

ENROLLED ORDINANCE 169-54

AMEND THE WAUKESHA COUNTY SHORELAND AND FLOODLAND PROTECTION ORDINANCE TO ADOPT FEMA FLOODPLAIN MAPPING AND STUDIES BY REFERENCE AND AMEND VARIOUS FLOODPLAIN PROVISIONS TO COMPLY WITH FEMA REGULATIONS (SZ-1793)

WHEREAS, the Waukesha County Board of Supervisors enacted the Waukesha County Shoreland and Floodland Protection Ordinance on January 23, 1970, and

WHEREAS, the Waukesha County Board of Supervisors may make amendments to such Ordinance pursuant to Section 59.692, Wisconsin Statutes, and

WHEREAS, the Federal Emergency Management Agency (FEMA) has revised and issued new Flood Insurance Rate Maps (FIRM) for portions of Waukesha County, as part of a map modernization program and has required adoption of said maps by no later than November 5, 2014, and

WHEREAS, the floodplain provisions of the Waukesha County Shoreland and Floodland Protection Ordinance must be updated to be compliant with Chapter NR 116 of the Wisconsin Administrative Code and minimum FEMA standards, and

WHEREAS, after proper notice was given, a public hearing was held, and

WHEREAS, the matter was referred and considered by the Waukesha County Park and Planning Commission which recommended approval and reported that recommendation to the Land Use, Parks and Environment Committee and the Waukesha County Boards of Supervisors, as required by Section 59.692, Wis. Stats.

THE COUNTY BOARD OF SUPERVISORS OF THE COUNTY OF WAUKESHA ORDAINS that various sections of the Waukesha County Shoreland and Floodland Protection Ordinance pertaining to the regulation and mapping of floodplains are repealed and recreated. The amendments are more specifically described in the "Staff Report and Recommendation" on file in the office of the Waukesha County Department of Parks and Land Use and made a part of this Ordinance by reference SZ-1793.

BE IT FURTHER ORDAINED that this ordinance shall become effective upon passage and publication.

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Presented by:
Land Use, Parks, and Environment Committee

(ABSENT)
Walter L. Kolb, Chair

Jim Batzko
Jim Batzko

Jennifer Grant
Jennifer Grant

Keith Hammitt
Keith Hammitt

Eric Highum
Eric Highum

(ABSENT)
Pauline T. Jaske

Thomas J. Schellinger
Thomas J. Schellinger

The foregoing legislation adopted by the County Board of Supervisors of Waukesha County, Wisconsin, was presented to the County Executive on:

Date: _____, Kathleen Novack
Kathleen Novack, County Clerk

The foregoing legislation adopted by the County Board of Supervisors of Waukesha County, Wisconsin, is hereby:

Approved: X

Vetoed: _____

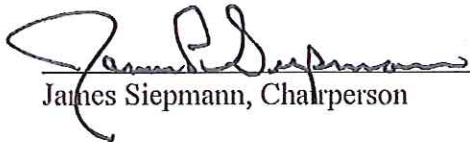
Date: 9-25-14, Daniel P. Vrakas
Daniel P. Vrakas, County Executive

COMMISSION ACTION


The Waukesha County Park and Planning Commission, after giving consideration to the subject matter of the Ordinance to adopt the Federal Emergency Management Agency (FEMA) Flood Insurance Rate Maps and to amend the text of the Waukesha County Shoreland and Floodland Protection Ordinance, hereby recommends approval of (SZ-1793 SFPO Text Amendments-Rock River Basin) in accordance with the attached "Staff Report and Recommendation".

PARK AND PLANNING COMMISSION

August 21, 2014

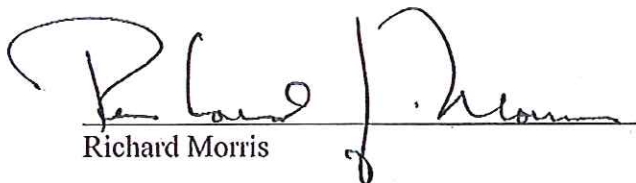

James Siepmann, Chairperson


Walter Kolb, Vice Chairperson


Robert Peregrine


Gary Goodchild


William Mitchell


Richard Morris

WAUKESHA COUNTY DEPARTMENT OF PARKS AND LAND USE
STAFF REPORT AND RECOMMENDATION
TEXT AMENDMENT

FILE NO.: SZ-1793 (Text)

DATE: August 21, 2014

PETITIONER: Waukesha County Park and Planning Commission
515 W. Moreland Blvd., Room AC 230
Waukesha, WI 53188

PROPOSAL:

Text amendments to the Waukesha County Shoreland and Floodland Protection Ordinance (SFPO) to incorporate new official FEMA floodplain maps and DNR floodplain storage maps, by reference and other floodplain text amendments to incorporate updated DNR model floodplain ordinance requirements. The text amendments specifically pertain to floodplain mapping updates relative to portions of the Towns of Delafield, Eagle, Lisbon, Merton, Oconomowoc and Ottawa. The proposed text amendments include changes to the non-conforming structure standards section of the ordinance in response to both required FEMA standards and a recent law change relative to the regulation of non-conforming shoreland structures.

PUBLIC HEARING DATE:

August 21, 2014.

PUBLIC REACTION:

Public comments will be accepted and considered at the August 21, 2014 public hearing. The related FEMA floodplain maps have previously been the subject of a formal FEMA appeals period. If comments raised during the hearing cannot be addressed at the same August 21, 2014 meeting, action can be tabled, if necessary, but a special Park and Planning Commission meeting may be needed to stay within the required FEMA adoption schedule. Because of the narrow window of time that FEMA provides for map adoption, the public hearing and proposed zoning ordinance text amendments have both been scheduled for the same date (August 21, 2014).

COMPLIANCE WITH THE WAUKESHA COUNTY DEVELOPMENT PLAN:

The County Development Plan calls for protection of one hundred year (1% chance) floodplains and recommends that new development not be allowed within floodplain areas. The proposal to adopt the new FEMA and DNR floodplain mapping and studies into the SFPO will ensure that areas subject to 100 year flooding events are protected and will provide relief to those property owners whose lands have recently been determined to be outside of the 100 year or 1% chance floodplain. The adoption of new floodplain studies, mapping and model ordinance provisions helps protect people and property improvements from the hazards of flooding.

STAFF ANALYSIS:

The Federal Emergency Management Agency (FEMA) has recently prepared new floodplain mapping for portions of Waukesha County and advised that the County, as floodplain administrator for the unincorporated areas of Waukesha County, must adopt the newly released FEMA mapping and related flood study data for affected unincorporated areas into the Waukesha County Shoreland and Floodland Protection Ordinance (SFPO) by November 5, 2014. Failure to do so would result in the County being suspended from the National Flood Insurance Program. In order to comply with FEMA requirements, the subject text amendments are now being proposed (See Exhibit "A"). The text amendments include a repeal and re-creation of the list of floodplain studies within the SFPO. The re-created map

table will incorporate the new FEMA floodplain maps and supporting data by reference. In addition, the DNR has also published new Floodplain Storage Maps that coincide with the new FEMA mapping. These maps are also required to be adopted into the SFPO by the DNR.

While the adoption of FEMA and DNR map panels and studies by reference is the most impactful part of the proposed text amendments, various other technical edits are being proposed to the floodplain provisions of the SFPO. The amendments are being required by FEMA and the DNR. FEMA has recently required that the DNR make updates to its model floodplain zoning ordinance in order for the State model to be consistent with federal requirements. Because of the major map update and related ordinance work, FEMA and DNR are requiring that the County floodplain zoning ordinance be updated at the same time. A few of the changes include new language that more specifically identifies the methods that must be used by engineers in completing floodplain studies, new language that requires minimization or elimination of flood water infiltration into septic systems and wells and new language that provides more specific criteria that must be used in considering issuance of floodplain variances. There are also multiple changes required to update language for improvements to non-conforming floodplain structures or uses. Because State law changed recently relative to the rules for regulating legal-non-conforming shoreland structures, the amendments also include modified provisions for the improvement of those non-conforming structures. Specifically, the existing ordinance language that states that the cumulative improvements to a legal non-conforming structure cannot exceed 50% of the structure's value have been eliminated. State law no longer allows for cost to be a determining factor. Therefore, this provision is being replaced with language that states that no more than 50% of the exterior structural members (outer walls, roof and foundation) can be replaced without variances. A number of other counties have employed this system for non-conformities and such language is necessary to decipher between improvement of legal non-conforming structures and re-builds of such structures. Non-structural work, such as interior wall changes, new cabinetry, drywall, carpet, siding, etc. will not count against the proposed amended 50% measure.

The new floodplain mapping and studies have been prepared as part of a new watershed based approach to floodplain studies that FEMA identifies as "Riskmap." Waukesha County's floodplain mapping is being updated by FEMA in three phases as part of the Riskmap initiative, starting with this first phase for the Rock River Basin. The part of the Rock River Basin within Waukesha County generally encompasses the lands in the west/northwest part of the County (see Exhibit "B"). FEMA will also bring forward new mapping for the Fox River Basin in the central part of the County within the next few years. Finally, Milwaukee River Basin mapping that affects the eastern part of the County will be updated. The unincorporated towns affected by the new Rock River Basin FEMA floodplain studies include the Towns of Delafield, Eagle, Genesee, Lisbon, Merton, Oconomowoc and Ottawa.

While the proposed FEMA amendments only include new studies for certain streams and waterways within the Rock River Basin, all FEMA map panels and the Flood Insurance Study (FIS) for the entire County have been updated because FEMA mapping is being converted Countywide from a vertical datum of NGVD29 to NAVD88 (a subtraction of generally -0.2 feet for all flood elevations). Datum means "a standard position that measurements are taken from." A datum is needed to properly orient points on the earth's surface to one another. While the earth is generally round, hills, valleys, etc. cause some deviation to roundness. Because maps are not similarly spherical, maps must be projected using a datum. According to Land Information Division Staff, the existing datum was created in 1929 and worked well for North America. However, the new datum works better in modeling the entire Earth's surface. The new datum changes the coordinates upon which mapping is based but does not change where features, such as floodplains, are located on the map. In other words, while the floodplain elevation of a certain lake will change as a result of the new datum, the location of the floodplain line on the map for that same lake does not change.

The subject FEMA study includes new detailed studies or revised studies for twelve streams, including the Ashippun River, the Oconomowoc River and the Little Oconomowoc River. The Bark River was also further studied. While the Waukesha County stretch of the Bark River had just recently been studied and re-mapped within the past year, additional study of the Bark River in adjacent counties and the input of updated dam gate opening data at Nagawicka Lake resulted in some modest changes to the floodplain for that stream system. The full list of studied streams is attached as Exhibit "C". There are numerous lakes that are part of the stream systems that were studied, and additional flow-through lakes, such as Okauchee Lake and North Lake, were assigned floodways. The new proposed FEMA mapping reduces the floodplain elevation of a number of larger lakes within the study area. Specifically, without consideration of datum change, the Okauchee Lake floodplain decreases by 0.4 feet, North Lake decreases by 1.4 feet and Lake Keesus decreases by 0.1 feet. At the same time, the floodplain of Ashippun Lake increases by 1.2 feet and Lac la Belle increases by 0.4 feet. A summary of lake floodplain changes is attached as Exhibit "D". The proposed FEMA and DNR floodplain mapping is posted for viewing at www.waukeshacounty.gov/planning (see the "Quicklinks" tab- FEMA Floodplain Update- 2014 Rock River Basin).

FEMA first released the preliminary maps for the subject map update in June 2013. Waukesha County forwarded notice of the availability of the maps and the description of the appeals process to all towns. The DNR, as FEMA's agent, conducted a public open house regarding the new FEMA mapping in July, 2013. Notice of the 90 day appeals period and process was transmitted by Waukesha County to all municipalities and lake districts in November 2013. As is the process for all new major FEMA mapping updates, a formal protest and appeals period was subsequently held. The North Lake Management District (NLMD) filed an appeal and Waukesha County forwarded the appeal and provided supplemental information to FEMA for consideration. The NLMD has expressed concern that they believed that the modified North Lake floodplain elevation is too low and that homes may be vulnerable to flooding at the lower elevation. County Planning and Zoning Staff also forwarded historic data regarding high floods of record for the lake along with the protest and asked FEMA to consider the NLMD protest and the additional data provided by the County.

FEMA ultimately rejected the appeal citing a lack of sufficient engineering data. Waukesha County staff has continued to have dialogue with the FEMA/DNR contract engineer that conducted the study to ask questions and provide additional information relative to lake water surface elevations. The engineer has input additional North Lake water elevation information collected by Planning and Zoning Staff from DNR ordinary high water mark determinations and surveyed water elevations into the model and has arrived at the same floodplain elevation for the lake, as proposed. Planning and Zoning Staff has also asked SEWRPC floodplain staff to examine water surface data with regards to the floodplain model for North Lake and we await word as to their findings. Regardless, the official FEMA floodplain mapping and study for North Lake must be adopted now, as proposed. The DNR has advised that counties do have the option to regulate a higher floodplain elevation. County staff will continue to consider that option once we have more information from SEWRPC engineers. At minimum, County Planning and Zoning Staff will advise petitioners on North Lake that they may wish to respect the high flood of record elevation of North Lake rather than sole reliance on the 1% or 100 year flood event elevation that has been determined by FEMA. Any required regulation of a higher floodplain elevation would require another public hearing and rezoning process.

While the formal incorporation of the FEMA and DNR floodplain maps and studies into the County SFPO is by text reference, Waukesha County, will, in the coming months, prepare to amend the affected official zoning maps in order to adjust floodplain boundaries and zoning designations to reflect the newly determined boundaries as part of a separate zoning map amendment. Immediately upon adoption of these text amendments, the new floodplain

elevations will be utilized for administration of the County zoning ordinances. It should be noted that the subsequent County zoning map update will likely include the conversion of the C-1 District to an overlay district in order to reduce the level of effort involved in making floodplain and wetland mapping updates in the future.

Affected cities and villages within the County will also be responsible for adopting the new mapping and study, as it relates to their corporate boundaries, into their respective zoning ordinances. It should be noted that DNR floodplain program staff, FEMA and Waukesha County Corporation Counsel are currently reviewing the proposed text amendments and any required edits will be incorporated, as they become available.

STAFF RECOMMENDATION:

It is the opinion of the Planning and Zoning Division Staff that the proposed text amendment ordinance be conditionally approved, subject to the following conditions:

1. Any technical corrections required by the DNR, FEMA or Waukesha County Corporation Counsel's office to the proposed floodplain ordinance amendments shall be incorporated into the final ordinance text.

As conditioned, the text amendments will adhere to FEMA and DNR requirements for the County's administration and protection of 100 year floodplain areas. The incorporation of the new Rock River Basin floodplain mapping into the County ordinance will change regulated floodplain elevations on a number of waterways to be consistent with the most recent FEMA floodplain studies, as required by federal and state law.

