



AGENDA OF THE GREEN BAY PLAN COMMISSION

MONDAY, OCTOBER 10, 2022, 6:00 PM
Virtual Meeting. Public may join via Zoom.

A. Zoom Meeting Information.

1. This item contains Zoom information, instructions, and a link to the Virtual Comment Form.

B. Roll Call.

1. Members: Lisa Hanson - Chair, Jacob Miller - Vice-Chair, Ald. Jim Hutchison, Sidney Bremer, Derius Daniels, Ken Rovinski, and Michael Poradek.

C. Approval of the Agenda.

1. Approval of the agenda for the October 10, 2022, meeting of the Green Bay Plan Commission.

D. Approval of Minutes.

1. Approval of the minutes from the September 12, 2022, meeting of the Green Bay Plan Commission.

E. Regular Business.

1. Communication from Council: Review for possible modifications to Sec. 44-1580. - Residential uses, (j) Short-term rentals (STRs)- Ald. Wery, District 8.
2. (ZP 22-33) Public Hearing on request to rezone properties located in the 2500 Block of University Avenue (parcels 21-1247-1 & 21-1249-1-3) from Neighborhood Commercial (NC) to General Commercial (C1) and rezone portions of parcel 21-301 from NC to Varied-Density Residential (R3), submitted by Community and Economic Development, on behalf of RTH LLC, Meyer Family Investment Corp, and UHAGB LLC, property owners (Ald. Steve Campbell, District 5).
3. (ZP 22-33) Consideration with possible action on request to rezone properties located in the 2500 Block of University Avenue (parcels 21-1247-1 & 21-1249-1-3) from Neighborhood Commercial (NC) to General Commercial (C1) and rezone portions of parcel 21-301 from

NC to Varied-Density Residential (R3), submitted by Community and Economic Development, on behalf of RTH LLC, Meyer Family Investment Corp, and UHAGB LLC, property owners (Ald. S. Campbell, District 5).

4. (ZP 22-34) Public Hearing on request to rezone the property located at 727 N. Webster Avenue from Varied-Density Residential (R3) to Public Institutional (PI), submitted by Community and Economic Development, on behalf of the Redevelopment Authority, property owners (Ald. R. Scannell, District 7).
5. (ZP 22-34) Consideration with possible action on request to rezone the property located at 727 N. Webster Avenue from Varied-Density Residential (R3) to Public Institutional (PI), submitted by Community and Economic Development, on behalf of the Redevelopment Authority, property owners (Ald. R. Scannell, District 7).
6. (ED 22-02) Consideration with possible action on request to discontinue a utility easement between Robert Lane and Challenger Drive from Beth Drive to Jauquet Drive, submitted by City of Green Bay Department of Public Works, petitioner, multiple property owners.
7. (TA 22-01) Public Hearing on request to create a text amendment to Chapter 33, Article XIII, Divisions I-I I, Floodplain Overlay District Ordinance, Sections 44-1041 to 1368, Green Bay Municipal Code, submitted by Community and Economic Development.
8. (TA 22-01) Consideration with possible action on request to create a text amendment to Chapter 33, Article XIII, Divisions I-I I, Floodplain Overlay District Ordinance, Sections 44-1041 to 1368, Green Bay Municipal Code, submitted by Community and Economic Development.
9. (TA 22-02) Public Hearing on request to amend text within Chapter 44, Article XIX, Division 5 – Landscaping, Sections 44-1964 to 1969, Green Bay Municipal Code.
10. (TA 22-02) Consideration with possible action to amend text within Chapter 44, Article XIX, Division 5 – Landscaping, Sections 44-1964 to 1969, Green Bay Municipal Code.

F. Informational.

1. Director's Report.
2. Date of the next meeting: October 24, 2022

G. Adjournment.

- 1) THIS MEETING IS RECORDED: THE VIDEO OF THIS MEETING AND MINUTES ARE AVAILABLE ONLINE AT www.greenbaywi.gov
- 2) ACCESSIBILITY: Any person wishing to attend who requires special accommodation because of a disability, should contact the City Safety Manager at 920-448-3125 at least 48 hours before the scheduled meeting time so that arrangements can be made.
- 3) QUORUM: Please take notice that a majority or quorum of the Common Council will attend this Plan Commission meeting and will constitute a meeting of the Common Council for purposes of discussion and information gathering relative to this agenda.

- 4) REPRESENTATION: The party requesting the communication, or their representative, should be present at this meeting.

Virtual Meeting Instructions



Plan Commission

Zoom Meeting Information

Join Zoom Meeting

<https://us02web.zoom.us/j/84137675822?pwd=L2EyVlpDSlZGZ1FjcmlpWnZlOEVnUT09>

Meeting ID: 841 3767 5822

Passcode: 483400

One tap mobile

+13126266799,,84137675822# US (Chicago)

+16468769923,,84137675822# US (New York)

Dial by your location

+1 312 626 6799 US (Chicago)

+1 646 876 9923 US (New York)

+1 301 715 8592 US (Washington DC)

+1 408 638 0968 US (San Jose)

+1 669 900 6833 US (San Jose)

+1 253 215 8782 US (Tacoma)

+1 346 248 7799 US (Houston)

Meeting ID: 841 3767 5822

Passcode: 483400

Find your local number: <https://us02web.zoom.us/j/84137675822?pwd=L2EyVlpDSlZGZ1FjcmlpWnZlOEVnUT09>

Public Comments

If you wish to speak at this public meeting or leave a comment, please fill out the online [Comment Form](#) prior to the meeting.

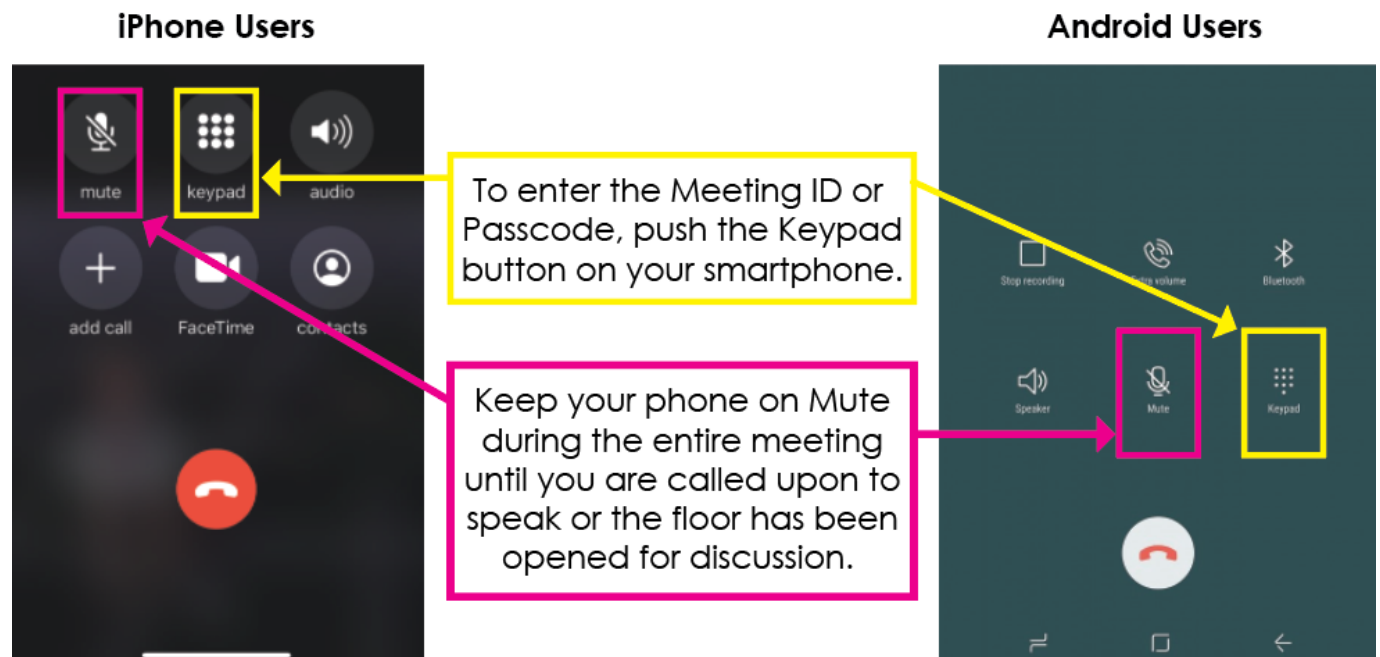
Additional Information

1. Wisconsin Open Meetings Law still applies
 - a. Persons interested in speaking to an item must state their name and address for the minutes.
 - b. Committee/Commission/Board members will still follow *Roberts Rules of Order Newly Revised 12th edition*.
2. Please log into the Zoom meeting at least 10 minutes before the meeting begins to ensure a proper connection and that your technology is working.
 - a. If you are a Board Member, please log into [CivicClerk](#) with a computer, laptop, or tablet device.
3. Once you are in the meeting please mute yourself.
 - a. You may unmute yourself when you are called upon to speak.
4. Waiting room
 - a. When you call in or connect via web or Zoom app, you will be placed in a “waiting room.”
 - b. The meeting host will then admit you to the meeting, and mute you upon entrance (you will still be able to hear and or otherwise observe the meeting).
5. Registering
 - a. The host may ask you to register for the meeting. A registration link will be sent to you along with the invite. You'll receive another email confirming that you're registered for the meeting.
 - b. If you're using a phone, your registration will be tied to an email.
6. Raising your hand
 - a. Committee/Commission/Board members—you can either use CivicClerk and request to speak or you can also utilize the “raise your hand” tool in the Zoom platform (you'd need to use a computer or tablet) to let the host know you would like to speak. You can also un-mute yourself and start speaking.
 - b. Persons with items on the agenda or other interested parties—you can also utilize the “raise your hand” tool on the Zoom platform via computer or mobile device. You will be allowed to speak once the committee, commission, or board has moved to “open the floor for interested parties to speak.” Once discussion on your agenda item has concluded, the host will mute you, unless the committee opens the floor again.
7. What devices should I use?
 - a. Smart phone (please see more detailed instructions on page 3)
 - b. Land line
 - c. Tablet—in advance of the meeting, please download the Zoom Meeting app by using either the Apple Store or the Play Store. You will be asked to input your name, to identify you for the meeting.
 - d. Computer—you can access the meeting through a web browser by clicking on the meeting link, or through the Zoom Meeting app. If using the app, please download it in advance of the meeting. You will be asked to input your name, to identify yourself for the meeting.
 - e. For tablet and computer users--if you download the app you may be asked to verify your email.

8. Zoom etiquette
 - a. Muting yourself when you're not speaking will prevent your background noise from interfering with others' ability to listen to and participate in the meeting.
 - b. If you're using a telephone, please identify yourself with your phone number and state your name and address before you speak. Zoom meeting hosts can see only your telephone number and will ask you to identify yourself.
9. Closed session
 - a. Persons in the Zoom meeting will be put into a waiting room while the committee/commission/board meets in Closed Session. Participants will be admitted back into the Zoom meeting once the committee reconvenes in Open Session.
 - b. Persons watching a Common Council meeting live on YouTube will see a gray screen with the City logo during closed session.
10. Persons interested in attending anonymously or listening to the meeting may call in by dialing *67 followed by the phone number in the Zoom Meeting Information box.

Calling into the Zoom meeting using a smartphone

1. Dial the phone number listed at the beginning of this document.
2. When prompted, enter the Meeting ID number followed by #
3. Once you are in the meeting, notify the meeting host that you are in and state your name.
4. If you do not wish to speak, please make sure your phone is on **Mute**
 - a. If you're using a smartphone, look at your screen and click the Mute button





Report to the Green Bay Plan Commission

MEETING DATE

October 10, 2022

PREPARED BY

David Buck, Staff

AGENDA ITEM # E.1

Communication from Council: Review for possible modifications to Sec. 44-1580. - Residential uses, (j) Short-term rentals (STRs)- Ald. Wery, District 8.

BACKGROUND

Request for the Plan Commission to review for possible modifications of the Green Bay Municipal Code, Chapter 44, Article XVI, Sec. 44-1580. - Residential uses, (j) Short-term rentals (STRs), submitted by Ald. Wery, District 8.

RECOMMENDATION

Refer to Staff

FISCAL IMPACT

ATTACHMENTS

- I. Dist 8 Communication re STR

From: noreply@civicplus.com
To: [Celestine Jeffreys](#)
Subject: Online Form Submittal: Alders' Petitions and Communications
Date: Friday, September 9, 2022 10:57:26 AM

Alders' Petitions and Communications

Name Chris Wery

Committee Name Plan Commission

Text of Communication

Review for possible modifications to Sec. 44-1580. - Residential uses, (j) Short-term rentals (STRs).

Review application fees, renewal fees, penalties for running an STR with no application, taxing properties as commercial, process to suspend or remove license based on complaints and public access to list of owners/contacts of properties so that public can direct complaints to the source. Review for any other changes that would improve the ordinance for both the license holder, citizens living near them and the city of Green Bay.

Respectfully,

Alderman Chris Wery

Email not displaying correctly? [View it in your browser.](#)



Report to the Green Bay Plan Commission

MEETING DATE

October 10, 2022

PREPARED BY

Stephanie Hummel, Staff

AGENDA ITEM # E.2

(ZP 22-33) Public Hearing on request to rezone properties located in the 2500 Block of University Avenue (parcels 21-1247-1 & 21-1249-1-3) from Neighborhood Commercial (NC) to General Commercial (C1) and rezone portions of parcel 21-301 from NC to Varied-Density Residential (R3), submitted by Community and Economic Development, on behalf of RTH LLC, Meyer Family Investment Corp, and UHAGB LLC, property owners (Ald. Steve Campbell, District 5).

BACKGROUND

RECOMMENDATION

FISCAL IMPACT

ATTACHMENTS

None



Report to the Green Bay Plan Commission

MEETING DATE

October 10, 2022

PREPARED BY

Stephanie Hummel, Staff

AGENDA ITEM # E.3

(ZP 22-33) Consideration with possible action on request to rezone properties located in the 2500 Block of University Avenue (parcels 21-1247-1 & 21-1249-1-3) from Neighborhood Commercial (NC) to General Commercial (C1) and rezone portions of parcel 21-301 from NC to Varied-Density Residential (R3), submitted by Community and Economic Development, on behalf of RTH LLC, Meyer Family Investment Corp, and UHAGB LLC, property owners (Ald. S. Campbell, District 5).

BACKGROUND

Primary Address: 2500 Block University Avenue

Aldersperson/District: Ald. Craig Stevens / District 5

Reason for Request: The proposed rezoning is being considered a clean-up action, bringing all lots along this block into a more appropriate zoning district for the area.

Surrounding Zoning and Land Uses:

SUBJECT: Neighborhood Commercial (NC) - Vacant

NORTH: General Commercial (C1) - Storage, Auto-Oriented Commercial

SOUTH: Varied-Density Residential (R3) - Multi-Family Dwellings

EAST: Varied Density Residential (R3)/General Commercial (C1) - Multi-Family Dwellings, Vacant

WEST: Varied Density Residential (R3)/Highway Commercial (C2) - Multi-Family Dwellings, Auto-Oriented Commercial

Comprehensive Plan: The 2022 Smart Growth Plan designates this area for Commercial Uses. This request is consistent with the Comprehensive Plan.

