result in water surface elevations and top widths computed by the revised models matching those in the effective models upstream and downstream of the revised stream reach as required. The Effective Model shall not be truncated.

(c) 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 1.0% 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.

(3) CERTIFICATE OF COMPLIANCE

— For the purposes of this subsection, 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 approved by either the Zoning Administrator, City Planner, Plan Commission, Common Council or combinations of these persons or bodies as stipulated in section 17.0200 or elsewhere in this zoning ordinance, and only after the owner has submitted a certification signed by a registered professional engineer, architect or land surveyor that any fill and 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 this subsection.

r. ZONING BOARD OF APPEALS (ZBA)

(PLEASE SEE SUBSECTION 17.1000 OF THIS ORDINANCE)

s. PUBLIC INFORMATION

Formatted: Indent: Left: 0.96", Right: 0.22"

Formatted: List Paragraph, Indent: Left: 0.96", Hanging: 0.19", Right: 0.22", Numbered + Level: 4 + Numbering Style: i, ii, iii, ... + Start at: 1 + Alignment: Left + Aligned at: 0.82" + Indent at: 1.02", Tab stops:

Formatted: Indent: Left: 0.96", Right: 0.22"

Formatted: List Paragraph, Indent: Left: 0.96", Hanging: 0.19", Right: 0.22", Numbered + Level: 4 + Numbering Style: i, ii, iii, ... + Start at: 1 + Alignment: Left + Aligned at: 0.82" + Indent at: 1.02", Tab stops:

Formatted: Indent: Left: 0.96", Right: 0.22"

Formatted: List Paragraph, Indent: Left: 0.96", Hanging: 0.19", Right: 0.22", Space Before: 0 pt, Numbered + Level: 4 + Numbering Style: i, ii, iii, ... + Start at: 1 + Alignment: Left + Aligned at: 0.82" + Indent at: 1.02", Tab stops: 1.15", Left

Formatted: Body Text, Left, Space Before: 0 pt, No bullets or numbering, Tab stops: Not at 0.33"

The Zoning Administrator and authorized assistants, the City Planner and other City staff involved in interaction with the public and the media shall provide any electronic, written or verbal information regarding floodplains upon request. In addition they shall:

- (1) Keep current records of local flooding;
- (2) Retain all available official floodplain maps and documents for ready use;
- (3) Provide flood information to other state, county and local agencies and, when possible, mark previously flood inundated structures to show the level of inundation.
- (4) Retain any real estate transfers showing in what floodplain district any real property is located.

t. AMENDMENTS

Obstructions or increases may only be permitted if amendments are made to this subsection of the zoning ordinance, the official floodplain zoning maps, floodway lines and water surface profiles, in accordance with section 't(2)' of this sub-section.

- (1) In AE Zones with a mapped floodway, no obstructions or increases shall be permitted unless the applicant receives a CLOMR from FEMA and amendments are made to this ordinance, the official floodplain zoning maps, floodway lines and water surface profiles, in accordance with section 't(2)' of this sub-section. Any such alterations must be reviewed and approved by FEMA and the DNR.
- (2) The governing body shall change or supplement the floodplain zoning district boundaries and this ordinance in the manner outlined in section 't(3)' of this sub-section below. Actions which require an amendment to the ordinance and/ or submittal of a LOMC include, but are not limited to, the following:
 - (a) Any fill or floodway encroachment that obstructs flow causing any increase in the regional or base 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 section 'c(4)' of this sub-section;
 - (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 city; 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 BFE from a FIRM requires prior approval by FEMA.

Formatted: Indent: Left: 0", Right: 0"

Formatted: Space Before: 0 pt

Formatted: Body Text, No bullets or numbering, Tab stops: Not at 0.71"

Formatted: Space Before: 0 pt

Formatted: Body Text, No bullets or numbering, Tab stops: Not at 0.71"

Formatted: Body Text, Right: 0", Space Before: 0 pt, No bullets or numbering, Tab stops: Not at 0.69"

Formatted: Space Before: 0 pt

Formatted: Body Text, Right: 0", Space Before: 0 pt, No bullets or numbering, Tab stops: Not at 0.71"

Formatted: Body Text, Left, No bullets or numbering, Tab stops: Not at 0.3"

Formatted: Indent: Left: 0", Right: 0"

Formatted: Body Text, Right: 0", No bullets or numbering, Tab stops: Not at 0.67"

Formatted: Body Text, Right: 0", No bullets or numbering, Tab stops: Not at 0.63"

Formatted: Body Text, Right: 0", No bullets or numbering, Tab stops: Not at 0.98"

Formatted: Space Before: 0 pt

Formatted: Body Text, Right: 0", No bullets or numbering, Tab stops: Not at 0.98"

Formatted: Space Before: 0 pt

Formatted: Body Text, Right: 0", No bullets or numbering, Tab stops: Not at 0.97"

Formatted: Space Before: 0 pt

Formatted: Body Text, Right: 0", No bullets or numbering, Tab stops: Not at 0.98"

Formatted: Space Before: 0 pt

Formatted: Body Text, Right: 0", No bullets or numbering, Tab stops: Not at 0.98"

Formatted: Body Text, Space Before: 0 pt, No bullets or numbering, Tab stops: Not at 0.94"

Formatted: Indent: Left: 0"

Formatted: Space Before: 0 pt

Formatted: Body Text, Right: 0", Space Before: 0 pt, No bullets or numbering, Tab stops: Not at 0.98"

(3) Ordinance amendments may be made upon petition of any party according to the provisions of s. 62.23 of Wisconsin Statutes. The petitions shall include all data required by section 'p(2)' of this sub-section. The Building and/or Land Use Permit shall not be issued until a LOMR is issued by FEMA for the proposed changes.

Formatted: Body Text, Right: 0", No bullets or numbering, Tab stops: Not at 0.63"

(a) The proposed amendment shall be referred to the City Plan Commission 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 of the Wisconsin Statutes.

Formatted: Space Before: 0 pt

Formatted: Body Text, Right: 0", No bullets or numbering, Tab stops: Not at 0.98"

(b) No amendments shall become effective until reviewed and approved by the Department.

Formatted: Body Text, Right: 0", Space Before: 0 pt, No bullets or numbering, Tab stops: Not at 0.98"

(c) All persons petitioning for a map amendment that obstructs flow causing any increase in the regional or base 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.

Formatted: Body Text, Right: 0", No bullets or numbering, Tab stops: Not at 0.97"

u. ENFORCEMENT AND PENALTIES

Any violation of the provisions of this ordinance by any person shall be unlawful and shall be referred to the city attorney who shall expeditiously prosecute all such violators. A violator shall, upon conviction, forfeit to the city a penalty of \$50.00 (fifty dollars) or the maximum allowed under ss. 87.30(2) for each separate offense, 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 city, the state, or any citizen thereof pursuant to s. 87.30 of Wisconsin Statutes.

Formatted: Body Text, Left, Line spacing: single, No bullets or numbering, Tab stops: Not at 0.25"

Formatted: Indent: Left: 0", Right: 0"

v. 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 "should" is advisory, the word "may" is permissive, the words "shall" or "must" are mandatory and are not discretionary.

Formatted: Body Text, Left, Space Before: 0 pt, No bullets or numbering, Tab stops: Not at 0.25"

Formatted: Indent: Left: 0", Right: 0"

(1) A Zones Those areas shown on the Official Floodplain Zoning Map which would be inundated by the regional or base 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.

Formatted: Space Before: 0 pt

Formatted: Body Text, Right: 0", No bullets or numbering, Tab stops: Not at 0.58"

(2) AH Zone See "Area of Shallow Flooding".

Formatted: Space Before: 0 pt

(3) AO Zone See "Area of Shallow Flooding".

Formatted: Body Text, No bullets or numbering, Tab stops: Not at 0.58"

(4) 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.

Formatted: Space Before: 0 pt

Formatted: Body Text, Space Before: 0 pt, No bullets or numbering, Tab stops: Not at 0.58"

(5) 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.

Formatted: Body Text, Right: 0", Space Before: 0 pt, No bullets or numbering, Tab stops: Not at 0.58"

Formatted: Space Before: 0 pt

(6) 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 1.0 percent or greater annual

Formatted: Body Text, Right: 0", Space Before: 0 pt, No bullets or numbering, Tab stops: Not at 0.58"

Formatted: Body Text, Right: 0", No bullets or numbering, Tab stops: Not at 0.58"

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.

(7) Base Flood—The flood having a one percent chance of being equaled or exceeded in any given year, as published by FEMA as part of a FIS and depicted on a FIRM. Also called the one hundred year recurrence interval flood.

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

(9) Building—See "Structure".

(10) 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 of Wisconsin Statutes, and which allows limited filling between this bulkhead line and the original ordinary high water mark (OHWM), except where such filling is prohibited by the floodway provisions of this ordinance.

(11) 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.

(12) Camping Unit—Any portable device, no more than 400 square feet in area, used as a temporary shelter, including but not limited to a camping trailer, motor home, bus, van, pick-up truck, or tent that is fully licensed, if required, and ready for highway use.

(13) 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.

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

(15) 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.

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

(17) Department—The Wisconsin Department of Natural Resources.

(18) 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.

(19) Dryland Access—A vehicular access route which is above the regional or base flood elevation and which connects land located in the floodplain to land outside the floodplain, such as a road with its surface above regional or base flood elevation and

Formatted: Indent: Left: 0", Right: 0"

Formatted: Space Before: 0 pt

Formatted: Body Text, Left, Right: 0", No bullets or numbering, Tab stops: Not at 0.58"

Formatted: Body Text, Right: 0", No bullets or numbering, Tab stops: Not at 0.58"

Formatted: Space Before: 0 pt

Formatted: Body Text, No bullets or numbering, Tab stops: Not at 0.58"

Formatted: Body Text, Right: 0", Space Before: 0 pt, No bullets or numbering, Tab stops: Not at 0.58"

Formatted: Space Before: 0 pt

Formatted: Body Text, Right: 0", No bullets or numbering, Tab stops: Not at 0.58"

Formatted: Body Text, Left, Right: 0", No bullets or numbering, Tab stops: Not at 0.58"

Formatted: Space Before: 0 pt

Formatted: Body Text, Left, Right: 0", No bullets or numbering, Tab stops: Not at 0.58"

Formatted: Space Before: 0 pt

Formatted: Body Text, Left, Right: 0", No bullets or numbering, Tab stops: Not at 0.58"

Formatted: Space Before: 0 pt

Formatted: Body Text, Right: 0", No bullets or numbering, Tab stops: Not at 0.58"

Formatted: Space Before: 0 pt

Formatted: Body Text, Left, Right: 0", No bullets or numbering, Tab stops: Not at 0.58"

Formatted: Body Text, Space Before: 0 pt, No bullets or numbering, Tab stops: Not at 0.58"

Formatted: Space Before: 0 pt

Formatted: Body Text, Right: 0", Space Before: 0 pt, No bullets or numbering, Tab stops: Not at 0.58"

Formatted: Body Text, Right: 0", No bullets or numbering, Tab stops: Not at 0.58"

wide enough for wheeled rescue and relief vehicles.

(20) Encroachment Any fill, structure, equipment, use or development in the floodway.

(21) Federal Emergency Management Agency (FEMA) The federal agency that administers the National Flood Insurance Program.

(22) Flood Insurance Rate Map (FIRM) A map of a community on which the Federal Insurance Administration has delineated both the floodplain and the risk premium zones applicable to the community. This map can only be amended by the Federal Emergency Management Agency.

(23) 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:

- The overflow or rise of inland waters;
- The rapid accumulation or runoff of surface waters from any source;
- The inundation caused by waves or currents of water exceeding anticipated cyclical levels along the shore of Lake Michigan; or
- 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.

(24) 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.

(25) Floodfringe That portion of the one hundred year recurrence interval floodplain outside of the floodway which is covered by flood waters during the regional or base flood and are usually represented or associated with standing or slow moving circulating water rather than straight flowing water.

(26) 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 or base 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 (FIRM).

(27) Flood Insurance Study (FIS) A technical engineering examination, evaluation, and determination of the local flood hazard areas. It provides maps designating those areas affected by the regional or base 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 FIS, form the basis for both the regulatory and the insurance aspects of the NFIP.

(28) Floodplain In the City of Pewaukee, lakes and streams and adjoining land which has been or may be covered by flood water during a regional or base flood, and which is comprised of the floodway, flood fringe, the FEMA 'A-zones' plus the WisDNR Flood Storage Districts (FSDs).

(29) Floodplain Island A natural geologic land formation within the floodplain that is surrounded, but not covered, by floodwater during the regional or base flood.

Formatted: Indent: Left: 0", Line spacing: single

Formatted: Body Text, No bullets or numbering, Tab stops: Not at 0.58"

Formatted: Body Text, Right: 0", Space Before: 0 pt, No bullets or numbering, Tab stops: Not at 0.58"

Formatted: Space Before: 0 pt

Formatted: Body Text, Right: 0", Space Before: 0 pt, No bullets or numbering, Tab stops: Not at 0.58"

Formatted: Space Before: 0 pt

Formatted: Body Text, Right: 0", No bullets or numbering, Tab stops: Not at 0.58"

Formatted: Body Text, No bullets or numbering, Tab stops: Not at 1.08" + 1.08"

Formatted: Body Text, Space Before: 0 pt, Line spacing: single, No bullets or numbering, Tab stops: Not at 1.08" + 1.08"

Formatted: Space Before: 0 pt

Formatted: Body Text, Right: 0", No bullets or numbering, Tab stops: Not at 0.58"

Formatted: Space Before: 0 pt

Formatted: Body Text, Right: 0", No bullets or numbering, Tab stops: Not at 0.58"

Formatted: Body Text, Right: 0", No bullets or numbering, Tab stops: Not at 0.58"

Formatted: Body Text, Right: 0", No bullets or numbering, Tab stops: Not at 0.58"

Formatted: Space Before: 0 pt

Formatted: Body Text, Right: 0", No bullets or numbering, Tab stops: Not at 0.58"

Formatted: Space Before: 0 pt

Formatted: Body Text, Right: 0", No bullets or numbering, Tab stops: Not at 0.58"

(30) Floodplain Management — Policy and procedures to insure wise use of floodplains, including mapping and engineering, mitigation, education, and administration and enforcement of floodplain regulations.

Formatted: Body Text, Left, Right: 0", No bullets or numbering, Tab stops: Not at 0.58"

(31) Flood Profile — A graph or a longitudinal profile line showing the relationship of the water surface elevation of a flood event to locations of land surface elevations along a stream or river.

