

CITY OF MADISON, WISCONSIN

AN ORDINANCE _____

PRESENTED July 11, 2006
REFERRED Plan Commission

Amending Secs. 28.03(2), 28.04(20), 28.06(3), 28.105, 28.12(2)(b), 28.12(3)(b), 28.12(6), 28.12(7)(c) and (d), 28.12(9)(c), 28.12(10)(a), (f)5., and (i) of the Madison General Ordinances to bring the ordinances into conformity with the recently amended Ch. NR 116, Wis. Adm. Code, regarding floodplain management.

RULES SUSPENSION
PUBLIC HEARING PC 8-7-06
CC 9-5-06

Drafted by: Katherine C. Noonan
Assistant City Attorney

Date: April 21, 2006

SPONSORS: Aids. King and Van Rooy

DRAFTER'S ANALYSIS: These amendments are to bring the ordinances into conformity with the recently amended Ch. NR 116, Wis. Adm. Code, regarding floodplain management.

The Common Council of the City of Madison do hereby ordain as follows:

1. Subsection (2) entitled "Definitions" of Section 28.03 entitled "Rules and Definitions" of the Madison General Ordinances is amended by amending or adding therein the following:

~~"Floodfringe. The floodfringe is that portion of the floodplain between the regional flood limits and the floodway, outside the floodway, which is covered by flood waters during the regional flood; it is generally associated with standing water rather than rapidly flowing water.~~

~~Floodway. The channel of a river or stream and those portions of the floodplain adjoining the channel that are required to carry and discharge the flood or flood flows of any river or stream including but not limited to flood flows associated with the regional floodwaters.~~

~~New Construction. For the purpose of floodplain regulation only, means structures for which the start of construction commenced on or after the effective date of the floodplain zoning maps adopted and includes any subsequent improvements to such structures. For the purpose of determining flood insurance rates, it includes any structures for which the start of construction commenced on or after the effective date of an initial Flood Insurance Rate Map or after December 31, 1974, whichever is later and includes any subsequent improvements to such structures.~~

~~Regional Flood. A flood determined or approved by the Department which is representative of large floods known to have generally occurred in Wisconsin and which may be is a flood with a one percent (1%) chance of being equaled or exceeded in any given year, and, if depicted on the Flood Insurance Rate Map, the regional flood elevation is equivalent to the base flood elevation expected to occur on a particular stream because of like physical characteristics. The regional flood generally has an average frequency of the one hundred (100)-year recurrence interval flood."~~

~~Reasonably Safe from Flooding. For the purpose of floodplain regulation only, means base flood waters will not inundate the land or damage structures to be removed from the special flood hazard area and that any subsurface waters related to the base flood will not damage existing or proposed building.~~

Approved as to form:

Michael P. May, City Attorney

Start of Construction. For the purpose of floodplain regulation only, means the date the building permit was issued, provided the actual start of construction, repair, reconstruction, rehabilitation, addition, placement, or other improvement was within 180 days of the permit date. The actual start means either the first placement of permanent construction on a site, such as the pouring of slab or footings, the installation of piles, the construction of columns, or any work beyond initial excavation, or the placement of a manufactured home on a foundation. Permanent construction does not include land preparation, such as clearing, grading and filling, nor does it include the installation of streets and/or walkways, nor does it include excavation for a basement, footings, piers or foundations or the erection of temporary forms, nor does it include the installation on the property of accessory buildings, such as garages or sheds not occupied as dwelling units or not part of the main structure. For an alteration, the actual start of construction means the first alteration of any wall, ceiling, floor or other structural part of a building, whether or not that alteration affects the external dimensions of the building.

Substantial Damage. For the purpose of floodplain management only, means damage of any original sustained by a structure, whereby the costs of restoring the structure to its pre-damaged condition would equal or exceed fifty percent (50%) of the equivalent assessed value of the structure before the damage occurred.

2. Subdivision (f) of Subsection (1) entitled "Interpretation" of Section 28.04 entitled "General Provisions" of the Madison General Ordinances is created to read as follows:

"(f) The Dane County floodplain zoning provisions in effect on the date lands are annexed to the City of Madison shall remain in effect and shall be enforced for all annexed lands until the City adopts and enforces an ordinance that meets the requirements of NR 116, Wis. Adm. Code and the National Flood Insurance Program. County floodplain provisions are incorporated by reference for the purpose of administering this subdivision and are on file in the office of the Zoning Administrator."

3. Subsection (20) entitled "Regulations for all Floodplain Districts" of Section 28.04 entitled "General Provisions" of the Madison General Ordinances is amended to read as follows:

"(20) Regulations for all Floodplain Districts.