Report: The subject parcels are located along the 2500 Block of University Avenue. The Plan Commission recently approved the rezoning of an adjacent parcel, 2560 University Avenue, from Neighborhood Commercial (NC) to General Commercial (C1). As described in that application, C1 is the more appropriate zoning district for this block given the existing uses nearby and due to shifts in the overall development pattern for this block.

Two parcels (21-1247-1 and 21-1249-1-3) are both located along University Avenue. A rezoning to C1 would be a continuation from the above-mentioned application, so the frontage of the block is all C1. Staff believes C1 is the more appropriate fit. Generally, both zoning districts allow many of the same uses. The C1 district allows for more retail sales uses, while the NC district allows more residential uses. The largest difference between these districts is the dimensional requirements: NC requires a minimum of 0.5 for a Floor Area Ratio, while C1 requires 0.1. We believe the density required in C1 is more appropriate for this neighborhood than the density required in the NC district.

The third parcel (21-301) is the home of a large-scale residential development. There are fragments of NC

left on this parcel that are not needed. We are recommending those portions be rezoned to Varied-Density Residential (R3) to match the rest of the parcel.

Ald. Craig Stevens and adjacent property owners within 200 ft. have been notified of the request. As of the drafting of this report, staff had received one inquiry regarding the request, but no objections.

RECOMMENDATION

Approval of the Request.

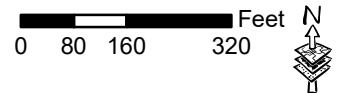
FISCAL IMPACT

ATTACHMENTS

- I. ZP 22-33 Map



(ZP 22-33) Rezone from NC to C1 & R3 2500 Block University Avenue



This is a compilation of records and data located in various City of Green Bay offices and is to be used for reference purposes only. The City of Green Bay is not responsible for any inaccuracies or unauthorized use of the information contained within. No warranties are implied. Map prepared by City of Green Bay Department of Community and Economic Development. E.R. 28 Sep 2022 X:\Planning\Basemaps\template_8.5x11.mxd

- Subject Parcels
- 200-ft. Notification Area



Report to the Green Bay Plan Commission

MEETING DATE

October 10, 2022

PREPARED BY

Stephanie Hummel, Staff

AGENDA ITEM # E.4

(ZP 22-34) Public Hearing on request to rezone the property located at 727 N. Webster Avenue from Varied-Density Residential (R3) to Public Institutional (PI), submitted by Community and Economic Development, on behalf of the Redevelopment Authority, property owners (Ald. R. Scannell, District 7).

BACKGROUND

RECOMMENDATION

FISCAL IMPACT

ATTACHMENTS

None



Report to the Green Bay Plan Commission

MEETING DATE

October 10, 2022

PREPARED BY

Stephanie Hummel, Staff

AGENDA ITEM # E.5

(ZP 22-34) Consideration with possible action on request to rezone the property located at 727 N. Webster Avenue from Varied-Density Residential (R3) to Public Institutional (PI), submitted by Community and Economic Development, on behalf of the Redevelopment Authority, property owners (Ald. R. Scannell, District 7).

BACKGROUND

Primary Address: 727 N. Webster Avenue

Alderson/District: Ald. Randy Scannell / District 7

Reason for Request: The proposed rezoning is considered a clean-up action, giving this parcel the correct zoning that matches the rest of the park area.

Surrounding Zoning and Land Uses:

SUBJECT: Varied-Density Residential (R3) - Sculpture Park

NORTH: Public Institutional (PI) - Sculpture Park

SOUTH: Public Institutional (PI) - Fire Station 2

EAST: Low-Density Residential (R1) - Single-Family Dwellings

WEST: Public Institutional (PI) - Sculpture Park

Comprehensive Plan: The 2022 Smart Growth Plan designates this area for Public or Semi-Public Uses. This request is consistent with the Comprehensive Plan.

Report: The subject parcel, 727 N. Webster Avenue, is part of an unnamed sculpture park. The park, located behind Fire Station 2, is not an official City park, but is a designated area for public art. This park is made up of five separate parcels in need of consolidation. Because of this, we need to rezone the subject parcel to match the rest of the park area. The park area is zoning Public Institutional (PI).

Ald. Randy Scannell and adjacent property owners within 200 ft. have been notified of the request. As of the drafting of this report, staff had received no inquiries regarding the request.

RECOMMENDATION

Approval of the Request.

FISCAL IMPACT

ATTACHMENTS

- I. ZP 22-34 Map



Report to the Green Bay Plan Commission

MEETING DATE

October 10, 2022

PREPARED BY

Stephanie Hummel, Staff

AGENDA ITEM # E.6

(ED 22-02) Consideration with possible action on request to discontinue a utility easement between Robert Lane and Challenger Drive from Beth Drive to Jauquet Drive, submitted by City of Green Bay Department of Public Works, petitioner, multiple property owners.

BACKGROUND

Primary Address: Between Robert Lane and Challenger Drive from Beth Drive to Jauquet Drive

Aldersperson /District: Ald. Jim Hutchison / District 2

Reason for Request: To discontinue an unused 6 ft. utility easement.

Analysis: This area has three existing 6 ft. utility easements along the rear lot lines of the property. The subject easement is unused and can be discontinued.

Ald. Jim Hutchison, adjoining property owners, and the agencies below, were informed of the request. Agencies were informed that if they failed to respond or indicate locations of facilities, it will be assumed that none are present. No objections were received from property owners.

- Department of Public Works: No Objection
- Wisconsin Public Service: No Objection
- AT&T: No Response
- Green Bay Water Utility: No Objection
- Time Warner Cable: No Response
- Department of Parks, Recreation, & Forestry: No Objection
- American Transmission Company: No Objection
- Mobilitie: No Response
- NEW Water: No Objection
- Charter: No Response

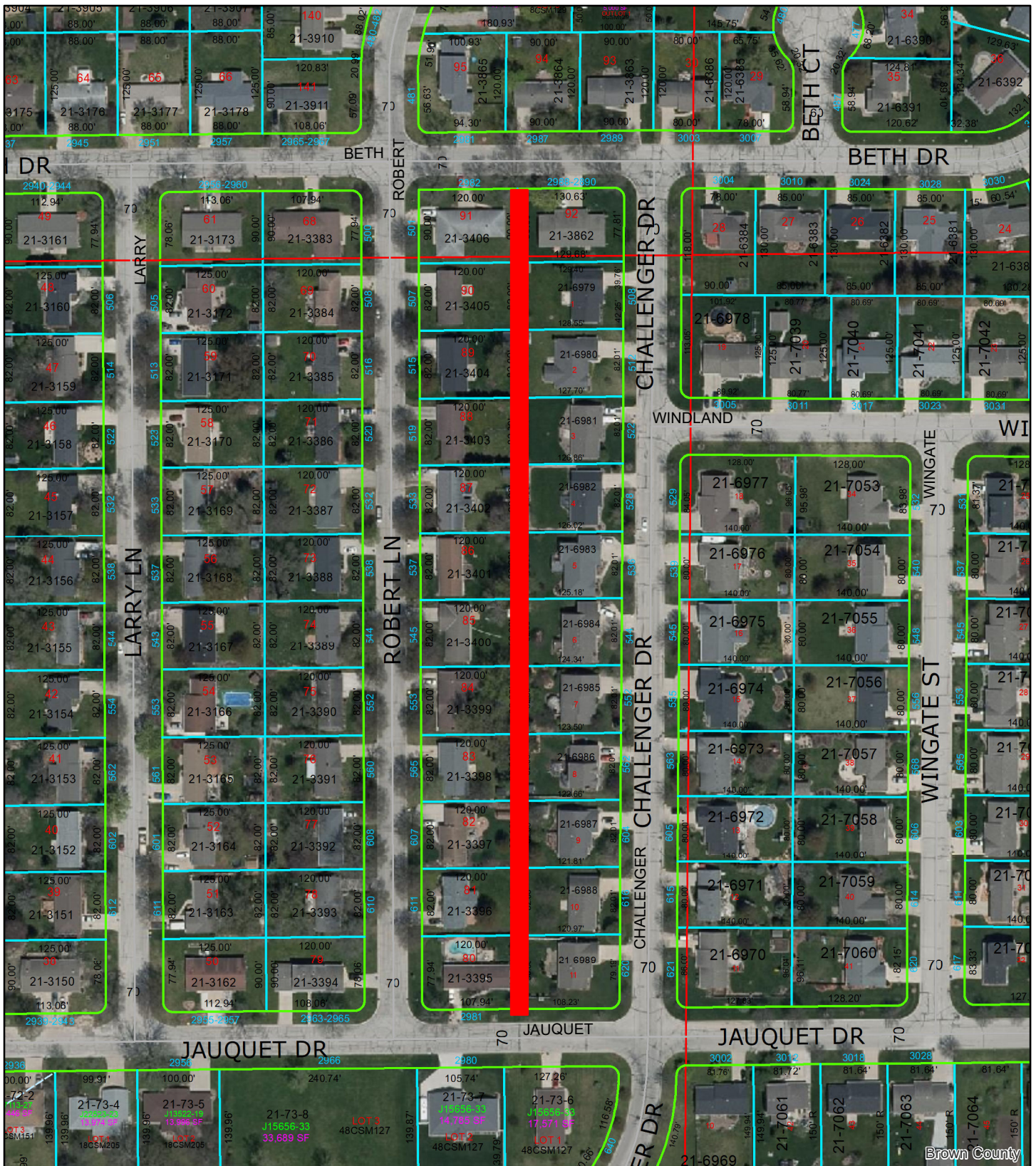
RECOMMENDATION

Approval of the Request.

FISCAL IMPACT

ATTACHMENTS

1. ED 22-02 Map
2. ED 22-02 Easement Exhibit



(ED 22-02) 6' Utility Easement Discontinuance



This is a compilation of records and data located in various City of Green Bay offices and is to be used for reference purposes only. The City of Green Bay is not responsible for any inaccuracies or unauthorized use of the information contained within. No warranties are implied. Map prepared by City of Green Bay Department of Community and Economic Development. E.R. 28 Sep 2022 X:\Planning\Basemaps\template_8.5x11.mxd

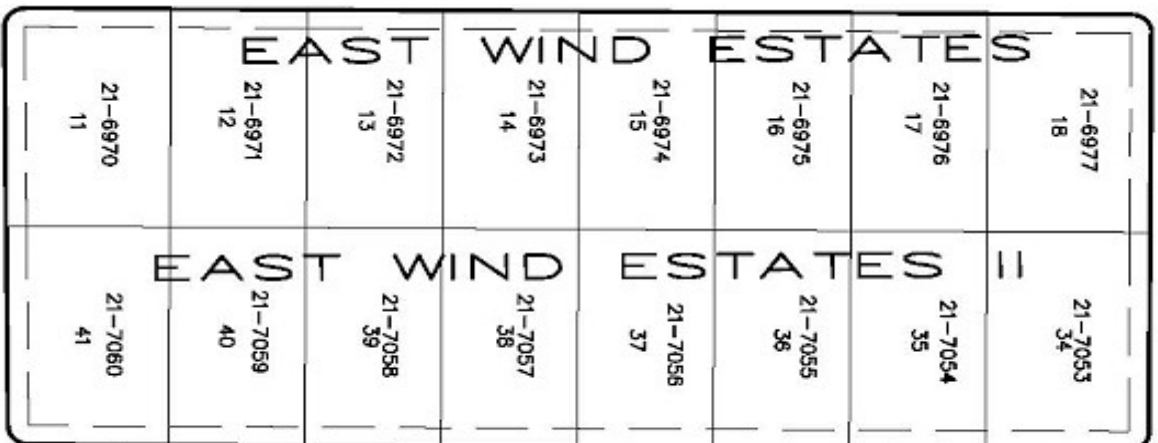
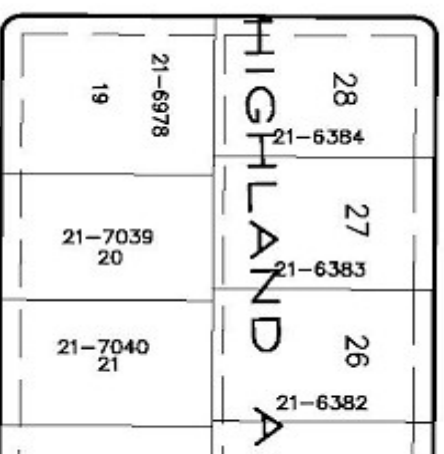
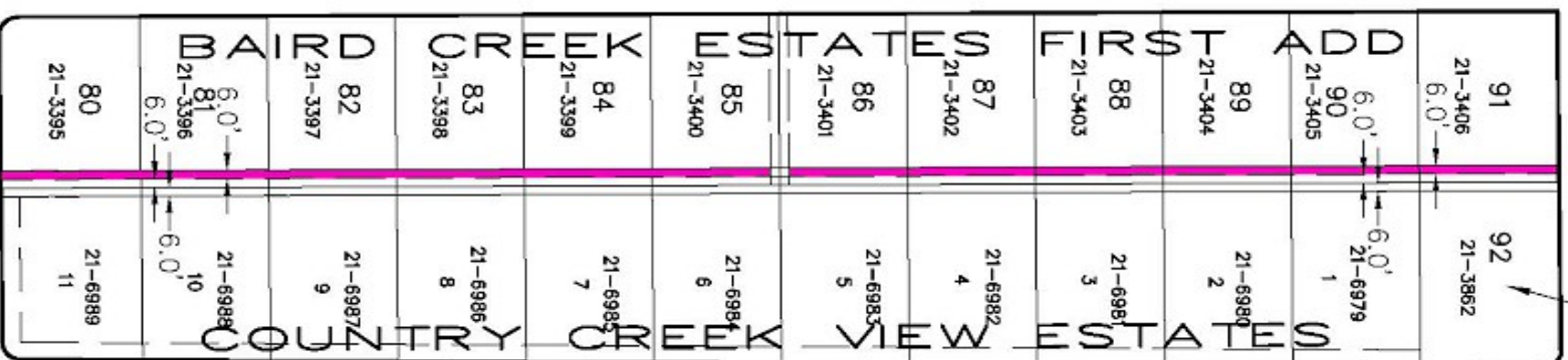
 Easement Area

BETH DR

LOT 92 BAIRD CREEK ESTATES SECOND ADDITION

NOTE: THIS REQUEST IS TO DISCONTINUE ONLY THE WEST 6 FEET OF THE EAST 12 FEET OF LOTS 80 THROUGH 91, BAIRD CREEK ESTATES FIRST ADDITION. EXCEPTING THEREFROM THE NORTH 6 FEET OF THE WEST 6 FEET OF THE EAST 12 FEET OF SAID LOT 85, AND THE SOUTH 6 FEET OF THE WEST 6 FEET OF THE EAST 12 FEET OF SAID LOT 86.

THE PUBLIC UTILITY EASEMENTS ACROSS THE EAST 6 FEET OF SAID LOTS 80 THROUGH 91 BAIRD CREEK ESTATES FIRST ADDITION AND THE WEST 6 FEET OF LOT 92 BAIRD CREEK ESTATES SECOND ADDITION AND THE WEST 6 FEET OF LOTS 1 THROUGH 11 COUNTRY VIEW ESTATES TO REMAIN.



6' EASEMENT TO BE DISCONTINUED

TWO 6' EASEMENTS TO REMAIN

JAUQUET DR

DISCLAIMER
This Computer Aided Drafting and Design (CAD) drawing is a compilation of records and data located in various Public and Private offices. Bearings and distances on this map are based on Brown County base maps. A field survey has not been completed. Brown County and/or City of Green Bay are not responsible for any inaccuracies or unauthorized use of the information contained within. No warranties are implied.

