

ARTICLE B

General Provisions

SEC. 13-3-10 AREAS TO BE REGULATED.

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

SEC. 13-3-11 DISTRICT BOUNDARIES.

(a) **OFFICIAL MAPS & REVISIONS**

The boundaries of all floodplain districts are designated as floodplains or A-Zones on the maps listed below and the revisions in the City of Menasha Floodplain Appendix. Any change to the base flood elevations (BFE) in the Flood Insurance Study (FIS) or on the Flood Insurance Rate Map (FIRM) must be reviewed and approved by the DNR and FEMA before it is effective. No changes to regional flood elevations (RFE's) on non-FEMA maps shall be effective until approved by the DNR. These maps and revisions are on file in the office of the City Clerk, City of Menasha. If more than one map or revision is referenced, the most restrictive information shall apply.

OFFICIAL MAPS: Based on the Calumet County Flood Insurance study (FIS), dated (February, 2009), volume number 55015CV000A and based on the Winnebago County Flood Insurance Study (FIS), dated (March, 2003), volume number 55139CV000A.

(1) Calumet County Flood Insurance Rate Map (FIRM), panel numbers (**55015C0007E, 55015C0009E, 55015C0026E, and 55015C0028E**) dated February 4, 2009; with corresponding profiles that are based on the FIS.

(2) Winnebago County Flood Insurance Rate Map (FIRM), panel numbers (55139C0110E and 55139C0105E) dated March 17, 2003; with corresponding profiles that are based on the FIS.

(b) **DISTRICTS.** The regional floodplain areas within the jurisdiction of this Chapter are hereby divided into three districts: the Floodway District (FW), Flood Fringe District (FF) and General Floodplain District (GFP), defined as follows:

- (1) The Floodway District (FW) consists of the channel of a river or stream and those portions of the floodplain adjoining the channel that are required to carry and discharge the regional flood waters.
- (2) The Flood Fringe District (FF) consists of that portion of the floodplain between the regional flood limits and the floodway.
- (3) The General Floodplain District (GFP) consists of all areas which have been or may be hereafter covered by flood water during the regional flood. It encompasses both the Floodway and Flood Fringe Districts.

SEC. 13-3-12 LOCATING FLOODPLAIN BOUNDARIES.

- (a) Where an apparent discrepancy exists between the location of the outermost boundary of the Flood Fringe District or General Floodplain District shown on the official floodplain zoning map and actual field conditions, the location of the district boundary line shall be initially determined by the Zoning Administrator using the criteria set forth in Subsections (b) or (c) below. Where the Zoning Administrator finds that there is a significant difference between the district boundary shown on the map and the actual field conditions, the map shall be amended using the procedures established in Article H. Disputes between the Zoning Administrator and an applicant on the location of the district boundary line shall be settled according to Section 13-3-63.
- (b) Where flood profiles exist, the location of the district boundary line shall be determined by the Zoning Administrator using both the scale appearing on the map and the elevations shown on the water surface profile of the regional flood. Where a discrepancy exists between the map and the location indicated by the regional flood elevations and actual field conditions, the regional flood elevations shall govern. A map amendment is required where there is a significant discrepancy between the map and actual field conditions. The Zoning Administrator shall have the authority to immediately grant or deny a land use permit on the basis of a district boundary derived from the elevations shown on the water surface profile of the regional flood, whether or not a map amendment is required. The Zoning Administrator shall be responsible for initiating any map amendments required under this Section within a reasonable period of time.
- (c) Where flood profiles do not exist, the location of the district boundary line shall be determined by the Zoning Administrator using the scale appearing on the map, visual on-site inspection and any available information provided by the Department. Where there is a significant difference between the district boundary line shown on the map and actual field conditions, the map shall be amended. Where a map amendment has been approved by both the Common Council and the Department, the Zoning Administrator shall have the authority to grant or deny a land use permit.