(a) Statement of Purpose. Pursuant to Wis. Stat. sec. 62.23(7), this ordinance is intended to regulate development in all areas that would be covered by the regional flood or base flood to: protect life, health, and property; maximize expenditures of public funds for flood control projects; minimize rescue and relief efforts undertaken at the expense of the taxpayers; minimize business interruptions and other economic disruptions; minimize damages to public facilities in the floodplains; minimize the occurrence of future flood blight areas in the floodplain; discourages the victimization of unwary land and homebuyers; prevent increases in flood heights that could increase flood damage and result in conflicts between property owners; and discourage development in the floodplain if there is any practicable alternative to locate the activity, use, or structure outside the floodplain.

(ab) General Requirements.

1. No development shall be allowed in floodplain areas which will:

a. ~~Cause an obstruction to flow, an obstruction being any development which physically blocks the conveyance of floodwaters by itself or in conjunction with future similar development causing an increase in regional flood height~~ Obstruct flow, defined as development that blocks the conveyance of floodwaters by itself or with other development, increasing regional flood height; or

b. ~~Cause an increase in regional flood height due to floodplain storage area lost, which is equal to or exceeds 0.01 foot, except as provided in Paragraph 2. below.~~

2. Obstructions or increases equal to or greater than 0.01 foot may only be permitted if amendments are made to this ordinance, and to the official floodplain zoning maps, including floodway lines, and water surface profiles, and only if the total cumulative effect of the proposed development will not increase the height of the regional flood more than 4.0 foot for the affected hydraulic reach of the stream.

3. The Zoning Administrator shall deny permits where it is determined that the proposed development will ~~cause an obstruction to flow or increase in regional flood heights of 0.01 foot or greater~~ based on the adopted Flood Insurance Management Program or other

adopted map, unless amendments are made to this ordinance, the official floodplain zoning maps, floodway lines and water surface profiles.

4. The placement or replacement of mobile homes in any Floodplain District is prohibited.
54. All proposals for land subdivisions or other new developments in floodplain areas shall include regional flood elevation data and any means to provide adequate surface drainage and to minimize flood damage. In the case of a subdivision with more than fifty (50) lots or five (5) acres, whichever is less, or a new development whose estimated cost exceeds seventy-five thousand dollars (\$75,000), the applicant shall provide all necessary computations to show the effects of such proposal(s) on flood heights, flood velocities and floodplain storage. In the case of all other subdivisions and developments and in those instances where there are no adequate data, the applicant shall provide valley cross sections and other survey data which shall be transmitted by the Zoning Administrator to the Wisconsin Department of Natural Resources for a determination of flood protection elevations and for an evaluation of the effect of the proposals on flood heights, flood velocities and floodplain storage. All proposed building sites in subdivisions or new developments in flood prone areas shall be reasonably free from flooding. If a proposed building site is in a flood prone area, all new construction and substantial improvements shall be designed or modified and adequately anchored to prevent flotation, collapse, or lateral movement of the structure resulting from hydrodynamic and hydrostatic loads; be constructed with materials resistant to flood damage; be constructed by methods and practices that minimize flood damages; and be constructed with electrical, heating, ventilation, plumbing, and air conditioning equipment and other service facilities designed and/or located so as to prevent water from entering or accumulating within the components during conditions of flooding. Subdivisions and all new development shall be reviewed for compliance with the above standards. All proposals (including manufactured home parks) shall include regional flood elevation and floodway data.
5. Public or private campgrounds shall have a low flood damage potential and shall meet the following provisions:
 - a. The campground is approved by the Department of Health and Family Services.
 - b. A land use permit for the campground is issued by the zoning administrator.
 - c. The character of the river system and the elevation of the campground is such that a seventy-two (72) hour warning of an impending flood can be given to all campground occupants.
 - d. There is an adequate flood warning procedure for the campground that offers the minimum notice required under this section to all persons in the campground. This procedure shall include a written agreement between the campground owner, the municipal emergency government coordinator and the chief law enforcement official which specifies the flood elevation at which evacuation shall occur, personnel responsible for monitoring flood elevations, types of warning systems to be used and the procedures for notifying at-risk parties, and the methods and personnel responsible for conducting the evacuation.
 - e. This agreement shall be for no more than one (1) calendar year, at which time the agreement shall be reviewed and updated - by the officials identified in sub. d to remain in compliance with all applicable regulations, including those of the state department of health and family services and all other applicable regulations.
 - f. Only camping units are allowed.
 - g. The camping units may not occupy any site in the campground for more than one hundred-eighty (180) consecutive days, at which time the camping unit must be removed from the floodplain for a minimum of twenty-four (24) hours.
 - h. All camping units that remain on site for more than thirty (30) days shall be issued a limited authorization by the campground operator, a written copy of which is kept on file at the campground. Such authorization shall allow placement of a camping unit for a period not to exceed one hundred-eighty (180) days and shall ensure compliance with all the provisions of this section.
 - i. The municipality shall monitor the limited authorizations issued by the campground operator to assure compliance with the terms of this section.