CITY OF GREEN BAY, WISCONSIN
DEPT. OF PUBLIC WORKS - ENGINEERING DIVISION

PUBLIC UTILITY EASEMENT TO BE DISCONTINUED -
WEST 6 FEET OF EAST 12 FEET OF LOTS 80 THROUGH 91
BAIRD CREEK ESTATES FIRST ADDITION



TOTAL	10	10	10
DATE	6/30/2022	2:12:20 PM	



Report to the Green Bay Plan Commission

MEETING DATE

October 10, 2022

PREPARED BY

Jon LeRoy, Zoning Administrator

AGENDA ITEM # E.7

(TA 22-01) Public Hearing on request to create a text amendment to Chapter 33, Article XIII, Divisions I-I I, Floodplain Overlay District Ordinance, Sections 44-1041 to 1368, Green Bay Municipal Code, submitted by Community and Economic Development.

BACKGROUND

RECOMMENDATION

FISCAL IMPACT

ATTACHMENTS

None



Report to the Green Bay Plan Commission

MEETING DATE

October 10, 2022

PREPARED BY

Jon LeRoy, Zoning Administrator

AGENDA ITEM # E.8

(TA 22-01) Consideration with possible action on request to create a text amendment to Chapter 33, Article XIII, Divisions I-I I, Floodplain Overlay District Ordinance, Sections 44-1041 to 1368, Green Bay Municipal Code, submitted by Community and Economic Development.

BACKGROUND

Request: Discussion and action on a request to repeal and recreate Chapter 44-1041-1368 to be compliant with the regulations of NR 116. Wis. Admin. Code, and those of the National Flood Insurance Program NFIP 44 CFR 59-72, submitted by the Green Bay Planning Department.

Reason for Request: To adopt the WDNR model floodplain ordinance update.

Comprehensive Plan: The 2022 Smart Growth-Green Bay Comprehensive plan addresses floodplain management with protection of floodplains / floodways through administration and enforcement of the city's floodplain zoning regulations, Chapter 44-1041-1368.

Report: The Planning Department is responding to a directive by the Federal Emergency Management Agency (FEMA) and the Wisconsin Department of Natural Resources (WDNR) to adopt new floodplain standards. Minimum standards for floodplain zoning are set by FEMA and the WDNR. The City of Green Bay administers the floodplain zoning ordinance so that property owners in the city are eligible for flood insurance under the National Flood Insurance Program (NFIP).

The city has been directed by FEMA and the WDNR to adopt the model floodplain ordinance to be compliant with NFIP 44 CFR 5-72. The city must adopt the model ordinance in order to maintain eligibility in the NFIP and the minimum standards set by WDNR and FEMA. The last update to the floodplain ordinance was completed in 2014. The language is nearly identical to the model ordinance, but modified to be integrated within the city's municipal code.

RECOMMENDATION

Approval of the Request.

FISCAL IMPACT

ATTACHMENTS

- I. DRAFT GO 22-22 - Repeal Replace Ch 44 Art XIII - Floodplain (003)

GENERAL ORDINANCE NO. 22-22

**AN ORDINANCE
REPEALING AND RECREATING CHAPTER 44, ARTICLE XIII,
GREEN BAY MUNICIPAL CODE,
RELATING TO FLOODPLAIN OVERLAY DISTRICT**

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

SECTION 1. Article XIII of Chapter 44, Green Bay Municipal Code, is hereby repealed and recreated to read:

DIVISION 1. STATUTORY AUTHORIZATION, FINDING OF FACT, STATEMENT OF PURPOSE, TITLE, AND DEFINITIONS

44-1041. Statutory authorization. The ordinance from which this article is derived is adopted pursuant to the authorization in Wis. Stat. § 62.23 and the requirements in Wis. Stat. § 87.30.

44-1042. 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.

44-1043. Statement of purpose. This Article 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) 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 any practicable alternative exists to locate the activity, use, or structure outside of the floodplain.

44-1044. Title. This Article shall be known as the Floodplain Zoning Code of the City of Green Bay.

44-1045. Definitions. Unless specifically defined, words and phrases in this article 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. If a conflict should arise between a definition in this section and any definition(s) applicable elsewhere in this Chapter, the definition in this section shall control.

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

AH Zone has the meaning given to *Area of shallow flooding*.

AO Zone has the meaning given to *Area of shallow flooding*.

Accessory structure or use means 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.

Alteration means 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.

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

Base flood means the flood having a one (1) percent chance of being equaled or exceeded in any given year, as published by FEMA as part of a FIS and depicted on a FIRM.

Basement means any enclosed area of a building having its floor sub-grade on all sides.

Breakaway wall means 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.

Building has the meaning given to *Structure*.

Bulkhead line means a geographic line along a reach of navigable water that has been adopted by a municipal ordinance and approved by the Department pursuant to Wis. Stats. § 30.11 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 article.

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

Camping unit means 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.

Certificate of compliance means 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 article.

Channel means a natural or artificial watercourse with definite bed and banks to confine and conduct normal flow of water.

Coastal floodplain means an area along the coast of Lake Michigan which is inundated by the regional flood and which is also subject to additional hazard due to wave runoff.

Coastal high hazard area means an area of special flood hazard extending from offshore to the inland limit of a primary frontal dune along an open coast, and any other area subject to high velocity wave action from storms.

Crawlway or *crawl space* means an enclosed area below the first usable floor of a building, generally less than five (5) feet in height, used for access to plumbing and electrical utilities.

Deck means an unenclosed exterior structure that has no roof or sides and has a permeable floor which allows the infiltration of precipitation.

Department or *DNR* means the Wisconsin Department of Natural Resources.

Development means 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.

Director means the Director of the Department of Community and Economic Development or their designee.

Dryland access means a vehicular access route which is above the regional flood elevation and which connects land located in the floodplain to land outside the floodplain, such as a road with its surface above regional flood elevation and wide enough for wheeled rescue and relief

vehicles.

Encroachment means any fill, structure, equipment, use, or development in the floodway.

Federal Emergency Management Agency or *FEMA* means the federal agency that administers the National Flood Insurance Program.

Flood or *flooding* means a general and temporary condition of partial or complete inundation of normally dry land areas caused by one of the following conditions:

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

Flood frequency means 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.

Flood hazard boundary map means 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 until superseded by a Flood Insurance Study and a Flood Insurance Rate Map.

Flood Insurance Rate Map or *FIRM* means 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.

Flood insurance study or *FIS* means 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.

Flood profile means a graph or 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.

Flood protection elevation means an elevation of two (2) feet of freeboard above the Regional Flood Elevation. (Also see *freeboard*.)

Flood storage means those floodplain areas where storage of floodwaters has been taken into account during analysis in reducing the regional flood discharge.

Floodfringe means 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.

Floodplain means land which has been or may be covered by flood water during the regional flood. It includes the floodway and the floodfringe and may include other designated floodplain areas for regulatory purposes.

Floodplain island means a natural geologic land formation within the floodplain that is surrounded, but not covered, by floodwater during the regional flood.

Floodplain management means policies and procedures used to ensure wise use of floodplains, including mapping and engineering, mitigation, education, and administration and enforcement of floodplain regulations.

Floodproofing means 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.

Floodway means the channel of a river or stream and those portions of the floodplain adjoining the channel required to carry the regional flood discharge.

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

Habitable structure means any structure or portion thereof used or designed for human habitation.

Hearing notice means publication or posting meeting the requirements of Wis. Stats. Ch. 985. 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 one week (7 days) before the hearing, is required. Local ordinances or bylaws may require additional notice exceeding these minimums.

High flood damage potential means damage that could result from flooding that includes any danger to life or health or any significant economic loss to a structure or building and its contents.

Highest adjacent grade means the highest natural elevation of the ground surface prior to

construction next to the proposed walls of a structure.

Historic structure means any structure that meets one of the following criteria:

- (1) The structure is listed individually in the National Register of Historic Places or the Secretary of the Interior has preliminarily determined that it meets the requirements for individual listing on the National Register.
- (2) The structure has been certified as contributing, or the Secretary of the Interior has preliminarily determined that the structure contributes, to the historical significance of a registered historic district or a district preliminarily determined by the Secretary to qualify as a registered historic district.
- (3) The structure is individually listed on a state inventory of historic places in states with historic preservation programs that have been approved by the Secretary of the Interior.
- (4) The structure is individually listed on a local inventory of historic places in communities with historic preservation programs that have been certified either by an approved state program, as determined by the Secretary of the Interior, or by the Secretary of the Interior in states without approved programs.

Increase in regional flood height means 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.

Land use means any nonstructural use made of unimproved or improved real estate. (Also see *development*.)

Lowest adjacent grade means elevation of the lowest ground surface that touches any of the exterior walls of a building.

Lowest floor means the lowest floor of the lowest enclosed area, including a basement. An enclosed space as provided in Section 44-1241(6)c., is not considered the building's lowest floor.

Maintenance means 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.

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

Mobile/manufactured home park or subdivision means a parcel or contiguous parcels of land divided into two or more manufactured home lots for rent or sale.

Mobile/manufactured home park or subdivision, existing means 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 the ordinance from which this article is derived. This includes, but is not limited to, the installation of utilities, the construction of streets, and either final site grading or the pouring of concrete pads.

Mobile/manufactured home park, expansion to existing means the preparation of additional sites by the construction of facilities for servicing the lots on which the manufactured homes are to be affixed. This includes installation of utilities, construction of streets, and either final site grading or the pouring of concrete pads.

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

Model, corrected effective means a hydraulic engineering model that corrects any errors that occur in the Duplicate Effective Model, adds any additional cross sections to the Duplicate Effective Model, or incorporates more detailed topographic information than that used in the current effective model.

Model, duplicate effective means a copy of the hydraulic analysis used in the effective FIS and referred to as the effective model.

Model, effective means the hydraulic engineering model that was used to produce the current effective Flood Insurance Study.

Model, existing (pre-project) means a modification of the Duplicate Effective Model or Corrected Effective Model to reflect any humanmade modifications that have occurred within the floodplain since the date of the effective model but prior to the construction of the project for which the revision is being requested. If no modification has occurred since the date of the effective model, then this model would be identical to the Corrected Effective Model or Duplicate Effective Model.

Model, revised (post-project) means a modification of the Existing or Pre-Project Conditions Model, Duplicate Effective Model, or Corrected Effective Model to reflect revised or post-project conditions.

Moderate wave action area (MoWA) means a special flood hazard area subject to the potential for breaking wave heights of greater than or equal to one and one-half (1.5) feet, but less than three (3) feet, where the primary source of flooding is astronomical tides, storm surges, seiches, and/or tsunamis. A MoWA is an area within zone AE on a FIRM that is between the inland limit of zone VE and a Limit of Moderate Wave Action, where identified. (Also known as “coastal A zone.”)

National Geodetic Vertical Datum or *NGVD* means elevations referenced to mean sea level datum, 1929 adjustment.

New construction means 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.

Non-flood disaster means a fire or an ice storm, tornado, windstorm, mudslide or other destructive act of nature, but excludes a flood.

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

Nonconforming use means an existing lawful use or accessory use of a structure or building which is not in conformity with the provisions of this article for the area of the floodplain which it occupies, such as a residence in the floodway.

North American Vertical Datum or *NAVD* means elevations referenced to mean sea level datum, 1988 adjustment.

Obstruction to flow means any development which blocks the conveyance of floodwaters such that the development alone or together with any future development will cause an increase in regional flood height.

Official floodplain zoning map means that map, adopted and made part of this article, as described in Section 44-1075, which has been approved by the Department and FEMA.

Open space use means those uses having a relatively low flood damage potential and not involving structures.

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

Person means an individual or group of individuals, corporation, partnership, association,

municipality, or state agency.

Primary frontal dune means a continuous or nearly continuous mound or ridge of sand with relatively steep seaward and landward slopes immediately landward and adjacent to the beach and subject to erosion and overtopping from high tides and waves during major coastal storms. The inland limit of the primary frontal dune occurs at the point where there is a distinct change from a relatively steep slope to a relatively mild slope.

Private sewage system means 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.

Public utilities means those utilities using underground or overhead transmission lines such as electric, telephone, and telegraph, and distribution and collection systems such as water, sanitary sewer, and storm sewer.

Ready for highway use means a mobile recreational vehicle that is on its wheels or jacking system, is attached to a site only by quick-disconnect utilities and security devices, and has no permanently attached additions.

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.

Regional flood means a flood determined to be representative of large floods known to have occurred in Wisconsin. A regional flood is a flood with a one (1) percent chance of being equaled or exceeded in any given year, and if depicted on the FIRM, the regional flood elevation (RFE) is equivalent to the base flood elevation (BFE).

Sand dunes means naturally occurring accumulations of sand in ridges or mounds landward of the beach.

Start of construction means 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; the excavation for a basement, footings, piers, or foundations or the erection of temporary forms; the installation on the property of accessory buildings, such as garages or sheds not occupied as dwelling units nor part of the main structure. For an alteration, the actual start of construction means the first alteration of any wall, ceiling, floor, or other

structural part of a building, whether or not that alteration affects the external dimensions of the building.

Structure means 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.

Subdivision means has the meaning given in Wis. Stats. § 236.02(12).

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

Substantial improvement means 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 any alteration of a historic structure, provided that the alteration will not preclude the structure's continued designation as a historic structure, nor any project for the improvement of a building required to correct existing health, sanitary, or safety code violations identified by the Director of the Department of Community and Economic Development and which improvements are the minimum necessary to assure safe living conditions.

Unnecessary hardship means special conditions affecting a particular property which were not self-created and have made strict conformity with restrictions governing areas, setbacks, frontage, height, or density unnecessarily burdensome or unreasonable in light of the purposes of this article.

Variance means an authorization by the Board of Appeals for the construction or maintenance of a building or structure in a manner which is inconsistent with dimensional standards (not uses) contained in this article.

Violation means the failure of a structure or other development to be fully compliant with this article. A structure or other development without required permits, lowest floor elevation documentation, floodproofing certificates, or required floodway encroachment calculations is presumed to be in violation until such time as that documentation is provided.

Watershed means the entire region contributing runoff or surface water to a watercourse or body of water.

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

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

Zoning Administrator means the appointed Zoning Administrator or their designee.

Sections 44-1046 to 44-1073. Reserved.

DIVISION 2. GENERAL PROVISIONS

44-1074. Areas to be regulated. This Article regulates all areas of special flood hazard identified as zones A, AO, AH, A1-30, AE, VE, V1-30, or V on the Flood Insurance Rate Map. Additional areas identified on maps approved by the DNR and the City may also be regulated under the provisions of this article, where applicable.

44-1075. Official maps and revisions. Special Flood Hazard Areas (SFHA) are designated as zones A, A1-30, AE, AH, AO, VE, V1-30 or V on the Flood Insurance Rate Maps (FIRMs) based on flood hazard analyses summarized in the Flood Insurance Study (FIS) listed in subsection (1) below. Additional flood hazard areas subject to regulation under this article are identified on maps based on studies approved by the DNR and listed in subsection (2) below. These maps and revisions are on file in the office of the Zoning Administrator for the City of Green Bay.