Formatted: Space Before: 0 pt

Formatted: Body Text, Left, Right: 0", No bullets or numbering, Tab stops: Not at 0.58"

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

Formatted: Body Text, Right: 0", No bullets or numbering, Tab stops: Not at 0.58"

(33) Flood Protection Elevation — An elevation of two feet of freeboard above the water surface profile elevation designated for the regional or base flood. (Also see: "Freeboard".)

Formatted: Body Text, Right: 0", No bullets or numbering, Tab stops: Not at 0.58"

(34) Flood Storage — Those floodplain areas where storage of floodwaters has been taken into account during analysis in reducing the regional or base flood discharge.

Formatted: Space Before: 0 pt

Formatted: Body Text, Right: 0", No bullets or numbering, Tab stops: Not at 0.58"

(35) Floodway — The channel of a river or stream and those portions of the floodplain adjoining the channel required to carry the main flow of the regional or base flood discharge and represented or associated with fast moving water.

Formatted: Body Text, Right: 0", Space Before: 0 pt, No bullets or numbering, Tab stops: Not at 0.58"

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

Formatted: Space Before: 0 pt

Formatted: Body Text, Right: 0", No bullets or numbering, Tab stops: Not at 0.58"

(37) Habitable Structure — Any structure or portion thereof used or designed for human habitation.

Formatted: Body Text, Right: 0", No bullets or numbering, Tab stops: Not at 0.58"

(38) 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.

Formatted: Space Before: 0 pt

Formatted: Body Text, Right: 0", No bullets or numbering, Tab stops: Not at 0.58"

(39) 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.

Formatted: Body Text, Right: 0", Space Before: 0 pt, No bullets or numbering, Tab stops: Not at 0.58"

(40) Highest Adjacent Grade — The highest natural elevation of the ground surface prior to construction next to the proposed walls of a structure.

Formatted: Space Before: 0 pt

Formatted: Body Text, Right: 0", No bullets or numbering, Tab stops: Not at 0.58"

(41) Historic Structure — Any structure that is either:

Formatted: Body Text, Line spacing: single, No bullets or numbering, Tab stops: Not at 0.58"

- 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;

- 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;

- Individually listed on a state inventory of historic places in states with historic

Formatted: Body Text, Line spacing: single, No bullets or numbering, Tab stops: Not at 0.83"

preservation programs which have been approved by the Secretary of the Interior; or

- 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.

Formatted: Indent: Left: 0", Line spacing: single

Formatted: Body Text, Right: 0", No bullets or numbering, Tab stops: Not at 0.83"

(42) Increase In Regional or Base Flood Height—A calculated upward rise in the regional or base flood elevation greater than 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.

Formatted: Body Text, Right: 0", No bullets or numbering, Tab stops: Not at 0.58"

(43) Land Use—Any use consisting of unimproved or improved real estate. (Also see "Development".)

Formatted: Body Text, Right: 0", No bullets or numbering, Tab stops: Not at 0.58"

(44) Lowest Adjacent Grade—Elevation of the lowest ground surface that touches any of the exterior walls of a building.

Formatted: Body Text, Right: 0", Space Before: 0 pt, No bullets or numbering, Tab stops: Not at 0.58"

(45) 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.

Formatted: Space Before: 0 pt

Formatted: Body Text, Right: 0", Space Before: 0 pt, No bullets or numbering, Tab stops: Not at 0.58"

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

Formatted: Body Text, Right: 0", No bullets or numbering, Tab stops: Not at 0.58"

(47) 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."

Formatted: Space Before: 0 pt

Formatted: Body Text, Right: 0", No bullets or numbering, Tab stops: Not at 0.58"

(48) 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.

Formatted: Body Text, Right: 0", No bullets or numbering, Tab stops: Not at 0.58"

(49) 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.

Formatted: Body Text, Right: 0", No bullets or numbering, Tab stops: Not at 0.58"

(50) 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.

Formatted: Body Text, Right: 0", Space Before: 0 pt, No bullets or numbering, Tab stops: Not at 0.65" + 0.65"

Formatted: Space Before: 0 pt

(51) Mobile Recreational Vehicle (RV)—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."

Formatted: Body Text, Right: 0", No bullets or numbering, Tab stops: Not at 0.65" + 0.65"

(52) 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.

(53) Model, Duplicate Effective—A copy of the hydraulic analysis used in the effective FIS and referred to as the effective model.

(54) Model, Effective—The hydraulic engineering model that was used to produce the current effective Flood Insurance Study.

(55) 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.

(56) 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.

(57) Municipality or Municipal—The city governmental agencies enacting, administering and enforcing this zoning ordinance.

(58) NAVD or North American Vertical Datum—Elevations referenced to mean sea level datum, 1988 adjustment.

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

(60) 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 the City 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.

(61) 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 flood fringe is a conforming use. However, if the lowest floor is lower than the flood protection elevation, the structure is nonconforming.)

(62) 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.)

(63) 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 or base flood height.

Formatted: Space Before: 0 pt

Formatted: Body Text, Right: 0", Space Before: 0 pt, No bullets or numbering, Tab stops: Not at 0.65" + 0.65"

Formatted: Space Before: 0 pt

Formatted: Body Text, Right: 0", No bullets or numbering, Tab stops: Not at 0.65" + 0.65"

Formatted: Space Before: 0 pt

Formatted: Body Text, Right: 0", No bullets or numbering, Tab stops: Not at 0.65" + 0.65"

Formatted: Space Before: 0 pt

Formatted: Body Text, Right: 0", No bullets or numbering, Tab stops: Not at 0.71" + 0.71"

Formatted: Body Text, Right: 0", No bullets or numbering, Tab stops: Not at 0.71" + 0.71"

Formatted: Body Text, Right: 0", No bullets or numbering, Tab stops: Not at 0.71" + 0.71"

Formatted: Body Text, Right: 0", Space Before: 0 pt, No bullets or numbering, Tab stops: Not at 0.71" + 0.71"

Formatted: Space Before: 0 pt

Formatted: Body Text, Right: 0", No bullets or numbering, Tab stops: Not at 0.71" + 0.71"

Formatted: Body Text, Right: 0", No bullets or numbering, Tab stops: Not at 0.71" + 0.71"

Formatted: Body Text, Right: 0", Space Before: 0 pt, No bullets or numbering, Tab stops: Not at 0.71" + 0.71"

Formatted: Space Before: 0 pt

Formatted: Body Text, Right: 0", No bullets or numbering, Tab stops: Not at 0.71" + 0.71"

Formatted: Body Text, Left, Right: 0", No bullets or numbering, Tab stops: Not at 0.71"

(64) Official Floodplain Zoning Map — That map, adopted and made part of this ordinance, as described in s. 1.5(2), which has been approved by the Department and FEMA.

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

(66) 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.

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

(68) Private Sewage System — A sewage treatment and disposal system serving one structure with a septic tank and soil absorption field located on the same parcel as the structure. It also means an alternative sewage system approved by the Department of Safety and Professional Services, including a substitute for the septic tank or soil absorption field, a holding tank, a system serving more than one structure or a system located on a different parcel than the structure.

(69) Public Utilities — Those utilities using underground or overhead transmission lines such as electric, telephone and communication cables, as well as liquid distribution and collection systems such as water mains, sanitary sewers and storm sewers.

(70) Reasonably Safe From Flooding — Means base flood waters will not inundate the land or damage structures to be removed from the floodplain and that any subsurface waters related to the base flood will not damage existing or proposed buildings.

(71) 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. (See BASE FLOOD)

(72) Special Flood Hazard Areas (SFHA) — Represent all the land and water areas that are prone to flooding, including: lakes and streams, the designated floodway, the designated flood fringe, the FEMA 'A' zone, and the WisDNR Flood Storage Districts (FSDs).

(73) 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.

Formatted: Body Text, Right: 0", No bullets or numbering, Tab stops: Not at 0.71" + 0.71"

Formatted: Space Before: 0 pt

Formatted: Body Text, Right: 0", No bullets or numbering, Tab stops: Not at 0.71" + 0.71"

Formatted: Space Before: 0 pt

Formatted: Body Text, Right: 0", No bullets or numbering, Tab stops: Not at 0.71" + 0.71"

Formatted: Body Text, Right: 0", No bullets or numbering, Tab stops: Not at 0.71" + 0.71"

Formatted: Space Before: 0 pt

Formatted: Body Text, Right: 0", No bullets or numbering, Tab stops: Not at 0.71" + 0.71"

Formatted: Space Before: 0 pt

Formatted: Body Text, Right: 0", No bullets or numbering, Tab stops: Not at 0.71" + 0.71"

Formatted: Space Before: 0 pt

Formatted: Body Text, Right: 0", No bullets or numbering, Tab stops: Not at 0.71" + 0.71"

Formatted: Body Text, Right: 0", No bullets or numbering, Tab stops: Not at 0.71" + 0.71"

Formatted: Body Text, Right: 0", No bullets or numbering, Tab stops: Not at 0.71" + 0.71"

Formatted: Body Text, Right: 0", No bullets or numbering, Tab stops: Not at 0.71" + 0.71"

(74) 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.

(75) Subdivision Has the meaning given in s. 236.02(12) of Wisconsin Statutes.

(76) 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.

(77) 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.

(78) 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.

(79) 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.

(80) 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.

(81) Watershed The entire region contributing runoff or surface water to a watercourse or body of water.

(82) 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 or base flood is used in regulating floodplain areas.

(83) 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.

Formatted: Body Text, Right: 0", No bullets or numbering, Tab stops: Not at 0.71" + 0.71"

Formatted: Space Before: 0 pt

Formatted: Body Text, No bullets or numbering, Tab stops: Not at 0.71" + 0.71"

Formatted: Body Text, Right: 0", Space Before: 0 pt, No bullets or numbering, Tab stops: Not at 0.71" + 0.71"

Formatted: Space Before: 0 pt

Formatted: Body Text, Right: 0", No bullets or numbering, Tab stops: Not at 0.71" + 0.71"

Formatted: Body Text, Right: 0", No bullets or numbering, Tab stops: Not at 0.71" + 0.71"

Formatted: Body Text, Right: 0", No bullets or numbering, Tab stops: Not at 0.71" + 0.71"

Formatted: Space Before: 0 pt

Formatted: Body Text, Right: 0", No bullets or numbering, Tab stops: Not at 0.71" + 0.71"

Formatted: Space Before: 0 pt

Formatted: Body Text, Right: 0", No bullets or numbering, Tab stops: Not at 0.71" + 0.71"

Formatted: Space Before: 0 pt

Formatted: Body Text, Right: 0", No bullets or numbering, Tab stops: Not at 0.71" + 0.71"

Formatted: Body Text, Right: 0", No bullets or numbering, Tab stops: Not at 0.71" + 0.71"

FLOODPLAIN ORDINANCE FOR CITY OF PEWAUKEE

Effective **xxx**, 2023

Key for editing:

- Grey highlights are ordinance additions for communities that choose to implement Act 175
- Comment bubbles indicate CRS-required higher standards
- Blue highlights are instructional for the ordinance writer and can be deleted once the item is completed
- Yellow highlights are places where the ordinance needs to be filled in with community specific information

Adoption schedule tracking

1. **Date of Public Hearing:** _____
 - a. (Requires a Class 2 Hearing Notice of Publication or Posting)
2. **Date of Adoption:** _____
3. **Dates of Publication or Posting:** _____
 - a. (Second/last date must be at least 7 days before hearing, see definition, Ch 985 Stats)
4. **Date of Publication or Posting of Notice of Enacted Ordinance:**
 - a. _____

STATUTORY APPROVAL REQUIREMENTS

****This whole page can be deleted. It is for informational purposes and does not need to remain in the ordinance**

The public hearing notice must be published twice, THE SECOND TIME AT LEAST 7 DAYS BEFORE THE HEARING, to meet statutory notice requirements to legally adopt any zoning ordinance or amendment. The community must also furnish a certified copy of the ordinance and proof of publication or posting of the amended ordinance.

There are places in this document where blanks must be completed. After filling in those blanks (and putting in proper map references), publishing a Class 2 public hearing notice, and conducting the hearing, this document may be adopted as is by the municipality's governing body.

This model ordinance includes both the minimum regulatory standards required in ch. NR 116, Wis. Admin. Code, and those of the National Flood Insurance Program 44 CFR 59-72. Section 87.30(1)(b), Stats., permits a county, city, village, or town to adopt a floodplain zoning ordinance that is more restrictive than the provisions required by the State, but not less restrictive. Other model ordinances are available from DNR, or we will help you develop alternative regulations to meet state and federal guidelines.

Submit the proposed ordinance to the DNR Regional Office zoning specialist for review at least 30 days before the public hearing to determine whether it meets all minimum standards. After public hearing and adoption, it is an added expense to change unacceptable ordinance language. No floodplain zoning ordinance amendment is effective until officially approved by DNR. All amendments must also be submitted to the Federal Emergency Management Agency.

Model ordinances and FEMA flood insurance maps are periodically revised. Contact the DNR before public hearing or adoption to assure you are using the most recent and accurate map and ordinance text available.

A handbook entitled *The Floodplain-Shoreland Management Guidebook* has been developed and distributed to all counties, cities and villages with floodplain or shoreland zoning ordinances. Look for publication in your municipal zoning office for answers to many questions about floodplain, wetland and shoreland zoning, dam safety, and the NFIP. The *Guidebook* is also available for download on the DNR website.

If possible, please submit your draft ordinance electronically. If you have made any changes to the model ordinance, please note the location of the changes in the draft.

!! Instructional Information Only !!

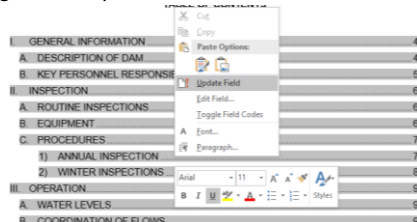
[Please delete THIS ENTIRE PAGE when ordinance update is complete.]

After all updates are done, you will need to update the table of contents. Because this is a linked function within document, the page references will update automatically when you tell it to do so:

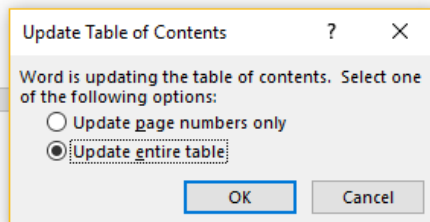
1. Click anywhere in the table of contents so that gray shows up behind the words.