Respectfully submitted,

Jason Fruth

Jason Fruth
Planning & Zoning Manager

Enclosures: Exhibits "A" through "D"

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EXHIBIT "A"

Proposed Amendments

To The

Waukesha County Shoreland and Floodland Protection Ordinance

as of 8/15/2014

Note: To assist the reader, additions are identified in red print and deletions contain a strike through format. The page number refers to the page in the ordinance with an effective date of 4/23/2013 including the draft floodplain language incorporated herein. Please note that the ordinance with an effective date of 4/23/2013 is no longer the effective ordinance and is only being used for the purposes of identifying the proposed floodplain changes. The Ordinance effective 4/23/13 with the proposed floodplain changes is available on the Waukesha County Website, www.waukeshacounty.gov/planning.

SECTION 1

Repeal Section 1(c) as follows:

(p. 3 The language from this section is stated in 42(a))

General Interpretation

~~It is not intended by this Ordinance to repeal, abrogate, annul, impair or interfere with any existing easements, covenants or agreements between parties or with any rules, regulations, or permits previously adopted or issued pursuant to laws; provided, however, that where this Ordinance imposes a greater restriction upon the use of building or premises, or upon the height of a building or requires larger open spaces that are required by other rules, regulations or permits or by easements, covenants or agreements, the provisions of this Ordinance shall govern.~~

Repeal and recreate subsection 2(b)23 to read as follows:

(p. 7 Definition modified per S. 10.0(8) DNR Model Ordinance)

Basement: A level of a building with a height, as measured between the floor and the bottom of the floor joists above, that is more than one-half below the finished yard grade on at least one side. If a lateral extension of the basement level does not have a story (as defined in this Ordinance) above it, it is not considered a basement level, and shall be regulated as otherwise required in this Ordinance. ~~For Floodplain purposes only, a basement is any enclosed area of a building having its floor sub-grade, i.e. below ground level, on all sides.~~

Repeal and recreate subsection 2(b)34 to read as follows:

(p. 8 Definition modified per S. 10.0(12) DNR Model Ordinance)

Camping Unit: Any portable device used as a temporary shelter, including but not limited to a tent, camping trailer, mobile home, bus, van, or pick-up truck, ~~or tent or other recreational vehicle that is fully licensed, if required, and ready for highway use. Any such portable device is not defined as a camping unit if it exceeds 400 sq. ft. in area and is located in the Floodplain.~~

Create subsection 2(b)87 to read as follows:

(p. 14, Definition added per S. 10.0(40) DNR Model Ordinance)

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

Repeal and recreate subsection 2(b)96 (previously 2(b)95) to read as follows:

(p. 15, Definition modified for compliance with S. 10.0(42) DNR Model Ordinance)

Increase in Regional Flood Height or Elevation: 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.

Create subsection 2(b)114 to read as follows:

(p. 18, Definition added per S. 10.0(44) DNR Model Ordinance)

Lowest Adjacent Grade: The elevation of the lowest ground surface that touches any of the exterior walls of a building.

Repeal and recreate subsection 2(b)115 (previously 2(b)113) to read as follows:

(p. 18, Definition modified per S. 10.0(45) DNR Model Ordinance)

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

Create subsection 2(b)116 to read as follows:

(p. 18, Definition added per S. 10.0(46) DNR Model Ordinance)

Maintenance: The act or process of restoring to original soundness, including redecorating, or refinishing (such as painting, decorating, or paneling), non-structural repairs, or the replacement of existing fixtures, systems or equipment with equivalent fixtures, systems or structures.

Create subsection 2(b)120 to read as follows:

(p. 19, Definition added per S. 10.0(52) DNR Model Ordinance)

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

Create subsection 2(b)121 to read as follows:

(p. 19, Definition added per S. 10.0(53) DNR Model Ordinance)

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

Create subsection 2(b)122 to read as follows:

(p. 19, Definition added per S. 10.0(54) DNR Model Ordinance)

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

Create subsection 2(b)123 to read as follows:

(p. 19, Definition added per S. 10.0(55) DNR Model Ordinance)

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

Create subsection 2(b)124 to read as follows:

(p. 19, Definition added per S. 10.0(56) DNR Model Ordinance)

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

Create subsection 2(b)208 to read as follows:

(p. 30, Definition added per S. 10.0(76) DNR Model Ordinance)

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

Create subsection 2(b)22~~75~~ to read as follows:

(p. 32, Definition added to provide a cross-reference to the definition within code)

Zoning Administrator: Defined in Section 41(b).

SECTION 3 GENERAL PROVISIONS

Repeal and recreate subsection 3(a) to read as follows:

(p. 33, Text modified to identify current mapping procedures

Jurisdiction and Mapping

The jurisdiction of this Ordinance shall apply to all structures, land, and water including those lands within the unincorporated **F**loodland and **S**shoreland areas, as defined herein, and located within the boundaries of Waukesha County, Wisconsin.

Originally, the Waukesha County Board of Supervisors on June 23, 1970 adopted one (1) inch equals one thousand (1,000) feet individual township **S**shoreland and **F**loodland zoning maps as part of this Ordinance.

These areas of jurisdiction were redrawn and indicated on four (4) square mile aerial photographs at a scale of one (1) inch equals four hundred (400) feet and were made a part of this Ordinance. As a result of ongoing large scale topographic mapping and survey projects conducted under Section 87.31, Wisconsin Statutes and pursuant to county needs, additional topography maps at a scale of one (1) inch equals two hundred (200) feet with contour intervals of two (2) feet were also made a part of this Ordinance where said maps contained greater detail and information relative to information pertinent to said **S**shoreland and **F**loodland areas. Together with the one (1) inch equals four hundred (400) feet aerial photographs referenced above, these maps amended and replaced the original one (1) inch equals one thousand (1,000) feet township zoning maps previously adopted and referred to above for the specific land areas covered within the area for which the **S**shoreland and **F**loodland jurisdiction has been shown thereon.

~~Currently, the~~ **c**County ~~is converting~~ **has converted** the previously referenced maps into a digital format using the Geographic Information System (GIS) to allow for greater access to the mapping information. Paper copies are on record in the Waukesha County Department of Parks and Land Use-Planning and Zoning Division office. The maps are converted by town area and the **S**shoreland and **F**loodland areas are mapped using up-to-date **F**loodplain, navigability, elevation, **W**wetland, and parcel information, as well as historical information contained on the aforementioned one (1) inch equals four hundred (400) feet aerial photographs. The scale of the map differs by town, but in general are one (1) inch equals one thousand (1000) feet. These new maps supersede the aforementioned aerial and contour maps as they are completed and approved by the Plan Commission and the County Board.

The boundaries of the **F**loodplains and **W**wetlands shall be those areas designated as such on the above-referenced maps and as described in Section 6(b) of this Ordinance. For **F**loodplain **M**management purposes, the regulated **F**loodplain boundary shall be that as set forth in the FEMA Flood Insurance Rate Maps or as depicted as the C-1, EFD, and A-E districts of the official zoning map, whichever boundary designates a greater **F**loodplain area. Where a stream is subsequently identified or determined to be navigable, and was not previously subject to Shoreland and Floodland Ordinance jurisdiction, said navigable stream and the lands bordering it, which meet the **c**Conservancy zoning district standards for mapping, shall immediately be subject to the jurisdiction of this Ordinance, including those requirements such as conservancy setback requirements and other water quality related issues. Subsequently, upon processing and approval of an amendment to include the entire area along said stream or water course within the **S**shoreland jurisdiction and the holding of requisite hearings pursuant to the provisions of this Ordinance, all **S**shoreland areas and provisions attendant thereto shall fall under the jurisdiction of this Ordinance.

Repeal and recreate subsection 3(b)2 to read as follows:

(pg. 34, Modified per Section 2.0 DNR Model Ordinance)

Proposed development sites shall be reasonably safe from flooding, meaning that any subsurface waters related to the ~~B~~base ~~F~~flood will not damage existing or proposed structures and ~~B~~base ~~F~~flood waters will not inundate the land or damage structures that are removed from the ~~F~~floodplain in compliance with the standards of Section 8-Existing Floodplain Overlay Development District. If a proposed development site is in a flood-prone area, all new ~~F~~floodplain construction (as defined by this Ordinance) and ~~S~~substantial ~~I~~improvements shall be designed ~~or modified~~ and ~~adequately~~ anchored to prevent flotation, collapse, or lateral movement of the structure resulting from hydrodynamic and hydrostatic loads; be constructed with ~~flood-resistant~~ materials; ~~resistant~~ be constructed to ~~minimize~~ flood damages; ~~be constructed by methods and practices that minimize flood damages; and be constructed with electrical, heating, ventilation, plumbing, and air conditioning~~ and to ensure that utility and mechanical equipment ~~and other service facilities~~ is designed and/or located so as to prevent water from entering or accumulating within the ~~components~~ equipment during conditions of flooding.

Subdivisions shall be reviewed for compliance with the above standards. All subdivision proposals, including mobile home parks, shall include ~~R~~regional ~~F~~flood ~~E~~elevation and ~~F~~floodway data ~~and all Floodplain~~ ~~submittal requirements of Section 3(c)2.~~ Adequate drainage shall be provided to reduce exposure to ~~F~~flood hazards and all public utilities and facilities, such as sewer, gas, electrical, and water systems ~~are~~ shall be located and constructed to minimize or eliminate ~~F~~flood damages.

Repeal and recreate subsection 3(c)2.B.ii. to read as follows:

(pg. 36, Modified per Section 7.1(2)b DNR Model Ordinance)

The location of the centerline of any abutting streets ~~and the location and elevation of existing and future~~ ~~access roads.~~

Repeal and recreate subsection 3(c)2.D.ii. to read as follows:

(pg. 36 & 37, Modified per Sections 5.1~~4~~ & 5.4 DNR Model Ordinance)

Where the development, improvements or construction activities are located in a ~~F~~floodplain, where ~~F~~flood ~~P~~profiles are not available or where ~~F~~flood ~~P~~profiles are available but ~~F~~floodways have not been determined, the following shall be submitted to the Zoning Administrator and the Zoning Administrator shall submit the same to the WDNR, along with a written request for technical assistance to establish ~~R~~regional ~~F~~flood ~~E~~elevations and, where applicable, ~~F~~floodway data:

- a. Two (2) copies of an aerial photograph or a plan, which shows the proposed development with respect to the ~~W~~wetland and ~~F~~floodplain limits, stream channel, and existing ~~F~~floodplain developments, along with a legal description of the property, fill limits and elevations, building floor elevations and ~~F~~flood-proofing measures, ~~and the Flood zone as shown on the FIRM.~~
- b. Two (2) copies of any of the following information deemed necessary by the WDNR to evaluate the effects of the proposal upon ~~F~~flood height and ~~F~~flood flows, ~~R~~regional ~~F~~flood ~~E~~elevation and to determine ~~F~~floodway boundaries:
 1. ~~A typical valley cross-section showing the stream channel, the floodplain adjoining each side of the channel, the cross-sectional area to be occupied by the proposed development, and all~~

~~historie high water information~~ A hHydraulic and hHydrologic study completed under the direct supervision of a professional engineer registered in the State of Wisconsin. The study contractor shall be responsible for the technical adequacy of the study. All studies shall be reviewed and approved by the WDNR;. The study shall comply with the standards of Section 3(c)7.

2. A plan (surface view) showing elevations or contours of the ground; pertinent structure, fill or storage elevations; size, location and layout of all proposed and existing structures on the site; location and elevations of streets, water supply, and sanitary facilities; soil types and other pertinent information;
- ~~3. A profile showing the slope of the bottom of the channel or flow line of the stream;~~
- 4.3. Specifications for building construction and materials, Ffloodproofing, filling, dredging, channel improvement, storage, water supply and sanitary facilities.

Repeal and recreate subsection 3(c)2.E. to read as follows:

(pg. 38, Modified per Section 7.1(4) DNR Model Ordinance)

All necessary permits from federal, state, and local agencies, including, **but not limited to** those required by the U.S. Army Corps of Engineers under s. 404 of the Federal Water Pollution Control Act, Amendments of 1972, 33 U.S.C. 1344 shall be required prior to issuance of the zoning permit, unless the zoning permit must precede the other applicable permits.

Repeal and recreate subsection 3(c)4 to read as follows:

(pg. 39, Modified per Section 7.1(2)(d) DNR Model Ordinance)

Expiration: All permits issued for development in the **Floodplain** 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. Unless specifically conditioned otherwise, the following expiration provisions apply to all other permits: If within six (6) months of the date of issuance of a zoning permit, the proposed construction or preparation of land for use has not commenced, or if within eighteen (18) months an occupancy and use permit has not been issued, if required by the Town, or the construction has not been completed, said zoning permit shall expire, except that upon showing of valid cause, the Zoning Administrator may grant an extension of such permit for a period not to exceed six (6) months from the date of the expiration of the zoning permit, and only one such six month extension shall be granted. Said permit extension shall be issued for the full fee and shall comply with the Ordinance in effect at the time the original permit was issued. If the construction has not commenced or is not completed after a total of twenty-four (24) months, and an occupancy permit has not been issued by the Town Building Inspector, the Zoning Administrator shall make an inspection of the subject property to determine if there is a valid reason a new permit should be issued. If allowed, a new permit must be applied for and issued subject to all fees in effect at the time of such new permit issuance and subject to the Ordinance in effect at the time of such new permit issuance. Previous incomplete work is not entitled to a new permit if the Ordinance no longer permits said use or structure or if changes to the Ordinance have been made subsequent to the original issuance of the permit. If the Zoning Administrator determines a new permit should not be issued, a nuisance determination involving the town, fines, citations, an injunction, or other legal remedies may be used to facilitate the completion of the work, or the removal of the work that has occurred and restoration of the land that has been disturbed. The second and any subsequent permits shall not be eligible for any extensions. Subsequent permits are subject to all fees in

effect at the time of permit issuance and are subject to the Ordinance in effect at the time of such subsequent permit issuance.

Create subsection 3(c)7 to read as follows:

(pg. 41-44, Created section per Section 7.1(2)(c) DNR Model Ordinance)

Hydraulic and Hydrologic study requirements to analyze development in the Floodplain:

A. Zone A Floodplains:

- i. **Hydrology:** The appropriate method shall be based on the standards in ch. NR 116.07(3), Wis. Admin. Code, *Hydrologic Analysis: Determination of Regional Flood Discharge*.
- ii. **Hydraulic modeling:** The Regional Flood Elevation shall be based on the standards in ch. NR 116.07(4), Wis. Admin. Code, *Hydraulic Analysis: Determination of Regional Flood Elevation* and the following:
 - a. Determination of the required limits of the hydraulic model shall be based on detailed study information for downstream structures (dam, bridge, ~~culvert~~ and culvert) to determine adequate starting Water Surface Elevation (WSEL) for the study.
 - b. Channel sections must be surveyed.
 - c. Minimum four foot contour data in the overbanks shall be used for the development of cross section overbank and Floodplain mapping.
 - d. 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.
 - e. The most current version of Hydrologic Engineering Centers River Analysis System (HEC-RAS) shall be used.
 - f. A survey of bridge and culvert openings and the top of road is required at each structure.
 - g. 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.
 - h. Standard accepted engineering practices shall be used when assigning parameters for the base model such as flow, Manning's N values, expansion and contraction coefficients or effective flow limits. The base model shall be calibrated to

past flooding data such as high water marks to determine the reasonableness of the model results. If no historical data is available, adequate justification shall be provided for any parameters outside standard accepted engineering practices.