(1) *Official maps based on the Flood Insurance Study (FIS).*

a. Flood Insurance Rate Map (FIRM), City of Green Bay, Wisconsin

<u>Panel number</u>	<u>Dated</u>
55009C0161F	8/18/2009
55009C0162F	8/18/2009
55009C0163F	8/18/2009
55009C0164F	8/18/2009
55009C0166F	8/18/2009
55009C0167F	8/18/2009
55009C0168F	8/18/2009
55009C0169F	8/18/2009
55009C0183F	8/18/2009
55009C0184F	8/18/2009
55009C0186F	8/18/2009
55009C0187F	8/18/2009
55009C0188F	8/18/2009
55009C0189F	8/18/2009
55009C0191F	8/18/2009
55009C0192F	8/18/2009
55009C0193F	8/18/2009
55009C0194F	8/18/2009
55009C0215F	8/18/2009
55009C0232F	8/18/2009
55009C0251F	8/18/2009

55009C0252F	8/18/2009
55009C0256F	8/18/2009
55009C0257F	8/18/2009
55009C0276F	8/18/2009
55009C0277F	8/18/2009
55009C0281F	8/18/2009
55009C0282F	8/18/2009
55009C0142G	3/17/2014
55009C0144G	3/14/2014

b. Flood Insurance Rate Maps (FIRM) – Adjoining Communities

<u>Panel Number</u>	<u>Date</u>
55009C0215F	8/18/2009
55009C0305F	8/18/2009
55009C0284F	8/18/2009
55009C0283F	8/18/2009
55009C0279F	8/18/2009
55009C0278F	8/18/2009
55009C0252F	8/18/2009
55009C0251F	8/18/2009
55009C0144G	8/18/2009
55009C0161F	8/18/2009
55009C0162F	8/18/2009
55009C0158G	8/18/2009

c. Flood Insurance Study (FIS), City of Green Bay, Wisconsin, dated 3/17/2014.

d. Flood Insurance Study (FIS), Adjoining Communities, dated 3/17/2014.

e. *Letter of Map Revision*. The following are Letter of Map Revisions Based on Fill (LOMR-F) on file with the Community & Economic Development Department:

<u>Case Number</u>	<u>Tax Parcel</u>	<u>Date Approved</u>
22-05-1062A	21-1083	2/9/2022
22-05-0940A	18-781	1/24/2022
21-05-3855C	22-55-1	11/16/2021
21-05-1276A	21-947	2/10/2021
20-05-1747A	15-168-A	3/6/2020
19-05-2212A	22-58	4/3/2019
18-05-2755A	22-1231	4/5/2018
17-05-4875A	23-260-2	7/12/2017
15-05-4265A	21-1159	7/8/2015

(2) *Official maps based on other studies*. Any official maps adopted pursuant to this article shall be approved by the DNR prior to adoption and must be more restrictive than those based on the FIS at the site of the proposed development.

Sections 44-1076 to 44-1103. Reserved.

DIVISION 3. ESTABLISHMENT OF FLOODPLAIN ZONING DISTRICTS

44-1104. Districts defined. The flood hazard areas regulated by this article are divided into districts as follows.

- (1) The Floodway District (FW) consists of the channel of a river or stream and those portions of the floodplain adjoining the channel required to carry the regional floodwaters, within AE Zones as shown on the FIRM, or within A Zones shown on the FIRM when determined according to Section 44-1224.
- (2) The Floodfringe District (FF) consists of 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 Section 44-1224, within A Zones shown on the FIRM.
- (3) The General Floodplain District (GFP) consists of 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.
- (4) The Coastal Floodplain District (CFP) is an area of special flood hazard extending from offshore to the inland limit of a primary frontal dune along an open coast, and any other area subject to high velocity wave action from storms, including areas identified as zone V, V1-30, or VE on the FIRM. Where a riverine AE floodway extends into the CFP district, development within the floodway must comply with the regulations for both the FW and CFP districts. Where a riverine A zone or AE zone with no floodway determination abuts the CFP district, the riverine study's floodway limit must be determined based on standard floodway expansion principles within the CFP district and development within the floodway must comply with the standards for both the FW and CFP districts.

44-1105. 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 this subsection. If a significant difference exists, the map shall be amended according to this article. 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 Section 44-1281 and the criteria in this subsection. Where the flood profiles are based on established base flood elevations from a FIRM, FEMA must approve any map amendment or revision pursuant to Division 11 of this article.

- (1) If flood profiles exist, the map scale and profile elevations shall determine the district boundary. The regional or base flood elevations shall govern if there are any discrepancies.
- (2) Where flood profiles do not exist for projects, including any boundary of zone A, AO, V1-30, VE or V, the location of the boundary shall be determined by the map scale.

44-1106. Removal of lands from floodplain.

- (a) Compliance with the provisions of this article shall not be grounds for removing land from the floodplain unless it is filled at least two (2) feet above the regional or base flood elevation, the fill is contiguous to land outside the floodplain, and the map is amended pursuant to this article.
- (b) The delineation of any of the Floodplain Districts may be revised by the City where natural or human-made changes have occurred and/or where more detailed studies have been conducted. Prior to any such change, approval must be obtained from the DNR and FEMA. A completed Letter of Map Revision is a record of this approval. The floodplain administrator shall not sign a community acknowledgement form unless all of the following criteria are met.
 - (1) The land and/or land around the structure must be filled at least two (2) feet above the regional or base flood elevation.
 - (2) The fill must be contiguous to land outside the floodplain.
 - (3) The applicant shall obtain a floodplain development permit before applying for a LOMR or LOMR-F.
- (c) Removal of lands from the floodplain may also occur by operation of Wis. Stats. § 87.30(1)(e) if a property owner has obtained a letter of map amendment from FEMA under 44 C.F.R. 70.

44-1107. Compliance.

- (a) No structure or use within the areas regulated by this article 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 regulations applicable 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 Division 12.
- (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 Division 12.

44-1108. Municipalities and state agencies regulated. Unless specifically exempted by law, all cities, villages, towns, and counties are required to comply with this article and obtain all necessary permits. State agencies are required to comply if Wis. Stats. § 13.48(13) applies. The construction, reconstruction, maintenance, and repair of state highways and bridges by the Wisconsin Department of Transportation is exempt when Wis. Stats. § 30.2022 applies. Although exempt from local zoning permitting requirements and fees, DOT must provide sufficient project documentation and analysis to ensure that the City remains in compliance with federal, state, and local floodplain standards.

44-1109. Abrogation and greater restrictions.

- (a) The ordinance from which this article is derived supersedes all provisions of any municipal zoning ordinance enacted under Wis. Stat. § 62.23 which relate to floodplains. A more restrictive provision shall continue in full force and effect to the extent of the greater restrictions, but not otherwise.
- (b) The ordinance from which this article is derived is not intended to repeal, abrogate, or impair any existing deed restrictions, covenants, or easements. If this article imposes greater restrictions, the provisions of this article shall prevail.

44-1110. Interpretation. In their interpretation and application, the provisions of this article 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 article required by Wis. Admin. Code NR ch. 116 is unclear, the provision shall be interpreted in light of the standards in effect on the date of the adoption of the ordinance from which this article is derived or in effect on the date of the most recent text amendment to this article.

44-1111. Warning and disclaimer of liability. The flood protection standards in this article are based on engineering experience and research. Larger floods may occur, or flood height may be increased by man-made or natural causes. This Article does not imply or guarantee that non-floodplain areas or permitted floodplain uses will be free from flooding and flood damages. This Article 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 article.

44-1112. Severability. Should any portion of this article be declared unconstitutional or invalid by a court of competent jurisdiction, the remainder of this article shall not be affected.

44-1113. Annexed areas. The Brown County floodplain zoning provisions in effect on the date of annexation 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 Wis. Admin. Code NR ch. 116 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 Zoning Administrator. All plats or maps of annexation shall show the regional flood elevation and the floodway location.

Sections 44-1114 to 44-1132. Reserved.

DIVISION 4. GENERAL STANDARDS APPLICABLE TO ALL FLOODPLAIN DISTRICTS

44-1133. General development standards. The 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.

- (1) If a proposed building site is in a flood-prone area, all new construction and substantial improvements shall be all of the following.
 - a. Designed and anchored to prevent flotation, collapse, or lateral movement of the structure resulting from hydrodynamic and hydrostatic loads, including the effects of buoyancy.
 - b. Constructed with flood-resistant materials.
 - c. Constructed by methods and practices that minimize flood damages.
 - d. Constructed with electrical, heating, ventilation, plumbing, and air conditioning equipment and other service facilities that are designed and/or located so as to prevent water from entering or accumulating within the components during conditions of flooding.
- (2) All subdivision proposals, including for manufactured home parks, shall include regional flood elevation and floodway data for any development that meets the subdivision definition of this article and all other land use permit requirements in Section 44-1279(b). If a subdivision or other proposed new development is in a flood-prone area, the community shall assure that:
 - a. Such proposed subdivision or other proposed new development is consistent with the 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.

44-1134. Hydraulic and hydrologic analyses.

- (a) No floodplain development shall:

(1) 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

(2) Cause any increase in the regional flood height due to floodplain storage area lost.

(b) 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 Division 11 of this article are met.

44-1135. Watercourse alterations.

(a) No land use permit to alter or relocate a watercourse in a mapped floodplain shall be issued until the Zoning Administrator has notified all adjacent municipalities, the Department and FEMA regional offices, in writing, and required the applicant to secure all necessary state and federal permits. The standards of Section 44-1134 must be met and the flood carrying capacity of any altered or relocated watercourse shall be maintained.

(b) As soon as is practicable, but not later than six (6) months after the date of the watercourse alteration or relocation and pursuant to Division 11 of this article, 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 DNR through the LOMC process.

44-1136. Development under Wis. Stats. Chs. 30 and 31. Development which requires a permit from the Department under Wis. Stats. Chs. 30 and 31, such as docks, piers, wharves, bridges, culverts, dams, and navigational aids, may be allowed if the necessary permits are obtained and amendments to this article are made according to Division 11 hereof.

44-1137. Public or private campgrounds. Public or private campgrounds shall have a low flood damage potential and shall satisfy all of the following requirements.

(1) The campground is approved by the Department of Agriculture, Trade and Consumer Protection.

(2) The Zoning Administrator has issued a land use permit for the campground.

(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.

(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, the personnel responsible for monitoring flood elevations, the types of warning systems to be used, the procedures for notifying at-risk parties, and the methods and personnel responsible for conducting the evacuation.

- (5) An agreement under subsection (4) shall be for no more than one (1) calendar year, at which time the agreement shall be reviewed and updated by the officials identified in that subsection 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.
- (6) Any mobile recreational vehicle placed on the campground must satisfy one of the following requirements.
 - a. The vehicle is fully licensed, if required, and ready for highway use.
 - b. The vehicle must not occupy any site in the campground for more than 180 consecutive days, at which time the vehicle must be removed from the floodplain for a minimum of 24 hours.
 - c. The vehicle must meet the requirements in Divisions 5 through 8 of this article for the floodplain district in which the campground is located.
- (7) All camping units that remain on site for more than thirty (30) days shall be issued a limited authorization by the campground operator, a written copy of which shall be kept on file at the campground. Such authorization shall allow placement of a camping unit consistent with subsection (6) and shall ensure compliance with all the provisions of this section.
- (8) The municipality shall monitor the limited authorizations issued by the campground operator to assure compliance with the terms of this section.
- (9) All camping units that remain in place for more than 180 consecutive days must meet the applicable requirements in Divisions 5 through 8 of this article for the floodplain district in which the structure is located.
- (10) 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.
- (11) 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.

Sections 44-1138 to 44-1167. Reserved.

DIVISION 5. FLOODWAY DISTRICT (FW)

44-1168. Applicability. This section applies to all floodway areas on the floodplain zoning maps and those identified pursuant to Section 44-1224.

44-1169. 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 provision of this chapter, they meet the standards in Sections 44-1170 and 44-1171, and all permits or certificates have been issued according to Section 44-1279.

- (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 Section 44-1170.
- (4) Uses or structures accessory to open space uses or classified as historic structures that comply with Sections 44-1170 and 44-1171.
- (5) Extraction of sand, gravel, or other materials that comply with Section 44-1170(d).
- (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 Wis. Stats. Chs. 30 and 31.
- (7) Public utilities, streets, and bridges that comply with Section 44-1170(c).
- (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 Wis. Admin. Code SPS ch. 383.
- (9) Public or private wells used to obtain potable water for recreational areas that meet the requirements of local ordinances and Wis. Admin. Code NR chs. NR 811 and 812.
- (10) Wastewater treatment ponds or facilities permitted under Wis. Admin. Code NR § 110.15(3)(b).
- (11) Sanitary sewer or water supply lines to service existing or proposed development located outside the floodway that comply with the regulations for the floodplain area occupied.

44-1170. Standards for developments in the floodway.

(a) General.

- (1) Any development in the floodway shall comply with Division 4 of this article and have a low flood damage potential.

- (2) 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 Sections 44-1134 and 44-1279(c). The analysis must be completed by a registered professional engineer in the state of Wisconsin.
- (3) Any encroachment on the regulatory floodway is prohibited unless the data submitted pursuant to subsection (2) 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 Section 44-1106.

(b) *Structures.*

- (1) Structures accessory to permanent open space uses, including utility and sanitary facilities, or which are functionally dependent on a waterfront location may be allowed by permit if the structures comply with the following criteria.
 - a. Such structure is not designed for human habitation, does not have a high flood damage potential, and is constructed to minimize flood damage.
 - b. Either the lowest floor of the structure is elevated to or above the flood protection elevation or the structure otherwise meets all the following standards.
 1. The lowest floor is elevated to or above the regional flood elevation and is 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. The structural components are capable of meeting all provisions of subsection (b)(3) below.
 3. A registered professional engineer or architect has certified, through the use of a Federal Emergency Management Agency Floodproofing Certificate, that the design and methods of construction are in accordance with subsection (b)(3).
 - c. The structure is anchored to resist flotation, collapse, and lateral movement.
 - d. Mechanical and utility equipment are elevated to or above the flood protection elevation.
 - e. The structure does not obstruct the flow of flood waters or cause any increase in flood levels during the occurrence of the regional flood.
- (2) In order to develop a structure designed to allow the automatic entry of floodwaters below the regional flood elevation, an applicant shall submit a plan that satisfies the requirements of this section and meets or exceeds the following standards.
 - a. The lowest floor is elevated to or above the regional flood elevation.

- b. The structure has a minimum of two (2) openings which have a total net area of not less than one (1) square inch for every square foot of enclosed area subject to flooding.
 - c. The bottom of all such openings shall be no higher than one (1) 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.
 - d. The use must be limited to parking, building access, or limited storage.
- (3) *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.
- a. Reinforcement of floors and walls to resist rupture, collapse, or lateral movement caused by water pressures or debris buildup.
 - b. Construction of wells, water supply systems, and waste treatment systems so as to prevent the entrance of flood waters in such systems. Said systems must comply with this Division, including the provisions of Sections 44-1171(4) and (5).
 - c. Subsurface drainage systems to relieve external pressures on foundation walls and basement floors.
 - d. Cutoff valves on sewer lines or the elimination of gravity flow basement drains.
 - e. Placement of utilities at or above the flood protection elevation.
- (c) *Public utilities, streets, and bridges.* Public utilities, streets, and bridges may be allowed by permit if the following criteria are met.
- (1) Adequate floodproofing measures are provided to the flood protection elevation.
 - (2) Construction meets the development standards of Section 44-1134.
- (d) *Fills or deposition of materials.* Fills or deposition of materials may be allowed by permit if the following criteria are met.
- (1) The requirements of Section 44-1134 are satisfied.
 - (2) No material is deposited in navigable waters unless a permit is issued by the Department pursuant to Wis. Stats. Ch. 30 and, if applicable, the federal government issues a permit pursuant to Section 404 of the Federal Water Pollution Control Act, Amendments of 1972, 33 U.S.C. 1344, and all other requirements have been met.
 - (3) The fill or other materials will be protected against erosion by riprap, vegetative cover, sheet piling, or bulkheading.