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

3. Flood-proofing measures may include the following:

4a. Installation of watertight doors, bulkheads and shutters.

2b. Reinforcement of walls and floors to resist ~~pressures~~ rupture or collapse caused by water pressure or floating debris.

3c. Use of paints, membranes or mortars to reduce seepage of water through walls.

4d. Addition of mass or weight to structures to prevent flotation.

5e. Placement of essential utilities above the flood protection elevation.

6f. Installation of pumping facilities and/or subsurface drainage systems ~~for buildings~~ to relieve ~~external~~ foundation wall and basement floor pressures and to lower water levels in structures.

7g. Construction of water supply wells and waste treatment systems to prevent the ~~entrance~~entry of flood waters.

8. Construction to resist rupture or collapse caused by water pressure or floating debris.

9h. Installation of cutoff valves on sewer lines or the elimination of gravity basement drains.

(ed) Application Requirements for Permits and Zoning Certificates.

1. Within the Floodplain Districts applications shall include a site development plan drawn to scale and submitted as part of the permit application form and shall contain the following information:

4a. Location, dimensions, area and elevation of the lot.

2b. Location of the ordinary high-water mark of any abutting navigable waterways.

3c. Location of any structures with distances measured from the lot lines and center line of all abutting streets or highways.

4d. Location of any existing or proposed on-site sewage systems or private water supply systems.

5e. Location and elevation of existing or future access roads.

6f. Location of floodplain and floodway limits on the property as determined from the official floodplain zoning maps.

7g. The elevation of the lowest floor of proposed buildings and any fill using Madison National Geodetic and Vertical Datum (NGVD).

8h. Data sufficient to determine the regional flood elevation in NGVD at the location of the development and to determine whether or not the requirements of the Floodway District or the Floodfringe District apply.

9j. Data sufficient to determine if the proposed development will cause either an obstruction to flow or an increase in regional flood height or discharge according to Sec. 28.04(20)(~~ab~~). This may include any of the information noted in Sec. 28.105(1)(c)1.

2. The applicant shall provide all survey data and computations required to show the effects of the project on flood heights, velocities, and floodplain storage for all subdivisions or new developments exceeding five (5) acres in area or where the estimated cost exceeds one hundred twenty-five thousand dollars (\$125,000). The estimated costs of the proposal shall include all structural development, landscaping, access and road development, utilities, and other pertinent items, but need not include land costs. The applicant shall provide:

a. An analysis of the effect of the development on the regional flood profile, velocity of flow and floodplain storage capacity;

b. A map showing location and details of vehicular access to lands outside the floodplain; and

c. A surface drainage plan showing how flood damage will be minimized.

(de) Warning and Disclaimer of Liability. The degree of flood protection intended to be provided by this ordinance is considered reasonable for regulatory purposes and is The flood protection standards in this ordinance are based on engineering experience and scientific methods of study research. Larger floods may occur ~~on rare occasions~~ or the flood height may be increased by man-made or natural causes, ~~such as ice jams and bridge openings restricted by debris.~~ This ordinance does

~~not imply that or guarantee that non-floodplain areas or permitted floodplain use areas outside floodplain limits defined herein or land uses permitted within such limits will always be totally free from flooding or and flood damages. nor shall this ordinance create a liability on the part of or a cause of action against the City of Madison or any officer or employee thereof for any Nor does this ordinance create liability on the part of, or a cause of action against, the City of Madison or any officer or employee thereof for any flood damage that may result from reliance on this ordinance.~~"

4. Subsection (3) entitled "Floodplain Maps" of Section 28.06 entitled "Zoning Districts And Zoning District Maps" of the Madison General Ordinances is amended to read as follows:

"(3) Floodplain Maps.