I. GENERAL INFORMATION	
A. DESCRIPTION OF DAM	
B. KEY PERSONNEL RESPONSIBILITIES	
II. INSPECTION	
A. ROUTINE INSPECTIONS	
B. EQUIPMENT	

2. Right click anywhere in the table of contents so that a window pops up. Select "Update Field"



3. Select "Update entire table" so that both the headings and page numbers update. If you changed heading names you may notice that some of the headings will not be capitalized correctly – you will need to find them in the document for formatting and then repeat steps 1-3.



If you make further changes (like deleting this page) and just need to update the page numbers, repeat steps 1-3...this time, you can select "Update page numbers only".

TABLE OF CONTENTS

1.0 STATUTORY AUTHORIZATION, FINDING OF FACT, STATEMENT OF PURPOSE, TITLE, AND GENERAL PROVISIONS	6
1.1 STATUTORY AUTHORIZATION.....	6
1.2 FINDING OF FACT	6
1.3 STATEMENT OF PURPOSE.....	6
1.4 TITLE.....	6
1.5 GENERAL PROVISIONS.....	6
(1) AREAS TO BE REGULATED.....	6
(2) OFFICIAL MAPS & REVISIONS	6
(3) ESTABLISHMENT OF FLOODPLAIN ZONING DISTRICTS	7
(4) LOCATING FLOODPLAIN BOUNDARIES	78
(5) REMOVAL OF LANDS FROM FLOODPLAIN.....	8
(6) COMPLIANCE.....	98
(7) MUNICIPALITIES AND STATE AGENCIES REGULATED.....	9
(8) ABROGATION AND GREATER RESTRICTIONS.....	9
(9) INTERPRETATION	9
(10) WARNING AND DISCLAIMER OF LIABILITY	109
(11) SEVERABILITY.....	109
(12) ANNEXED AREAS FOR CITIES AND VILLAGES	10
2.0 GENERAL STANDARDS APPLICABLE TO ALL FLOODPLAIN DISTRICTS.....	10
2.1 HYDRAULIC AND HYDROLOGIC ANALYSES.....	1149
2.2 WATERCOURSE ALTERATIONS.....	11
2.3 CHAPTER 30, 31, WIS. STATS., DEVELOPMENT.....	11
2.4 PUBLIC OR PRIVATE CAMPGROUNDS.....	11
1.0 FLOODWAY DISTRICT (FW).....	13
3.1 APPLICABILITY	13
3.2 PERMITTED USES	13
3.3 STANDARDS FOR DEVELOPMENT IN THE FLOODWAY	14
3.4 PROHIBITED USES	1645
4.0 FLOODFRINGE DISTRICT (FF)	16
4.1 APPLICABILITY	16
4.2 PERMITTED USES	16
4.3 STANDARDS FOR DEVELOPMENT IN THE FLOODFRINGE	16
5.0 OTHER FLOODPLAIN DISTRICTS	19
5.1 GENERAL FLOODPLAIN DISTRICT (GFP).....	19
5.2 FLOOD STORAGE DISTRICT (WHEN APPLICABLE)	20
3.0 NONCONFORMING USES.....	2129
6.1 GENERAL	2129
6.2 FLOODWAY DISTRICT.....	2625
6.3 FLOODFRINGE DISTRICT	26
6.4 FLOOD STORAGE DISTRICTS (RESERVED - WHEN APPLICABLE).....	27

7.0 ADMINISTRATION.....	27
1.1 ZONING ADMINISTRATOR	27
7.2 ZONING AGENCY	32
7.3 BOARD OF APPEALS	~~33~~ 32
7.4 TO REVIEW APPEALS OF PERMIT DENIALS	~~35~~ 34
7.5 FLOODPROOFING STANDARDS.....	~~36~~ 35
7.6 PUBLIC INFORMATION	~~37~~ 36
8.0 AMENDMENTS.....	~~37~~ 36
8.1 GENERAL	~~37~~ 36
9.0 ENFORCEMENT AND PENALTIES.....	~~38~~ 37
10.0 DEFINITIONS	~~38~~ 37

1.0 STATUTORY AUTHORIZATION, FINDING OF FACT, STATEMENT OF PURPOSE, TITLE, AND GENERAL PROVISIONS

1.1 STATUTORY AUTHORIZATION

This ordinance is adopted pursuant to the authorization in s. 61.35 and 62.23, for villages and cities; and the requirements in s. 87.30, Stats. as well as Ch. NR 116 of the Wisconsin Administrative Code which is included as Appendix 5A in this zoning ordinance.

Formatted: pf0

Commented [CA1]: This sub-section of the City Zoning Ordinance is adopted pursuant to the authorization in Sections 62.23 and 87.30 of Wisconsin Statutes as well as Ch. NR 116 of the Wisconsin Administrative Code which is included as Appendix 5 in this zoning ordinance.

1.2 FINDING OF FACT

Uncontrolled development and use of the floodplains and rivers of this municipality would impair the public health, safety, convenience, general welfare, and tax base.

Commented [FN2R1]: Note this is now Appendix A in the Zoning Code

1.3 STATEMENT OF PURPOSE

This ordinance is intended to regulate floodplain development to:

Formatted: Font: Not Bold, No underline

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

1.4 TITLE

This ordinance shall be known as the Floodplain Zoning Ordinance for City of Pewaukee, Wisconsin.

1.5 GENERAL PROVISIONS

(1) AREAS TO BE REGULATED

This ordinance regulates all areas of special flood hazard identified as zones A, AO, AH, A1-30, or AE on the Flood Insurance Rate Map. Additional areas identified on maps approved by the Department of Natural Resources (DNR) and local community may also be regulated under the provisions of this ordinance, where applicable.

(2) OFFICIAL MAPS & REVISIONS

Special Flood Hazard Areas (SFHA) are designated as zones A, A1-30, AE, AH, or AO on the Flood Insurance Rate Maps (FIRMs) based on flood hazard analyses summarized in the Flood Insurance Study (FIS) listed in subd. (a) below. Additional flood hazard areas subject to regulation under this ordinance are identified on maps based on studies approved by the DNR and listed in subd. (b) below. These maps and revisions are on file in the Engineering Department, City Hall, W240N3065 Pewaukee Rd, Pewaukee, WI 53072.

(a) OFFICIAL MAPS : Based on the Flood Insurance Study (FIS):

1. Flood Insurance Rate Map (FIRM), panel numbers 55133C0181H, 55133C0182H, 55133C0183H, 55133C0184H, 55133C0191H, 55133C0192H, 55133C0201H, 55133C0202H, 55133C0203H, 55133C0204H, 55133C0206H, 55133C0208H, 55133C0211H, 55133C0212H, 55133C0213H, 55133C0214H and 55133C0216H, dated 10/19/2023;

2. Flood Insurance Study (FIS) volumes 55133CV001D, 55133CV002D, 55133CV003D, 55133CV004D and 55133CV005D for Waukesha County, dated 10/19/2023.

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.

1. Waukesha County and incorporated areas Flood Storage Districts Panel 7, dated 10/19/2023, approved by the DNR.

(3) **ESTABLISHMENT OF FLOODPLAIN ZONING DISTRICTS**

The flood hazard areas regulated by this ordinance are divided into 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, within AE Zones as shown on the FIRM, or within A Zones shown on the FIRM when determined according to s. 5.1(5).
- b) The Floodfringe District (FF) is that portion of a riverine special flood hazard area outside the floodway within AE Zones on the FIRM, or, when floodway limits have been determined according to s. 5.1(5), within A Zones shown on the FIRM.
- c) The General Floodplain District (GFP) is those riverine areas that may be covered by floodwater during the regional flood in which a floodway boundary has not been delineated on the FIRM and also includes shallow flooding areas identified as AH and AO zones on the FIRM.
- d) The Flood Storage District (FSD) is that area of the floodplain where storage of floodwaters is calculated to reduce the regional flood discharge.

(4) **LOCATING FLOODPLAIN BOUNDARIES**

Discrepancies between the exterior boundaries of zones A1-30, AE, AH, or A on the official floodplain zoning map and actual field conditions may be resolved using the criteria in subd (a) or (b) below. If a significant difference exists, the map shall be amended according to s. 8.0 *Amendments*. The zoning administrator can rely on a boundary derived from a profile elevation to grant or deny a land use permit, whether or not a map amendment is required. The zoning administrator shall be responsible for documenting actual pre-development field conditions and the basis upon which the district boundary was determined. Disputes between the zoning administrator and an applicant over the district boundary line shall be settled according to s. 7.3(3) and the criteria in (a) and (b) below. Where the flood profiles are based on established base flood elevations from a FIRM, FEMA must approve any map amendment or revision pursuant to s. 8.0 *Amendments*.

- 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 for projects, including any boundary of zone A, or AO the location of the boundary shall be determined by the map scale.

(5) REMOVAL OF LANDS FROM FLOODPLAIN

a) Compliance with the provisions of this ordinance shall not be grounds for removing land from the floodplain unless it is filled at least two feet above the regional or base flood elevation, the fill is contiguous to land outside the floodplain, and the map is amended pursuant to s. 8.0 Amendments.

a) In addition, no floodplain may be filled and no walled structure built within the Special Flood Hazard Area (SFHA) or Flood Storage District (FSDs with the exception of the construction of public utility and transportation facilities required by a unit/agency of government, or an approved structure requiring water frontage which would require adherence to regulations as set forth in section 11 of this subsection and by FEMA and NR116. Compliance with the provisions of this ordinance shall not be grounds for removing land from the F-1, Floodplain District.

Formatted: Normal, Indent: Left: 0.75", No bullets or numbering

Commented [CA3]: Provide full name instead of abbreviation?

Commented [FN4]: Correct reference?

Commented [CA5R4]: Standards for the Development in the F-1, Floodplain which I believe is 2.0 of this ordinance

b) The delineation of any of the Floodplain Districts may be revised by the community where natural or man-made changes have occurred and/or where more detailed studies have been conducted. However, prior to any such change, approval must be obtained from the Wisconsin Department of Natural Resources and Federal Emergency Management Agency. A completed Letter of Map Revision is a record of this approval. The floodplain administrator shall not sign a community acknowledgement form unless all criteria set forth in the following paragraphs are met:

1. The land and/or land around the structure must be filled at least two feet above the regional or base flood elevation;
2. The fill must be contiguous to land outside the floodplain; Applicant shall obtain floodplain development permit before applying for a LOMR or LOMR-F;

c) Removal of lands from the floodplain may occur if a study is prepared and certified by a state registered professional engineer establishing that:

1. The fill, lowest floor and floodproofing elevation shall have no effect upon the base flood elevation either upstream or downstream and are in compliance with this ordinance; or
2. The fill, lowest floor and floodproofing elevations may have the effect of raising the base flood elevation either upstream or downstream if otherwise in compliance with this ordinance, in which case the property owner must also contact FEMA to request and receive an approved Conditional Letter of Map Revision (CLOMR) prior to issuance of any local permit(s); or
3. The fill, lowest floor and floodproofing elevations may have the effect of lowering the base flood elevation either upstream or downstream and are otherwise in compliance with this ordinance, in which case the property owner must also contact FEMA to request and receive an approved Letter of Map Change (LOMC) prior to issuance of any local permit(s). Please also see sub-section 17.1108b and Appendix 5A.

Formatted: List Paragraph, Numbered + Level: 1 + Numbering Style: 1, 2, 3, ... + Start at: 1 + Alignment: Left + Aligned at: 0.75" + Indent at: 1"

e)d) Removal of lands from the floodplain may also occur by operation of §87.30(1)(e), Wis. Stat. if a property owner has obtained a letter of map amendment from the federal emergency management agency under 44 C.F.R. 70.

(6) COMPLIANCE

- a) No structure or use within areas regulated by this ordinance shall hereafter be located, erected, constructed, reconstructed, repaired, extended, converted, enlarged, or altered without full compliance with the terms of these regulations and all other applicable regulations that apply to uses within the jurisdiction of these regulations.
- b) Failure to obtain a floodplain development permit shall be a violation of these regulations and shall be punishable in accordance with s. 9.0.
- c) Floodplain development permits issued on the basis of plans and applications approved by the Floodplain Administrator authorize only the use, and arrangement, set forth in such approved plans and applications, or amendments thereto if approved by the Floodplain Administrator. Use, arrangement, or construction contrary to that authorized shall be deemed a violation of these regulations and punishable in accordance with s. 9.0.

(7) 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. Although exempt from a local zoning permit and permit fees, DOT must provide sufficient project documentation and analysis to ensure that the community is in compliance with Federal, State, and local floodplain standards. If a local transportation project is located within a Zone A floodplain and is not a WisDOT project under s. 30.2022, then the road project design documents (including appropriate detailed plans and profiles) may be sufficient to meet the requirements for issuance of a local floodplain permit if the following apply: The applicant provides documentation to the Floodplain Administrator that the proposed project is a culvert replacement or bridge replacement under 20' span at the same location, the project is exempt from a DNR permit under s. 30.123(6)(d), the capacity is not decreased, the top road grade is not raised, and no floodway data is available from a federal, state, or other source. If floodway data is available in the impacted area from a federal, state, or other source that existing data must be utilized by the applicant in the analysis of the project site.

(8) ABROGATION AND GREATER RESTRICTIONS

- a) This ordinance supersedes all the provisions of any municipal zoning ordinance enacted under s. 62.23 for cities or s. 87.30, Stats., which relate to floodplains. A more restrictive ordinance shall continue in full force and effect to the extent of the greater restrictions, but not otherwise.
- b) This 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.

(9) 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.

(10) WARNING AND DISCLAIMER OF LIABILITY

The flood protection standards in this ordinance are based on engineering experience and research. Larger floods may occur, or the flood height may be increased by man-made or natural causes. This ordinance does not imply or guarantee that non-floodplain areas or permitted floodplain uses will be free from flooding and flood damages. This ordinance does not 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.

(11) 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.

(12) ANNEXED AREAS FOR CITIES AND VILLAGES

The Waukesha County floodplain zoning provisions in effect on the date of annexation shall remain in effect and shall be enforced by the 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, *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 floodway location.

2.0 GENERAL STANDARDS APPLICABLE TO ALL FLOODPLAIN DISTRICTS

The City of Pewaukee Plan Commission and planning staff community shall review all permit applications to determine whether proposed building sites will be reasonably safe from flooding and assure that all necessary permits have been received from those governmental agencies whose approval is required by federal or state law. No new walled buildings or structures, including manufactured mobile homes and walled enclosures, shall be allowed within or within a distance of 75 feet from the boundary of a base flood floodplain as defined herein except as set forth in sections 3.2(3), 3.3(2) of this sub-section and subsection 17.0436.