- (4) The fill is not classified as a solid or hazardous material.

44-1171. Prohibited uses. All uses not listed as permitted uses in Section 44-1169 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, or 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 Wis. Admin. Code SPS ch. 383.
- (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 Wis. Admin. Code NR chs. 811 and 812.
- (6) Any solid or hazardous waste disposal sites.
- (7) Any wastewater treatment ponds or facilities, except those permitted under Wis. Admin. Code NR § 110.15(3)(b).
- (8) Any sanitary sewer or water supply lines, except those providing to service existing or proposed development located outside the floodway which complies with the regulations for the floodplain area occupied.

Sections 44-1172 to 44-1190. Reserved.

DIVISION 6. FLOODFRINGE DISTRICT (FF)

44-1191. Applicability. This section applies to all floodfringe areas shown on the floodplain zoning maps and those identified pursuant to Section 44-1224.

44-1192. Permitted uses. Any structure, land use, or development is allowed in the Floodfringe District if the standards in Section 44-1193 are met, the use is not prohibited by this article or any other zoning regulation, and all permits or certificates specified in Section 44-1279 have been issued.

44-1193. Standards for development in the floodfringe. In addition to all of the general provisions from Division 2 of this article, the following requirements shall apply to development

in the floodfringe according to the use requested. Any existing structure in the floodfringe must meet the nonconforming use requirements of Division 9 of this article.

- (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.
 - 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 (1) foot or more above the regional flood elevation extending at least fifteen (15) feet beyond the limits of the structure. No area may be removed from the floodfringe district unless it can be shown to meet Section 44-1106.
 - b. Notwithstanding subsection a. above, a basement or crawlspace floor may be placed at or above one (1) foot above 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 lower than one (1) foot above the regional flood elevation.
 - c. Contiguous dryland access shall be provided from a structure to land outside of the floodplain, except as provided in subsection (d).
 - d. In developments where existing street or sewer line elevations make compliance with subsection (c) impractical, the City may permit new development and substantial improvements where roads are below the regional flood elevation, provided that at least one of the following criteria is satisfied.
 1. The City 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 City has a DNR-approved emergency evacuation plan that follows acceptable hazard mitigation planning guidelines.
- (2) *Accessory structures or uses.* In addition to all of the general provisions from Division 2 of this article, 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 all of the general provisions from Division 2 of this article, any commercial structure which is erected, altered, or moved into the floodfringe shall meet or exceed the standards for residential uses under subsection (1). Subject to the requirements of subsection (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 all of the general provisions from Division 2 of this article, 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 Section 44-1283. Subject to the requirements of subsection (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 Section 44-1283. 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.
 - 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 Section 44-1283.
 - 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, in accordance with Section 44-1283(c), to the flood protection elevation and shall meet the provisions of all local ordinances and Wis. Admin. Code SPS ch. 383.
- (8) *Wells.* All wells shall be designed to minimize or eliminate infiltration of flood waters into the system, in accordance with Section 44-1283(c), to the flood protection elevation and shall meet the provisions of Wis. Admin. Code NR chs. 811 and 812.
- (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 article.

(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 of, 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 satisfy the following criteria.
 1. The lowest floor shall be elevated to the flood protection elevation.
 2. The homes shall 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 subsection (1).

(12) *Mobile recreational vehicles.* All mobile recreational vehicles must be on site for fewer than 180 consecutive days and satisfy one of the following requirements.

- (a) The vehicle is fully licensed, if required, and ready for highway use.
- (b) The vehicle meets the elevation and anchoring requirements in subsection (11).

Sections 44-1194 to 44-1219. Reserved.

DIVISION 7. GENERAL FLOODPLAIN DISTRICT (GFP)

44-1220. 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 Section 44-1075(1).

44-1221. 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 Section 44-1075(1), the boundaries of the regulatory floodway shall be determined pursuant to Section 44-1224. If the proposed development would encroach upon the regulatory floodway, the development is subject to the standards of Division 5. If the development is located entirely within the floodfringe, the development is subject to the standards of Division 6.

44-1222. Permitted uses. Pursuant to Section 44-1224, it shall be determined whether the proposed use is located within the floodway or floodfringe. Those uses permitted in the Floodway (Section 44-1169) and Floodfringe (Section 44-1192) Districts are allowed within the General Floodplain District, according to the standards of Section 44-1223 provided that all permits or

certificates required under Section 44-1279 have been issued.

44-1223. Standards for development in the general floodplain district. Division 5 applies to floodway areas, determined pursuant to Section 44-1224; Division 6 applies to floodfringe areas, determined pursuant to Section 44-1224.

- (1) New construction and substantial improvement of structures in zone AO shall have the lowest floor, including basement, elevated to or above one of the following.
 - a. The depth, in feet, as shown on the FIRM, above the highest adjacent natural grade, plus one (1) additional foot of freeboard; or
 - b. If the depth is not specified on the FIRM, three (3) feet above the highest adjacent natural grade.
- (2) 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.
- (3) In zones AO and AH, all new construction and substantial improvement of structures shall provide adequate drainage paths to guide floodwaters around structures.
- (4) All development in zones AO and AH shall meet the requirements applicable to floodfringe areas in Division 6.

44-1224. 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 require the applicant to:

- (1) Submit two (2) 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, as well as the flood zone as shown on the FIRM.
- (2) 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.
 - a. A Hydrologic and Hydraulic Study as specified in Section 44-1279(c).
 - b. A surface view plan 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; and soil types and other pertinent information.

- c. Specifications for building construction and materials, floodproofing, filling, dredging, channel improvement, storage, water supply, and sanitary facilities.

Sections 44-1225 to 44-1239. Reserved.

DIVISION 8. COASTAL FLOODPLAIN DISTRICT (CFD)

44-1240. Applicability. The provisions of this Division apply to all Coastal Floodplain Districts (CFD) shown on the floodplain zoning maps, including zones V, V1-30, and VE. Where a floodway shown on the floodplain zoning maps, a floodway determined as explained in Section 44-1104(4), or a regulatory floodway identified pursuant to Section 44-1224 extends into a Coastal Floodplain District, development shall comply with the standards of Division 5.

44-1241. Standards for development in the coastal floodplain district. Development in the CFD shall meet the requirements of Division 4, as well as all of the following requirements.

- (1) New construction shall be located landward of the Ordinary High Water Mark.
- (2) Bulkheads, seawalls, revetments, and other erosion control measures shall not be connected to the foundation or superstructure of a building and shall be designed and constructed so as not to direct floodwaters or increase flood forces or erosion impacts on the foundation or superstructure of any building.
- (3) Human-made alterations of sand dunes are prohibited unless an engineering report documents that the alterations will not increase potential flood damage by reducing the wave and flow dissipation characteristics of the sand dunes.
- (4) The use of fill for structural support of buildings is prohibited.
 - a. Non-structural fill shall be permitted only if an engineering report demonstrates that the fill will not cause runoff, ramping, or deflection of floodwaters that cause damage to buildings.
- (5) New construction and substantial improvement of buildings shall be elevated, consistent with Wis. Admin. Code SPS § 321.34, on pilings or columns so that the bottom of the lowest horizontal structural member of the lowest floor (excluding the pilings or columns) is elevated to or above the FPE.
 - a. The pile or column foundation and structure attached thereto shall be anchored to resist flotation, collapse, and lateral movement due to the effects of wind and water loads acting simultaneously on all building components. Water loading values shall be those associated with the base flood. Wind loading values shall be those defined according to American Society of Civil Engineers 7-16 *Minimum design loads and associated criteria for buildings and other structures* or other equivalent standard.
 - b. A registered professional engineer or architect shall develop or review the structural

design, specifications, and plans for the construction and shall certify that the design and methods of construction to be used are in accordance with accepted standards of practice for meeting the provisions of Section 44-1241(5).

(6) New construction and substantial improvement of buildings shall have the space below the lowest floor either free of obstruction or constructed with non-supporting breakaway walls, open wood lattice-work, or insect screening intended to collapse without causing collapse, displacement, or other structural damage to the elevated portion of the building or supporting foundation system.

- a. For the purpose of Section 44-1241(6), a breakaway wall shall have a design safe loading resistance of not less than ten (10) and not more than twenty (20) pounds per square foot.
- b. Use of breakaway walls which exceed a design safe loading resistance of twenty (20) pounds per square foot, either by design or where so required by local or state codes, may be permitted only if a registered professional engineer or architect certifies that the designs proposed meet all of the following conditions.
 1. Breakaway wall collapse shall result from a water load less than that which would occur during the base flood; and
 2. The elevated portion of the building and supporting foundation system shall not be subject to collapse, displacement, or other structural damage due to the effects of wind and water loads acting simultaneously on all building components (structural and non-structural). Water loading values shall be those associated with the base flood. Wind loading values shall be those defined according to American Society of Civil Engineers 7-16 *Minimum design loads and associated criteria for buildings and other structures*, or equivalent standard.
- c. All space enclosed by breakaway walls, open wood lattice-work, or insect screening below the lowest floor shall be used solely for parking, building access, or storage.

(7) Require within flood-prone areas:

- a. New and replacement water supply systems to be designed to minimize or eliminate infiltration of flood waters into the systems; and
- b. New and replacement sanitary sewage systems to be designed to minimize or eliminate infiltration of flood waters into the systems, discharges from the systems into flood waters, and onsite waste disposal systems to be located to avoid impairment to them or contamination from them during flooding.

(8) All mobile recreation vehicles must be on site for fewer than 180 consecutive days and satisfy one of the following requirements.

- a. The vehicle must be fully licensed and ready for highway use.
 - b. The vehicle must meet the standards of Section 44-1241(1) through (9), inclusive.
- (9) Manufactured homes placed or substantially improved within the Coastal Floodplain District shall meet the standards of Section 44-1241(1) through (9), inclusive.

Section 44-1242 to 44-1249. Reserved.

DIVISION 9. NONCONFORMING USES

44-1250. General regulations.

(a) Applicability.

- (1) The standards in this section shall apply to all uses and buildings that do not conform to the provisions contained within this article or with Wis. Stats. § 87.30, Wis. Admin. Code NR §§ 116.12 through 116.14, 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 the ordinance from which this article is derived or any amendment thereto. A party asserting the 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 regulations in effect at the time the use or structure was created.
 - (2) As permit applications are received for additions, modifications, or substantial improvements to nonconforming buildings in the floodplain, the City shall develop a list of those nonconforming buildings, their present equalized assessed values, and the costs of those activities associated with changes to those buildings.
- (b) The existing lawful use of a structure or its accessory use which is not in conformity with the provisions of this article may continue subject to the following conditions.
- (1) No modifications or additions to a nonconforming use or structure shall be permitted unless they comply with this article. 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. “Modification” does not include maintenance activities, including, but not limited to, 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.

- (2) If a nonconforming use or the use of a nonconforming structure is discontinued for twelve (12) consecutive months, it is no longer permitted and any future use of the property, including any structure or building thereon, shall conform to the applicable requirements of this article.
- (3) The municipality shall keep a record which lists all nonconforming uses and nonconforming structures, their present equalized assessed values, the cost of all modifications or additions which have been permitted, and the percentage of each structure's total current value those modifications represent;
- (4) No modification or addition to any nonconforming structure or any structure with a nonconforming use which over the life of the structure would equal or exceed 50 percent 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 article. Contiguous dry land access must be provided for residential and commercial uses in compliance with Section 44-1193(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 percent provisions of this subsection.
- (5) 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 percent 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 article. Contiguous dry land access must be provided for residential and commercial uses in compliance with Section 44-1193(1). Maintenance to any nonconforming structure which does not exceed 50 percent 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.
- (6) If on a per-event basis the total value of the work being done under subsections (4) and (5) equals or exceeds 50 percent 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 article. Contiguous dry land access must be provided for residential and commercial uses in compliance with Section 44-1193(1).
- (7) Except as provided in subsection (8), if any nonconforming structure or any structure with a nonconforming use is destroyed or is substantially damaged, it cannot be replaced, reconstructed, or rebuilt unless the use and the structure meet the current requirements of this article. A structure is considered substantially damaged if the total cost to restore the structure to its pre-damaged condition equals or exceeds 50 percent of the structure's present equalized assessed value.

- (8) For nonconforming buildings that are substantially damaged or destroyed by a nonflood disaster, the repair or reconstruction of any such nonconforming building shall be permitted in order to restore it to the size and use in effect prior to the damage event, provided that the following minimum requirements are met and all required permits have been granted prior to the start of construction.
- a. *Residential Structures.* The following minimum requirements for residential structures must be met.
 - 1. The lowest floor, including basement, shall be elevated to or above the flood protection elevation using fill, pilings, columns, posts, or perimeter walls. Perimeter walls must meet the requirements of Section 44-1283(b).
 - 2. The structure shall be anchored to prevent flotation, collapse, or lateral movement resulting from hydrodynamic and hydrostatic loads, including the effects of buoyancy, and shall be constructed with methods and materials resistant to flood damage.
 - 3. The structure shall be constructed with electrical, heating, ventilation, plumbing, and air conditioning equipment and other service facilities that are designed and/or elevated so as to prevent water from entering or accumulating within the components during conditions of flooding.
 - 4. In A Zones, City staff must obtain, review, and utilize any flood data available from a federal, state, or other source.
 - 5. For residential structures in AO Zones with no elevations specified, the lowest floor, including basement, shall meet the standards in Section 44-1223.
 - 6. In AO Zones, there shall be adequate drainage paths around structures on slopes to guide floodwaters around and away from said structures.
 - b. *Nonresidential Structures.* The following minimum requirements for nonresidential structures must be met.
 - 1. The structure shall meet the requirements of Section § 44-1250(b)(8)a.
 - 2. The structure 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 Section 44-1283(a) or (b).
 - 3. In AO Zones with no elevations specified, the structure shall have the lowest floor, including basement, meet the standards in Section 44-1223.
 - (c) 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 44-1170(a), flood resistant materials are used, and construction practices and floodproofing methods that comply with Section 44-1283 are used. Repair or rehabilitation of historic structures shall be exempt from the development standards of Section 44-1250(b)(8)a. if it is determined that the proposed repair or rehabilitation will not preclude the structure's continued designation as a historic structure and constitutes the minimum alteration necessary to preserve the historic character and design of the structure.

44-1251. Floodway District.