SEC. 13-3-13 REMOVAL OF LANDS FROM FLOODPLAIN.

Compliance with the provisions of this Chapter shall not be grounds for removing lands from the floodplain district, unless they are removed by filling to a height of at least two (2) feet above the regional flood elevation, the fill is contiguous to land lying outside the floodplain district and the map is amended pursuant to Article H. To remove the land from flood insurance requirements, FEMA must first revise the flood insurance rate map or issue a letter of map amendment or revision.

Note: This procedure does not remove the requirements for the mandatory purchase of flood insurance. The property owner must contact FEMA to request a Letter of Map Change (LOMC).

SEC. 13-3-14 COMPLIANCE WITH CHAPTER.

- (a) **COMPLIANCE.** The use or development, as defined in Sec. 13-3-90(a), or use within the areas to be regulated by this Chapter shall be in compliance with the terms of this Chapter and other applicable local, state and federal regulations.
- (b) **MUNICIPALITIES AND STATE AGENCIES REGULATED.** Unless specifically exempted by law, all cities, villages, towns and counties are required to comply with this Chapter and obtain all necessary permits. State agencies are required to comply if Sec. 13.48(13), Wis. Stats., applies. The construction, reconstruction, maintenance and repair of state highways and bridges by the Wisconsin Department of Transportation are exempt when

Sec. 30.12(4)(a), Wis. Stats., applies.

SEC. 13-3-15 ABROGATION AND GREATER RESTRICTIONS; INTERPRETATION OF CHAPTER.

- (a) **GREATER RESTRICTIONS.** This Chapter supersedes all the provisions of any municipal zoning ordinance enacted under Sections 61.35, 62.23 or 87.30, Wis. Stats., which relate to floodplains except that where another municipal zoning ordinance is more restrictive than the provisions contained in this Chapter, that ordinance shall continue in full force and effect to the extent of the greater restrictions, but not otherwise.
- (b) **ABROGATION.** It is not otherwise intended by this Chapter to repeal, abrogate or impair any existing easements, covenants or deed restrictions; however, where this Chapter imposes greater restrictions, the provisions of this Chapter shall prevail.
- (c) **INTERPRETATION.** In their interpretation and application, the provisions of this Chapter shall be held to minimum requirements liberally construed in favor of the governing body and shall not be deemed a limitation on or repeal of any other powers granted by the Wisconsin Statutes. Where a provision of this Chapter is required by a standard in Chapter NR 116, Wisconsin Administrative Code is unclear, the provision shall be interpreted in light of the standards in effect on the date of the adoption of this Chapter or in effect on the date of the most recent text amendment to this Chapter.

SEC. 13-3-16 WARNING AND DISCLAIMER OF LIABILITY.

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

SEC. 13-3-17 SEVERABILITY.

If any section, clause, provision or portion of this Chapter is adjudged unconstitutional or invalid by a court of competent jurisdiction, the remainder of this Chapter shall not be affected thereby.

SEC. 13-3-18 ANNEXED AREAS FOR CITIES AND VILLAGES

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

SEC. 13-3-19 GENERAL DEVELOPMENT STANDARDS

The community shall review all permit applications to determine whether proposed building sites will be reasonably safe from flooding. If a proposed building site is in a flood-prone area, all new construction and substantial improvements shall be designed or modified and adequately anchored to prevent flotation, collapse, or lateral movement of the structure resulting from hydrodynamic and 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. Subdivisions shall be reviewed for compliance with the above standards. All subdivision proposals (including manufactured home parks) shall include regional flood elevation and floodway data for any development that meets the subdivision definition of this ordinance.

SEC. 13-3-20 GENERAL STANDARDS APPLICABLE TO ALL FLOODPLAIN DISTRICTS.