- 1) If a proposed building site is in a flood-prone area, all new construction and permitted substantial improvements shall:

- be designed or modified so as adequately and anchor such structure or building ed to prevent flotation, collapse, or lateral movement of the structure resulting from hydrodynamic and hydrostatic loads, including the effects of buoyancy;
- be constructed with flood-resistant materials;
- be constructed by methods and practices that minimize flood damages; and
- Mechanical and utility equipment must be elevated to or above the flood protection elevation.

- 2) In addition to the requirements of Chapter 18 (Land Division Ordinance) of City Codes and Ordinances, subdivision of land shall be reviewed for compliance with the above standards and no newly created building parcel less than ten (10) acres in size shall be located within a base flood floodplain.

- 2)3) If a subdivision or other proposed new development is in a flood-prone area, the City of Pewaukee community shall assure that:

- such proposed subdivision or other proposed new development is consistent with the

Commented [CA6]: The Waukesha County floodplain zoning provisions in effect on the date of annexation of town lands shall remain in effect and shall be enforced by the city for all annexed areas until the city adopts and enforces an ordinance which meets the requirements of ch. NR 116, Wis. Adm. Code and 44 CFR 59-72, National Flood Insurance Program (NFIP). These annexed lands are described on the city's official zoning map. County floodplain zoning provisions are incorporated by reference for the purpose of administering this section and are on file in the office of the city zoning administrator. All plats or maps of annexation shall show the regional or base flood elevation and the floodway location.

Commented [CA7]: No new walled buildings or structures, including manufactured mobile homes and walled enclosures, shall be allowed within or within a distance of 75 feet from the boundary of a base flood floodplain as defined herein except as set forth in sections 'k(3)' and 'l(2)' of this sub-section, and subsection 17.0436. All new construction and permitted structural improvements to existing buildings/structures within a floodplain shall be designed or modified so as to adequately anchor such structure or building to prevent flotation, collapse, or lateral movement resulting from hydrodynamic and hydrostatic loads; be constructed with materials resistant to flood damage; be constructed by methods and practices that minimize flood damages; and be constructed with electrical, heating, ventilation, plumbing, and air conditioning equipment and other service facilities designed and/or located so as to prevent water from entering or accumulating within the components during conditions of flooding

In addition to the requirements of Chapter 18 (Land Division Ordinance) of City Codes and Ordinances, subdivision of land shall be reviewed for compliance with the above standards and no newly created building parcel less than ten (10) acres in size shall be located within a base flood floodplain. (see section 'l (2)' of this sub-section). 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. All proposed land development plans, including land divisions and manufactured mobile home parks shall include BFE data for any land division or development that meets the definition within this zoning ordinance or Chapter 18 of the City Codes and Ordinances. (See www.cityofpewaukee.us)

Formatted: Normal, No bullets or numbering

need to minimize flood damage within the flood-prone area;

- b. public utilities and facilities such as sewer, gas, electrical, and water systems are located and constructed to minimize or eliminate flood damage; and
- c. adequate drainage is provided to reduce exposure to flood hazards.

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. 7.1(2).

2.1 HYDRAULIC AND HYDROLOGIC ANALYSES

- 1) No floodplain development shall:
 - a. Obstruct flow, defined as development which blocks the conveyance of floodwaters by itself or with other development, causing any increase in the regional flood height; or
 - b. Cause any increase in the regional flood height due to floodplain storage area lost.
- 2) The zoning administrator shall deny permits if it is determined the proposed development will obstruct flow or cause any increase in the regional flood height, based on the officially adopted FIRM or other adopted map, unless the provisions of s. 8.0 *Amendments* are met.

2.2 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. 2.1 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. 8.0 *Amendments*, the community shall apply for a Letter of Map Revision (LOMR) from FEMA. Any such alterations must be reviewed and approved by FEMA and the DNR through the LOMC process.

2.3 CHAPTER 30, 31, WIS. STATS., DEVELOPMENT

Development which requires a permit from the Department, under chs. 30 and 31, 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. 8.0 *Amendments*.

2.4 PUBLIC OR PRIVATE CAMPGROUNDS

Public or private campgrounds, as defined herein, shall not be located within the F-1 Floodplain District, have a low flood damage potential and shall meet the following provisions:

- 1) The campground is approved by the Department of Agriculture, Trade and Consumer Protection;
- 2) A land use permit for the campground is issued by the zoning administrator;
- 3) The character of the river system and the campground elevation are such that a 72-hour warning of an impending flood can be given to all campground occupants;

Commented [CA8]: Public or private campgrounds, as defined herein, shall not be located within the F-1, Floodplain District.

Formatted: Indent: Left: 0.25", No bullets or numbering

Formatted: Indent: Left: 0.25", No bullets or numbering

Formatted: Indent: Left: 0.25", No bullets or numbering

4) There is an adequate flood warning procedure for the campground that offers the minimum notice required under this section to all persons in the campground. This procedure shall include a written agreement between the campground owner, the floodplain zoning agency or zoning administrator, 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;

Formatted: Indent: Left: 0.25", No bullets or numbering

5) This agreement shall be for no more than one calendar year, at which time the agreement shall be reviewed and updated by the officials identified in sub. (4) to remain in compliance with all applicable regulations, including those of the state Department of Agriculture, Trade and Consumer Protection and all other applicable regulations;

Formatted: Indent: Left: 0.25", No bullets or numbering

6) All mobile recreational vehicles placed on site must meet one of the following:

Formatted: Indent: Left: 0.25", No bullets or numbering

a. Be fully licensed, if required, and ready for highway use; or

Formatted: Indent: Left: 0.25", No bullets or numbering

b. Not occupy any site in the campground for more than 180 consecutive days, at which time the recreational vehicle must be removed from the floodplain for a minimum of 24 hours; or

Formatted: Indent: Left: 0.25", No bullets or numbering

c. Meet the requirements in either s. 3.0, 4.0, or 5.1 for the floodplain district in which the structure is located;

Formatted: Indent: Left: 0.25", No bullets or numbering

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.

Formatted: Indent: Left: 0.25"

7) All camping units that remain on site for more than 30 days shall be issued a limited authorization by the campground operator, a written copy of which is kept on file at the campground. Such authorization shall allow placement of a camping unit consistent with 2.4(6) and shall ensure compliance with all the provisions of this section;

Formatted: Indent: Left: 0.25", No bullets or numbering

8) The municipality shall monitor the limited authorizations issued by the campground operator to assure compliance with the terms of this section;

Formatted: Indent: Left: 0.25", No bullets or numbering

9) 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; and

Formatted: Indent: Left: 0.25", No bullets or numbering

10) All service facilities, including but not limited to refuse collection, electrical service, gas lines, propane tanks, sewage systems and wells shall be properly anchored and placed at or floodproofed to the flood protection elevation; and

Formatted: Indent: Left: 0.25", No bullets or numbering

11) Standards for structures in a campground:

Formatted: Indent: Left: 0.25", No bullets or numbering

a. All structures must comply with section 2.4 or meet the applicable requirements in ss. 3.0, 4.0, or 5.1 for the floodplain district in which the structure is located;

Formatted: Indent: Left: 0.25", No bullets or numbering

b. Deck/landing-a portable landing may be allowed for a camping unit for each entry provided that the landing is not permanently attached to the ground or camping unit, is no more than 200 square feet in size, shall be portable, contain no walls or roof, and can be removed from the campground by a truck and/or trailer. Sections of such portable landings may be placed together to form a single deck not greater than 200 square feet at one entry point. Provisions for the removal of these temporary landings during flood events must be addressed within the written agreement with the municipality compliant with section 2.4(4). Any such deck/landing structure may be constructed at elevations lower than the flood protection elevation but must not obstruct flow of flood waters or cause any increase in flood levels during the occurrence of the regional flood.

Formatted: Indent: Left: 0.25", No bullets or numbering

~~c. Decks/patios that are constructed completely at grade may be allowed but must also comply with applicable shoreland zoning standards.~~

Formatted: Indent: Left: 0.25", No bullets or numbering

~~d. Camping equipment and appurtenant equipment in the campground may be allowed provided that the equipment is not permanently attached to the ground or camping unit, is not used as a habitable structure, and must not obstruct flow of flood waters or cause any increase in flood levels during the occurrence of the regional flood. Provisions for the removal of this equipment during flooding events shall be addressed within the written agreement with the municipality compliant with section 2.4(4).~~

Formatted: Indent: Left: 0.25", No bullets or numbering

~~e. Once a flood warning in the written agreement has been issued for the campground, the campground owner or the designated operator shall ensure that all persons, camping units, decks, camping equipment and appurtenant equipment in the campground shall be evacuated within the timelines specified within the written agreement with the municipality compliant with section 2.4(4).~~

Formatted: Indent: Left: 0.25", No bullets or numbering

~~12) A land use permit shall be obtained as provided under 7.1(2) before any development; repair, modification, or addition to an existing structure; or change in the use of a building or structure, including sewer and water facilities, may be initiated.~~

Formatted: Indent: Left: 0.25", No bullets or numbering

1.0 FLOODWAY DISTRICT (FW)

3.1 APPLICABILITY

This section applies to all floodway areas on the floodplain zoning maps and those identified pursuant to s. 5.1(5).

3.2 PERMITTED USES

The following open space uses are allowed in the Floodway District and the floodway areas of the General Floodplain District, if:

- they are not prohibited by any other ordinance;
 - they meet the standards in s. 3.3 and 3.4; and
 - all permits or certificates have been issued according to s. 7.1.
- 1) Agricultural uses, such as: farming, outdoor plant nurseries, horticulture, viticulture, and wild crop harvesting.
 - 2) Nonstructural industrial and commercial uses, such as loading areas, parking areas and airport landing strips.
 - 3) Nonstructural recreational uses, such as golf courses, tennis courts, archery ranges, picnic grounds, boat ramps, swimming areas, parks, wildlife and nature preserves, game farms, fish hatcheries, shooting, trap, and skeet activities, hunting and fishing areas and hiking and horseback riding trails, subject to the fill limitations of s. 3.3(4).
 - 4) Uses or structures accessory to open space uses or classified as historic structures that comply with s. 3.3 and 3.4.
 - 5) Extraction of sand, gravel or other materials that comply with s. 3.3(4).
 - 6) 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.
 - 7) Public utilities, streets and bridges that comply with s. 3.3(3).

- 8) 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. SPS 383, Wis. Adm. Code.
- 9) Public or private wells used to obtain potable water for recreational areas that meet the requirements of local ordinances and chs. NR 811 and NR 812, Wis. Adm. Code.
- 10) Wastewater treatment ponds or facilities permitted under s. NR 110.15(3)(b), Wis. Adm. Code.
- 11) Sanitary sewer or water supply lines to service existing or proposed development located outside the floodway that complies with the regulations for the floodplain area occupied.

3.3 STANDARDS FOR DEVELOPMENT IN THE FLOODWAY

1) GENERAL

- a. Any development in the floodway shall comply with s. 2.0 and have a low flood damage potential.
- b. Applicants shall provide an analysis calculating the effects of this proposal on the regional flood height to determine the effects of the proposal according to s. 2.1 and 7.1(2)(c). The analysis must be completed by a registered professional engineer in the state of Wisconsin.
- c. Any encroachment in the regulatory floodway is prohibited unless the data submitted for subd. 3.3(1)(b) above demonstrates that the encroachment will cause no increase in flood elevations in flood events up to the base flood at any location or removes the encroached area from the regulatory floodway as provided in s. 1.5(5).

2) STRUCTURES

Structures accessory to permanent open space uses, including utility and sanitary facilities, or functionally dependent on a waterfront location such as an approved boathouse or boat dock may be allowed by permit if the structures comply with the following criteria:

- a. Not designed for human habitation, does not have a high flood damage potential and is constructed to minimize flood damage;
- b. Shall either have the lowest floor elevated to or above the flood protection elevation or shall meet all the following standards:
 1. Have the lowest floor elevated to or above the regional flood elevation and be dry floodproofed so that the structure is watertight with walls substantially impermeable to the passage of water and completely dry to the flood protection elevation without human intervention during flooding;
 2. Have structural components capable of meeting all provisions of Section 3.3(2)(g) and;
 3. Be certified by a registered professional engineer or architect, through the use of a Federal Emergency Management Agency Floodproofing Certificate, that the design and methods of construction are in accordance with Section 3.3(2)(g).
- c. Must be anchored to resist flotation, collapse, and lateral movement;

- d. Mechanical and utility equipment must be elevated to or above the flood protection elevation; and
 - e. Must not obstruct flow of flood waters or cause any increase in flood levels during the occurrence of the regional flood.
 - f. For a structure designed to allow the automatic entry of floodwaters below the Regional Flood Elevation, the applicant shall submit a plan that meets s. 3.3(2)(a) through 3.3(2)(e) and meets or exceeds the following standards:
 - 1. The lowest floor must be elevated to or above the regional flood elevation;
 - 2. a minimum of two openings having a total net area of not less than one square inch for every square foot of enclosed area subject to flooding;
 - 3. the bottom of all openings shall be no higher than one foot above the lowest adjacent grade; openings may be equipped with screens, louvers, valves, or other coverings or devices provided that they permit the automatic entry and exit of floodwaters, otherwise must remain open.
 - 4. The use must be limited to parking, building access or limited storage.
 - g. Certification: Whenever floodproofing measures are required, a registered professional engineer or architect shall certify that the following floodproofing measures will be utilized, where appropriate, and are adequate to withstand the flood depths, pressures, velocities, impact and uplift forces and other factors associated with the regional flood:
 - 1. Reinforcement of floors and walls to resist rupture, collapse, or lateral movement caused by water pressures or debris buildup;
 - 2. Construction of wells, water supply systems and waste treatment systems so as to prevent the entrance of flood waters in such systems and must be in accordance with provisions in Sections 3.4(4) and 3.4(5);
 - 3. Subsurface drainage systems to relieve external pressures on foundation walls and basement floors;
 - 4. Cutoff valves on sewer lines or the elimination of gravity flow basement drains; and
 - 5. Placement of utilities to or above the flood protection elevation.
- 3) PUBLIC UTILITIES, STREETS AND BRIDGES
Public utilities, streets and bridges may be allowed by permit, if:
- a. Adequate floodproofing measures are provided to the flood protection elevation; and
 - b. Construction meets the development standards of s. 2.1.
- 4) FILLS OR DEPOSITION OF MATERIALS
Fills or deposition of materials may be allowed by permit, if:
- a. The requirements of s. 2.1 are met;
 - b. No material is deposited in navigable 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 all

other requirements have been met;

- c. The fill or other materials will be protected against erosion by riprap, vegetative cover, sheet piling or bulkheading; and
- d. The fill is not classified as a solid or hazardous material.