- (a) 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 meets the following criteria.
 - (1) The City has granted a permit or variance which meets all requirements of this article for the modification or addition.
 - (2) The modification or addition meets the requirements of Section 44-1250.
 - (3) The modification or addition shall not increase the obstruction to flood flows or regional flood height.
 - (4) Any addition to the existing structure shall be floodproofed pursuant to Section 44-1283, by means other than the use of fill, to the flood protection elevation.
 - (5) If any part of the foundation below the flood protection elevation is enclosed, the following standards shall apply.
 - 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 (2) openings must be provided with a minimum net area of at least one (1) square inch for every one (1) square foot of the enclosed area. The lowest part of the opening can be no more than twelve (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.
 - 4. The use must be limited to parking, building access, or limited storage.
- (b) No new on-site sewage disposal system or addition to an existing on-site sewage disposal system, except where an addition has been ordered by a government agency to correct a hazard to public health, shall be allowed in 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 this Code, including Section 44-1283(c), and Wis. Admin. Code SPS ch. 383.

- (c) 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 this Code, including Section 44-1283(c), and Wis. Admin. Code NR chs. 811 and 812.

44-1252. Floodfringe District.

- (a) No modification or addition shall be allowed to any nonconforming structure or any structure with a nonconforming use unless the City has granted a permit or variance for such modification or addition and the modification or addition meets the requirements of Section 44-1193 except where subsection (b) is applicable.
- (b) Where compliance with the provisions of subsection (a) would result in unnecessary hardship and only where the structure will not be used for human habitation or be associated with a high flood damage potential, the Board of Appeals, using the procedures established in Section 44-1281, may grant a variance from those provisions of subsection (a) for modifications or additions using the criteria listed below. Modifications or additions which are protected to elevations lower than the flood protection elevation may be permitted if all of the following criteria are met.
 - (1) No floor is allowed below the regional flood elevation for residential or commercial structures.
 - (2) Human lives are not endangered.
 - (3) Public facilities, such as water or sewer, shall not be installed.
 - (4) Flood depths shall not exceed two (2) feet.
 - (5) Flood velocities shall not exceed two (2) feet per second.
 - (6) The structure shall not be used for storage of materials as described in Section 44-1193(5).
- (c) All new private sewage disposal systems, or addition to, replacement, repair, or maintenance of a private sewage disposal system shall meet all the applicable provisions of this Code, including Section 44-1283(c) and Wis. Admin. Code SPS ch. 383.
- (d) All new wells, or addition to, replacement, repair, or maintenance of a well shall meet the applicable provisions of this Code, including Section 44-1283(c), and Wis. Admin. Code NR chs. 811 and 812.

44-1253. Coastal Floodplain District.

- (a) New construction and substantial improvements to structures in the Coastal Floodplain District shall meet the standards of Division 8.
- (b) No structural repairs, modifications, or additions to any existing building, the cost of which exceeds, over the life of the existing building, 50 percent of its present equalized assessed value, may be allowed in a coastal floodplain area unless the entire building is permanently changed to conform with the standards prescribed in Division 8.

Sections 44-1254 to 44-1277. Reserved.

DIVISION 10. ADMINISTRATION

44-1278. Applicability. The Zoning Administrator, Plan Commission, and Board of Appeals shall administer this article in accordance with Section 44-53 of this Code and Wis. Stats. § 62.23(7).

44-1279. Zoning Administrator.

- (a) *Duties and powers.* The Zoning Administrator is authorized to administer this article and shall have the duties and powers listed in this section.
 - (1) Advise applicants of the provisions of this article, assist in preparing permit applications and appeals, and assure that the regional flood elevation for the proposed development is shown on all permit applications.
 - (2) Issue permits and inspect properties for compliance with provisions of this article and issue certificates of compliance where appropriate.
 - (3) Inspect and assess all damaged floodplain structures to determine if substantial damage to the structures has occurred.
 - (4) Keep records of all official actions, including, but not limited to:
 - a. All permits issued, inspections made, and work approved.
 - b. Documentation of certified lowest floor and regional flood elevations.
 - c. Floodproofing certificates.
 - d. Water surface profiles, floodplain zoning maps and regulations, and nonconforming uses and structures including changes, appeals, variances, and amendments.
 - e. All substantial damage assessment reports for floodplain structures.
 - f. List of nonconforming structures and uses.
 - g. In the Coastal Floodplain District, documentation of the certified elevation of the bottom of the lowest horizontal structural member of new construction and substantial improvements.
 - h. In the Coastal Floodplain District, certification by a licensed professional engineer or architect where required for new construction and substantial improvement under Division 8.

- (5) Submit copies of the following items to the Department Regional office:
- a. Within ten (10) days of the decision, a copy of any decisions on variances, appeals for map or text interpretations, and map or text amendments.
 - b. Copies of case-by-case analyses and other required information.
 - c. Copies of substantial damage assessments performed and all related correspondence concerning the assessments.
- (6) Investigate, prepare reports, and report violations of this article to the Plan Commission and City Attorney for prosecution. Copies of the reports shall also be sent to the Department Regional office.
- (7) Submit copies of amendments to the FEMA Regional office.
- (b) *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.
- (1) *Expiration.* All permits issued under the authority of this article 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.
- (2) The application to the Zoning Administrator shall include the following general information:
- a. Name and address of the applicant, property owner and contractor.
 - b. Legal description, proposed use, and whether it is new construction or a modification.
- (3) *Site development plan.* A site plan drawn to scale shall be submitted with the permit application form and shall contain all of the following information.
- a. The location, dimensions, area, and elevation of the lot.
 - b. The location of the ordinary highwater mark of any abutting navigable waterways.
 - c. The location of any structures with distances measured from the lot lines and street center lines.
 - d. The location of any existing or proposed on-site sewage systems or private water supply systems.

- e. The location and elevation of existing or future access roads.
 - f. The location of floodplain and floodway limits as determined from the official floodplain zoning maps.
 - g. The elevation of the lowest floor of proposed buildings and any fill using the vertical datum from either National Geodetic Vertical Datum (NGVD) or North American Vertical Datum (NAVD).
 - h. Data sufficient to determine the regional flood elevation in NGVD or NAVD at the location of the development and to determine whether or not the requirements of Division 5 and/or 6 are met.
 - i. Data to determine if the proposed development will cause an obstruction to flow or an increase in regional flood height or discharge according to Section 44-1134. This may include any of the information noted in Section 44-1170.
 - j. Hydraulic and hydrologic studies as described in subsection (c), at the discretion of the Zoning Administrator.
- (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 AE zones within which a floodway is not delineated.*
- a. *Hydrology.* The appropriate method shall be based on the standards in Wis. Admin. Code NR ch. 116.07(3), *Hydrologic Analysis: Determination of Regional Flood Discharge*.
 - b. *Hydraulic modeling.* The regional flood elevation shall be based on the standards in Wis. Admin. Code NR ch. 116.07(4), *Hydraulic Analysis: Determination of Regional Flood Elevation* and on the following:
 - 1. The required limits of the hydraulic model shall be based on detailed study information for downstream structures (dam, bridge, culvert) to determine adequate starting Water Service Elevation (WSEL) for the study.
 - 2. Channel sections must be surveyed.
 - 3. Minimum four-foot (4') contour data in the overbanks shall be used for the development of cross section overbank and floodplain mapping.

4. 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.
 5. The most current version of the Hydrologic Engineering Center River Analysis System (HEC-RAS) shall be used.
 6. A survey of bridge and culvert openings and the top of road is required at each structure.
 7. 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.
 8. 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, and 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.
 9. 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.
1. If the proposed development is located outside of the floodway, it is determined to have no impact on the regional flood elevation.
 2. 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 Wis. Admin. Code NR ch. 116.07(3), *Hydrologic Analysis: Determination of Regional Flood Discharge.*

- b. *Hydraulic modeling.* The regional flood elevation shall be based on the standards in Wis. Admin. Code NR ch. 116.07(4), *Hydraulic Analysis: Determination of Regional Flood Elevation* and on the following:
1. *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.
 2. *Corrected Effective Model.* The Corrected Effective Model shall not include any human-made physical changes since the effective model date but shall import the model into the most current version of HEC-RAS for Department review.
 3. *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.
 4. *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.
 5. All changes to the Duplicate Effective Model and subsequent models must be supported by certified topographic information, bridge plans, construction plans, and survey notes.
 6. Changes to the hydraulic models shall be limited to the stream reach for which the revision is being requested. Cross sections upstream and downstream of the revised reach shall be identical to those in the effective model and result in water surface elevations and topwidths computed by the revised models matching those in the effective models upstream and downstream of the revised reach as required. The Effective Model shall not be truncated.
- c. *Mapping.* Maps and associated engineering data shall be submitted to the Department for review and must meet the following conditions.
1. Consistency between the revised hydraulic models, the revised floodplain and floodway delineations, the revised flood profiles, topographic work map, annotated FIRMs and/or Flood Boundary Floodway Maps (FBFMs), construction plans, and bridge plans.

2. 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 revised more easily.
 3. Annotated FIRM panel showing the revised 1.0 percent and 0.2 percent annual chance floodplains and floodway boundaries.
 4. If an annotated FIRM and/or FBFM and digital mapping data (GIS or CADD) are used, 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.
 5. The revised floodplain boundaries shall tie into the effective floodplain boundaries.
 6. 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.
 7. Both the current and proposed floodways shall be shown on the map.
 8. The stream centerline or profile baseline used to measure stream distances in the model shall be visible on the map.
- (d) *Certificate of compliance.* No land shall be occupied or used, and no building which is hereafter constructed, altered, added to, modified, repaired, rebuilt, or replaced shall be occupied until a certificate of compliance is issued by the Zoning Administrator, except where no permit is required, subject to the following provisions.
- (1) The certificate of compliance shall show that the building or premises or part thereof, and the proposed use, conform to the provisions of this article.
 - (2) Application for such certificate shall be concurrent with the application for a permit.
 - (3) If all provisions of this article are met, the certificate of compliance shall be issued within ten (10) days after written notification that the permitted work is completed.
 - (4) The applicant shall submit a certification signed by a registered professional engineer, architect, or land surveyor that the fill, lowest floor, and floodproofing elevations are in compliance with the permit issued. Floodproofing measures also require certification by a registered professional engineer or architect that the requirements of Section 44-1283 are met.
 - (5) Where applicable pursuant to Section 44-1223, 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.

(6) Where applicable pursuant to Section 44-1223, 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 Section 44-1223.

(e) *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 § 404 of the Federal Water Pollution Control Act, Amendments of 1972, 33 U.S.C. 1344.

44-1280. Zoning agency.

(a) The Green Bay Plan Commission shall:

(1) Oversee the functions of the office of the Zoning Administrator.

(2) Review and advise the Common Council on all proposed amendments to this article, maps, and text.

(3) Publish adequate notice pursuant to Wis. Stats. Ch. 985 specifying the date, time, place, and subject of the public hearing.

(b) The Green Bay Plan Commission shall not:

(1) Grant variances to the terms of this article in place of action by the Board of Appeals.

(2) Amend the text or zoning maps in place of official action by the Common Council.

44-1281. Board of Appeals. The Board of Appeals, established under Article II, Division 4 of this Chapter and in accordance with Wis. Stats. § 62.23(7)(e), is hereby authorized or shall be appointed to act for the purposes of this article. The Board shall exercise the powers conferred by this Code and the Wisconsin Statutes. The Zoning Administrator shall not be the secretary of the Board.

(1) *Powers and duties.*

a. *Appeals.* The Board shall 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 article.

b. *Boundary Disputes.* The Board shall hear and decide disputes concerning the district boundaries shown on the official floodplain zoning map.

c. *Variances.* The Board shall hear and decide, upon appeal, variances from the standards of this article.

(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 City affected by any decision of the Zoning Administrator or other administrative officer. Such appeal shall be taken within thirty (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. *Application materials.*

1. When applying for a variance, the applicant shall provide site and building plans containing sufficient detail to allow the Board to evaluate whether the criteria for granting a variance can be met.

2. When an applicant requests a variance to the minimum floodproofing standards established by Section 44-1170 or 44-1193, the applicant shall submit the plans and certifications prepared by a registered professional engineer or architect, as required by Section 44-1283, and shall also submit the following information, prepared by a qualified professional such as a surveyor, engineer, architect, or other construction professional:

(i) The basic anticipated drainage pattern that would be expected to provide positive draining throughout the subject area.

(ii) How surface drainage would reach storm sewers within the road right-of-way or any other available stormwater facilities.

(iii.) Whether back yard drains or sewers would be required.

(iv.) Design details for the side slopes of fill areas that are treated in any way other than by grading to a slope no steeper than 3:1, including, but not limited to, retaining walls and terracing.

b. *Notice and hearing for appeals including variances.*

1. *Notice.* The Board shall:

(i) Fix a reasonable time for the hearing.

(ii) Publish adequate notice pursuant to Wisconsin Statutes specifying the date, time, place, and subject of the hearing.

(iii) Ensure that notice shall be mailed to the parties in interest and the Department Regional office at least ten (10) days in advance of the hearing.

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

- (i) Resolve boundary disputes according to Section 44-1281(3).
- (ii) Decide variance applications according to Section 44-1281(4).
- (iii) Decide appeals of permit denials according to Section 44-1282.

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 ten (10) days of the decision.
- 3. Take the form of 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.
- 6. If the Board grants the appeal, the decision shall include the reasons for granting an appeal, including a description of the hardship demonstrated by the applicant in the case of a variance, which reasons must be 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.
- c. If the boundary is incorrectly mapped, the Board should inform the Plan Commission or the person contesting the boundary location to petition the Common Council for a map amendment according to Division 11.

(4) *Variance.*

- a. The Board may, upon appeal, grant a variance from the standards of this article if an applicant convincingly demonstrates all of the following.
 - 1. Literal enforcement of this article will cause unnecessary hardship.

2. The hardship is due to adoption of the floodplain ordinance from which this article is derived and from unique property conditions which are not common to adjacent lots or premises. In such case this article or the map at issue must be amended.
 3. The variance is not contrary to the public interest.
 4. The variance is consistent with the purpose of this article in Section 44-1043.
- b. In addition to the criteria in subsection a., to determine that an applicant qualifies for a variance under FEMA regulations, the Board must find that the following criteria have been met.
1. The variance will 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, the creation of a nuisance, fraud on or victimization of the public, or a conflict with existing local laws.
 5. The variance granted is the minimum necessary, considering the flood hazard, to afford relief.
- c. *Variance limitations.* The Board shall not:
1. Grant any variance that would grant, extend, or increase any use prohibited in the zoning district.
 2. Grant a variance for a hardship based solely on an economic gain or loss.
 3. Grant a variance for a hardship which is self-created.
 4. Grant a variance that would damage the rights or property values of other persons in the area.
 5. Grant any variance that would permit actions to be taken without first amending this article and/or applicable maps as required by Division 11.
 6. Grant any variance that would allow any alteration of a historic structure, including its use, which would preclude its continued designation as a historic structure.

- d. When the Board grants a floodplain variance, it shall notify the applicant in writing that said variance may increase risks to life and property and flood insurance premiums could increase up to \$25.00 per \$100.00 of coverage. A copy of the notice shall be maintained with the variance record.

44-1282. To review appeals of permit denials.

- (a) The Board of Appeals shall review all data related to the appeal. This may include, but is not limited to:

- (1) Permit application data listed in Section 44-1279(b).
- (2) Floodway/floodfringe determination data described in Section 44-1224.
- (3) Data listed in Section 44-1170(a)(2), where the applicant has not submitted this information to the Zoning Administrator.
- (4) Other data submitted with the application or submitted to the Board with the appeal.

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

- (1) Follow the procedures of Section 44-1281.
- (2) Consider the Plan Commission's recommendations.
- (3) Either uphold the denial or grant the appeal.