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

B. Zone AE Floodplains

- i. Hydrology: If the proposed hydrology will change the existing study, the appropriate method to be used shall be based on ch. NR 116.07(3), Wis. Admin. Code, Hydrologic Analysis: Determination of Regional Flood Discharge.
- ii. Hydraulic model: The Regional Flood Elevation shall be based on the standards in ch. NR 116.07(4), Wis. Admin. Code, *Hydraulic Analysis: Determination of Regional Flood Elevation* and the following:
 - a. 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.
 - b. Corrected Effective Model: The Corrected Effective Model shall not include any man-made physical changes since the effective model date, but shall import the model into the most current version of HEC-RAS for Department-WDNR review.

- c. 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.
 - d. 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.
 - e. All changes to the Duplicate Effective Model and subsequent models must be supported by certified topographic information, bridge plans, construction plans and survey notes.
 - f. 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.
- iii. Mapping: Maps and associated engineering data shall be submitted to the WDNR for review which meet the following conditions:
- a. Consistency between the revised hydraulic models, the revised Floodplain and Floodway delineations, the revised Flood Profiles, topographic work map, annotated FIRMs and/or Flood Boundary Floodway Maps (FBFMs), construction plans, bridge plans.
 - b. Certified topographic map of suitable scale, contour interval, and a planimetric map showing the applicable items. If a digital version of the map is available, it may be submitted in order that the FIRM may be more easily revised.
 - c. Annotated FIRM panel showing the revised 1% and 0.2% annual chance Floodplains and Floodway boundaries.
 - d. If an annotated FIRM and/or FBFM and digital mapping data (GIS or CADD) are used then all supporting documentation or metadata must be included with the data submission along with the Universal Transverse Mercator (UTM) projection and State Plane Coordinate System in accordance with FEMA mapping specifications.
 - e. The revised Floodplain boundaries shall tie into the effective Floodplain boundaries.
 - f. 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.

- g. Both the current and proposed Ffloodways shall be shown on the map.
- h. The stream centerline, or profile baseline used to measure stream distances in the model shall be visible on the map.

Repeal and recreate Section 3(d)5.A.ii. to read as follows:

(pg. 47 & 48, Modified per Sections 2.1 and 5.2 DNR Model Ordinance)

Standards for development; the following standards must be met for any fill, excavation, or other land altering activities within the Ffloodplain, unless the provisions of Section 39 are met:

- a. ~~Within floodlands, including where the lands have been rezoned, the placement of fill, excavation, or other land altering activities are allowed by permit, the following standards must be met:~~
 - ~~a.—~~a. Floodplain development must not impede drainage.
 - ~~b.—~~b. Floodplain development must not reduce the Fflood water storage capacity of the Floodplain.
 - ~~c.—~~c. Floodplain development must not result in an increased Rregional Fflood Eelevation of 0.00 ft. due to Ffloodplain Sstorage area lost.
 - ~~d.—~~d. Floodplain development must not obstruct flow, defined as development which blocks the conveyance of floodwaters by itself or with other development.
 - ~~e.—~~e. Compensatory storage is required for all areas of authorized fill on a minimum of a one--to--one basis, which equals 100% replacement of any lost Ffloodplain Sstorage Ceapacity. Excavation below the groundwater table is not considered to provide an equal volume of storage. Compensation must be provided in a manner that is not deleterious to other property or the quality of any Wwetlands. The area of compensatory Ffloodplain storage shall be provided in the immediate area of in-close-proximity-to the fill activity and shall not result in an increase in Ffloodplain elevations on upstream or downstream properties.
 - ~~f.—~~f. If compensatory storage cannot be provided and the area is identified on the WDNR Fflood Sstorage maps, Section 39(f)2.F shall be complied with in addition to the other rezone criteria specified in Section 39.

Repeal and recreate Section 3(d)5.B. to read as follows:

(pg. 48 & 49, Modified per Section 2.2 DNR Model Ordinance)

Within Sshorelands--grading, clean fill disposal sites, topsoil removal, filling, alteration or enlargement of waterways, removal or placement of stream or lake bed materials, excavation, channel cleaning and clearing, ditching, drain tile laying, dredging, lagooning and soil and water conservation structures are Ceconditional Uuses and must be approved in accordance with Section 4(g)14 of this Ordinance except as may otherwise be permitted in Sections 3(d)5.C and D or 7(c)1. In addition, such uses may require a permit from the state agency having jurisdiction pursuant to Chapter 30 of the Wisconsin Statutes and, where applicable, a federal

permit from the U.S. Army Corps of Engineers. All such uses and activities shall be consistent with the uses permitted in the C-1 Conservancy District, EFD Existing Floodplain Development Overlay District and A-E Exclusive Agricultural Conservancy District, if they occur within said district. If the proposed activity requires a rezoning of the lands, Section 39 of this Ordinance must be complied with.

Any alteration or relocation of a watercourse in a mapped Floodplain shall not be approved until the Zoning Administrator has notified in writing all adjacent municipalities, the WDNR and FEMA regional offices and required the applicant to secure all necessary state and federal permits. The standards of Section 3(d)5.A.ii. must be met and the Flood carrying capacity of any altered or relocated watercourse shall be maintained consistent with preexisting conditions prior to any alterations taking place. As soon as is practicable, but not later than six months after the date of the watercourse alteration or relocation and pursuant to Section 39, the community or applicant shall apply for a Letter of Map Revision (LOMR) from FEMA. Any such alterations must be reviewed and approved by FEMA and the WDNR through the LOMC process, the zoning administrator shall notify FEMA of the changes by submitting appropriate technical or scientific data in accordance with the National Flood Insurance Program guidelines that shall be used to revise the Flood Insurance Rate Map, risk premium rates and floodplain management regulations as required.

Repeal and recreate Section 3(o)2 to read as follows:

(pg. 70 & 71, Modified per ACT 170 and Chapter 59 WI State Statute exemptions for nonconforming structures)

Classification and regulation: For the purposes of administration, legal non-conformity shall be classified and regulated as follows:

A. *Non-conforming structures:*

- i. ~~i. —~~ No structure shall be ~~modernized,~~ expanded or enlarged ~~except in conformity unless the expansion or enlargement complies~~ with the applicable district regulations or by order of the ~~b~~Board of ~~a~~Adjustment ~~if such total repairs equal or exceed fifty (50) percent of the equalized assessed value obtained from the County Real Property Tax Listing.~~ An expansion or enlargement is any modification that increases the three-dimensional building envelope of the structure, including the area below grade.
- ii. No structure shall be improved or structurally repaired if 50% or more of the exterior structural members are improved or structurally repaired over the lifetime of the structure. Maintenance, as defined in this Ordinance, is exempt from this provision. An improvement or structural repair of the exterior structural members includes the removal or replacement of foundations, rafters, trusses, exterior walls, or similar structural members.
- ~~ii. —~~ ~~Where the damage to such a structure equals or exceeds fifty (50) percent of its equalized assessed value obtained from the County Real Property Tax Listing, it shall not be restored except in conformity with the applicable district regulations or by order of the Board of Adjustment.~~
- iii. Nonconforming structures located in the Floodplain shall be governed by the regulations of Section 8-Existing Floodplain Development Overlay District.
- iv. The Zoning Administrator shall keep a record, which lists all known nonconforming structures located in the Floodplain and all structures housing Nonconforming Uses, regardless of their location, their equalized assessed value, the cost of all modifications or

additions, which have been permitted, and the percentage of the structure's total equalized assessed value those modifications represent.

B. *Non-conforming Use of structures and lands:*

- i. No such use shall be expanded or enlarged.
- ii. When any such Nonconforming Use or the use of a Nonconforming Structure is discontinued for twelve (12) consecutive months or eighteen (18) cumulative months during a three-year period, any future use of the land or structure shall conform to the use regulations of the applicable district.
- iii. ~~When the damage to a structure which houses such non-conforming use, equals or exceeds fifty (50) percent of its equalized assessed value obtained from the County Real Property Tax Listing, it shall not be restored for any use except in conformity with the applicable district regulations.~~
- iv. Total structural repairs or alterations to a structure housing a Non-conforming Use shall not equal or exceed fifty (50) percent of the equalized assessed value of the structure obtained from the County Real Property Tax Listing over the lifetime of the structure. ~~At such time as cumulative structural repairs or alterations to such a structure equal or exceed 50% of the equalized assessed value of the structure, the use of the structure shall be converted to conform with the applicable district regulations or the structure shall be torn down.~~
- v. Nonconforming Uses in a floodplain or a nonconforming use of a nonconforming structure in a floodplain are governed by the regulations of Section 8-Existing Floodplain Development Overlay District.

C. ~~Nonconforming lots: The size and shape of such lots shall not be altered in any way which would increase the degree of such nonconformity to the applicable district regulations.~~

Repeal and recreate Section 4(g)13.B to read as follows:

(pg. 86, Replaced former WI Admin. Code reference with current reference)

The Waukesha County Department of Parks and Land Use, Environmental Health Division shall certify that the septic system will accommodate the proposed use and in accordance with ~~SPS 383-COMM-83~~, County and State Sanitary Codes.

Repeal and recreate Section 4(g)23 to read as follows:

(pg. 96, Added language to clarify that camping units and associated facilities are not permitted in the floodplain)

Private Clubs and Resorts: Without limitation because of enumeration, this category includes resorts and private clubs such as outdoor/indoor recreational facilities as defined herein, driving ranges, tanning booths, campgrounds, golf courses, beaches, yacht clubs, boarding stables, riding arenas, game farms, etc. These uses are permitted in any district, except that buildings and structures (including, but not limited to, the temporary or permanent placement of camping units ~~and all service facilities~~) are not permitted within C-1 or

A-E zoned districts, subject to the following;

- A. No such use shall be permitted on a lot less than three (3) acres in area except in a restricted business or less restrictive district.
- B. No building, other than one used only for residence purposes shall be closer than fifty (50) feet to the lot line of an adjoining lot in a district permitting residential use.
- C. Off-street parking shall be provided as required by the Plan Commission adequate to meet the particular needs of the proposed use.
- D. No such permitted use shall include the operation of a commercial facility such as a bar, restaurant or arcade except as may be specifically authorized in the grant of permit.

Repeal and recreate 1st paragraph of Section 4(g)25 to read as follows:

(pg. 97, Modified language since quarrying type activities are allowed in the floodplain per Section 3.2(5) DNR Model Ordinance)

Quarrying as defined in this Ordinance: In any district except ~~C-1 Conservancy/Wetland, EFD, A-E Exclusive Agricultural, E-C Environmental Corridor, AD-10, RRD-5, A-2 Rural Home, A-3 Suburban Estate, A-4 Country Estate, R-1, R-2, R-3, P-1, B-1, B-2, B-3, B-4, BP, or M-1.~~ Existing quarries may continue to operate in the C-1, EFD and A-E Districts, subject to compliance with the development standards of 7(c)2. New quarries are prohibited in the C-1, EFD, and A-E Districts. All quarries are, subject to the following:

Repeal and recreate subsection 6(b)1.B. to read as follows:

(pg. 105-107, Modified per Section 1.5(1) and (2) DNR Model Ordinance and relocated last statement directly below 6(b)1.B.ii)

Floodplains: The boundaries of the floodplains shall be those areas designated as ~~such~~ A or A-E on the FEMA Flood Insurance Rate Maps based on the Flood Insurance Study, including all areas covered by the Regional or Base Flood, and those floodplains identified as an Official Map below approved by WDNR, or as depicted as C-1 Conservancy District, EFD Existing Floodplain Development Overlay District and A-E Exclusive Agricultural Conservancy District on the Waukesha County Shoreland and Floodland Protection Ordinance Zoning Maps referenced in Section 3(a) of this Ordinance, ~~(or as subsequently determined by the Zoning Administrator, pursuant to Section 6(b)1.B.3, ask Jason how to add this in)~~ whichever boundary designates a greater floodplain area.

Base Flood elevations are derived from the corresponding flood profiles in the Flood Insurance Study published by FEMA. ~~published by FEMA, Flood Insurance Study, effective date, November 19, 2008, or as amended or updated thereafter.~~ Areas covered by the Base Flood are identified as AE (-numbered A-Zones) on the Flood Insurance Rate Map. Other regulatory zones are displayed as A Zones. ~~The Flood Insurance Study constitutes the basis for which the official floodplains and appropriate zoning categories for which unincorporated areas of Waukesha County have been mapped. This study has been approved by the WDNR and FEMA, and is on file in the office of the County Zoning Administrator. Regional Flood Elevations have been may be derived from other studies and are approved by WDNR.~~

~~A list of the official floodplain maps to be used in conjunction with the Waukesha County Shoreland and~~

~~Floodland Protection Ordinance Zoning Maps is listed as follows. These maps and revisions are on file in the office of the Waukesha County Zoning Administrator, in Waukesha County. If more than one map or revision is referenced, the most restrictive information shall apply.~~

Any change to the ~~B~~base ~~F~~flood elevations (BFE) or any changes to the boundaries of the ~~F~~floodplain or ~~F~~floodway in the Flood Insurance Study or on the Flood Insurance Rate Map must be reviewed and approved by the WDNR and FEMA through the Letter of Map Change process and through Section 39 of this Ordinance before it is effective. No changes to ~~R~~regional ~~F~~flood ~~E~~elevations (RFE's) on non-FEMA maps shall be effective until approved by the WDNR.

~~A list of the official ~~F~~floodplain maps to be used in conjunction with the Waukesha County Shoreland and Floodland Protection Ordinance Zoning Maps is listed as follows. These maps and revisions for unincorporated Waukesha County are on file in the office of the Waukesha County Planning and Zoning Division located in the Waukesha County Administrative Center in Waukesha, Wisconsin. If more than one map or revision is referenced, the most restrictive information shall apply.~~

- i. **OFFICIAL MAPS** : Based on the Flood Insurance Study ~~a~~(Approved by WDNR and FEMA)
 - a. See Table 6(b)1.B.i.
 - b. Revisions to the Waukesha County Flood Insurance Rate Map (FIRM) panel numbers: See Table 6(b)1.B.i.
- ii. **OFFICIAL MAPS: Based on other studies ~~a~~(Approved by WDNR. Said maps and are more restrictive than those maps based on the Flood Insurance Study)**

The list of official maps based upon other studies to be used in conjunction with the Waukesha County Shoreland and Floodland Protection Ordinance Zoning Maps is as follows: See Table 6(b)1.B.ii.

Official maps approved by the WDNR and/or FEMA, including ~~F~~flood ~~P~~profiles, ~~F~~floodway data tables, ~~R~~regional or ~~B~~base ~~F~~flood ~~E~~elevations and other information shall become official maps of this Ordinance and shall be specifically listed herein as adopted by the Waukesha County Board.