(a) HYDRAULIC AND HYDROLOGIC ANALYSIS

- (1) No development, except as provided in Subsection (a)(2) below, shall be allowed in floodplain areas which will:
 - a. Cause an obstruction to flow, defined in Sec. 13-3-90(a) as any development which physically blocks the conveyance of floodwaters by itself or in conjunction with future similar development causing an increase in regional flood height; or
 - b. Cause an increase in regional flood height due to floodplain storage area lost, which is equal to or exceeding 0.01 foot.
- (2) Obstructions or increases equal to or greater than 0.01 foot may only be permitted if amendments are made to this Chapter, the official floodplain zoning maps, including floodway lines and water surface profiles, in accordance with Article H.
- (3) The Zoning Administrator shall deny permits where it is determined the proposed development will cause an obstruction to flow or increase in regional flood height of 0.01 foot or greater *based on the officially adopted FIRM or other adopted map, unless the provisions in Sub (a)(2) are met.*

(b) **WATERCOURSE ALTERATIONS.** Prior to any alteration or relocation of a watercourse and prior to the issuance of any land use permit which may be required for the alteration or relocation of a watercourse, the Zoning Administrator shall notify, in writing, adjacent municipalities, the appropriate district office of the Department of Natural Resources and the appropriate office of FEMA and shall require the applicant to secure all necessary state and federal permits. The flood carrying capacity within the altered or relocated portion of any watercourse shall be maintained. *As soon as is practicable, but no later than six months after the date of the watercourse alteration or relocation, the zoning administrator shall notify FEMA of the changes by submitting appropriate technical or scientific data in accordance with NFIP guidelines that shall be used to revise the FIRM, risk premium rates and floodplain management regulations as required.*

(c) **CHAPTERS 30, 31, WIS. STATS., DEVELOPMENT.** Development which requires a permit from the Department of Natural Resources, under Chapters 30 and 31, Wis. Stats., such as docks, piers wharves, bridges, culverts, dams and navigational aids may be allowed provided the necessary local permits are obtained and necessary amendments to the official

floodway lines, water surface profiles, *BFE's established in the FIS, or other data from the officially adopted FIRM, or other floodplain zoning maps or floodplain zoning ordinance* are made according to Article H.

(d) ***PUBLIC OR PRIVATE CAMPGROUNDS.*** *Public or private campgrounds shall have a low flood damage potential and shall meet the following provisions:*

- (1) *The campground is approved by the Department of Health and Family Services.*
- (2) *A land use permit for the campground is issued by the zoning administrator.*
- (3) *The character of the river system and the elevation of the campground is such that a 72-hour warning of an impending flood can be given to all campground occupants.*
- (4) *There is an adequate flood warning procedure for the campground that offers the minimum notice required under this section to all persons in the campground. This procedure shall include a written agreement between the campground owner, the municipal emergency 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.*
- (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 health and family services all other applicable regulations.*
- (6) *Only camping units are allowed.*
- (7) *The camping units may not occupy any site in the campground for more than 180 consecutive days, at which time the camping unit must be removed from the floodplain for a minimum of 24 hours.*
- (8) *All camping units that remain on site for more than 30 days shall be issued a limited authorization by the campground operator, a written copy of which is kept on file at the campground. Such authorization shall allow placement of a camping unit for a period not to exceed 180 days and shall ensure compliance with all the provisions of this section.*
- (9) *The municipality shall monitor the limited authorizations issued by the campground operator to assure compliance with the terms of this section.*
- (10) *All camping units that remain in place for more than 180 consecutive days must meet the applicable requirements in either s. 3.0 or s. 4.0 for the floodplain district in which the structure is located.*
- (11) *The campground shall have signs clearly posted at all entrances warning of a flood hazard and the procedures for evacuation when a flood warning is issued.*
- (12) *All service facilities, including but not limited to refuse collection, electrical services, natural gas lines, propane tanks, sewage systems and wells shall be properly anchored and placed at or floodproofed to the flood protection elevation.*

SEC. 13-3-21 RESERVED FOR FUTURE USE.