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

- (1) Uphold the denial where the Board agrees with the data showing an increase in flood elevation. Increases may only be allowed after amending the flood profile and map and all appropriate legal arrangements have been made with all adversely affected property owners in accordance with Division 11.
- (2) Grant the appeal upon a determination that the data properly demonstrates that the project does not cause an increase, provided that no other reasons for denial exist.

44-1283. Floodproofing standards.

- (a) No permit or variance shall be issued for a non-residential structure designed to be watertight below the regional flood elevation until the applicant submits a plan certified by a registered professional engineer or architect which demonstrates 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 Divisions 4 through 8 of this article.
- (b) For a structure designed to allow the entry of floodwaters, no permit or variance shall be issued until the applicant submits a plan that either:

- (1) Has been certified by a registered professional engineer or architect; or
- (2) Meets or exceeds all of the following standards:
 - a. Contains a minimum of two (2) openings having a total net area of not less than one (1) square inch for every square foot of enclosed area subject to flooding.
 - b. The bottom of all openings shall be no higher than one (1) foot above grade.
 - c. Openings may be equipped with screens, louvers, valves, or other coverings or devices provided that they permit the automatic entry and exit of floodwaters.
- (c) Floodproofing measures shall be designed, as appropriate, to do all of the following.
 - (1) Withstand flood pressures, depths, velocities, uplift and impact forces, and other regional flood factors.
 - (2) Protect structures to the flood protection elevation.
 - (3) Anchor structures to foundations to resist flotation and lateral movement.
 - (4) Minimize or eliminate infiltration of flood waters.
 - (5) Minimize or eliminate discharges into flood waters.
 - (6) Place essential utilities at or above the flood protection elevation.
 - (7) Comply with the following standards if any part of the foundation below the flood protection elevation is enclosed.
 - a. The enclosed area shall be designed by a registered architect or engineer to allow for the efficient entry and exit of flood waters without human intervention. A minimum of two (2) openings must be provided with a minimum net area of at least one (1) square inch for every one (1) square foot of the enclosed area. The lowest part of the opening can be no more than twelve (12) inches above the adjacent grade.
 - b. The parts of the foundation located below the flood protection elevation must be constructed of flood-resistant materials.
 - c. Mechanical and utility equipment must be elevated or floodproofed to or above the flood protection elevation.
 - d. The use must be limited to parking, building access, or limited storage.

44-1284. Public information.

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

Sections 44-1285 to 44-1311. Reserved.

DIVISION 11. AMENDMENTS

44-1312. Conditions for Amendments.

- (a) Obstructions or increases may only be permitted if amendments are made to this article, the official floodplain zoning maps, floodway lines, and water surface profiles, in accordance with Section 44-1313.
- (b) 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 article, the official floodplain zoning maps, floodway lines, and water surface profiles, in accordance with Section 44-1313. Any such alterations must be reviewed and approved by FEMA and DNR.
- (c) In A Zones, increases equal to or greater than one (1) foot may only be permitted if the applicant receives a Conditional Letter of Map Revision from FEMA and amendments are made to this article, the official floodplain maps, floodway lines, and water surface profiles, in accordance with Section 44-1313.

44-1313. Change of floodplain zoning district boundaries. The Common Council shall change or supplement the floodplain zoning district boundaries and this article in the manner outlined in Section 44-1314. Actions which require an amendment to this article and the submission 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 Section 44-1074(2).
- (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 the text of this article required by Wis. Admin. Code NR § 116.05 or otherwise required by law, or for changes by the City.
- (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 require prior approval by FEMA.

44-1314. Procedures. Amendments to this article may be made upon petition of any party according to the provisions of Wis. Stats. § 62.23. The petitions shall include all data required by Sections 44-1224 and 44-1279(b). No land use permit shall 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 Plan Commission for a public hearing and recommendation to Common Council. 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 Wis. Stats. § 62.23.
- (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 Common Council.

Sections 44-1315 to 44-1341. Reserved.

DIVISION 12. ENFORCEMENT AND PENALTIES

44-1342. Violation and penalty. Any violation of the provisions of this article 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 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 article 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 Wis. Stats. § 87.30.

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

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

Dated at Green Bay, Wisconsin, this _____ day of _____, 2022.

APPROVED:

Mayor

ATTEST:

Clerk

ljm

October 18, 2022



Report to the Green Bay Plan Commission

MEETING DATE

October 10, 2022

PREPARED BY

David Buck, Staff

AGENDA ITEM # E.9

(TA 22-02) Public Hearing on request to amend text within Chapter 44, Article XIX, Division 5 – Landscaping, Sections 44-1964 to 1969, Green Bay Municipal Code.

BACKGROUND

RECOMMENDATION

FISCAL IMPACT

ATTACHMENTS

None



Report to the Green Bay Plan Commission

MEETING DATE

October 10, 2022

PREPARED BY

David Buck, Staff

AGENDA ITEM # E.10

(TA 22-02) Consideration with possible action to amend text within Chapter 44, Article XIX, Division 5 – Landscaping, Sections 44-1964 to 1969, Green Bay Municipal Code.

BACKGROUND

Reason for Request: Multiple text amendments to the Green Bay Municipal Code were brought through the Improvement and Services Committee, Plan Commission and Common Council in June 2022. This was part of the City's Green Infrastructure Code Project, which began in 2019. These changes included updates of several municipal code sections of Chapters 16 and 42 related to stormwater management, Chapter 24 related to nuisances, and Chapter 44 related to landscaping standards to improve green infrastructure. Changes related to Chapter 44 were held in order to receive additional input from the development community.

Comprehensive Plan: The 2022 Smart Growth Green Bay Comprehensive Plan does not provide specific guidance regarding particular text amendments; however, a recommendation for incorporation of green infrastructure principles is contained with the Comprehensive Plan.

Analysis: Green Infrastructure is part of a strategy to build a city resilient to a changing climate. Traditional “grey” infrastructure will continue to bear the bulk of the burden in terms of storm water management, but as a city, we should utilize innovative engineering approaches and best management practices such as green infrastructure to minimize impacts on city infrastructure, private property and reduce pollutants from stormwater discharges.

Green Infrastructure Code Project Timeline:

- July – October 2019: The City applied for and was awarded a Great Lakes Champions Grant to identify barriers and opportunities in codes, ordinances, and policies to support green infrastructure implementation in the City of Green Bay. A consultant was hired to examine the municipal code, identify opportunities, and recommend text amendments.
- November 2019: UW Sea Grant Institute gave Green infrastructure 101 and code audit presentation to the Sustainability Commission and Common Council.
- January 2020: Consultant hired to audit the City's codes using the Tackling Barriers to Green Infrastructure - An Audit of Local Codes and Ordinances by the UW Sea Grant Institute.
- February 2020: Green infrastructure code workshop held for city staff from the following departments: Community & Economic Development (CED), Public Works (DPW), Finance, IT, Law, Mayor's Office, Parks Recreation & Forestry and Water Utility.
- October 2020: Consultant completed draft markup and recommended revisions to Chapter 16, 24, 42, and 44. Draft text amendments for Landscape Standards were presented to the Development Team.
- November 2020: Chapter 44 Q&A with CED Land Development Team, consultant, and Resiliency Coordinator.
- January-March 2021: Staff comments and feedback incorporated into Chapter 44 mark-up. Proposed amendments to Law Department to review.

Outreach and Engagement

- March – April 2022: GI Code Flyer and summary of text amendments sent to select local developers and other stakeholders for questions and comments.
- May 2022: Draft text amendments presented to the Plan Commission at the May 9, 2022, meeting where it received unanimous recommendation of approval with added language.
- June 2022: Code changes to Chapters 16, 24 and 42 were approved by the Common Council. Changes to Chapter 44 were held for staff to conduct additional outreach with the Brown County Homebuilders Association.
- July 2022: Staff met with the Brown County Homebuilders Association as well as engineers from three prominent engineering firms who do a lot of work in the greater Green Bay community.
- July – October 2022: Revisions made, and a new public hearing notice issued and placed on the Plan Commission agenda for reconsideration.

Following the May 9, 2022, Plan Commission consideration of the Chapter 44 text amendments, the Brown County Homebuilders Association contacted the city to raise concerns regarding the proposal. They stated that they had not had sufficient time to review and comment on the amendments. They had serious concerns centering around the increased size of transitional buffer yards/setbacks, allowable ground cover associated with parking lot landscape islands and medians, required soil volumes and depths associated with tree plantings, increase in the number of required parking lot landscape islands, requirement to include both interior landscape medians and islands in parking lots, limitations on the use of nonvegetative ground cover, and consistency issues with who is authorized to grant exceptions. Additionally, staff found conflicts within the proposed amendments and other sections of Chapter 44 that needed to be reconciled.

Below is a summary of changes made to the draft text amendment to address the issues:

1. Reestablished existing regulation that transitional buffer yards/setbacks are needed only when nonresidential uses are adjacent to residential uses but retained the increase in buffer yard size of 5 ft.
2. Removal of the static requirement for soil depth of three (3) ft. and volume of 1200 cubic ft. and replaced with a determination to be made administratively.
3. Reestablished the existing requirement for internal parking lot landscape islands to one (1) per fifteen (15) stalls from the proposed amendment of one (1) per ten (10) stalls.
4. Clarified that either internal parking lot landscape islands or landscape medians could be used but that both are not required.
5. Allowed decorative nonvegetative ground cover to be used and removed cap on turf grass for internal parking lot landscape islands or landscape medians.
6. Clarified and coordinated that exceptions may be made by the Director of Community Development or their designee.
7. Removed the “general compliance” sections as they are already addressed in the nonconformity articles of the Zoning Code.
8. Adjusted parking lot perimeter buffer design criteria to be consistent with the city’s front yard fencing and landscaping regulations.

Changes and this summary have been shared with Brown County Homebuilders Association and interested engineers who will supply comment prior to the Plan Commission discussion on this item.

RECOMMENDATION

Approval of the proposed amendments to Chapter 44, Article XIX, Division 5 – Landscaping, Sections 44-1964 to 1969, Green Bay Municipal Code, as proposed.

FISCAL IMPACT

ATTACHMENTS

- I. DRAFT GO 15-22 - AMEND 44-1964 TO 1968 - LANDSCAPING 10.6.22 w tc

GENERAL ORDINANCE NO. 15-22

AN ORDINANCE AMENDING SECTIONS 44-1964, 44-1965,
44-1966, 44-1967, AND 44-1968, GREEN BAY MUNICIPAL CODE,
RELATING TO LANDSCAPING

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

SECTION 1. Section 44-1964, Green Bay Municipal Code, is hereby amended to
read:

44-1964. Perimeter Landscape Buffers. Buffers shall be used to provide visual
and noise separation ~~of intensive uses from less intensive~~ between uses, and to
improve water quality and stormwater runoff management. Buffer landscaping shall
be provided as follows:

~~(a) — Non-residential or multifamily uses in residential districts: At least 10 feet
wide abutting residential uses (at least fifteen (15) feet wide if the nonresidential use is
two (2) stories or more). Large nonresidential buildings (25,000 square feet or greater)
shall provide a buffer yard at least 20 feet wide. Nonresidential buildings with service
areas or mechanicals oriented toward residential uses shall provide a buffer yard of 20
feet or more depending on the intensity of the development.~~

~~(b) — Nonresidential or multifamily uses in commercial or industrial districts: At
least fifteen (15) feet wide abutting residential uses in residential districts (at least twenty
(20) feet wide if the nonresidential use is two (2) stories or more). Large nonresidential
buildings (25,000 square feet or greater) shall provide a buffer yard at least twenty-five
(25) feet wide.~~

(a) For non-residential or multifamily uses when adjacent to residentially
zoned property or property used for residential purposes, buffers shall be at least
twenty (20) feet wide. The following buffers shall be at least twenty-five (25) feet
wide:

(1) Buffers for non-residential or multifamily buildings of two or more
stories in residential, commercial, or industrial districts when adjacent to
residentially zoned property or property used for residential purposes.

(2) Buffers for non-residential or multifamily buildings of 25,000 square
feet of floor area or more in when adjacent to residentially zoned property or
property used for residential, commercial, or industrial districts purposes.

(3) Buffers along loading docks, service areas, or outdoor mechanical
systems in when adjacent to residentially zoned property or property used
for residential, commercial, or industrial districts purposes.

~~(4) — Buffers for non-residential uses abutting residential uses or districts in commercial or industrial districts.~~

(c) Buffer design.

(1) Buffer areas shall consist of either a masonry wall, fence, berm, ~~or hedge plantings~~, or a combination thereof that forms a screen a minimum of four (4) feet in height, ~~a maximum of 6 feet in height~~, and not less than 90 percent opaque on a year-round basis. Screening located along front and corner side yards ~~are is~~ limited to four (4) feet in height and not less than 90 percent opaque on a year-round basis and ~~which shall~~ effectually ~~blocks~~ block automobile headlights from trespass on roads or adjacent property.

(2) Buffers shall be landscaped with at least one (1) tree and five (5) shrubs for every 50 linear feet. ~~A minimum soil volume of 1,200 cubic feet for the indicated soil volumes and depths associated per tree species type (small, medium or large) shall be provided indetermined by the Director of Community Development or their designee with consultation with the landscape island. A minimum of City Forester but shall not be greater than 1,200 cubic feet of volume or three (3) feet of soil depth shall be provided below the final surface elevation of the landscape island where the tree is planted.~~

(3) Buffers may be interrupted for necessary pedestrian and vehicle access.

(4) Buffer designs included in an approved stormwater management plan under Chapter 16 of this Code shall be constructed in accordance with said plan. Any combination of fencing and plantings may be used, provided the degree of opacity and screening required in this section is achieved.

SECTION 2. Section 44-1965, Green Bay Municipal Code, is hereby amended to read:

44-1965. Interior parking lot landscaping. The purpose of interior parking lot landscaping is to minimize the expansive appearance of parking lots, to and provide shaded parking areas, and to provide water quality and stormwater management benefits where appropriate. Landscaping shall consist of planting islands and ~~or~~ medians comprising the required planting area specified under item (1) below.

(a) Planting area.

(1) At least ten (10) percent of the interior area of parking lots with more than twenty-five (25) or more spaces shall be devoted to landscape planting areas.

(2) Shade Canopy trees shall be provided within the interior of parking lots areas of twenty-five (25) or more parking spaces ~~in accordance with the following table~~

at the **minimum** rate of one tree per ~~ten (10)~~**fifteen (15)** spaces. Trees required to be planted in landscape islands, landscape medians, and perimeter areas shall count toward this requirement.

Number of Parking Spaces	Minimum Required Tree Planting
0—24	None required
25—100	1 tree per 10 spaces
101+	1 tree per 15 spaces

(3) **Parking lot landscape areas shall be protected with concrete curbing, wheel stops, or other suitable barriers to protect plant function and ensure survivability, with breaks as required to allow storm water inflow where the landscape areas have been designed to provide storm water treatment and control or to provide pedestrian access.**

(b) Landscape islands.

(1) Landscape islands shall be provided at the end of each parking row and within the row of parking spaces so that there are no more than fifteen (15) ~~ten (10)~~ consecutive parking spaces without a landscape island. An alternative to landscape islands at the end of each parking row and within rows is the incorporation of a landscaped median as described in Section 44-1965 (c).