The ~~c~~County shall provide the list of the official maps to the WDNR and FEMA regional offices for unincorporated areas of Waukesha County. Approved studies shall not be considered official maps herein until the land is rezoned according to Section 39 of this Ordinance. Said areas must be rezoned and identified on the official zoning maps within 6 months of WDNR approval. ~~The list of official maps based upon other studies to be used in conjunction with the Waukesha County Shoreland and Floodland Protection Ordinance Zoning Maps is as follows: See Table 6(b)1.B.ii.~~

Repeal and recreate Section 6(b)5 to read as follows:

(pg.108 & 109, Modify per S. 1.5(4) DNR Model Ordinance)

Dispute or discrepancy of ~~F~~floodplain boundaries: In the case of any dispute or discrepancy regarding a boundary between an official zoning map and actual field conditions locating the ~~F~~floodplain boundary, the criteria in paragraphs (a) or (b) below shall be used. If a significant difference exists, the map shall be amended according to Section 39 of this Ordinance. ~~Where the flood profiles are based on established base~~

~~flood elevations from a Flood Insurance Rate Map, FEMA must also approve any map amendment.~~ The Zoning Administrator can rely on a boundary derived from a ~~F~~ flood ~~P~~ profile elevation to grant or deny a permit, whether or not a map amendment is required. The Zoning Administrator shall be responsible for documenting actual pre-development field conditions and the basis upon which the district boundary was determined and for initiating any map amendments required under this section. Disputes between the Zoning Administrator and an applicant over the district boundary line shall be settled according to Section 38 of this Ordinance and the criteria in (a) and (b) below. ~~Where the F flood P profiles are based on established B base F flood E elevations from a Flood Insurance Rate Map, FEMA must also approve any map amendment or revision pursuant to Section 39 of this Ordinance.~~

- a. If ~~F~~ flood ~~P~~ profiles exist, the map scale and the profile elevations shall determine the district boundary. The ~~R~~ regional or ~~B~~ base ~~F~~ flood elevations shall govern if there are any discrepancies.
- b. Where ~~F~~ flood ~~P~~ profiles do not exist ~~for projects~~, the location of the boundary shall be determined by the map scale, ~~visual on-site inspection and any information provided by the WDNR, and/or FEMA.~~

SECTION 7 C-1 CONSERVANCY -DISTRICT

Repeal and recreate Section 7(c)1 to read as follows:

(pg. 109-112, Added clarifying language, removed the Land Resources Division and Zoning Agency as review entities, removed the need for a CU for dam repair and for maintenance of roads, ramps and trails for recreational areas, includes private driveways and bridges as a permitted use, modified sub. J per Section 4.3(6) DNR Model Ordinance, and added sub. L because the use is allowed in Section 3.2(5) DNR Model Ordinance.

Permitted uses (F floodway, F floodfringe, and W wetland): The provisions of Section 7(c)2 must be met for all permitted uses that involve development ~~in the F floodplain~~, as defined in this Ordinance.

- A. Hiking, fishing, trapping, hunting, swimming and boating, harvesting of wild crops such as marsh hay, ferns, moss, wild rice, berries, tree fruits and tree seeds in a manner that is not injurious to the natural reproduction of such crops.
- B. Pasturing of livestock and the construction and maintenance of fences, provided no filling, flooding, draining, dredging, ditching, tiling or excavating is done.
- C. The practice of silviculture including planting, thinning and harvesting of timber, provided that no filling, flooding, draining, dredging, ditching, tiling or excavation is done except as required to construct and maintain roads which are necessary to conduct silvicultural activities which cannot, as a practical matter, be located outside the C-1 Conservancy -District and which are designed and constructed to minimize the adverse impact upon the natural functions of the conservancy area or except as required for temporary water level stabilization measures to alleviate abnormally wet or dry conditions which would have an adverse impact upon the conduct of silvicultural activities if not corrected. Where such silvicultural practices will take place on areas larger than five (5) acres in size, a forest management plan prepared in cooperation with a state forester shall be submitted to and approved by the Waukesha County Department of Parks and Land Use, ~~Land Resources Division and the zoning agency~~ prior to its implementation. Where such silvicultural practices will take place

on areas smaller than five (5) acres in size, the requirements of Section 3(d)9 shall be met. All fill material associated with the construction and maintenance of roads necessary to conduct silvicultural activities must be removed from the conservancy zoned lands after any temporary silvicultural activities are completed.

- D. The cultivation of agricultural crops if cultivation can be accomplished without filling, flooding or artificial drainage of any wetlands through ditching, tiling, dredging or excavating. Where ditching and drainage for agricultural purposes is to take place outside of a wetland but within the Floodplain C-1 Conservancy District, said work may be permitted subject to review and approval by the Waukesha County Department of Parks and Land Use, ~~Land Resources Division and the zoning agency~~ without the benefit of a conditional use permit. Construction and maintenance of roads shall be permitted if the roads are necessary for agricultural cultivation and cannot be located outside the conservancy area and are designed and constructed to minimize the adverse impact upon the natural functions of any wetland area. No new drainage systems will be permitted in wetlands. Sod farms will be allowed subject to review and approval of a conservation plan by the Waukesha County Department of Parks and Land Use, ~~Land Resources Division and the zoning agency~~.
- E. The maintenance and repair of existing agricultural drainage systems, including ditching, tiling, dredging, excavating and filling necessary to maintain the level of drainage required to continue any existing agricultural use. ~~This includes the filling attendant to the disposal of dredged spoil material adjacent to the drainage systems is not permitted within the Floodplain, but may be allowed in the wetland provided that dredged spoil is placed on existing spoil bands where possible or immediately adjacent to the ditches and provided WDNR and ACOE approvals are obtained, if necessary or removed from the conservancy area altogether.~~
- F. Functionally water-dependent uses, such as docks, piers or wharves, flowage areas, water monitoring devices, culverts, navigational aids and river crossings of transmission lines, and pipelines, including limited excavating and filling necessary for such construction and maintenance, that comply with Chapter 30 of the Wisconsin Statutes and any applicable federal regulations. Commercial docks, piers, moorings and wharves are permitted subject to issuance of a Conditional Use Permit under Section 4(g)17 and 23 of this Ordinance.
- G. Dam construction, ~~operation, maintenance,~~ and abandonment, provided a Conditional Use Permit is obtained in accordance with Section 4 of this Ordinance and all applicable permits are obtained from the WDNR pursuant to Chapter 31 of the Wisconsin Statutes and from the ACOE pursuant to federal requirements. ~~Maintenance of an existing dam shall comply with the standards of this ordinance, but shall not require the issuance of a Conditional Use Permit.~~
- H. Maintenance, repair, replacement, reconstruction or new construction of town, county and state streets, highways and bridges, ~~and normal driveway construction and related bridges that are necessary in order to provide access to a property, including limited excavating and filling as necessary, provided such facilities are deemed essential or provided that failure of existing streets, driveways and bridges would endanger public health or safety.~~ -Adequate Floodproofing measures shall be provided to the Flood Protection Elevation as identified in Section 8(c) and the standards of Section 3(d)5.A of this Ordinance shall be met. Bridge projects must be completed pursuant to Chapters 30 and 31 of Wisconsin Statutes and any other local, state and federal requirements. ~~WDNR and ACOE Permits must be obtained for all private driveways and bridges located in the wetland.~~
- I. The establishment and enhancement of public and private parks and recreation areas, wilderness or walk-in unimproved boat access sites, natural and outdoor education areas, historic and scientific

areas, wildlife refuges, game preserves and wildlife habitat areas provided that no filling is done in the C-1 Conservancy District and that no other improvements and/or construction occurs within a wetland area. The owner or operator of any new private park, recreation or wildlife area to be located in a C-1 Conservancy District shall be required to notify the county zoning agency of the proposed project before beginning any development activities. Unsided and open shelters may be permitted within a floodplain, but outside of the wetland area. Ditching, excavating, dredging, and dike construction may be allowed in said areas for the purpose of improving wildlife habitat or to otherwise enhance wildlife values provided all necessary state and federal permits are obtained and said activities shall only be approved after review and approval and issuance of a conditional use permit. Roads to service recreational uses, launching ramps, hiking and riding trails may be permitted but said roads, ramps and trails may not include filling or other construction activity within wetlands without WDNR and ACOE approvals, if required, and shall not impact the storage or flow of surface water and flood water. Said filling and construction activity **for new roads, ramps, and trails** which may be located within a C-1 conservancy zoning district will be subject to conditional use procedures contained herein. **Maintenance of existing roads, ramps, and trails shall comply with the standards of this Ordinance, but shall not require the issuance of a Conditional Use Permit.**

- J. The construction and maintenance of electric, gas, telephone, cable, fiber optic, water and sewer transmission and distribution facilities, by public utilities and cooperative associations organized for the purpose of producing or furnishing heat, light, power or water to their members and the construction or maintenance of railroad lines provided that:
- i. The transmission and distribution facilities and railroad lines cannot, as a practical matter, be located outside the C-1 Conservancy District **and provided such facilities are deemed essential or failure of existing facilities would endanger public health or safety.** Structures shall not be located in the **Floodway**, and if located in the **Floodfringe**, adequate **Floodproofing** measures shall be provided to the **Flood Protection Elevation** and the standards of Section 3(d)5.A of this Ordinance shall be met.
 - ii. Such construction or maintenance is done in a manner designated to minimize adverse impact upon the natural functions of the **Wetland**. Major electrical generative facilities and high voltage transmission lines that have obtained a certificate of public convenience and necessity under Section 196.491, Wisconsin Statutes, are not subject to the requirements of this Ordinance.
- K. The construction or maintenance of nonresidential buildings provided that the building is essential for and used solely in conjunction with the raising of waterfowl, minnows or other **Wetland** or aquatic animals or some other use permitted in the conservancy district. Wherever possible, said buildings shall be located outside of the **Wetland**, and such building may not be used for human habitation and shall not exceed five hundred (500) square feet in floor area. Limited filling and excavating necessary to provide structural support for the building is permitted. Where the use is intended for commercial purposes, said use and buildings shall be subject to the provisions of Section 4(g)9 **and said commercial uses and buildings are not permitted within the floodway.**
- L. **Existing quarrying operations located within the Floodplain or that may expand the Floodplain via the extraction of sand, gravel, or other materials in compliance with Section 4(g)25. Said activities are prohibited in Wetlands.**

Repeal and recreate Section 7(c)2.A.iv. to read as follows:

(pg. 113, Added language to specify that ~~Floodproofing~~ only applies to structures below the base or regional flood elevation.)

In addition to the lowest floor elevation and fill requirements of this Ordinance, any structure **that is not placed on fill at an elevation above the Bbase or Rregional Fflood Elevation** must meet the **floodproofing standards in Section 8(c)**.

Repeal and recreate Section 7(c)2.A.v. to read as follows:

(pg.113, Modified per Section 2.1(2) DNR Model Ordinance)

The Zoning Administrator shall deny the permit application if the project will **obstruct flow or cause any increase in the Fflood elevations** upstream or downstream based on data submitted pursuant to par. ii, iii and iv above. If an increase in the **Fflood elevation** is proposed, the project must be reviewed in accordance with Section 4(g)14 as a Conditional Use and a Rezone must be obtained in accordance with Section 39. Compensatory **Ffloodplain storage** must be provided as required in Section 3(d)5.A.

Repeal and recreate Section 7(c)2.A.vi. to read as follows:

(pg. 113, Modified per Section 7.1(3) DNR Model Ordinance)

The applicant shall submit a certification signed by a registered professional engineer, architect or land surveyor that the fill, lowest floor and **Ffloodproofing elevations** are in compliance with the permit issued. Floodproofing measures also require certification by a registered professional engineer or architect that **floodproofing measures meet** the requirements of Section 8(c) **are met**.

Repeal and recreate Section 7(c)3.D to read as follows:

(pg. 115, Modified per Sections 3.4(4) and 6.2(2) DNR Model Ordinance)

Any new or addition to existing private or public sewage systems and permanent or portable toilets in the **Ffloodway, except portable latrines that are removed prior to flooding and systems associated with recreational areas** and except where an addition to an **existing system** has been ordered by a government agency to correct a hazard to public health. Any replacement, repair or maintenance of an existing private sewage system in a **Ffloodway** shall meet the applicable requirements of other ordinances, **the Ffloodproofing measures of Section 8(c)3, and Chapter SPS 383-COMM-83, Wisconsin Administrative Code;**

Repeal and recreate Section 7(c)3.E to read as follows:

(pg.115, Modified per Sections 3.4(5) and 6.2(3) DNR Model Ordinance)

Any new public or private wells and appurtenant structures **or modifications to an existing well**, which are used to obtain potable water, except those **that are located outside of the floodway and that are used to benefit for recreational areas**. **The wells and appurtenant structures shall that** meet the requirements of other ordinances, **the development standards of Section 7(e)2 the Ffloodproofing measures of Section 8(c)3, and Chapters NR 811 and NR 812, Wisconsin Administrative Code**. Any replacement, repair or maintenance of an existing well **in the Ffloodfringe and Ffloodway** shall also meet the requirements of all other ordinances, **the F-floodproofing measures of Section 8(c)3 and Chapters NR 811 and NR 812, Wisconsin Administrative Code;**

Repeal and recreate Section 7(c)5. A. to read as follows:

(pg. 115-116, Relocated language to Section 38)

Any variance granted for structures located in the floodplain shall meet the minimum floodplain criteria ~~Additional requirements for variances in the floodplain are specified in Section 38 of this Ordinance.~~

~~A. Any variance granted on a property located in the floodplain shall meet the following additional criteria:~~

~~i. May not cause any increase in the regional flood elevation.~~

~~ii. May not increase the amount of obstruction to flood flows.~~

~~iii. The variance shall only be granted upon a showing of good and sufficient cause, shall be the minimum relief necessary, shall not cause increased risks to public safety or nuisances, shall not increase costs for rescue and relief efforts and shall not be contrary to the purpose of the Ordinance.~~

~~iv. The floodproofing measures and EFD Existing Floodplain Development Overlay District standards required in this Ordinance, NR 116 of the Wisconsin Administrative Code and FEMA regulations must be met.~~

~~When a floodplain variance is granted, the Board of Adjustment shall notify the applicant in writing that it may increase flood insurance premiums and risks to life and property. A copy shall be maintained with the variance record.~~

~~B. In a floodway, any modification or addition to a nonconforming structure or any structure with a nonconforming use may only be allowed with approval by the Waukesha County Board of Adjustment as a variance and pursuant to the above additional requirements for variances in the floodplain. If the Board of Adjustment grants said variance, the Board of Adjustment must require that an addition to the existing structure be floodproofed, pursuant to Section 8(e), by means other than the use of fill, to the flood protection elevation; and~~

~~If an enclosed structure used for parking and limited storage has a foundation partially below the flood protection elevation, the enclosed area shall be designed by a registered architect or engineer to allow for the efficient entry and exit of flood waters without human intervention. A minimum of two openings must be provided with a minimum net area of at least one square foot of an enclosed area. The lowest part of the opening can be no more than 12 inches above the adjacent grade and the parts of the foundation below the flood protection elevation must be constructed of flood resistant materials. Mechanical and utility equipment must be elevated or floodproofed to or above the flood protection elevation.~~

SECTION 8 EFD EXISTING FLOODPLAIN DEVELOPMENT OVERLAY DISTRICT

Repeal and recreate Section 8(b)2.A to read as follows:

(pg. 117-120, Modified per Section 6.1(2)e, f, and g, 4.3(1)(d), 6.3(3) and (4) and 7.5 DNR Model Ordinance)

Except as provided in subsection B below, if an existing legal ~~N~~nonconforming ~~S~~structure or any structure with a ~~N~~nonconforming ~~U~~use is destroyed or substantially damaged, it cannot be ~~maintained~~, repaired or reconstructed unless the use and the structure meet the current Ordinance requirements. For purposes of this section, a structure is considered substantially damaged if the total cost to repair or reconstruct the structure to its pre-damaged condition equals or exceeds 50% of the structure's present ~~E~~equalized ~~A~~assessed ~~V~~value. For purposes of valuing the cost to repair or reconstruct the ~~N~~nonconforming ~~S~~structure, the cost of elevating the lowest floor of a structure to the ~~F~~flood ~~P~~rotection ~~E~~elevation ~~and the cost of ordinary maintenance shall not be included.~~ Ordinary ~~m~~Maintenance includes ~~painting, decorating, paneling and the replacement of doors, windows and other nonstructural components of the same size and location,~~ and the maintenance, repair or replacement of existing private sewage or water supply systems or connections to public utilities shall not be included. ~~Any costs associated with the repair of a damaged structure are not considered maintenance.~~ Any such structure that is destroyed or substantially damaged must meet the following standards:

- i. The structure ~~is not located in~~ must be located outside of the ~~a~~ ~~F~~floodway.
- ii. The elevation of the lowest floor of a principal structure including an attached garage, excluding those basements or crawlspaces that are 5 ft. or less in height, shall be placed at or above the flood protection elevation and reconstruction may only occur on the same foundation or newly constructed foundation which represents no greater an encroachment or extension of the previously existing structure other than vertically. Said foundation shall be ~~F~~floodproofed and certified as set forth herein. Fill shall be used to elevate the lowest floor, excluding those basements or crawlspaces, 5 ft. or less in height, so as to meet the above. Basements or crawlspaces that are 5 feet or less in height must comply with the provisions of Section 8(b)2A.iii below. The fill surrounding the structure shall not be less than one (1) foot below the flood protection elevation for the particular area and the fill shall extend at such elevation at least fifteen (15) feet beyond the limits of the structure. The fill shall not negatively alter ~~f~~loodwater conveyance or increase flood heights. Where such distance cannot be achieved because of lot lines, elevations of existing streets or sewer lines, flood impacts, or other similar constraints, said fill elevation shall extend as far as is practicable resulting in no slope conditions at its terminus which may adversely affect surface water drainage on adjacent properties. In addition, where the fifteen (15) feet of fill cannot be achieved as set forth above, the structures shall be ~~F~~floodproofed to the flood protection elevation in accordance with the methods set forth herein and shall be certified as such by an architect or professional engineer registered in the State of Wisconsin and be authorized by the WDNR. Other methods may be used, as long as they are certified as set forth above, which are designed to the flood protection elevation for the particular area in question. All ~~F~~floodproofing measures shall at a minimum provide anchorage to resist flotation and lateral movement, and shall insure that the structural walls and floors are watertight. In order to insure that adequate measures are taken, the applicant shall submit a plan or document certified, as above, that the ~~F~~floodproofing measures are adequately designed to protect the property to the flood protection elevation for the subject area. (Cross reference-Flood ~~P~~rotection ~~E~~elevation, defined in Section 2(b).
- iii. If any such structure has a basement or crawlspace which is 5 ft. in height or less and which is not useable as living area, the surface of the floor of the basement or crawlspace shall be at or above the regional flood elevation. Heating, ventilation, air conditioning, electrical and gas equipment shall be at or above the flood protection

elevation. In any case, the basement or crawlspace shall be floodproofed in accordance with Section 8(c) to the flood protection elevation so that floodwater cannot enter directly over the ground surface into such basement or crawlspace.

- iv. The elevation of the lowest floor of an accessory structure, which is not connected to a principal structure, shall be constructed on fill with its lowest floor a minimum of one (1) ft. above the regional flood elevation.
- v. There shall be contiguous dry land access to all structures and uses affected by these regulations and as determined by the Zoning Administrator, dry land access to be considered 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 the regional flood elevation and wide enough for wheeled rescue and relief vehicles.

In developments where existing street or sewer line elevations make compliance with Section 8(b)2.A.v impractical, a permit may be issued where access roads are at or below the regional flood elevation, if the municipality has written assurance from police, fire and emergency services that rescue and relief will be provided to the structure(s) by wheeled vehicles during a regional flood event; or the municipality has a WDNR approved natural disaster plan approved by Wisconsin Emergency Management and the WDNR emergency evacuation plan.

- vi. All private sewage systems and private wells shall be floodproofed-designed to minimize or eliminate infiltration of flood waters into the system to the flood protection elevation pursuant to Section 8(c) of this Ordinance, comply with the floodproofing measures of Section 8(c)3 and shall conform with the provisions of the Waukesha County Code of Ordinances and Wisconsin Administrative Codes where applicable to such facilities.
- vii. A structure may be reconstructed or rebuilt which has less than the minimum floor area and open space requirements set forth in the R-3 residential district. If a larger floor area than previously existed is desired or the previous floor area ratio exceeded the R-3 residential district requirements, reconstruction or enlargement (vertically only) may not exceed the floor area ratio requirements set forth in the R-3 residential district. Offset and setback requirements of the R-3 district shall apply.
- viii. Where more than one (1) principal building, as defined in this Ordinance, exists on a single property and one (1) or more of said buildings is destroyed or damaged beyond fifty (50) percent of their current equalized assessed value as heretofore set forth, the reconstruction, or repair of only one (1) of such buildings is allowed, but only if all other principal buildings are removed from the property. Where one (1) principal building on a property exists, and is destroyed or damaged beyond fifty (50) percent of its current equalized assessed value as heretofore set forth, the reconstruction or repair of that building would not be allowed unless all other principal buildings were removed. The intent of this provision is to allow for the reasonable use of the developed floodplain lands but not to the degree of intensity which may have existed prior and so that the intensity of use of floodplain lands will be diminished.
- ix. The structure will meet all of the minimum requirements under applicable FEMA regulations (44 CFR Part 60), or the regulations promulgated thereunder.

- x. The development standards of Section 7(c).2.A and C must be complied with.

Repeal and recreate Section 8(b)2.B to read as follows:

(pg. 120-122, Modified per Section 6.1(2)(h)1 & 2 DNR Model Ordinance)

If an existing legal ~~N~~onconforming ~~S~~tructure or a structure with a ~~N~~onconforming ~~U~~se is substantially damaged or destroyed by a nonflood disaster, as defined in this Ordinance, the repair or reconstruction of any such ~~N~~onconforming ~~S~~tructure ~~may~~ shall be permitted in order to restore it ~~after the nonflood disaster to~~ the size and use in effect prior to the damage event, provided that the ~~nonconforming structure will meet all of the minimum federal code requirements under applicable FEMA regulations at 42 USC 4001 to 4219, 44 CFR Part 60.3 regarding floodplain management criteria for flood-prone areas, or the regulations promulgated thereunder~~ below are met and all required permits have been granted prior to the start of construction.

~~For the convenience of the reader, the regulations of 44 CFR 60.3 are summarized below, however, the reader is directed to the Code of Federal Regulations for the specific language of the regulation.~~

~~44 CFR 60.3(a):~~

- ~~(a)1 requires permits for all proposed construction or other development;~~
- ~~(a)2 requires all necessary permits from governmental agencies as required by federal or state law;~~
- ~~(a)3 requires a determination that the proposed building site will be reasonably safe from flooding;~~
- ~~(a)4 requires review of subdivision proposals and other proposed new development to determine that the proposal will be reasonably safe from flooding;~~
- ~~(a)5 requires water supply systems to be designed to minimize or eliminate infiltration of flood waters into the systems; and~~
- ~~(a)6 requires new and replacement sanitary sewage systems to be designed to minimize or eliminate infiltration of flood waters.~~

~~44 CFR 60.3(b):~~

- ~~(b)1 requires permits for all proposed construction or other development;~~
- ~~(b)2 requires the application of the standards set forth in (a)2, 3, 4, 5, and 6;~~
- ~~(b)3 requires that all new subdivision proposals and other proposed developments greater than 50 lots or 5 acres, whichever is the lesser, include data regarding base flood elevations;~~
- ~~(b)4 requires utilization of base flood elevation and floodway data as criteria for requiring that new construction, substantial improvements, or other development meet the standards in (c)2, 3, 5, 6, 12, 14, and (d)2 and 3;~~
- ~~(b)5 requires that where base flood elevation data is utilized, the elevation of the lowest floor of all new and substantially improved structures shall be obtained and if the structure has been floodproofed, the elevation of the floodproofing shall be obtained and a record of the information shall be kept;~~
- ~~(b)6 requires notification for any alteration or relocation of a watercourse;~~
- ~~(b)7 requires maintenance of the flood-carrying capacity within an altered or relocated watercourse; and~~
- ~~(b)8 requires that all manufactured homes shall be installed using methods and practices which minimize flood damage.~~

~~44 CFR 60.3(c):~~

- ~~(c)1 requires compliance with subsection (b);~~
- ~~(c)2 requires that all new construction and substantial improvements of residential structures to be elevation to or above the base flood level;~~

- (e)3 requires that all new construction and substantial improvements of non-residential structures have the lowest floor elevation to or above the base flood level, or be designed to be watertight;
- (e)4 requires that where a non-residential structure is intended to be watertight below the base flood level, a registered professional engineer or architect conducts a specified review and certification;
- (e)5 requires for all new construction and substantial improvements that fully enclosed areas below the lowest floor that are usable solely for parking of vehicles, building access or storage in an area other than a basement and which are subject to flooding, shall be designed to automatically equalize hydrostatic flood forces on exterior walls by allowing for the entry and exit of flood waters;
- (e)6 requires that manufactured homes be located on specifically listed sites and requires elevation criteria for a manufactured home that has incurred substantial damage as a result of a flood;
- (e)7-9 do not apply to Waukesha County;
- (e)10 requires, until a regulated floodway is designated, that no new construction, substantial improvements or other development is permitted unless the cumulative effect will not increase the water surface elevation of the base flood more than one foot;
- (e)11 does not apply to Waukesha County;
- (e)12 requires that manufactured homes, not included in the provisions of subsection (e)6, meet specific elevation requirements;
- (e)13 provides that a community may apply for a conditional FIRM revision from FEMA for certain developments which increase the water surface elevation of the base flood by more than one foot, and
- (e)14 requires that recreational vehicles meet specific requirements in order to be placed within a floodplain.

44 CFR 60.3(d)

- (d)1 requires compliance with subsection (e) 1-14;
- (d)2 requires the adoption of a regulatory floodway;
- (d)3 requires a prohibition on encroachments within the floodway unless it is proven that the proposed encroachment would not result in any increase in flood levels, and
- (d)4 allows a community to permit encroachments in the regulatory floodway by obtaining a conditional FIRM and floodway revision from FEMA.

i. Residential Structures

- a. Shall have the lowest floor, including basement, elevated to or above the Bbase Fflood Elevation using fill, pilings, columns, posts or perimeter walls. Perimeter walls must meet the requirements of Section 8(c)2 of this Oordinance.
- b. Shall be anchored to prevent flotation, collapse, or lateral movement of the structure resulting from hydrodynamic and hydrostatic loads, including the effects of buoyancy and shall be constructed with methods and materials resistant toF-flood damage.
- c. Shall be constructed with electrical, heating, ventilation, plumbing and air conditioning equipment and other service facilities that are designed and/or elevated so as to prevent water from entering or accumulating within the components during conditions of flooding.
- d. In A Zones, obtain, review and utilize any Fflood data available from a federal, state or other source.

ii. Nonresidential Structures

- a. Shall meet the requirements of Section 8(b)2.B.i.a and b above.

- b. Shall either have the lowest floor, including basement, elevated to or above the Regional Flood Elevation; or, together with attendant utility and sanitary facilities, shall meet the standards in Section 8(c)1 or 2..

For the purposes of this subsection only, "lowest floor" has the meaning as defined in 44 CFR 59.1, which is "lowest floor of the lowest enclosed area (including basement). Also for the purposes of this subsection only, an unfinished or flood resistant enclosure, usable solely for the parking of vehicles, building access or storage in an area other than a basement area, is not considered a buildings lowest floor; provided that such enclosure is not built so as to render the structure in violation of the applicable non-elevation design requirements."

For the purposes of this subsection only, "basement" has the meaning as defined in 44 CFR 59.1, which is "any area of the building having its floor subgrade (below ground level) on all sides."

If an existing legal Nonconforming Structure or a structure with a Nonconforming Use is damaged due to a nonflood disaster and the valuation to repair such damage would not exceed 50% of its current Equalized Assessed Value (as computed over the life of the structure and including past improvements) said structure may be restored to its condition before the damage occurred. If modifications or additions are proposed, which are unrelated to restoring the structure's condition before damage, the provisions of Section 8(b)2.C must be met.

Repeal and recreate Section 8(b)2.C to read as follows:

(pg. 123-124, Modified per Section 6.1(2)(a)(d)(e) and (f) DNR Model Ordinance)

Where a structure, which was not damaged or destroyed, lies within the Floodplain but outside of the Floodway, no modification or addition to such structure shall be permitted unless it conforms with the following standards. For the purpose of this section, the words "modification" and "addition" shall include, but are not be limited to, any alteration, addition, modification, structural repair, rebuilding, replacement or lateral enlargement of any such existing use or structure, principal or accessory. ~~Modification shall also refer to the conversion of various living spaces or other floor areas into space for living purposes such as converting a part of a living room into a bedroom or bathroom regardless of whether such changes require structural alteration to the basic structures. Ordinary maintenance repairs are not considered an extension, modification or addition; Maintenance is not considered a modification for the purposes of this section only unless the cost of maintenance equals or exceeds 50% of the present equalized assessed value per event basis in combination with the costs associated with any modifications or additions per the same event. Maintenance; this includes these including painting, decorating, paneling, replacement of doors, windows and other non-structural components and the maintenance, repair or replacement of existing private sewage or water supply systems or connections to public utilities.~~

- i. The structure is not located in a Floodway. Modifications and additions to a structure located in the Floodway are prohibited.
- ii. The modification or addition to a structure may not decrease floodwater conveyance or storage capacities. Said modification or addition to a structure shall not extend laterally from the structure so as to extend into the Floodplain but may be allowed to go above existing floors of the structure. One (1) detached garage or shed, not including a boathouse, may be permitted if all other applicable Ordinance requirements are met provided that there is no area outside of the Floodplain to locate said building and provided that all provisions of this section are met.

- iii. The provisions of subsection 8(b)2.A.ii, iii, iv, v, vii, ix, and x shall be complied with. Only 1 principal structure on a lot will be allowed to be modified or altered in accordance with the intent of subsection A.viii above.
- iv. The provisions of subsection 8(b)2.A.vi shall be complied with. Where a modification or addition requires a larger waste disposal system than what exists (i.e., additional bedrooms), it shall be demonstrated to the Zoning Administrator that a new or expanded waste disposal system can be provided and a county sanitary permit granted, meeting the requirements of the Waukesha County Sanitary Code and the Wisconsin Administrative Code, where applicable, prior to the issuance of a zoning and building permit for such alterations to the structure. Such new, improved or enlarged waste disposal system shall be required to be installed concurrently with the construction or prior to occupancy of the altered structure.