3.4 PROHIBITED USES

All uses not listed as permitted uses in s. 3.2 are prohibited, including the following uses:

- 1) Habitable structures, structures with high flood damage potential, or those not associated with permanent open-space uses;
- 2) Storing materials that are buoyant, flammable, explosive, injurious to property, water quality, or human, animal, plant, fish or other aquatic life;
- 3) Uses not in harmony with or detrimental to uses permitted in the adjoining districts;
- 4) 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. SPS 383, Wis. Adm. Code;
- 5) 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;
- 6) Any solid or hazardous waste disposal sites;
- 7) Any wastewater treatment ponds or facilities, except those permitted under s. NR 110.15(3)(b), Wis. Adm. Code; and
- 8) Any sanitary sewer or water supply lines, except those to service existing or proposed development located outside the floodway which complies with the regulations for the floodplain area occupied.

4.0 FLOODFRINGE DISTRICT (FF)

4.1 APPLICABILITY

This section applies to all floodfringe areas shown on the floodplain zoning maps and those identified pursuant to s. 5.1(5).

4.2 PERMITTED USES

Any structure, land use, or development is allowed in the Floodfringe District if the standards in s. 4.3 are met, the use is not prohibited by this, or any other ordinance or regulation and all permits or certificates specified in s. 7.1 have been issued.

4.3 STANDARDS FOR DEVELOPMENT IN THE FLOODFRINGE

Section 2.0 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. 6.0 *Nonconforming Uses*;

(1) 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. 6.0 *Nonconforming Uses*;

- a) All new construction, including placement of manufactured homes, and substantial improvement of residential structures, shall have the lowest floor elevated to or above the flood protection elevation on fill. The fill around the structure shall be one foot or more above the regional flood elevation extending at least 15 feet beyond the limits of the structure. No area may be removed from the floodfringe district unless it can be shown to meet s. 1.5(5).
- b) Notwithstanding s. 4.3 (1)(a), a basement or crawlspace floor may be placed at the regional flood elevation if the basement or crawlspace is designed to make all portions of the structure below the flood protection elevation watertight with walls substantially impermeable to the passage of water and with structural components having the capability of resisting hydrostatic and hydrodynamic loads and effects of buoyancy. No floor of any kind is allowed below the regional flood elevation;
- c) Contiguous dryland access shall be provided from a structure to land outside of the floodplain, except as provided in subd. (d).
- d) 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:
 - 1. 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
 - 2. The municipality has a DNR-approved emergency evacuation plan that follows acceptable hazard mitigation planning guidelines.

Commented [CVH9]: Replace with "one (1) foot above the regional flood elevation" for CRS communities.
BFE +1 required for CRS.

(2) ACCESSORY STRUCTURES OR USES

In addition to s. 2.0, new construction and substantial improvements of Accessory structures shall be constructed on fill with the lowest floor at or above the regional flood elevation.

(3) COMMERCIAL USES

In addition to s. 2.0, any commercial structure which is erected, altered, or moved into the floodfringe shall meet the requirements of s. 4.3(1). Subject to the requirements of s. 4.3(5), storage yards, surface parking lots and other such uses may be placed at lower elevations if an adequate warning system exists to protect life and property.

(4) MANUFACTURING AND INDUSTRIAL USES

In addition to s. 2.0, any manufacturing or industrial structure which is erected, altered, or moved into the floodfringe shall have the lowest floor elevated to or above the flood protection elevation or meet the floodproofing standards in s 7.5. Subject to the requirements of s. 4.3(5), storage yards, surface parking lots and other such uses may be placed at lower elevations if an adequate warning system exists to protect life and property.

(5) 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 s. 7.5. Adequate measures shall be taken to ensure that such materials will not enter the water body during flooding.

(6) PUBLIC UTILITIES, STREETS AND BRIDGES

All utilities, streets and bridges shall be designed to be compatible with comprehensive floodplain development plans; and

- a) When failure of public utilities, streets and bridges would endanger public health or safety, or where such facilities are deemed essential, construction or repair of such facilities shall only be permitted if they are designed to comply with s. 7.5.
- b) 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.

(7) SEWAGE SYSTEMS

All sewage disposal systems shall be designed to minimize or eliminate infiltration of flood water into the system, pursuant to s. 7.5(3), to the flood protection elevation and meet the provisions of all local ordinances and ch. SPS 383, Wis. Adm. Code.

(8) WELLS

All wells shall be designed to minimize or eliminate infiltration of flood waters into the system, pursuant to s. 7.5(3), to the flood protection elevation and shall meet the provisions of chs. NR 811 and NR 812, Wis. Adm. Code.

(9) SOLID WASTE DISPOSAL SITES

Disposal of solid or hazardous waste is prohibited in floodfringe areas.

(10) DEPOSITION OF MATERIALS

Any deposited material must meet all the provisions of this ordinance.

(11) MANUFACTURED HOMES

- a) Owners or operators of all manufactured home parks and subdivisions shall provide adequate surface drainage to minimize flood damage, and prepare, secure approval, and file an evacuation plan, indicating vehicular access and escape routes, with local emergency management authorities.
- b) In existing manufactured home parks, all new homes, replacement homes on existing pads, and substantially improved homes shall:
 - 1. have the lowest floor elevated to the flood protection elevation; and
 - 2. be anchored so they do not float, collapse, or move laterally during a flood
- c) Outside of existing manufactured home parks, including new manufactured home parks and all single units outside of existing parks, all new, replacement and substantially improved manufactured homes shall meet the residential development standards for the floodfringe in s. 4.3(1).

(12) MOBILE RECREATIONAL VEHICLES

All mobile recreational vehicles must be on site for less than 180 consecutive days and be either:

- a) fully licensed and ready for highway use; or
- b) shall meet the elevation and anchoring requirements in s. 4.3 (11)(b) and (c).

A mobile recreational vehicle is ready for highway use if it is on its wheels or jacking system, is attached to the site only by quick-disconnect utilities and security devices and has no permanently attached additions.

5.0 OTHER FLOODPLAIN DISTRICTS

5.1 GENERAL FLOODPLAIN DISTRICT (GFP)

1) APPLICABILITY

The provisions for the General Floodplain District shall apply to development in all floodplains mapped as A, AO, AH, and in AE zones within which a floodway is not delineated on the Flood Insurance Rate Maps identified in s. 1.5(2)(a).

2) FLOODWAY BOUNDARIES

For proposed development in zone A, or in zone AE within which a floodway is not delineated on the Flood Insurance Rate Map identified in s. 1.5(2)(a), the boundaries of the regulatory floodway shall be determined pursuant to s. 5.1(5). If the development is proposed to encroach upon the regulatory floodway, the development is subject to the standards of s. 3.0. If the development is located entirely within the floodfringe, the development is subject to the standards of s. 4.0.

3) PERMITTED USES

Pursuant to s. 5.1(5) it shall be determined whether the proposed use is located within the floodway or floodfringe. Those uses permitted in the Floodway (s. 3.2) and Floodfringe (s. 4.2) Districts are allowed within the General Floodplain District, according to the standards of s. 5.1(4) provided that all permits or certificates required under s. 7.1 have been issued.

4) STANDARDS FOR DEVELOPMENT IN THE GENERAL FLOODPLAIN DISTRICT

Section 3.0 applies to floodway areas, determined to pursuant to 5.1(5); Section 4.0 applies to floodfringe areas, determined to pursuant to 5.1(5).

- a) New construction and substantial improvement of structures in zone AO shall have the lowest floor, including basement, elevated:
 - 1. To or above the depth, in feet, as shown on the FIRM above the highest adjacent natural grade; **or**
 - 2. If the depth is not specified on the FIRM, to or **above two (2) feet** above the highest adjacent natural grade.
- b) New Construction and substantial improvement of structures in zone AH shall have the lowest floor, including basement, elevated to or above the flood protection elevation.
- c) In AO/AH zones, provide adequate drainage paths to guide floodwaters around structures.

Commented [CVH10]: Add: "plus one additional foot of freeboard."

The CRS prerequisite applies to AO zones as well as AE zones. All zones where a specific elevation is required by NFIP minimum standards.

Commented [CVH11]: Change to "above three (3) feet"

The CRS prerequisite applies to AO zones as well as AE zones. All zones where a specific elevation is required by NFIP minimum standards.

- d) All development in zones AO and zone AH shall meet the requirements of s. 4.0 applicable to flood fringe areas.

5) **DETERMINING FLOODWAY AND FLOODFRINGE LIMITS**

Upon receiving an application for development within zone A, or within zone AE where a floodway has not been delineated on the Flood Insurance Rate Maps, the zoning administrator shall:

- a) Require the applicant to submit two copies of an aerial photograph or a plan 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 flood proofing measures and the flood zone as shown on the FIRM.
- b) Require the applicant to furnish any of the following information deemed necessary by the Department to evaluate the effects of the proposal upon flood height and flood flows, regional flood elevation and to determine floodway boundaries.
 - 1. A Hydrologic and Hydraulic Study as specified in s. 7.1(2)(c).
 - 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.

5.2 FLOOD STORAGE DISTRICT (WHEN APPLICABLE)

The flood storage district delineates that portion of the floodplain where storage of floodwaters has been taken into account and is relied upon to reduce the regional flood discharge. The district protects the flood storage areas and assures that any development in the storage areas will not decrease the effective flood storage capacity which would cause higher flood elevations.

(1) **APPLICABILITY**

The provisions of this section apply to all areas within the Flood Storage District (FSD), as shown on the official floodplain zoning maps.

(2) **PERMITTED USES**

Any use or development which occurs in a flood storage district must meet the applicable requirements in s. 4.3.

(3) **STANDARDS FOR DEVELOPMENT IN FLOOD STORAGE DISTRICTS**

- a. Development in a flood storage district shall not cause an increase equal or greater than 0.00 of a foot in the height of the regional flood.
- b. No development shall be allowed which removes flood storage volume unless an equal volume of storage as defined by the pre-development ground surface and the regional flood elevation shall be provided in the immediate area of the proposed development to compensate for the volume of storage, which is lost, (compensatory storage). Excavation below the groundwater table is not considered to provide an equal volume of storage.

- c. If compensatory storage cannot be provided, the area may not be developed unless the entire area zoned as flood storage district – on this waterway – is rezoned to the floodfringe district. This must include a revision to the floodplain study and map done for the waterway to revert to the higher regional flood discharge calculated without floodplain storage, as per s. 8.0 *Amendments* of this ordinance.
- d. No area may be removed from the flood storage district unless it can be shown that the area has been filled to the flood protection elevation and is contiguous to other lands lying outside of the floodplain.

2.0 NONCONFORMING USES

6.1 GENERAL

1) Applicability

- a) The standards in this section shall apply to all uses and buildings that do not conform to the provisions contained within a floodplain zoning ordinance or with s. 87.30, Stats. and §§ NR 116.12-14, Wis. Adm. Code and 44 CFR 59-72., these standards shall apply to all modifications or additions to any nonconforming use or structure and to the use of any structure or premises which was lawful before the passage of this ordinance or any amendment thereto. A party asserting existence of a lawfully established nonconforming use or structure has the burden of proving that the use or structure was compliant with the floodplain zoning ordinance in effect at the time the use or structure was created.
 - b) As permit applications are received for additions, modifications, or substantial improvements to nonconforming buildings in the floodplain, municipalities shall develop a list of those nonconforming buildings, their present equalized assessed value, and a list of the costs of those activities associated with changes to those buildings.
- 2) 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:
- a) 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.
- b) 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;
 - c) 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;

- d) 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 s. 4.3(1). 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;
- e) No maintenance on a per event basis to any nonconforming structure or any structure with a nonconforming use, the cost of which would equal or exceed 50% of its present equalized assessed value, shall be allowed unless the entire structure is permanently changed to a conforming structure with a conforming use in compliance with the applicable requirements of this ordinance. Contiguous dry land access must be provided for residential and commercial uses in compliance with s. 4.3(1). Maintenance to any nonconforming structure, which does not exceed 50% of its present equalized assessed value on a per event basis, does not count against the cumulative calculations over the life of the structure for substantial improvement calculations.
- f) If on a per event basis the total value of the work being done under (d) and (e) 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. 4.3(1).
- g) Except as provided in subd. (h), 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.
- h) 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 following minimum requirements are met, and all required permits have been granted prior to the start of construction:

1. Residential Structures

- a. Shall have the lowest floor, including basement, elevated to or above the base flood elevation using fill, pilings, columns, posts, or perimeter walls. Perimeter walls must meet the requirements of s. 7.5(2).
- b. Shall be anchored to prevent flotation, collapse, or lateral movement of the structure resulting from hydrodynamic and hydrostatic loads, including the effects of buoyancy, and shall be constructed with methods and materials resistant to flood damage.
- c. Shall be constructed with electrical, heating, ventilation, plumbing and air conditioning equipment and other service facilities that are designed and/or elevated so as to prevent water from entering or accumulating within the components during conditions of flooding.
- d. In A Zones, obtain, review, and utilize any flood data available from a federal, state or other source.

- e. In AO Zones with no elevations specified, shall have the lowest floor, including basement, meet the standards in s. 5.1(4).
- f. in AO Zones, shall have adequate drainage paths around structures on slopes to guide floodwaters around and away from the structure.

2. Nonresidential Structures

- a. Shall meet the requirements of s. 6.1(2)(h)1a-f.
 - b. Shall either have the lowest floor, including basement, elevated to or above the regional flood elevation; or, together with attendant utility and sanitary facilities, shall meet the standards in s. 7.5 (1) or (2).
 - c. In AO Zones with no elevations specified, shall have the lowest floor, including basement, meet the standards in s. 5.1(4).
- 3) A nonconforming historic structure may be altered if the alteration will not preclude the structure's continued designation as a historic structure, the alteration will comply with s. 3.3 (1), flood resistant materials are used, and construction practices and floodproofing methods that comply with s. 7.5 are used. Repair or rehabilitation of historic structures shall be exempt from the development standards of s. 6.1 (2)(h)1 if it is determined that the proposed repair or rehabilitation will not preclude the structure's continued designation as a historic structure and is the minimum necessary to preserve the historic character and design of the structure.
- 4) Notwithstanding anything in this chapter to the contrary, modifications, additions, maintenance, and repairs to a nonconforming building shall not be prohibited based on cost and the building's nonconforming use shall be permitted to continue if:
- a) Any living quarters in the nonconforming building are elevated to be at or above the flood protection elevation;
 - b) The lowest floor of the nonconforming building, including the basement, is elevated to or above the regional flood elevation;
 - c) The nonconforming building is permanently changed to conform to the applicable requirements of 2.0;
 - d) If the nonconforming building is in the floodway, the building is permanently changed to conform to the applicable requirements of 3.3(1), 3.3(2)(b) through (e), 3.3(3), 3.3(4), and 6.2. Any development that adds additional fill or creates an encroachment in the floodplain from beyond the original nonconforming structure's 3-D building envelope must determine the floodway in accordance with section 5.1(5). If the encroachment is in the floodway, it must meet the standards in section 3.3(4);
 - e) If the nonconforming building is in the floodfringe, the building is permanently changed to conform to the applicable requirements of 4.3 and 6.3;
 - f) Repair or reconstruction of nonconforming structures and substantial improvements of residential buildings in zones A1-30, AE, and AH must have the lowest floor (including basement) elevated to or above the base flood elevation;

Commented [VHMAD(12)]: OPTIONAL - Reserve for Communities who want to implement Act 175. This section is optional. If the Community is removing this language, please update the Table of Contents page references.