(2) Landscape islands shall have minimum interior dimensions of at least ten (10) feet in width and ~~fifteen (15)~~ **eighteen (18)** feet in length. **Double rows of parking shall provide parking lot islands opposite one another to form continuous double islands. Where islands include a sidewalk, their width shall be increased to provide a planting area of at least ten (10) feet in width.**

(3) ~~Landscape islands~~ **Each landscape island** shall be planted with **a mix of herbaceous or woody ground cover, or sod and a minimum of one (1) shade/deciduous tree, shrubs, and mulch, or other decorative ground cover sufficient to fully cover the ground surface and prevent the growth of weeds. No more than ten percent (10%) of the surface area of any landscape island may be non-living material, and no more than twenty percent (20%) of the surface area of any landscape island may be turf grass.** A minimum soil depth of three feet (3') shall be provided unless this provision is specifically waived due to on-site conditions.

(4) **Required tree planting in landscape islands.**

a. A minimum of one canopy tree shall be planted per 180 square feet of landscape island on the site.

b. Except where the Director of Community and Economic Development or their designee determines that the requirements for soil volume and depth in this section cannot be met due to dimensional or site conditions, or where an individual landscape island is designed as

part of an approved stormwater management plan described herein, at least one (1) tree shall be planted in each ten (10) by eighteen- (18) foot landscape island. Where tree planting is not possible, the required tree(s) shall be planted in another interior or perimeter parking lot landscape area.

c. ~~A minimum soil volume of 1,200 cubic feet~~ Soil volumes and depths associated per tree for the indicated tree species type (small, medium or large) shall be provided indetermined by the Director of Commnity Development or designee with consultantion with the landscape island.

d. ~~A minimum of City Forester but shall not be greater than 1,200 cubic feet of volume or three (3) feet of soil depth shall be provided below the final surface elevation of the landscape island where the tree is planted.~~

(5) Landscape island designs included in an approved stormwater management plan under Chapter 16 of this Code shall be constructed in accordance with said plan.

(c) Landscape medians. ~~Parking lots with more than 100 spaces shall be divided into at least two smaller areas by landscape medians. Parking~~As an alternative to the required landscaped islands, parking lot landscape medians ~~shall~~may be placedutilized between every other bay of parking in any lot with more than two parallel bays and more than forty (40) ~~parking~~ spaces. A parking bay shall be defined as one or two rows of spaces accessed from a single drive aisle.

(1) Landscape medians shall be a minimum of ~~eight (8) feet wide or fourteen (14) to eighteen (18) feet wide with a pedestrian walk.~~ ten (10) feet wide. Where medians include a sidewalk running lengthwise, their width shall be increased to provide a planting area of at least ten (10) feet in width.

(2) Landscape medians shall ~~have a minimum of one (1) shade tree per forty (40) lineal feet along the length of the median and shall contain mulch or irrigated grass.~~ be planted with a mix of herbaceous or woody ground cover, shrubs, ~~and mulch,~~ or other ~~decorative~~ ground cover sufficient to fully cover the ground surface and prevent the growth of weeds. ~~No more than ten percent (10%) of the surface area of any landscape island may be non-living material, and no more than twenty percent (20%) of the surface area of any landscape island may be turf grass. A minimum soil depth of three (3) feet shall be provided unless this provision is specifically waived due to on-site conditions.~~

(3) Required tree planting in landscape medians.

a. Landscape medians shall have a minimum of one (1) canopy tree per fifty (50) lineal feet along the length of the median.

b. Except where the Director of Community and Economic Development or their designee determines that the requirements for soil volume and depth described in this section cannot be met due to dimensional or site conditions, or where an individual landscape median is designed as part of an approved stormwater management plan described herein, at least one (1) tree shall be planted in each landscape median. Where tree planting is not possible, the required tree(s) shall be planted in another interior or perimeter parking lot landscape area.

c. A minimum soil volume of 1,200 cubic feet Soil volumes and depths associated per tree for the indicated tree species type (small, medium or large) shall be provided indetermined by the Director of Commnity Development or designee with consultantion with the landscape median.

d. A minimum of City Forester but shall not be greater than 1,200 cubic feet of volume or three (3) feet of soil depth shall be provided for and accessible to the tree below the final surface elevation of the landscape median where the tree is planted..

(4) Landscape median designs included in an approved stormwater management plan under Chapter 16 of this Code shall be constructed in accordance with said plan.

(d) General Compliance Existing parking lots. For existing parking lots that currently do not comply with the interior parking lot landscaping requirements of this section as of the its adoption of this ordinance, such compliant landscaping shall be provided when any one of the following occurs:

(1) Any new construction of a new parking lot must comply with the current requirements of this ordinance.

(2) Existing approved parking areas that are either rehabilitated or reconstructed are required to replace existing approved interior lot landscaping or provide a total of 5% interior lot landscaping. either:

a. Replace existing approved interior lot landscaping with landscape islands or landscape medians that meet the requirements of this section for dimensions, tree planting, planting mix, and soil volume and depth, or

b. Construct new interior landscape islands or landscape medians, the cumulative area of which is equal to at least five percent (5%) of the interior area of the parking lot.

~~(3) When an existing approved parking lot is expanded by **twenty-five percent (25%)** or greater **by more** than 7,500 sq. ft. **square feet** in total surface area, **whichever is less**, the entire parking area shall be brought into compliance with the requirements of this ordinance. All expanded **When determining the applicability of this standard, all permitted expansions of parking lot** areas are considered cumulative.~~

~~(4) Re-striping, patching, resurfacing of an existing parking area shall not be subject to this requirement.~~

~~**(e) General Compliance.** All new or replaced parking lot landscaping shall meet the standards for dimensions, tree planting, planting mix, and soil volume and depth set forth in this section. The Director of the Department of Community and Economic Development, or their designee, may vary or waive the requirements of this section upon a finding that site conditions or planting area sizes are not likely to lead to successful establishment and growth of required plantings.~~

SECTION 3. Section 44-1966, Green Bay Municipal Code, is hereby amended to read:

44-1966. Perimeter parking lot landscaping. Parking area edges shall be screened from public streets and sidewalks, public open space, and adjacent properties. The perimeter of parking areas shall be screened ~~from residential uses~~ by **means of**:

~~(a) A landscaped frontage strip at least 5 feet wide along the public street or sidewalk. If a parking area contains over 100 spaces, the minimum required yard shall be increased to 8 feet in width.~~ **(a) A landscaped area meeting the following standards:**

(1) Landscaped areas shall be at least fifteen (15) feet wide along each frontage of a public street or sidewalk.

(2) If a parking area adjacent to a public street or sidewalk contains over 100 parking spaces, the minimum required landscaped area shall be increased to twenty (20) feet in width.

(3) Where parking lots border property lines, setbacks from the property line to the edge of the parking lot pavement shall meet the buffer requirements of Section 13-1820, but in no case shall a property line setback be fewer than twenty (20) feet.~~44-1964.~~

(4) Exception. In Downtown One and Downtown Two zoning districts, the landscaped area shall be at least five (5) feet wide along each frontage of a public street or sidewalk.

(b) Screening consisting of either a masonry wall, fence, berm, ~~or hedge plantings~~, or **a** combination **thereof** that forms a screen a minimum of ~~four (4)~~**three (3)** feet in height, ~~a maximum of 6 feet in height (6-8' in industrial districts)~~, and not less than

90 percent opaque on a year-round basis. Screening located along front and corner side yards ~~are is~~ limited to ~~four (4)three (3)~~ feet in height and ~~not less than~~ must be at least 90 percent opaque on a year-round basis and ~~which-effectually-blocks~~ block automobile headlights from trespass on adjacent property.

~~(c) — Tree planting. Trees shall be planted at a minimum of one (1) shade tree per forty (40) lineal feet within the frontage strip.~~ (c) Tree planting. A minimum of one (1) canopy tree per forty (40) lineal feet shall be planted within the perimeter parking lot landscape area.

(1) Except where the Director of Community Development or their designee determines that the requirements for soil volume and depth in this section cannot be met due to dimensional or site conditions, or where the perimeter parking lot landscape area is designed as part of an approved stormwater management plan described herein, at least one (1) tree shall be planted per forty (40) lineal feet within each perimeter parking lot landscaping area. Where tree planting is not possible, the required tree(s) shall be planted in another interior or perimeter parking lot landscape area.

~~(2) A minimum soil volume of 1,200 cubic feet Soil volumes and depths associated per tree for the indicated tree species type (small, medium or large) shall be provided indetermined by the Director of Commnity Development or designee with consultantion with the perimeter parking lot landscape area.~~

~~(3) A minimum of City Forester but shall not be greater than 1,200 cubic feet of volume or three (3) feet of soil depth shall be provided for and accessible to the tree below the final surface elevation of the perimeter parking lot area where the tree is planted.~~

(4) Perimeter parking lot landscaping designs included in an approved stormwater management plan under Chapter 16 of this Code shall be constructed in accordance with said plan.

~~(d) General compliance. For existing parking lots that currently do not comply with the perimeter parking lot landscaping standards of this section as of its adoption, compliant landscaping is required when any one of the following occurs:~~

~~(1) Any construction of a new parking lot must comply with the current requirements of this ordinance.~~

~~(2) Re-striping, patching, resurfacing of an existing parking area shall not be subject to the requirements of this section.~~

~~(3) When an existing approved parking lot is expanded by 25 percent or by more than 7,500 square feet in total surface area, whichever is less, the entire~~

parking area shall be brought into compliance with the requirements of this ordinance. All permitted expansions of parking lot areas are considered cumulative in determining the applicability of this standard.

(4) Existing approved parking areas that are either rehabilitated or reconstructed, but do not meet the thresholds set forth in (3) above, are required to take one of the following actions with respect to perimeter parking lot landscaping:

a. Replace all existing, approved perimeter parking lot landscaping with perimeter landscape areas meeting the standards for tree planting, planting mix, soil volume, and soil depth set forth in this section; OR

b. Implement a new perimeter parking lot landscape area with a minimum width of five feet (5'), meeting the standards for tree planting, planting mix, soil volume, and soil depth set forth in this section.

(5) The number of trees required to be planted pursuant to this Section may be varied or waived upon finding that site conditions or planting area sizes are not likely to lead to successful establishment and growth of a canopy tree.

(6) Exceptions.

a. Where the ~~Plan Commission~~ the Director of Community and Economic Development or their designee determines that full compliance with this Section would not be possible due to site dimensions or the location of existing buildings; or where full compliance would result in the number of existing parking spaces being reduced by more than ten percent or in a manner that would result in non-compliance of the proposed use(s) with the provisions of this ordinance,

b. ~~The Plan Commission~~

b. The the Director of Community and Economic Development or their designee may approve a substitute landscaping plan for the perimeter area which shall consist at a minimum of any combination of a three-foot masonry wall, three-foot ornamental metal fence, and plantings of low shrubs, perennials, or ornamental grasses.

SECTION 4. Section 44-1967, Green Bay Municipal Code, is hereby amended to read:

44-1967. Building foundation landscaping. Building foundations adjoining parking areas, walkways, or open space shall be planted with ~~ornamental~~ plant material such as ~~ornamental~~ trees, ~~flowering~~ shrubs, ~~and~~ perennials, **annuals**, and ground covers, with the exception of buildings that have facades flush with the sidewalk, i.e., downtown or storefronts.

(a) Foundation plantings shall be installed across eighty (80) percent of the length of the façade of the building, except where walkways and driveways are located.

(b) Foundation plantings shall include trees planted at the rate of one (1) tree per fifty (50) lineal feet of building façade, and may also include shrubs, herbaceous perennials, bioretention or rain garden plantings, and groundcover. Tree planting requirements may be varied, or required trees located on another portion of the site, if a minimum distance of five (5) feet from the building cannot be maintained.

(c) Where the area between the building and parking or street curb is entirely paved for pedestrian use, landscaping may consist of canopy trees planted in structural soils beneath tree grates or permeable pavement. ~~The minimum structural soil volume provided shall be 600 cubic feet~~ Soil volumes and depths associated per tree type (small, medium or large) shall be determined by the Director of Community Development or designee with consultation with the City Forester but shall not be greater than 600 cubic feet of volume per tree.

(d) Above-ground planter boxes along building facades may be substituted for foundation plantings.

SECTION 5. Section 44-1968, Green Bay Municipal Code, is hereby amended to read:

44-1968. Plant Materials.

(a) In general. A reasonable attempt shall be made to preserve as many existing trees with a diameter of six (6) inches diameter at breast height or greater as is practicable, and to incorporate them into the site plan.

~~(1) All required landscaping shall emphasize the use of native species or plants that are proven adaptable to the climate but are not invasive on native species.~~

~~(2)~~ (1) Each A minimum of ninety-fifty percent (9050%) of each area required to be landscaped shall be covered in live material. Live material includes trees, shrubs, perennials, ground cover, and sod. Areas not covered in live material may be covered by mulch, rock, or other natural materials. Exposed gravel, aggregate rock, or concrete shall only be used where drainage ~~and/or or~~ soil conditions require a ~~non-irrigated and/or~~ hard surface pan at finished grade adjoining a building foundation.

(2) Plants indigenous to Wisconsin shall comprise no fewer than two-thirds (2/3) of the proposed trees and sixty percent (60%) of proposed shrubs, and shall be species proven adaptable to the climate and site conditions.

(3) ~~Tree-Plant~~ species mix. ~~Any~~ Where twenty (20) or more trees are proposed, at least three (3) species of tree shall be utilized, and no single ~~one~~

species of ~~trees-tree~~ shall ~~not~~ make up more than fifty percent (50%) of the total tree plantings for the property. Where thirty (30) or more shrubs are proposed, no single species of shrub shall comprise more than one-third (1/3) of shrub plantings.

(4) Minimum sizes. All required trees shall meet the following minimum size requirements:

Tree/Plant	Minimum Required Size at time of planting
Deciduous trees	Two (2) inch caliper
Ornamental deciduous trees	One and one-half (1-½) inch caliper
Evergreen trees	Six (6) feet in height
Shrubs	Five gallon (#5) container size

(5) Any plant materials used to meet the requirements of this ordinance shall not include any species identified as a Regulated Invasive Plant by the Wisconsin Department of Natural Resources pursuant to Wis. Admin. Code Ch. NR 40.

SECTION 6. Section 14-1969, Green Bay Municipal Code, is hereby amended to read:

44-1969. Maintenance and installation of materials. Installation and maintenance of all landscape materials shall comply with the following standards:

~~(a) All landscape materials shall be installed to current industry standards. (a)~~
All installed landscape shall conform to the most recently approved American Standard for Nursery Stock, published by the American National Standards Institute.

(b) An adequate water supply shall be indicated in the site plan.

(c) All required landscaping and screening features shall be kept free of refuse and debris.

(d) Maintenance and replacement of landscape materials, including the maintenance of any trees planted in the public right-of-way, shall be the responsibility of the applicant or property owner, ~~including the maintenance of any trees planted in the public right-of-way.~~ All plantings required under this ordinance shall be maintained perpetually and replaced if they die or are substantially weakened or damaged. If plantings succumb due to site conditions to which they are ill adapted, they shall be replaced with more culturally suitable species of the same type (tree, shrub, ground cover, etc.).

SECTION 7. All ordinances, or parts of ordinances, in conflict herewith are hereby repealed.

SECTION 8. Effective date. This ordinance shall take effect on and after its passage and publication.

Dated at Green Bay, Wisconsin, this _____ day of _____, 2022.

APPROVED:

Mayor

ATTEST:

Clerk

MS

| ~~05/17~~10/6/2022