The intent of this provision is to allow only those additions and modifications which can be accommodated with an onsite waste disposal system, which will comply with contemporary standards for waste disposal and which will result in improved systems which will be adequately protected from flooding and which will accommodate said structures and their improvements.

Repeal and recreate Section 8(b)2.E to read as follows:

(pg. 124, Modified per Section 6.1(3) DNR Model Ordinance)

A nonconforming historic structure may be altered if the alteration will not preclude the structures continued designation as a historic structure, the alteration will comply with Section 7(c)2.A, flood resistant materials are used, and construction practices and floodproofing methods that comply with Section 8(c) are used. For the purposes of this section, an alteration is an enhancement, upgrading, or substantial change or modification other than an addition or repair to a structure or to electrical, plumbing, heating, ventilation, air conditioning and other systems within a structure. Repair or rehabilitation of historic structures shall be exempt from the development standards of Sections 7(c)2, 8(b)2.B.1+, and 8(c) if it is determined that the proposed repair or rehabilitation will not preclude the structure's continued designation as a historic structure and is the minimum necessary to preserve the historic character and design of the structure.

Repeal and recreate Section 8(b)2.G to read as follows:

(pg. 124, Modified per Section 4.3(4) DNR Model Ordinance)

A manufacturing or industrial type structure shall have the lowest floor elevated to or above the flood protection elevation or meet the be-protected-to-the-flood-protection-elevation-using-fill, levees, floodwalls, or other flood-proofing measures in Section 8(c).

Repeal and recreate Section 8(b)2.K to read as follows:

(pg. 125, Relocated language to Section 38)

Any variance granted on a property for structures located in the floodplain shall meet the following additional-crieria minimum floodplain criteria specified in Section 38 of this ordinance.±

- ~~i. May not cause any increase in the regional flood elevation.~~
- ~~ii. May not increase the amount of obstruction to flood flows.~~
- ~~iii. The variance shall only be granted upon a showing of good and sufficient cause, shall be the minimum relief necessary, shall not cause increased risks to public safety or nuisances, shall not increase costs for rescue and relief efforts and shall not be contrary to the purpose of the Ordinance.~~
- ~~iv. The floodproofing measures and EFD Existing Floodplain Development Overlay District standards required in this Ordinance, NR 116 of the Wisconsin Administrative Code and FEMA regulations must be met.~~

~~When a floodplain variance is granted, the Board of Adjustment shall notify the applicant in writing that it may increase flood insurance premiums and risks to life and property. A copy shall be maintained with the variance record.~~

Repeal Section 8(b)2.L to read as follows:

(pg. 125 & 126, Relocated to Section 38)

~~In a floodway, any modification or addition to a nonconforming structure or any structure with a nonconforming use may only be allowed with approval by the Waukesha County Board of Adjustment as a variance and pursuant to the above additional requirements for variances in the floodplain. If the Board of Adjustment grants said variance, the Board of Adjustment must require conformance with the provisions of Section 8(b)2.K and an addition to the existing structure must be floodproofed, pursuant to Section 8(e), by means other than the use of fill, to the flood protection elevation; and~~

~~If an enclosed structure used for parking and limited storage has a foundation partially below the flood protection elevation, the enclosed area shall be designed by a registered architect or engineer to allow for the efficient entry and exit of flood waters without human intervention. A minimum of two openings must be provided with a minimum net area of at least one square foot of an enclosed area. The lowest part of the opening can be no more than 12 inches above the adjacent grade and the parts of the foundation below the flood protection elevation must be constructed of flood resistant materials. Mechanical and utility equipment must be elevated or floodproofed to or above the flood protection elevation.~~

~~**Create Section 8(b)2.L, which was formerly Section 8(b) 2. L, to read as follows:**~~

~~In the administration of the above standards, it is required that various standards set forth above shall be subject to review and approval by the Zoning Administrator upon submittal of appropriate data and information necessary to determine compliance with the above regulations.~~

Repeal and recreate Section 8(c) to read as follows:

(pg. 126-127, Modified per Section 7.5 DNR Model Ordinance)

Floodproofing standards

- 1. No permit or variance shall be issued for a ~~structure and/or improvement non-residential~~**

~~structure designed to be watertight below the Regional Flood Elevation that requires the following floodproofing measures be utilized until the applicant submits a plan certified by a registered professional engineer or architect that the Floodproofing measures will protect the structure or development to the Flood Protection Elevation and submits a Certificate of Compliance FEMA Floodproofing Certificate. and shall also comply with the following criteria:~~

2. For a structure designed to allow the entry of floodwaters, no permit or variance shall be issued until the applicant submits a plan either:
 - A. Certified by a registered professional engineer or architect; or
 - B. Meets or exceeds the following standards:
 - i. A minimum of two openings having a total net area of not less than one square inch for every square foot of enclosed area subject to flooding;
 - ii. The bottom of all openings shall be no higher than one foot above grade; and
 - iii. Openings may be equipped with screens, louvers, valves, or other coverings or devices provided that they permit the automatic entry and exit of floodwaters.
3. Floodproofing measures shall be designed, as appropriate, to:
 - A. Withstand flood pressures, depths, velocities, uplift and impact forces and other regional flood factors;
 - B. Protect structures to the flood protection elevation;
 - C. Resist flotation and lateral movement by anchoring structures to foundations; and
 - D. Minimize or eliminate infiltration of Flood waters; and
 - E. Minimize or eliminate discharges into Flood waters.

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

2. ~~Floodproofing measures could include, but are not limited to:~~
 - A. ~~Reinforcing walls and floors to resist rupture or collapse caused by water pressure.~~
 - A. ~~Adding mass or weight to prevent flotation.~~
 - B. ~~Installing watertight doors, bulkheads and shutters.~~
 - C. ~~Using paints, membranes or mortars to reduce seepage of water through walls.~~
 - D. ~~Placing essential utilities above the flood protection elevation.~~
 - E. ~~Installing surface or subsurface drainage systems to relieve foundation wall and basement~~

~~floor pressures and to lower water levels in structures.~~

- ~~F. — Constructing water supply wells and waste treatment systems to prevent the entry of flood waters.~~
- ~~G. — Constructing structures to resist rupture or collapse caused by water pressure or floating debris.~~
- ~~H. — Putting cutoff valves on sewer lines or eliminating gravity flow basement drains.~~

SECTION 10 A-E EXCLUSIVE AGRICULTURAL CONSERVANCY DISTRICT

Repeal and recreate Section 10(b)7 to read as follows:

(pg. 130 & 131, Relocated to Section 38)

Any variance granted for structures located in the floodplain reAdditional requirements for variances in the floodplain shall meet the floodplain criteria specified in Section 38 of this Ordinance.:

- ~~A. — Any variance granted on a property located in the floodplain shall meet the following additional criteria:
 - ~~i. — May not cause any increase in the regional flood elevation.~~
 - ~~ii. — May not increase the amount of obstruction to flood flows.~~
 - ~~iii. — The variance shall only be granted upon a showing of good and sufficient cause, shall be the minimum relief necessary, shall not cause increased risks to public safety or nuisances, shall not increase costs for rescue and relief efforts and shall not be contrary to the purpose of the Ordinance.~~
 - ~~iv. — The floodproofing measures and EFD Existing Floodplain Development Overlay District standards required in this Ordinance, NR 116 of the Wisconsin Administrative Code and FEMA regulations must be met.~~~~

~~When a floodplain variance is granted, the Board of Adjustment shall notify the applicant in writing that it may increase flood insurance premiums and risks to life and property. A copy shall be maintained with the variance record.~~

- ~~B. — In a floodway, any modification or addition to a nonconforming structure or any structure with a nonconforming use may only be allowed with approval by the Waukesha County Board of Adjustment as a variance and pursuant to the above additional requirements for variances in the floodplain. If the Board of Adjustment grants said variance, the Board of Adjustment must require that an addition to the existing structure be floodproofed, pursuant to Section 8(e), by means other than the use of fill, to the flood protection elevation; and~~

~~If any part of the foundation below the flood protection elevation is enclosed, the enclosed structure may only be used for parking, building access, and limited storage. has a foundation partially below the flood protection elevation, (The enclosed area shall be designed by a registered architect or engineer to allow for the efficient entry and exit of flood waters without human intervention. A~~

~~minimum of two openings must be provided with a minimum net area of at least one square inch foot for every one square foot of an the enclosed area. The lowest part of the opening can be no more than 12 inches above the adjacent grade and the parts of the foundation below the flood protection elevation must be constructed of flood resistant materials. Mechanical and utility equipment must be elevated or floodproofed to or above the flood protection elevation.~~

SECTION 38 BOARD OF ADJUSTMENT

Repeal and recreate Section 38(b)3 to read as follows:

(pg. 179, Modified per Section 7.3 DNR Model Ordinance)

Procedural: The board shall adopt other rules governing its procedure as are necessary, consistent with this Ordinance. ~~The Zoning Administrator shall not be the secretary of the board.~~

Repeal and recreate Section 38(c)1.B.ii to read as follows:

(pg. 180, Modified per Section 7.3(3)b DNR Model Ordinance)

~~In all cases, t~~The person contesting the district boundary location shall be given a reasonable opportunity to present arguments and technical evidence to the ~~b~~Board; ~~and:~~

Repeal and recreate Section 38(c)2 to read as follows:

(pg. 180-182, Relocated language from Sections 7, 8, and 10 and modified sub. E per Section 7.3(4)(b) DNR Model Ordinance, modified sub. F per Section 6.2(1)(d) and (e) DNR Model Ordinance, and modified sub. G per Section 6.3(2) DNR Model Ordinance.)

Additional requirements: In making its determination, the ~~b~~Board shall consider whether the proposed exception, variance or use would be hazardous, harmful, noxious, offensive or a nuisance to the surrounding neighborhood by reason of physical, social or economic effects; and may impose such requirements and conditions with respect to location, construction, maintenance and operation, in addition to any which may be stipulated in this Ordinance, as the board may deem necessary for the protection of adjacent properties and the public interest and welfare.

A variance shall not grant, extend, or increase any use prohibited in the zoning district; be granted for a hardship based solely on an economic gain or loss; be granted for a hardship which is self-created; damage the rights or property values of other persons in the area; allow actions without the appropriate amendments to this Ordinance or map(s); allow any alteration of a historic structure in a ~~F~~floodplain, including its use, which would preclude its continued designation as a historic structure.

~~Any variance granted on a property located in the F~~floodplain shall meet the following additional criteria:

- A. Shall not cause any increase in the ~~R~~regional ~~F~~flood Elevation.
- B. Shall not increase the amount of obstruction to flood flows.
- C. The variance shall only be granted upon a showing of good and sufficient cause, shall be the minimum relief necessary, shall not cause increased risks to public safety or nuisances, shall not increase costs for rescue and relief efforts and shall not be contrary to the purpose of this Ordinance.

~~The floodproofing measures and EFD Existing Floodplain Development Overlay District standards required in this Ordinance, NR 116 of the Wisconsin Administrative Code and FEMA regulations must be met.~~

- D. ~~The bBoard of aAdjustment shall comply with the Insurance Notice requirement of Section 38(d)5.~~
- E. ~~To qualify for a variance under from the FEMA regulations, the lot must be less than one-half acre in size and be contiguous to existing structures constructed below the Rregional Fflood Elevation.~~
- F. ~~In a Ffloodway, any modification or addition to a Nnonconforming Sstructure or any structure with a Nnonconforming Uuse may only be allowed with approval by the Waukesha County bBoard of aAdjustment as a variance and pursuant to the above additional requirements for variances in the Ffloodplain. If the bBoard of aAdjustment grants saida variance, the bBoard of aAdjustment must require conformance with the provisions of Section 8(b)2.Kabove standards and an addition to the existing structure must be Ffloodproofed, pursuant to Section 8(c), by means other than the use of fill, to the Fflood Pprotection Elevation; and~~

~~If any part of the foundation below the Fflood Pprotection Elevation is enclosed, the enclosed structure may only be used for parking, building access, and limited storage-. The enclosed area shall be designed by a registered architect or engineer to allow for the efficient entry and exit of flood waters without human intervention. A minimum of two openings must be provided with a minimum net area of at least one square inch for every one square foot of the enclosed area. The lowest part of the opening can be no more than 12 inches above the adjacent grade and the parts of the foundation below the Fflood Pprotection Elevation must be constructed of flood-resistant materials. Mechanical and utility equipment must be elevated or Ffloodproofed to or above the Fflood Pprotection Elevation.~~

- G. ~~A nonconforming accessory structure or an accessory structure with a Nnonconforming Uuse located in the Ffloodfringe may be granted a variance for a modifications or additions which are protected to elevations lower than the Fflood Pprotection Elevation, provided the following criteria are met: the structure will not be used for human habitation or be associated with a high flood damage potential; human lives will not be endangered; public facilities such as water and sewer shall not be installed; flood depths shall not exceed 2 ft.; flood velocities shall not exceed 2 ft. per second; and the structure shall not be used for the storage of materials as described in Section 8(b)2.H.~~

~~The structure will not be used for human habitation or be associated with a high flood damage potential; human lives will not be endangered; public facilities such as water and sewer shall not be installed; flood depths shall not exceed 2 ft.; flood velocities shall not exceed 2 ft. per second; and the structure shall not be used for the storage of materials as described in Section 8(b)2.H.~~

~~All criteria for obtaining a variance per this section are met.~~

~~No floor is allowed below the regional flood elevation for res~~

Repeal and recreate Section 38(c)4 to read as follows:

(pg. 182, Modified per Section 7.3(2)(c)5 DNR Model Ordinance)

Enforcement of decision: In exercising the above-mentioned powers, such board may in conformity with the provisions of this Ordinance, **grant or deny the variance application, dismiss the appeal for lack of jurisdiction,** reverse or affirm, wholly or partly, or may modify the order, requirements, decision or determination appealed from, and may make such order, requirement, decision or determination as ought to be made, and to that end shall have all the powers of the officer from whom the appeal is taken; and may issue or direct the issue of a permit provided that no such action shall have the effect of permitting in any district a use prohibited in that district; of rezoning; of allowing a use or variance which would have the effect of intensifying a use in a manner contrary to what a similarly situated property would be allowed; of permitting, without the approval of the county zoning agency, any building within the base setback area as established by Section 3(h)1 of this Ordinance, or of granting exceptions to chapters **SPS 383-COMM-83,** NR115 or NR116 of the Wisconsin Administrative Code, FEMA regulations, the Waukesha County Sanitary Ordinance and any other federal, state, or local ordinance.