See guidance language

Commented [CVH13]: CRS requirement: Change to "one foot"

Commented [CVH14]: CRS requirement: Change to "one foot"

- g) Repair or reconstruction of nonconforming structures and substantial improvements of non-residential buildings in zones A1-30, AE, and AH must have the lowest floor (including basement) elevated to or above the base flood elevation, or (together with attendant utility and sanitary facilities) be designed so that below the base flood elevation the building is watertight with walls substantially impermeable to the passage of water and with structural components capable of resisting hydrostatic and hydrodynamic loads and effects of buoyancy:
- i. Where a non-residential structure is intended to be made watertight below the base flood elevation, a registered professional engineer or architect must develop and/or review structural design, specifications, and plans for the construction, and must certify that the design and methods of construction are in accordance with accepted standards of practice for meeting the provisions of s. 6.1(4)(g) above.
 - ii. The community must maintain a record of such certification including the specific elevation to which each such structure is floodproofed;
- h) Fully enclosed areas below the lowest floor of repair or reconstruction of nonconforming structures and substantial improvements in zones A1-30, AE, and AH that are usable solely for parking of vehicles, building access, or storage, must be designed to adequately equalize hydrostatic forces on exterior walls by allowing for the entry and exit of floodwaters. Subsequent improvements to repaired or reconstructed nonconforming structures must not increase the degree of their nonconformity. Designs for meeting this requirement must either be certified by a registered professional engineer or architect, or meet the following criteria:
- i. A minimum of two openings into each enclosed area must be located below the base flood elevation and provide a total net area of not less than one square inch for every square foot of enclosed area.
 - ii. The bottom of all openings must be no higher than one foot above the adjacent grade.
 - iii. Openings may be equipped with screens, louvers, valves, or other coverings if they permit the automatic entry and exit of floodwaters;
- i) Manufactured homes that are placed or substantially improved within zones A1-30, AE, and AH outside of a manufactured home park or subdivision, in a new manufactured home park or subdivision, in an expansion to an existing manufactured home park or subdivision, or in an existing manufactured home park or subdivision on which a manufactured home has incurred substantial damage as a result of flood, must be elevated on a permanent foundation such that the lowest floor of the manufactured home is at or above the base flood elevation, and be securely anchored to an adequately anchored foundation system to resist flotation, collapse, and lateral movement;
- j) Manufactured homes that are placed or substantially improved within zones A1-30, AE, and AH on existing sites in an existing manufactured home park that is not undergoing expansion and on which a manufactured home has not incurred substantial damage as a result of flood must be elevated so that either the lowest floor of the manufactured home is at or above the base flood elevation, or the manufactured home chassis is supported by reinforced piers or other foundation elements of at least equivalent strength that are no less than 36 inches in height above grade, and be securely anchored to an adequately anchored foundation system to resist flotation, collapse, and lateral movement;
- k) Recreational vehicles placed on sites within zones A1-30, AH, and AE must either:

Commented [CVH15]: CRS requirement: Change to "one foot"

Commented [CVH16]: CRS requirement: Change to "one foot"

- i. Be on site for fewer than 180 consecutive days; or
 - ii. Be fully licensed and ready for highway use (a recreational vehicle is ready for highway use if it is on its wheels or jacking system, is attached to the site only by quick disconnect type utilities and security devices, and has no permanently attached additions); or
 - iii. Meet the elevation and anchoring requirements for manufactured homes in s. 6.1(4)(l) above;
- l) In a regulatory floodway that has been delineated on the FIRM in zone A1-30 or AE, encroachments, including repair or reconstruction of nonconforming structures, substantial improvement, or other development (including fill) must be prohibited unless it has been demonstrated through hydrologic and hydraulic analyses performed in accordance with standard engineering practice that the proposed encroachment will not result in any increase in flood levels within the community during the occurrence of the base flood discharge. Subsequent improvements to repair or reconstructed nonconforming structures must not increase the degree of their nonconformity;
- m) In zone A, the community must obtain, review, and reasonably utilize any base flood elevation and floodway data available from a federal, state, or other source as criteria for requiring repair or reconstruction of nonconforming structures, substantial improvement, and other development to meet ss. 6.1(4)(f) through (l) (inclusive) above. Any development that adds additional fill or creates an encroachment in the floodplain from beyond the original nonconforming structure's 3-D building envelope must determine the floodway in accordance with section 5.1(5). If the encroachment is in the floodway, it must meet the standards in section 3.3(4). Subsequent improvements to repair or reconstructed nonconforming structures must not increase the degree of their nonconformity;
- n) In zones A1-30 or AE where a regulatory floodway has not been delineated on the FIRM, repair or reconstruction of nonconforming structures, substantial improvement, or any development that adds additional fill or creates an encroachment in the floodplain from beyond the original nonconforming structure's 3-D building envelope must determine the floodway in accordance with section 5.1(5). If the encroachment is in the floodway, it must meet the standards in section 3.3(4). Subsequent improvements to repair or reconstructed nonconforming structures must not increase the degree of their nonconformity;
- o) In zone AO, repair or reconstruction of nonconforming structures and substantial improvements of residential structures must have the lowest floor (including basement) elevated above the highest adjacent grade at least as high as the depth number specified in feet on the FIRM (at least two feet if no depth number is specified). Subsequent improvements to repair or reconstructed nonconforming structures must not increase the degree of their nonconformity; or
- p) In zone AO, repair or reconstruction of nonconforming structures and substantial improvements of nonresidential structures must have the lowest floor (including basement) elevated above the highest adjacent grade at least as high as the depth number specified in feet on the FIRM (at least two feet if no depth number is specified), or (together with attendant utility and sanitary facilities) be structurally dry-floodproofed to that level according to the standard specified in s. 6.1(4)(g) above. Subsequent improvements to repair or reconstructed nonconforming structures must not increase the degree of their nonconformity.

Commented [CVH17]: CRS Requirement: Change to "...one foot more than the depth number specified in feet on the FIRM (at least three feet if no depth number is specified)."

6.2 FLOODWAY DISTRICT

- 1) No modification or addition shall be allowed to any nonconforming structure or any structure with a nonconforming use in the Floodway District, unless such modification or addition:
 - a) Has been granted a permit or variance which meets all ordinance requirements;
 - b) Meets the requirements of s. 6.1;
 - c) Shall not increase the obstruction to flood flows or regional flood height;
 - d) Any addition to the existing structure shall be floodproofed, pursuant to s. 7.5, by means other than the use of fill, to the flood protection elevation; and,
 - e) If any part of the foundation below the flood protection elevation is enclosed, the following standards shall apply:
 1. The enclosed area shall be designed by a registered architect or engineer to allow for the efficient entry and exit of flood waters without human intervention. A minimum of two openings must be provided with a minimum net area of at least one square inch for every one square foot of the enclosed area. The lowest part of the opening can be no more than 12 inches above the adjacent grade;
 2. The parts of the foundation located below the flood protection elevation must be constructed of flood-resistant materials;
 3. Mechanical and utility equipment must be elevated or floodproofed to or above the flood protection elevation; and
 4. The use must be limited to parking, building access or limited storage.
- 2) No new on-site sewage disposal system, or addition to an existing on-site sewage disposal system, except where an addition has been ordered by a government agency to correct a hazard to public health, shall be allowed in the Floodway District. Any replacement, repair or maintenance of an existing on-site sewage disposal system in a floodway area shall meet the applicable requirements of all municipal ordinances, s. 7.5(3) and Ch. SPS 383, Wis. Adm. Code.
- 3) No new well or modification to an existing well used to obtain potable water shall be allowed in the Floodway District. Any replacement, repair, or maintenance of an existing well in the Floodway District shall meet the applicable requirements of all municipal ordinances, s. 7.5(3) and chs. NR 811 and NR 812, Wis. Adm. Code.

6.3 FLOODFRINGE DISTRICT

- 1) No modification or addition shall be allowed to any nonconforming structure or any structure with a nonconforming use unless such modification or addition has been granted a permit or variance by the municipality and meets the requirements of s. 4.3 except where s. 6.3(2) is applicable.
- 2) Where compliance with the provisions of subd. (1) would result in unnecessary hardship and only where the structure will not be used for human habitation or be associated with a high flood damage potential, the Board of Adjustment/Appeals, using the procedures established in s. 7.3, may grant a variance from those provisions of subd. (1) 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:
 - a) No floor is allowed below the regional flood elevation for residential or commercial structures;

- b) Human lives are not endangered;
 - c) Public facilities, such as water or sewer, shall not be installed;
 - d) Flood depths shall not exceed two feet;
 - e) Flood velocities shall not exceed two feet per second; and
 - f) The structure shall not be used for storage of materials as described in s. 4.3(5).
- 3) 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, s. 7.5 (3) and ch. SPS 383, Wis. Adm. Code.
 - 4) All new wells, or addition to, replacement, repair, or maintenance of a well shall meet the applicable provisions of this ordinance, s. 7.5 (3) and ch. NR 811 and NR 812, Wis. Adm. Code.

6.4 FLOOD STORAGE DISTRICTS

No modifications or additions shall be allowed to any nonconforming structure in a flood storage area unless the standards outlined in 5.2(3) are met.

7.0 ADMINISTRATION

Where a zoning administrator, planning agency or a board of appeals has already been appointed to administer a zoning ordinance adopted under ss. 59.69, 59.692 or 62.23(7), Stats., these officials shall also administer this ordinance.

1.1 ZONING ADMINISTRATOR

1) DUTIES AND POWERS

The zoning administrator is authorized to administer this ordinance and shall have the following duties and powers:

- a) Advise applicants of the ordinance provisions, assist in preparing permit applications and appeals, and assure that the regional flood elevation for the proposed development is shown on all permit applications.
- b) Issue permits and inspect properties for compliance with provisions of this ordinance and issue certificates of compliance where appropriate
- c) Inspect and assess all damaged floodplain structures to determine if substantial damage to the structures has occurred.

- d) Keep records of all official actions such as:
 - 1. All permits issued, inspections made, and work approved;
 - 2. Documentation of certified lowest floor and regional flood elevations;
 - 3. Floodproofing certificates.
 - 4. Water surface profiles, floodplain zoning maps and ordinances, nonconforming uses and structures including changes, appeals, variances and amendments.
 - 5. All substantial damage assessment reports for floodplain structures.
 - 6. List of nonconforming structures and uses.
- e) Submit copies of the following items to the Department Regional office:
 - 1. Within 10 days of the decision, a copy of any decisions on variances, appeals for map or text interpretations, and map or text amendments;
 - 2. Copies of case-by-case analyses and other required information.
 - 3. Copies of substantial damage assessments performed and all related correspondence concerning the assessments.
- f) 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.
- g) Submit copies of amendments to the FEMA Regional office.

2) LAND USE PERMIT

A land use permit shall be obtained before any development; repair, modification, or addition to an existing structure; or change in the use of a building or structure, including sewer and water facilities, may be initiated. Application to the zoning administrator shall include:

a) GENERAL INFORMATION

- 1. Name and address of the applicant, property owner and contractor;
- 2. Legal description, proposed use, and whether it is new construction or a modification;

b) SITE DEVELOPMENT PLAN

A site plan drawn to scale shall be submitted with the permit application form and shall contain:

- 1. Location, dimensions, area and elevation of the lot;
- 2. Location of the ordinary highwater mark of any abutting navigable waterways;
- 3. Location of any structures with distances measured from the lot lines and street center lines;
- 4. Location of any existing or proposed on-site sewage systems or private water supply systems;
- 5. Location and elevation of existing or future access roads;

6. Location of floodplain and floodway limits as determined from the official floodplain zoning maps;
 7. 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);
 8. 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 s. 3.0 or 4.0 are met; and
 9. Data to determine if the proposed development will cause an obstruction to flow or an increase in regional flood height or discharge according to s. 2.1. This may include any of the information noted in s. 3.3(1).
- 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.
1. Zone A floodplains and in AE zones within which a floodway is not delineated:
 - a. 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*.
 - b. 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.
- c. 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.
2. Zone AE Floodplains
- a. 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*.
- b. 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 top widths computed by the revised models matching those in the effective models upstream and downstream of the revised reach as required. The Effective Model shall not be truncated.

c. 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.

d) EXPIRATION

All permits issued under the authority of this ordinance shall expire no more than 180 days after issuance. The permit may be extended for a maximum of 180 days for good and sufficient cause. If the permitted work has not started within 180 days of the permit date, the development must comply with any regulation, including any revision to the FIRM or FIS, that took effect after the permit date.

3) 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:

- a) The certificate of compliance shall show that the building or premises or part thereof, and the proposed use, conform to the provisions of this ordinance;
- b) Application for such certificate shall be concurrent with the application for a permit;
- c) If all ordinance provisions are met, the certificate of compliance shall be issued within 10 days after written notification that the permitted work is completed;
- d) The applicant shall submit a certification signed by a registered professional engineer, architect, or land surveyor that the fill, lowest floor and floodproofing elevations are in compliance with the permit issued. Floodproofing measures also require certification by a registered professional engineer or architect that the requirements of s. 7.5 are met.
- e) Where applicable pursuant to s. 5.1(4), the applicant must submit a certification by a registered professional engineer or surveyor of the elevation of the bottom of the lowest horizontal structural member supporting the lowest floor (excluding pilings or columns), and an indication of whether the structure contains a basement.
- f) Where applicable pursuant to s. 5.1(4), the applicant must submit certifications by a registered professional engineer or architect that the structural design and methods of construction meet accepted standards of practice as required by s. 5.1(4).

4) OTHER PERMITS

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

7.2 ZONING AGENCY

- 1) The City of Pewaukee Zoning Board of Appeals shall:
 - a) oversee the functions of the office of the zoning administrator; and
 - b) review and advise the governing body on all proposed amendments to this ordinance, maps, and text.
 - c) publish adequate notice pursuant to Ch. 985, Stats., specifying the date, time, place, and subject of the public hearing.
- 2) The City of Pewaukee Zoning Board of Appeals shall not:

- a) grant variances to the terms of the ordinance in place of action by the Board of Adjustment/Appeals; or
- b) amend the text or zoning maps in place of official action by the governing body.

7.3 BOARD OF APPEALS

The Board of Appeals, created under s. 62.23(7)(e), Stats., for cities or villages, 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 shall not be the secretary of the Board.

1) POWERS AND DUTIES

The Board of Appeals shall:

- a) 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;
- b) Boundary Disputes - Hear and decide disputes concerning the district boundaries shown on the official floodplain zoning map; and
- c) Variances - Hear and decide, upon appeal, variances from the ordinance standards.

2) APPEALS TO THE BOARD

- a) 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.

b) NOTICE AND HEARING FOR APPEALS INCLUDING VARIANCES

1. Notice - The board shall:

- a. Fix a reasonable time for the hearing;
- b. Publish adequate notice pursuant to Wisconsin Statutes, specifying the date, time, place, and subject of the hearing; and
- c. Assure that notice shall be mailed to the parties in interest and the Department Regional office at least 10 days in advance of the hearing.

2. Hearing - Any party may appear in person or by agent. The board shall:

- a. Resolve boundary disputes according to s. 7.3(3);
- b. Decide variance applications according to s. 7.3(4); and
- c. Decide appeals of permit denials according to s. 7.4.

c) DECISION: The final decision regarding the appeal or variance application shall:

- 1. Be made within a reasonable time;
- 2. Be sent to the Department Regional office within 10 days of the decision;
- 3. Be a written determination signed by the chairman or secretary of the Board;
- 4. State the specific facts which are the basis for the Board's decision;

5. Either affirm, reverse, vary or modify the order, requirement, decision, or determination appealed, in whole or in part, dismiss the appeal for lack of jurisdiction or grant or deny the variance application; and

6. 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.

3) BOUNDARY DISPUTES

The following procedure shall be used by the Board in hearing disputes concerning floodplain district boundaries:

- a) If a floodplain district boundary is established by approximate or detailed floodplain studies, the flood elevations or profiles shall prevail in locating the boundary.
- b) The person contesting the boundary location shall be given a reasonable opportunity to present arguments and technical evidence to the Board; and
- c) If the boundary is incorrectly mapped, the Board should inform the zoning committee or the person contesting the boundary location to petition the governing body for a map amendment according to s. 8.0 *Amendments*.

4) VARIANCE

- a) The Board may, upon appeal, grant a variance from the standards of this ordinance if an applicant convincingly demonstrates that:
 - 1. Literal enforcement of the ordinance will cause unnecessary hardship;
 - 2. 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;
 - 3. The variance is not contrary to the public interest; and
 - 4. The variance is consistent with the purpose of this ordinance in s. 1.3.
- b) In addition to the criteria in subd. (a), to qualify for a variance under FEMA regulations, the Board must find that the following criteria have been met:
 - 1. The variance shall not cause any increase in the regional flood elevation;
 - 2. The applicant has shown good and sufficient cause for issuance of the variance;
 - 3. Failure to grant the variance would result in exceptional hardship;
 - 4. Granting the variance will not result in additional threats to public safety, extraordinary expense, create a nuisance, cause fraud on or victimization of the public, or conflict with existing local laws or ordinances;
 - 5. The variance granted is the minimum necessary, considering the flood hazard, to afford relief.
- c) A variance shall not:

1. Grant, extend or increase any use prohibited in the zoning district;
 2. Be granted for a hardship based solely on an economic gain or loss;
 3. Be granted for a hardship which is self-created.
 4. Damage the rights or property values of other persons in the area;
 5. Allow actions without the amendments to this ordinance or map(s) required in s. 8.0 *Amendments*; and
 6. Allow any alteration of an historic structure, including its use, which would preclude its continued designation as an historic structure.
- d) When a floodplain variance is granted, the Board shall notify the applicant in writing that it may increase risks to life and property and flood insurance premiums could increase up to \$25.00 per \$100.00 of coverage. A copy shall be maintained with the variance record.

7.4 TO REVIEW APPEALS OF PERMIT DENIALS

- (1) The Zoning Agency (s. 7.2) or Board shall review all data related to the appeal. This may include:
- a. Permit application data listed in s. 7.1(2);
 - b. Floodway/floodfringe determination data in s. 5.1(5);
 - c. Data listed in s. 3.3(1)(b) where the applicant has not submitted this information to the zoning administrator; and
 - d. Other data submitted with the application or submitted to the Board with the appeal.
- (2) For appeals of all denied permits the Board shall:
- a. Follow the procedures of s. 7.3;
 - b. Consider zoning agency recommendations; and
 - c. Either uphold the denial or grant the appeal.
- (3) For appeals concerning increases in regional flood elevation the Board shall:
- a. Uphold the denial where the Board agrees with the data showing an increase in flood elevation. Increases 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. 8.0 *Amendments*; and
 - b. Grant the appeal where the Board agrees that the data properly demonstrates that the project does not cause an increase provided no other reasons for denial exist.

7.5 FLOODPROOFING STANDARDS

- (1) No permit or variance shall be issued for a non-residential structure designed to be watertight below the regional flood elevation until the applicant submits a plan certified by a registered professional engineer or architect that the floodproofing measures will protect the structure or development to or above the flood protection elevation and submits a FEMA Floodproofing Certificate. Floodproofing is not an alternative to the development standards in ss. 2.0, 3.0, 4.0, or 5.1.
- (2) For a structure designed to allow the entry of floodwaters, no permit or variance shall be issued until the applicant submits a plan either:
 - a. certified by a registered professional engineer or architect; or
 - b. meeting or exceeding the following standards:
 1. 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;
 2. the bottom of all openings shall be no higher than one foot above grade; and
 3. openings may be equipped with screens, louvers, valves, or other coverings or devices provided that they permit the automatic entry and exit of floodwaters.
- (3) Floodproofing measures shall be designed, as appropriate, to:
 - a. Withstand flood pressures, depths, velocities, uplift and impact forces and other regional flood factors;
 - b. Protect structures to the flood protection elevation;
 - c. Anchor structures to foundations to resist flotation and lateral movement;
 - d. Minimize or eliminate infiltration of flood waters;
 - e. Minimize or eliminate discharges into flood waters;
 - f. Placement of essential utilities to or above the flood protection elevation; and
 - g. If any part of the foundation below the flood protection elevation is enclosed, the following standards shall apply:
 1. The enclosed area shall be designed by a registered architect or engineer to allow for the efficient entry and exit of flood waters without human intervention. A minimum of two openings must be provided with a minimum net area of at least one square inch for every one square foot of the enclosed area. The lowest part of the opening can be no more than 12 inches above the adjacent grade;
 2. The parts of the foundation located below the flood protection elevation must be constructed of flood-resistant materials;
 3. Mechanical and utility equipment must be elevated or floodproofed to or above the flood protection elevation; and
 4. The use must be limited to parking, building access or limited storage.

7.6 PUBLIC INFORMATION

7.6 The Zoning Administrator and authorized assistants, the City Planner and other City staff involved in interaction with the public and the media shall provide any electronic, written or verbal information regarding floodplains upon request. In addition they shall:

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

8.0 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.

- (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. 8.1. Any such alterations must be reviewed and approved by FEMA and the DNR.
- (2) In A Zones increases equal to or greater than 1.0 foot may only be permitted if the applicant receives a Conditional Letter of Map Revision from FEMA and amendments are made to this ordinance, the official floodplain maps, floodway lines, and water surface profiles, in accordance with s. 8.1.

8.1 GENERAL

The governing body shall change or supplement the floodplain zoning district boundaries and this ordinance in the manner outlined in s. 8.2 below. 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:

- (1) Any fill or floodway encroachment that obstructs flow causing any increase in the regional flood height;
- (2) Any change to the floodplain boundaries and/or watercourse alterations on the FIRM;
- (3) Any changes to any other officially adopted floodplain maps listed in s. 1.5 (2)(b);
- (4) 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;
- (5) Correction of discrepancies between the water surface profiles and floodplain maps;
- (6) 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
- (7) 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.

8.2 PROCEDURES

Formatted: Normal, No bullets or numbering

Ordinance amendments may be made upon petition of any party according to the provisions of s. 62.23, Stats., for cities and villages. The petitions shall include all data required by s. 5.1(5) and 7.1(2). The Land Use Permit shall not be issued until a Letter of Map Revision is issued by FEMA for the proposed changes.

- (1) The proposed amendment shall be referred to the zoning agency for a public hearing and recommendation to the governing body. The amendment and notice of public hearing shall be submitted to the Department Regional office for review prior to the hearing. The amendment procedure shall comply with the provisions of s. 62.23, Stats., for cities and villages.
- (2) No amendments shall become effective until reviewed and approved by the Department.
- (3) 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.

9.0 ENFORCEMENT AND PENALTIES

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 more than \$50.00 (fifty dollars), 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

10.0 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.

1. 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.
2. AH ZONE – See "AREA OF SHALLOW FLOODING".
3. AO ZONE – See "AREA OF SHALLOW FLOODING".
4. 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. An accessory structure shall not be used for human habitation.
5. ALTERATION – An enhancement, upgrade or substantial change or modification other than an addition or repair to a dwelling or to electrical, plumbing, heating, ventilating, air conditioning and other systems within a structure.
6. 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.

7. 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. Also called the one hundred year recurrence interval flood.
8. BASEMENT – Any enclosed area of a building having its floor sub-grade on all sides.
9. BREAKAWAY WALL – A wall that is not part of the structural support of the building and is intended through its design and construction to collapse under specific lateral loading forces, without causing damage to the elevated portion of the building or supporting foundation system.
10. BUILDING – See STRUCTURE.
11. 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.
12. 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.
13. CAMPING UNIT – Any portable device, no more than 400 square feet in area, used as a temporary shelter, including but not limited to a camping trailer, motor home, bus, van, pick-up truck, or tent that is fully licensed, if required, and ready for highway use.
14. 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.
15. CHANNEL – A natural or artificial watercourse with definite bed and banks to confine and conduct normal flow of water.
16. 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.
17. DECK – An unenclosed exterior structure that has no roof or sides and has a permeable floor which allows the infiltration of precipitation.
18. DEPARTMENT – The Wisconsin Department of Natural Resources.
19. 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.
20. 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.

21. ENCROACHMENT – Any fill, structure, equipment, use or development in the floodway.
22. FEDERAL EMERGENCY MANAGEMENT AGENCY (FEMA) – The federal agency that administers the National Flood Insurance Program.
23. FLOOD INSURANCE RATE MAP (FIRM) – A map of a community on which the Federal Insurance Administration has delineated both the floodplain and the risk premium zones applicable to the community. This map can only be amended by the Federal Emergency Management Agency.
24. 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:
 - The overflow or rise of inland waters;
 - The rapid accumulation or runoff of surface waters from any source;
 - The inundation caused by waves or currents of water exceeding anticipated cyclical levels along the shore of Lake Michigan or Lake Superior; or
 - The sudden increase caused by an unusually high-water level in a natural body of water, accompanied by a severe storm, or by an unanticipated force of nature, such as a seiche, or by some similarly unusual event.
25. FLOOD FREQUENCY – The probability of a flood occurrence 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.
26. 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.
27. FLOOD HAZARD BOUNDARY MAP – A map designating approximate flood hazard areas. Flood hazard areas are designated as unnumbered A-Zones and do not contain floodway lines or regional flood elevations. This map forms the basis for both the regulatory and insurance aspects of the National Flood Insurance Program (NFIP) until superseded by a Flood Insurance Study and a Flood Insurance Rate Map.
28. 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.
29. 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.
30. FLOODPLAIN ISLAND – A natural geologic land formation within the floodplain that is surrounded, but not covered, by floodwater during the regional flood.
31. FLOODPLAIN MANAGEMENT – Policy and procedures to ensure wise use of floodplains, including mapping and engineering, mitigation, education, and administration and enforcement of floodplain regulations.
32. 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.

Commented [CA18]: In the City of Pewaukee, lakes and streams and adjoining land which has been or may be covered by flood water during a regional or base flood, and which is comprised of the floodway, flood fringe, the FEMA 'A zones' plus the WisDNR Flood Storage Districts (FSDs).

33. 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.
34. FLOOD PROTECTION ELEVATION – An elevation of two feet of freeboard above the Regional Flood Elevation. (Also see: FREEBOARD.)
35. FLOOD STORAGE – Those floodplain areas where storage of floodwaters has been taken into account during analysis in reducing the regional flood discharge.
36. FLOODWAY – The channel of a river or stream and those portions of the floodplain adjoining the channel required to carry the regional flood discharge.
37. 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.
38. HABITABLE STRUCTURE – Any structure or portion thereof used or designed for human habitation.
39. 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.
40. 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.
41. HIGHEST ADJACENT GRADE – The highest natural elevation of the ground surface prior to construction next to the proposed walls of a structure.
42. HISTORIC STRUCTURE – Any structure that is either:
- 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;
 - 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;
 - 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
 - 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.
43. INCREASE IN REGIONAL FLOOD HEIGHT – A calculated upward rise in the regional flood elevation greater than 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.
44. LAND USE – Any nonstructural use made of unimproved or improved real estate. (Also see

DEVELOPMENT.)

45. LOWEST ADJACENT GRADE – Elevation of the lowest ground surface that touches any of the exterior walls of a building.
46. LOWEST FLOOR – The lowest floor of the lowest enclosed area (including basement).
47. MAINTENANCE – The act or process of ordinary upkeep and repairs, including redecorating, refinishing, nonstructural repairs, or the replacement of existing fixtures, systems or equipment with equivalent fixtures, systems, or structures.
48. 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."
49. 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.
50. 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.
51. 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.
52. 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."
53. 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.
54. MODEL, DUPLICATE EFFECTIVE – A copy of the hydraulic analysis used in the effective FIS and referred to as the effective model.
55. MODEL, EFFECTIVE – The hydraulic engineering model that was used to produce the current effective Flood Insurance Study.
56. 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.

Commented [CA19]: 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.