Repeal and recreate Section 38(c)5 to read as follows:

(pg. 182 & 183, Modified per Section 7.3(2)(c)4 and 6 DNR Model Ordinance)

Required vote: The concurring vote of a majority of the members of the board shall be necessary to reverse any order, requirement, decision or determination of any such administrative official, or to decide in favor of the applicant on any matter upon which it is required to pass under this Ordinance, or to effect any variation therefrom. The grounds of every such determination shall be stated **including the facts which are the basis for the bBoard's decision and the reasons for granting an appeal, describing the hardship demonstrated by the applicant in the case of a variance, clearly stated in the recorded minutes of the bBoard proceedings.**

Repeal and recreate Section 38(d)4 to read as follows:

(pg. 183 & 184, Modified per Section 7.3(2)(c)3 DNR Model Ordinance)

Decision: The decision on any appeal variance, special exception or interpretation shall be made within fifteen (15) days after completion of the hearing thereon unless such time is extended with the mutual consent of the board and the petitioner. At such time as a decision is made, the petitioner and the WDNR shall be notified in writing within ten (10) days of the date of the decision. **The written decision shall be signed by the chairman or secretary of the board.**

Repeal and recreate Section 38(d)5 to read as follows:

(pg. 184, Modified per Section 7.3(4)(d) DNR Model Ordinance)

Insurance notice: When a **F**floodplain variance is granted, the **b**Board shall notify the applicant in writing that it may increase ~~flood insurance premiums and~~ risks to life and property **and flood insurance premiums could increase up to \$25.00 per \$100.00 of coverage.** A copy of said notification shall be maintained with the variance record.

SECTION 39 CHANGES AND AMENDMENTS

Repeal and recreate Section 39(d)2 to read as follows:

(pg. 186 & 187, Modified per Section 1.5(12) DNR Model Ordinance)

Continued Effect of Ordinance: As provided in Chapter 59, Wisconsin Statutes, whenever any area which has been subject to a county zoning ordinance petitions to become part of a village or city, the regulations imposed by such county zoning ordinance shall continue in effect, without change, and shall be enforced by such village or city until the village or city enacts, administers and enforces an ordinance which meets the requirements of Section 59, Wisconsin Statutes.

Waukesha County's floodplain provisions in effect on the date of annexation shall remain in effect and shall be enforced by the municipality for all annexed areas until the municipality adopts and enforces an ordinance which meets the requirements of ch. NR 116, Wisconsin Administrative Code and 44 CFR 59-72, the National Flood Insurance Program (NFIP). These annexed lands are described on the village or 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 village or city zoning administrator. All plats or maps of annexation shall show the regional flood elevation and the ~~location of the floodway~~ location.

In the event an ordinance or annexation is contested in the courts, the county zoning shall prevail and the county shall have jurisdiction over the zoning in the area affected until ultimate determination of the court action.

Repeal and recreate Section 39(f) to read as follows:

(pg. 188-190, Modified per Section 7.3(2)(c)5 DNR Model Ordinance)

Floodplain rezoning procedure

1. The County may change or amend the zoning district boundaries in areas involving floodplains and this Ordinance in the manner ~~provided by law~~ outlined in Section 39(f)2. below. Actions which require an amendment to this Ordinance and/or submittal of a Letter of Map Change (LOMC) include, but are not limited to, the following:
 - A. ~~Any change to the official zoning map, including the floodway line or boundary of any floodplain area fill or floodway encroachment that obstructs flow causing any increase in the regional flood height.~~
 - B. Correction of discrepancies between the water surface profiles and official zoning maps.
 - C. Any fill, excavation, or land altering activities in the floodplain which are not a permitted use in Section 3(d)5.A., Preservation of Topography in Floodlands; Section 7, C-1 Conservancy District; Section 8, Existing Floodplain Development Overlay District; or Section 10, Exclusive Agricultural Conservancy District of this Ordinance.
 - D. Any fill which raises the elevation of the filled area to a height at or above the flood protection elevation and is contiguous to land lying outside the floodplain.

~~E.D.~~ Any amendment to the text of this Ordinance recommended by the County, required by NR 116.05, Wisconsin Administrative Code, or otherwise required by law.

~~F.E.~~ Any changes to the maps to alter ~~F-floodplains~~ (including channel relocations, ~~Ffloodway~~ line modifications, or removing an area from the ~~Ffloodway~~ or ~~Ffloodfringe~~) that is based on a ~~regional flood elevation or Bbase Fflood~~ Elevation from a Flood Insurance Rate Map (requires prior approval by FEMA) or ~~Rregional Fflood Elevation~~ from any other officially adopted ~~Ffloodplain~~ map listed in Section 6(b)1.B. of this Ordinance.

G. Any change to the ~~F-floodplain~~ boundaries and/or watercourse alterations on the Flood Insurance Rate Map.

(modified language for compliance with S. 8.1 of MO)

2. The following ~~Ffloodplain~~ rezoning procedures must be followed:

~~A.~~ Rezoning petitions shall include all necessary data required by Section 3(c)2 of this Ordinance.

~~A.~~
B. Rezoning petitions must not adversely impact the purpose and intent of this Ordinance.

~~C.~~ Obstructions or increases in ~~Fflood~~ heights may only be permitted if amendments are made to this Ordinance, the official ~~Ffloodplain~~ zoning maps, ~~Ffloodway~~ lines and water surface profiles in accordance with this Section.

~~D.~~ In AE Zones with a mapped ~~Ffloodway~~, no obstructions or increases shall be permitted unless the applicant receives a Conditional Letter of Map Revision from FEMA and amendments are made to this Ordinance, the official ~~Ffloodplain~~ zoning maps, ~~Ffloodway~~ lines and water surface profiles, in accordance with this Section. Any such alterations must be reviewed and approved by FEMA and the WDNR.

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

(A-E Modified per S. 8 MO)

~~C.~~ No amendments to rezone areas that involve floodplains shall be approved unless the Standards for Development of Section 3(d)5.A.ii. of this Ordinance are met.

~~CF.~~ No amendments to rezone areas identified on the WDNR Flood Storage Maps are permissible unless the entire area of the waterway in question is removed from the WDNR Flood Storage Maps, which would require a revision to the ~~Ffloodplain~~ study and map for the waterway to revert to the higher regional flood discharge calculated without ~~Ffloodplain~~ storage; unless otherwise approved by the WDNR.

(Added per S. 5.2(3)(e) MO)

DG. No amendments to rezone areas that involve Floodplains based on a Base Flood Elevation from a Flood Insurance Rate Map shall become effective by the County until approved by FEMA and the WDNR and not until a Letter of Map Revision is issued by FEMA for the proposed changes. No amendments to rezone areas that involve Floodplains based on a Regional Flood Elevation shall become effective until reviewed and approved by the WDNR. Required technical data submitted to the Zoning Administrator shall be sent to the WDNR regional office by the Zoning Administrator. WDNR will review the effect of the proposed amendment on the height of the Regional Flood Elevation, assure no increase in the Regional Flood Elevation will result and assure that the proposed amendments meet the purpose of the Wisconsin Administrative Code.

(Modified per S. 8.2 MO)

EH. If the County amends the zoning district boundary to modify the zoning map, it shall submit these amendments and the plans for fill or alteration of the subject area to WDNR for approval pursuant to Section NR 116. Prior to WDNR approval, the applicant shall submit a final map to be certified by an engineer, that the fill or alteration as approved by the County has been accomplished to the specifications set forth by the amendment approved by the County.

FI. For rezones in areas involving the floodplain with no water surface profiles, the county board shall consider data submitted by the WDNR, the Zoning Administrator's on-site inspections and other available information.

GJ. No area in the Floodplain may be removed from the Floodplain unless it can be shown that the area has been filled to the Flood Protection Elevation and is contiguous to other lands lying outside the Floodplain.

HK. The effect of rezoning, filling and altering any Floodplain shall be calculated by comparing the Regional Flood profile determined by the hydraulic Floodway lines to the Regional Flood profile determined by assuming that the entire shallow depth flooding area (Regional Flood) is not available to convey floodflows. Calculations shall conform to the standards contained in Section NR116 of the Wisconsin Administrative Code.

3. Where a Floodplain amendment has been approved as outlined in this section, the jurisdiction and requirements of this Ordinance remain in effect within the subject area, with the exception of the district requirements the lands are being removed from. Floodplain dimensional setbacks shall remain in effect from the newly established floodplain boundary.
4. ~~Following the procedures in this section of the Ordinance does not remove the requirement for the mandatory purchase of flood insurance. The property owner should contact FEMA and request a Letter of Map Change (LOMC) to avoid being required to obtain flood insurance. All persons petitioning for a map amendment that obstructs flow, causing any increase in the Regional Flood height, shall obtain Flooding easements or other appropriate legal arrangements from all adversely affected property owners and~~

notify local units of government before the amendment can be approved by the governing body.

~~(Modified per S. 8.2 MO and removed language per 1.5(5) MO)~~

SECTION 41 GENERAL ADMINISTRATION

Repeal and recreate Section 41(b)2.C to read as follows:

(pg. 193, Modified per Section 7.1(1)(c) DNR Model Ordinance)

~~C.~~ Inspect and assess structures and uses as necessary including the inspection of all damaged floodplain structures. ~~Perform a substantial damage assessment~~ to determine if substantial damage to the structures has occurred.

Repeal and recreate Section 41(b)2.D to read as follows:

(pg. 193, Modified per Section 7.1(1)(d) DNR Model Ordinance)

Keep an accurate record of all zoning and use permits issued, inspections made and work approved; including all required floodplain data when applicable, such as documentation of certified lowest floor and regional flood elevations for floodplain development; floodproofing certificates, records of water surface profiles; a list of nonconforming uses and structures including changes, appeals, variances and amendments; and all substantial damage assessment reports for floodplain structures.

Repeal and recreate Section 41(b)2.F to read as follows:

(pg. 194, Modified per Section 7.1(1)(e)2 DNR Model Ordinance)

Submit copies of the following items to the WDNR regional office regarding floodplain matters:

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

Repeal and recreate Section 41(b)2.G to read as follows:

(pg. 194, Modified per Section 7.1(1)(g) DNR Model Ordinance)

Submit copies of ~~text and map~~ amendments relating to ~~F~~loodplain matters to the FEMA Regional office.

Repeal and recreate Section 41(b)2.H to read as follows:

(pg. 194, Modified per Section 7.1(1)(f) DNR Model Ordinance)

Inspect and process any reported violation of this Ordinance in accordance with Section 41(c) and submit copies of any reports related to ~~F~~loodplain matters to the ~~WDNR~~ Regional office.

Repeal and recreate Section 41(b)6.C to read as follows:

(pg. 195, Modified per Section 7.6 DNR Model Ordinance)

~~All legal descriptions of property in the floodplain should include information relative to the floodplain zoning classification when such property is transferred~~Real estate transfers should show what ~~F~~loodplain district any real property is in.

SECTION 42 VALIDITY

Repeal and recreate Section 42(c) to read as follows:

(pg. 198, Modified per Section 1.5(10) DNR Model Ordinance)

Severability and non-liability

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

The ~~F~~lood ~~P~~rotection standards in this Ordinance are based on engineering experience, ~~scientific~~ research and the best information available. Larger ~~F~~loods may occur or the ~~F~~lood height may be increased by man-made or natural causes. This Ordinance does not imply or guarantee that non-floodplain areas or permitted ~~F~~loodplain uses will be free from ~~F~~looding and flood damages. Nor does this Ordinance create liability on the part of, or a cause of action against, the ~~c~~County or any officer or employee thereof for any flood damage that may result from reliance on this Ordinance.

TABLES TO THE SHORELAND AND FLOODLAND PROTECTION ORDINANCE

Repeal and recreate Table 6(b)1.B.i to read as follows:

(pg. 200 & 201, Modified to adopt FEMA map FIRM's and FIS)

Table 6(b)1.B.i.
Official Maps
Official Maps (Based on the FIS)
<p>Waukesha County Flood Insurance Rate Map (FIRM), panel numbers 55133C0016F, 55133C0017F, 55133C0018F, 55133C0019F, 55133C0029F, 55133C0033F, 55133C0034F, 55133C0036F, 55133C0037F, 55133C0038F, 55133C0039F, 55133C0041F, 55133C0042F, 55133C0043F, 55133C0044F, 55133C0053F, 55133C0054F, 55133C0061F, 55133C0063F, 55133C0083F, 55133C0088F, 55133C0089F, 55133C0091F, 55133C0093F, 55133C0131F, 55133C0132F, 55133C0151F, 55133C0152F, 55133C0156F, 55133C0168F, 55133C0169F, 55133C0181F, 55133C0182F, 55133C0183F, 55133C0186F, 55133C0187F, 55133C0188F, 55133C0189F, 55133C0191F, 55133C0193F, 55133C0194F, 55133C0201F, 55133C0202F, 55133C0206F, 55133C0207F, 55133C0208F, 55133C0214F, 55133C0216F, 55133C0217F, 55133C0218F, 55133C0219F, 55133C0259F, 55133C0270F, 55133C0285F, 55133C0290F, 55133C0291F, 55133C0292F, 55133C0293F, 55133C0294F, 55133C0301F, 55133C0302F, 55133C0303F, 55133C0304F, 55133C0306F, 55133C0307F, 55133C0308F, 55133C0309F, 55133C0311F, 55133C0312F, 55133C0314F, 55133C0316F, 55133C0317F, 55133C0318F, 55133C0319F, 55133C0326F, 55133C0327F, 55133C0328F, 55133C0329F, 55133C0331F, 55133C0336F, 55133C0338F, 55133C0339F, 55133C0385F, 55133C0405F, 55133C0406F, 55133C0407F, 55133C0408F, 55133C0409F, 55133C0426F, 55133C0427F, 55133C0431F, 55133C0432F, 55133C0451F, 55133C0452F, 55133C0453F, 55133C0454F, dated November 19, 2008; with corresponding profiles that are based on the Flood Insurance Study (FIS) dated February 19, 2014, volume numbers 55133CV001B, 55133CV002B, and 55133CV003B.</p>
<p>55133C0059G, 55133C0062G, 55133C0064G, 55133C0066G, 55133C0067G, 55133C0068G, 55133C0069G, 55133C0078G, 55133C0086G, 55133C0087G, 55133C0143G, 55133C0144G, 55133C0157G, 55133C0163G, 55133C0164G, 55133C0166G, 55133C0167G, 55133C0176G, 55133C0177G, 55133C0178G, 55133C0179G, 55133C0256G, 55133C0257G, 55133C0280G, dated February 19, 2014; with corresponding profiles that are based on the Flood Insurance Study (FIS) dated February 19, 2014, volume numbers 55133CV001B, 55133CV002B, and 55133CV003B.</p>
<p>Official Maps (Based on the FIS)</p>
<p>Waukesha County Flood Insurance Rate Map (FIRM), panel numbers 55133C0016G, 55133C0017G, 55133C0018G, 55133C0019G, 55133C0029G, 55133C0033G, 55133C0034G, 55133C0036G, 55133C0037G, 55133C0038G, 55133C0039G, 55133C0041G, 55133C0042G,</p>

55133C0043G, 55133C0044G, 55133C0053G, 55133C0054G, 55133C0059H, 55133C0061G, 55133C0062H, 55133C0063G, 55133C0064H, 55133C0066H, 55133C0067H, 55133C0068H, 55133C0069H, 55133C0078H, 55133C0083G, 55133C0086H, 55133C0087H, 55133C0088G, 55133C0089G, 55133C0091G, 55133C0093G, 55133C0131G, 55133C0132G, 55133C0143H, 55133C0144H, 55133C0151G, 55133C0152G, 55133C0156G, 55133C0157H, 55133C0163H, 55133C0164H, 55133C0166H, 55133C0167H, 55133C0168G, 55133C0169G, 55133C0176H, 55133C0177H, 55133C0178H, 55133C0179H, 55133C0181G, 55133C0182G, 55133C0183G, 55133C0186G, 55133C0187G, 55133C0188G, 55133C0189G, 55133C0191G, 55133C0193G, 55133C0194G, 55133C0201G, 55133C0202G, 55133C0206G, 55133C0207G, 55133C0208G, 55133C0214G, 55133C0216G, 55133C0217G, 55133C0218G, 55133C0219G, 55133C0256H, 55133C0257H, 55133C0259G, 55133C0270G, 55133C0276H, 55133C0277H, 55133C0280H, 55133C0290G, 55133C0291G, 55133C0292G, 55133C0293G, 55133C0294G, 55133C0301G, 55133C0302G, 55133C0303G, 55133C0304G, 55133C0306G, 55133C0307G, 55133C0308G, 55133C0309G, 55133C0311G, 55133C0312G, 55133C0314G, 55133C0316G, 55133C0317G, 55133C0318G, 55133C0319G, 55133C0326G, 55133C0327G, 55133C0328G, 55133C0329G, 55133C0331G, 55133C0336G, 55133C0338G, 55133C0339G, 55133C0385G, 55133C0402G, 55133C0404G, 55133C0405G, 55133C0406G, 55133C0407G, 55133C0408G, 55133C0409G, 55133C0426G, 55133C0427G, 55133C0431G, 55133C0432G, 55133C0451G, 55133C0452G, 55133C0453G, 55133C0454G, dated November 05, 2014; with corresponding profiles that are based on the Flood Insurance Study (FIS) dated November 5, 2014, volume numbers 55133CV001C, 55133CV002C, 55133CV003C.

Table 6(b)1.B.i. (continued)

Official Maps

**Revisions to the Waukesha County Flood Insurance
Rate Map (FIRM) Panel Numbers:**

1. ~~Brandy Brook—Downstream of Summit Avenue to approximately 5,000 ft. upstream; Annotated panel numbers 55133C0186F, 55133C0187F, 55133C0188F, and 55133C0189F, including the corresponding profiles that are based on the Flood Insurance Study (FIS) revised to reflect this LOMR, LOMR Case No. 08-05-4338P, effective date of revision: June 19, 2009.~~
2. ~~Okauchee Lake—the southern end from the south shore to approximately 780 ft. north; Annotated panel number 55133C0156F with no revision to the Flood Insurance Study (FIS), LOMR Case No. 09-05-4061P, effective date of revision: September 28, 2009.~~
3. ~~Sussex Creek—from approximately 100 ft. downstream of Quarry Road to approximately 650 ft. upstream of Lisbon Road (C.T.H. “K”); Annotated panel numbers 55133C0201F and 55133C0202F, including the corresponding profiles and floodway data table that are based on the Flood Insurance Study (FIS) revised to reflect this LOMR, LOMR Case No. 13-05-1048P, effective date of revision: January 7, 2014.~~

**Revisions to the Waukesha County Flood Insurance
Rate Map (FIRM) Panel Numbers:**

1. **Reserved.**

Repeal and recreate Table 6(b)1.B.ii to read as follows:

(pg.202, Modified to adopt Official Maps Based Upon Other Studies required per DNR Model Ordinance)

Table 6(b)1.B.ii.

List of Official Maps Based Upon Other Studies to be Used in Conjunction with the Waukesha County Shoreland and Floodland Protection Ordinance Zoning Maps is as follows:

1. Dam Failure Analysis and Emergency Action Plan for Wambold and Kroll Dams on Eagle Spring Lake, prepared by Graef, Anhalt, Schlocmer & Associates, Inc., revised April 2002. Approved by the WDNR in April of 2002 and adopted by the Waukesha County Board on April 13, 2004.
2. Dam Failure Analysis and Proposed Dam Capacity Analysis-Monches Dam, Hey and Associates, Inc., April 17, 2006; amended on October 13, 2006 by Hey and Associates, Inc.; further amended on May 17, 2011 by the Waukesha County Department of Public Works; and further amended by R.A. Smith National on January 19, 2012. Approved by the WDNR on January 24, 2012 and adopted by the Waukesha County Board on March 27, 2012.
3. Dam Failure Analysis – Monterey Dam, prepared by Kunkel Engineering Group, LLC on September 2, 2011. Approved by the WDNR and adopted by the Waukesha County Board on December 18, 2012.
4. Dam Failure Analysis – Mukwonago Dam, prepared by Mead & Hunt, June 2012. Approved by the WDNR on July 11, 2012 and adopted by the Waukesha County Board on November, 26, 2013.
5. ~~Waukesha County Flood Storage District Maps, Panels 2, 3, 5, 6, 7, and 8. Dated February 19, 2014. Prepared by the WDNR. Approved by the WDNR~~ Waukesha County Flood Storage District Maps, Panels 1, 2, 3, 4, 5, 6, 7, 8, 11, 12. Dated November 05, 2014. Prepared by the WDNR. Approved by the WDNR

N:\PRKANDLU\Planning and Zoning\Floodplain\FEMA map panels and FIS Riskmap 2013\DRAFT Ordinance\1793 Exhibit A REVISED Rock River Basin Text Amendments with Track Changes.doc

EXHIBIT "B"

**Discovery Map
Upper & Lower Rock Watershed
Waukesha County, WI**

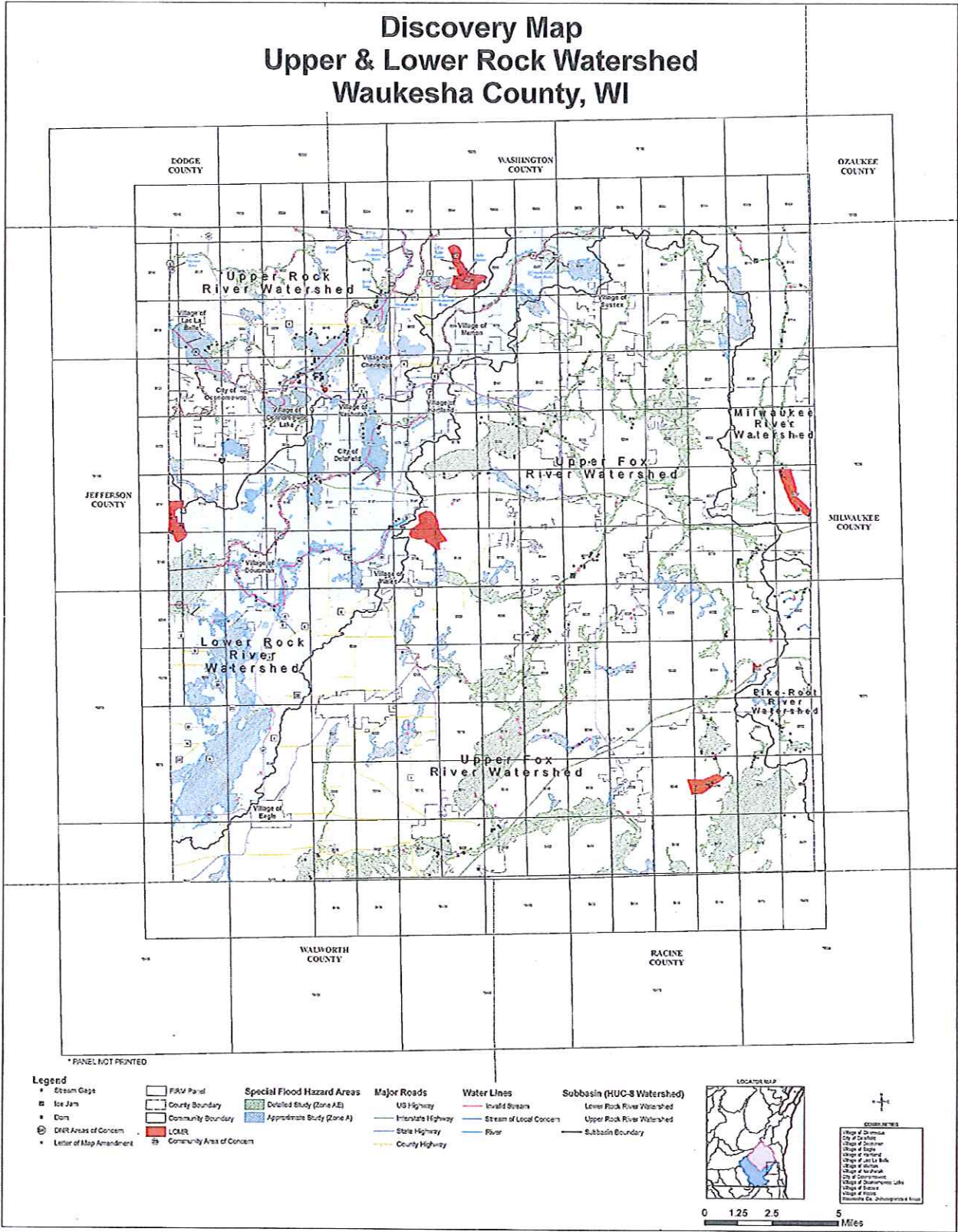


EXHIBIT "C"

2.0 AREA STUDIED

2.1 Scope of Study

This FIS report covers the geographic area of Waukesha County, Wisconsin, including the incorporated communities listed in Section 1.1. The areas studied by detailed methods were selected with priority given to all known flood hazard areas and areas of projected development and proposed construction.

The following flooding sources listed in Table 2 were newly studied or revised by detailed methods:

Table 2 – Flooding Sources Studied by Detailed Methods for this FIS

<u>Stream</u>	<u>Limits of Detailed Study</u>
Ashippun River	Its entire length within Waukesha County
Bark River	Its entire length within Waukesha County
Lake Five	Its entire shoreline
Little Oconomowoc River	Its entire length within Waukesha County
Oconomowoc River	Its entire length within Waukesha County
School Section Creek	From the Waukesha – Jefferson County boundary upstream through School Section Lake
Scuppernong Creek	From its mouth at the Bark River to approximately 2300 feet upstream of Scuppernong Drive
Scuppernong Creek USH 18 Diversion	Its entire length
South Tributary to Scuppernong Creek	From its mouth at Scuppernong Creek to just upstream of County Highway D
Unnamed Ditch to Bark River	From its mouth at Bark River to just upstream of Hillside Road
Unnamed Tributary to Lake Keesus	From Lake Keesus upstream of Camp Whitcomb Road to approximately 400 feet downstream of Center Oak Road
Unnamed Tributary to North Lake	From North Lake to Cornell Lake

Waterways that were previously studied by detailed methods and not revised for this countywide FIS: Brandy Brook, Butler Ditch, Butler Ditch South Branch, Butler Ditch Tributary, Calhoun Creek, Dakota Street Tributary, Deer Creek, Dousman Ditch, East Branch Sussex Creek, Fox River, Genesee Creek, Jericho Creek, Jewel Creek, Lake Denoon

Tributary, Lilly Creek, Mason Creek, Menomonee River, Muskego Canal, Nor-X-way Channel, Pebble Brook, Pebble Brook Tributary, Pebble Creek, Pewaukee Lake Tributary, Pewaukee River, Pewaukee Tributary 3, Poplar Creek, Quietwood Creek, Root River, Rosenow Creek, South 130th Street Tributary, South Branch Sussex Creek, South Branch Underwood Creek, Sussex Creek, Sussex Creek Tributary 1, Tess Corners Creek, Tess Corners Creek North Branch, Tributary No. 2 to Fox River, Tributary to South Branch Underwood Creek, Underwood Creek, Upper Kelly Lake Tributary, West Branch Pewaukee Lake Tributary, West Branch Root River, Willow Springs Creek.

Approximate analyses were used to study those areas having a low development potential or minimal flood hazards. Waterways with new analyses and shown as Zone A on the map are: Lake Keesus outlet to the Oconomowoc River, Mason Creek above the detailed portion and Unnamed Tributary to Ashippun River. Waterways not restudied and shown as Zone A on the current map are: Artesian Brook, Battle Creek, Brandy Brook, Calhoun Creek, Lower, Middle, and Upper Genesee Lakes, Genesee Creek, Jericho Creek, Mill Creek, Mukwonago River, Pebble Creek, Pewaukee Lake Tributary, West Branch Pewaukee Lake Tributary, Silver Lake, South 130th Street Tributary, Spring Brook, Tess Corners Creek, West Branch Root River, Willow Springs Creek, and numerous unnamed streams. The scope and methods of study were proposed to, and agreed upon, by FEMA and Wisconsin DNR.

EXHIBIT "D"

Waukesha County lakes affected by FEMA 2013 RiskMAP update (Rock River Basin)

Lake	Existing floodplain elevation (Datum =NGVD29)	Proposed floodplain elevation (Datum= NAVD88**)	Actual floodplain elevation change without datum conversion
Ashippun Lake	870.6	871.63	+1.23
Bowron Lake	870.5	870.3	0
Cornell Lake	No specific elevation- approx. study A-Zone	900.8	New detailed study
Crooked/Duck/Egg Lake	Variable-see Feb 2014 FIS	Variable-see draft FIS	0
Dutchman Lake	No specified elevation- approx. study A-Zone	872.1	New detailed study
Fowler Lake	861	861.1	+0.3
Golden Lake	855.7	855.5	0
Hunters Lake	No specified elevation- approx. study A-Zone	869.6	New detailed study
Lac La Belle	853.8	854*	+0.4
Lake Five	976.3 (already in NAVD88)	976.3	0
Lake Keesus	959.8	959.5	-0.1
Lake Nagawicka	891.8-891.7	890.8-889.9	-1.6 to -0.8
Lower Genesee Lake	867.8	867.6	0
Lower Nashotah Lake	872.7	872.5	0
Lower Nemahbin Lake	871.9	871.7*	0
Middle Genesee Lake	867.8	867.6	0
North Lake	899.9	898.3	-1.4
Oconomowoc Lake	862.4	863.3*	-0.7
Okauchee Lake	875.1	874.5*	-0.4
Upper Genesee Lake	867.8	867.6	0
Upper Nemahbin Lake	872.7	872.5*	0
Upper Oconomowoc Lake (part of Okauchee Lake)	875.4	874.4	-0.8
School Section Lake	No specified elevation- approx. study A-Zone	854.9	New detailed study
Waterville Lake	889.7	889.6	+0.1

*Please refer to the FIS and detailed cross-sections for variable floodplain elevations at Inlet and outlet of lake

**Change in datum results in a 0.2 foot decrease in the floodplain elevation for all lakes within Waukesha County

WAUKESHA COUNTY BOARD OF SUPERVISORS

V

DATE-09/23/14

(ORD) NUMBER-1690055

- | | |
|--------------------------|--------------------------|
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| 25 G. YERKE.....AYE | |

TOTAL AYES-23

TOTAL NAYS-00

CARRIED _____

DEFEATED _____

UNANIMOUS X

TOTAL VOTES-23