57. **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.
58. **MUNICIPALITY or MUNICIPAL** – The county, city or village governmental units enacting, administering, and enforcing this zoning ordinance.
59. **NAVD or NORTH AMERICAN VERTICAL DATUM** – Elevations referenced to mean sea level datum, 1988 adjustment.
60. **NGVD or NATIONAL GEODETIC VERTICAL DATUM** – Elevations referenced to mean sea level datum, 1929 adjustment.
61. **NEW CONSTRUCTION** – Structures for which the start of construction commenced on or after the effective date of a floodplain zoning regulation adopted by this community and includes any subsequent improvements to such structures.
62. **NON-FLOOD DISASTER** – A fire or an ice storm, tornado, windstorm, mudslide, or other destructive act of nature, but excludes a flood.
63. **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.)
64. **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.)
65. **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.
66. **OFFICIAL FLOODPLAIN ZONING MAP** – That map, adopted and made part of this ordinance, as described in s. 1.5(2), which has been approved by the Department and FEMA.
67. **OPEN SPACE USE** – Those uses having a relatively low flood damage potential and not involving structures.
68. **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.
69. **PERSON** – An individual, or group of individuals, corporation, partnership, association, municipality, or state agency.
70. **PRIVATE SEWAGE SYSTEM** – A sewage treatment and disposal system serving one structure with a septic tank and soil absorption field located on the same parcel as the structure. It also means an alternative sewage system approved by the Department of Safety and Professional Services, including a substitute for the septic tank or soil absorption field, a holding tank, a system serving more than one structure, or a system located on a different parcel than the structure.

71. **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.
72. **REASONABLY SAFE FROM FLOODING** – Means base flood waters will not inundate the land or damage structures to be removed from the floodplain and that any subsurface waters related to the base flood will not damage existing or proposed buildings.
73. **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.
74. **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.
75. **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 lakebed, including, but not limited to, roofed and walled buildings, gas or liquid storage tanks, bridges, dams and culverts.
76. **SUBDIVISION** – Has the meaning given in s. 236.02(12), Wis. Stats.
77. **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.
78. **SUBSTANTIAL IMPROVEMENT** – Any repair, reconstruction, rehabilitation, addition or improvement of a building or structure, the cost of which equals or exceeds 50 percent of the equalized assessed value of the structure before the improvement or repair is started. If the structure has sustained substantial damage, any repairs are considered substantial improvement regardless of the work performed. The term does not include either any project for the improvement of a building required to correct existing health, sanitary or safety code violations identified by the building official and that are the minimum necessary to assure safe living conditions; or any alteration of a historic structure provided that the alteration will not preclude the structure's continued designation as a historic structure.
79. **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.
80. **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.

- 81. 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.
- 82. WATERSHED – The entire region contributing runoff or surface water to a watercourse or body of water.
- 83. 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.
- 84. 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.

ACT 175 (s. 87.30 (1d)(d) Stats.) Guidance

The WDNR floodplain model ordinance includes the acceptable regulatory standards required in Ch. NR116, Wis. Admin. Code with supplemental wording intended to ensure that the minimum requirements for participation in the National Flood Insurance Program (44 C.F.R. §§59-72) are met or exceeded in all circumstances. The floodplain model ordinance now includes language for communities choosing to adopt changes consistent with 2019 Act 175.

Act 175 was enacted March 2020 and created § 87.30 (1d) (d), Wis. Stats. This Act changes how Ch. NR116, Wis. Admin. Code may require local governments to regulate nonconforming structures in the floodplain. To participate in the National Flood Insurance Program, however, communities must still adopt and enforce regulations that meet the NFIP's minimum standards, which are unchanged. § 87.30 (1d) (d) creates an exception to the state's "50% rule" for structures in the floodplain. The state's "50% rule" says 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 the local floodplain ordinance.

Essentially, in a floodplain zoning ordinance that has incorporated Act 175, if a nonconforming structure is altered to meet the federal minimum standards applicable to new construction and substantial improvements, and the living quarters in the nonconforming building are elevated to be at or above the flood protection elevation, then the Department is prohibited from imposing cost-based regulation or restrictions to the structure (i.e., "50% Rule"). It is important to note that structures modified to meet the requirements of § 87.30 (1d) (d) are not transformed into conforming structures. They are still considered nonconforming structures and are subject to all other non-cost-based regulations and restrictions applicable to nonconforming structures.

The NFIP minimum standards require a participating community to regulate all development, including all improvements to all structures in special flood hazard areas. The appropriate minimum standards must be applied to substantial improvements, modifications, additions, and repair or other improvement of substantially damaged buildings, without regard for whether such buildings are "nonconforming" with regard to ordinances adopted to meet Ch. NR116 regulations or other state or local zoning regulations.

Act 175 did not change any city, village, or county floodplain ordinance authority and communities are able to maintain their current ordinance and incorporate higher standards into their floodplain zoning ordinance.

Communities should decide whether to incorporate Act 175 into the floodplain ordinance or maintain their current framework for regulating nonconforming structures based on an assessment of local flood risks. Once the local flood risks are identified and an appropriate zoning approach is determined, some communities may choose to maintain existing floodplain zoning and implement higher standards, while others may modify their ordinances to adopt this new minimum standard. (see [WDNR floodplain model ordinance.](#))

1. When Act 175 is incorporated into an ordinance there is a potential for the community to allow modifications, additions, substantial improvements, maintenance and repairs to existing nonconforming structures in excess of the State's 50% Rule once the minimum requirements of **Appendix A** are met. This creates two classifications of nonconforming structures:
 - a. Class 1: Nonconforming structures that do not meet Appendix A minimum requirements and continued to be subject to the State's 50% Rule.
 - b. Class 2: Nonconforming structures meeting Appendix A minimum requirements and no longer subject to the State's 50% Rule.
2. For ordinances without Act 175 – repair/maintenance/modification/substantial improvement of structures in the floodplain is limited by the 50% rule as expressed in NR116.
 - a. No modification, addition, maintenance, or repair can be made on a structure in the floodway if the cost exceeds 50% of the present equalized assessed value of the structure;
 - b. If a structure in the floodway is substantially damaged by a flood, it must be removed from the floodway;
 - c. No modification, addition, maintenance, or repair can be made on a structure in the floodfringe if the cost exceeds 50% of the present equalized assessed value of the structure unless the structure is modified to conform to the floodplain ordinance;
 - d. In addition all standards for nonconforming structures in the floodplain, listed in Nonconforming Uses in Section 6.0 of the state model, must be followed.

Appendix A

For communities incorporating Act 175 into its ordinance, non-conforming structures not subject to the State 50% Rule must meet the following minimum standards:

- (1) Any living quarters in the nonconforming building are elevated to be at or above the flood protection elevation;
- (2) The lowest floor of the nonconforming building, including the basement, is elevated to or above the regional flood elevation;
- (3) The nonconforming building is permanently changed to conform to the applicable requirements of the general standards applicable to all floodplain districts;
- (4) The building is permanently changed to conform to all applicable requirements in the community's floodplain zoning ordinance such as Hydraulic and Hydrologic Analyses (H & H), lowest floor elevations, anchoring, mechanical and utility equipment elevations, floodproofing standards, and must not obstruct flow of floodwater or cause any increase in flood levels.

NOTE: Incorporating Act 175 into the local ordinance still requires the zoning administrator to carefully review and apply applicable portions of Nonconforming Uses in section 6.0 of the model ordinance because the structure is still a nonconforming structure.

- (5) If the nonconforming building is in the floodfringe, the building is permanently changed to conform to the applicable requirements of the floodfringe district.
- (6) New construction and substantial improvements of residential buildings in zones A1-30, AE, and AH must have the lowest floor (including basement) elevated to or above the base flood elevation.
- (7) New construction and substantial improvements of non-residential buildings in zones A1-30, AE, and AH must have the lowest floor (including basement) elevated to or above the base flood elevation, or (together with attendant utility and sanitary facilities) be designed so that below the base flood elevation the building is watertight with walls substantially impermeable to the passage of water and with structural components capable of resisting hydrostatic and hydrodynamic loads and effects of buoyancy.
 - a. Where a non-residential structure is intended to be made watertight below the base flood elevation, a registered professional engineer or architect must develop and/or review structural design, specifications, and plans for the construction, and must certify that the design and methods of construction are in accordance with accepted standards of practice for meeting the provisions of paragraph vii above.
 - b. The community must maintain a record of such certification including the specific elevation to which each such structure is floodproofed.
- (8) Fully enclosed areas below the lowest floor of new construction and substantial improvements in zones A1-30, AE, and AH that are usable solely for parking of vehicles, building access, or storage, must be designed to adequately equalize hydrostatic forces on exterior walls by allowing for the

entry and exit of floodwaters. Designs for meeting this requirement must either be certified by a registered professional engineer or architect, or meet the following criteria:

- a. A minimum of two openings into each enclosed area must be located below the base flood elevation and provide a total net area of not less than one square inch for every square foot of enclosed area;
 - b. The bottom of all openings must be no higher than one foot above the adjacent grade;
 - c. Openings may be equipped with screens, louvers, valves, or other coverings if they permit the automatic entry and exit of floodwaters.
- 9) Manufactured homes that are placed or substantially improved within zones A1-30, AE, and AH outside of a manufactured home park or subdivision, in a new manufactured home park or subdivision, in an expansion to an existing manufactured home park or subdivision, or in an existing manufactured home park or subdivision on which a manufactured home has incurred substantial damage as a result of flood, must be elevated on a permanent foundation such that the lowest floor of the manufactured home is at or above the base flood elevation, and be securely anchored to an adequately anchored foundation system to resist flotation, collapse, and lateral movement.
- 10) Manufactured homes that are placed or substantially improved within zones A1-30, AE, and AH on existing sites in an existing manufactured home park that is not undergoing expansion and on which a manufactured home has not incurred substantial damage as a result of flood must be elevated so that either the lowest floor of the manufactured home is at or above the base flood elevation, or the manufactured home chassis is supported by reinforced piers or other foundation elements of at least equivalent strength that are no less than 36 inches in height above grade, and be securely anchored to an adequately anchored foundation system to resist flotation, collapse, and lateral movement.
- 11) Recreational vehicles placed on sites within zones A1-30, AH, and AE must either
- a. Be on site for fewer than 180 consecutive days; or
 - b. Be fully licensed and ready for highway use (a recreational vehicle is ready for highway use if it is on its wheels or jacking system, is attached to the site only by quick disconnect type utilities and security devices, and has no permanently attached additions); or
 - c. Meet the elevation and anchoring requirements for manufactured homes in paragraph ix above.
- 12) In a regulatory floodway that has been delineated on the FIRM in zone A1-30 or AE, encroachments, including new construction, substantial improvement, or other development (including fill) must be prohibited unless it has been demonstrated through hydrologic and hydraulic analyses performed in accordance with standard engineering practice that the proposed encroachment will not result in any increase in flood levels within the community during the occurrence of the base flood discharge.
- 13) In zone A, the community must obtain, review, and reasonably utilize any base flood elevation and floodway data available from a federal, state, or other source as criteria for requiring new construction, substantial improvement, and other development to meet paragraphs (6) through

(12) (inclusive) above. If floodway data are available, the community must select and adopt a regulatory floodway based on the principle that the area chosen for the regulatory floodway must be designed to carry the waters of the base flood without increasing the water surface elevation of that flood more than one foot at any point.

- 14) In zones A1-30 or AE where a regulatory floodway has not been delineated on the FIRM, no new construction, substantial improvement, or other development (including fill) may be permitted unless it is demonstrated that the cumulative effect of the proposed development, when combined with all other existing and anticipated development, will not increase the water surface elevation of the base flood more than one foot at any point within the community.
- 15) Notwithstanding the requirements of paragraphs (12) and (14) above, the community may permit certain development in zones A1-30 and AE where a floodway has not been delineated, which will increase the water surface elevation of the base flood by more than one foot, or in a regulatory floodway, which will result in an increase in base flood elevations, if the community first obtains a Conditional Letter of Map Revision (CLOMR) from FEMA and fulfills the requirements of Section 65.12 of Title 44, Code of Federal Regulations.
- 16) In zone AO, new construction and substantial improvements of residential structures must have the lowest floor (including basement) elevated above the highest adjacent grade at least as high as the depth number specified in feet on the FIRM (at least two feet if no depth number is specified).
- 17) In zone AO, new construction and substantial improvements of nonresidential structures must have the lowest floor (including basement) elevated above the highest adjacent grade at least as high as the depth number specified in feet on the FIRM (at least two feet if no depth number is specified), or (together with attendant utility and sanitary facilities) be structurally dry-floodproofed to that level according to the standard specified in paragraph vii above.

Community Rating System At-A-Glance



The **Community Rating System (CRS)** is a voluntary Federal Emergency Management Agency program that recognizes and rewards communities that go above and beyond the bare minimum requirements of the National Flood Insurance Program. There is no monetary cost to join; the only real “cost” is the time and effort of the staff person assigned as the CRS Coordinator.

Communities select activities to do voluntarily that earn that community points. The more points you have, the better rate class your community is in, which gets your community members a corresponding discount on federal flood insurance premiums. To be eligible to join, you must be in good standing with the National Flood Insurance Program.

What are the activities? There are 19 different possible activities you can participate in for CRS points that fall into four categories: Public information, Mapping and Regulations, Flood Damage Reduction and Flood Preparedness. More information on the specific activities can be found at the links below. Your community, when reviewing the creditable activities, will likely be pleasantly surprised to see that you’re already doing some of them.

To join, two items are needed to request a CRS classification: a letter of interest to the FEMA regional office, and a “CRS Quick Check” that shows the community is implementing some CRS activities. Please feel free to engage with the DNR’s floodplain program for assistance or if you have any questions by emailing dnrfloodplain@wisconsin.gov. Please note that as part of the process of joining, an audit will be necessary (a Community Assistance Visit). [A link to the template letter of interest and the quick check form can be found here.](#)

For More Information:

[FEMA Fact sheet on CRS \(2021\)](#)

[FEMA Local Official’s Guide \(2018\)](#)

BENEFITS:

- Discounted flood insurance premiums for community members, up to 45% off.
- Higher standards serve to enhance public safety, reduce damage to property and public infrastructure and avoid economic disruption and loss.
- Communities can evaluate their flood programs against a nationally recognized benchmark.
- Technical assistance in carrying out some activities is available to community officials at no charge.
- Citizens and property owners in CRS communities have enhanced opportunities to learn about their risk, evaluate their individual vulnerabilities and take action to protect themselves, as well as their home and businesses.

COSTS:

- There is no monetary cost to join.
- Time and effort on the part of staff:
 - ☐ A Community Assistance Visit;
 - ☐ Rectify any violations found;
 - ☐ Show that the community has a good permitting system, an organized system for recordkeeping;
 - ☐ And a community may need to update the ordinance, on a case-by-case basis
- It may take a while to complete the process to join.