- (a) Incorporation of Floodplain Maps. The location and boundaries of the Floodway, Flood Fringe, and General Floodplain Districts are hereby established as shown on the Flood Boundary and Floodway Maps and the Flood Insurance Rate Maps, both dated as being effective on June 17, 2003, and prepared by the Federal Insurance Administration of the U. S. Federal Emergency Management Agency, together with other supplemental maps, including the revised 100 year flood elevation and the flood storage district for the East and West branches of Starkweather Creek located in Sections 4 and 5 Town of Blooming Grove and Sections 16, 17, 18, 19, 20, 21, 22, 27, 33, and 34 Town of Burke as delineated by the preliminary Flood Insurance Study for Starkweather Creek, City of Madison, Dane County, Wisconsin, by Foth and Van Dyke dated 1985. The above-mentioned maps with all information shown thereon, together with the accompanying Federal Insurance Administration's Flood Insurance Study for the City of Madison, Wisconsin, dated September 18, 1986, and in which are indicated floodway data and flood profiles, and all amendments thereto to such floodplain maps shall be as much a part of this ordinance as if fully set forth and described herein. This section shall become effective June 17, 2003. Any change to the base flood elevations in the Flood Insurance Study or on the Flood Insurance Rate Map must be reviewed and approved by the Department of Natural Resources and the Federal Emergency Management Agency (FEMA) before it is effective. No changes to regional elevations on non-FEMA maps shall be effective until approved by the Department of Natural Resources.
- (b) Locating Floodplain Boundaries. ~~Where an apparent discrepancy exists between the location of the outermost boundaries of the flood fringe district or general floodplain district shown on the official floodplain zoning map and actual field conditions, the location shall be initially determined~~ resolved by the Zoning Administrator using the criteria in paragraphs 1. and 2. below. Where the Zoning Administrator finds that there is a significant difference between the map and the actual field conditions, the map shall be amended using the procedures established in Section 28.12(10) of the Madison General Ordinances. The Zoning Administrator can rely on a boundary derived from a profile elevation to grant or deny a land use permit, whether or not a map amendment is required. the Zoning Administrator shall be responsible for documenting actual pre-development field conditions and the basis upon which the district boundary was determined and for initiating any map amendments required under this section. Disputes between the Zoning Administrator and an applicant over the location of the district boundary line shall be settled according to Sec. 28.12(7) and (8) of these ordinances.
1. Where flood profiles exist, the location of the district boundary line shall be determined by the Zoning Administrator using both the scale appearing on the map and the elevations shown on the water surface profile of the regional flood. Where a discrepancy exists between the map and actual field conditions, the regional flood elevations shall govern. ~~A map amendment is required where there is a significant discrepancy between the map and actual field conditions.~~ The Zoning Administrator shall have the authority to grant or deny a land use permit on the basis of a district boundary derived from the elevations shown on the water surface profile of the regional flood, whether or not a map amendment is required. ~~The Zoning Administrator shall be responsible for initiating any map amendments required under this section within a reasonable time.~~
 2. Where flood profiles do not exist, the location of the district boundary line shall be determined by the Zoning Administrator using the scale appearing on the map, visual on-site inspection and any available information provided by the Wisconsin Department of Natural Resources. Where there is a significant difference between the map and actual

field conditions, the map shall be amended. Where a map amendment has been approved by both the City, and the Wisconsin Department of Natural Resources and the Federal Emergency Management Agency, the Zoning Administrator shall have the authority to grant or deny a land use permit."

5. Section 28.105 entitled "Floodplain Districts" of the Madison General Ordinances is amended to read as follows:

"28.105 FLOODPLAIN DISTRICTS.

(1) F1 Floodway District.

(a) Applicability.

The F1 Floodway District consists of the channel of a river or stream and those portions of the floodplain adjoining the channel that are required to carry ~~and discharge the~~ flood waters ~~or flood flows of any river or stream associated with the regional flood~~ and shall include mapped floodway areas so designated on the floodplain zoning district maps. The provisions of this section shall apply to all areas within the F1 Floodway District and to those portions of the F3 General Floodplain District determined to be in the floodway area.

(b) Permitted Uses.

The following open space uses are permitted in the F1 Floodway District:

~~1. Open space uses having a low flood damage potential and not obstructing flood flows and limited to the following:~~

~~a1. Agricultural uses, including general farming, pasture, grazing, outdoor plant nurseries, horticulture, viticulture, ~~truck farming, forestry, sod farming,~~ and wild crop harvesting.~~

~~b2. Nonstructural industrial and commercial uses, including parking and loading areas and airport landing strips.~~

~~e3. ~~Outdoor~~ Nonstructural recreational uses, including golf course, tennis courts, driving ranges, archery ranges, picnic grounds, boat launching ramps, swimming areas, parks, wildlife and nature preserves, game farms, fish hatcheries, shooting trap and skeet activities, hunting and fishing areas, and hiking and horseback riding trails.~~

~~d4. Accessory structures and uses to the above-mentioned open space uses. Uses or structures accessory to open space uses or classified as historic structures.~~

~~25. Public utilities, including ~~railroads, streets, and bridges, pipelines, and other water-related uses.~~~~

~~36. Extraction or deposition of sand, gravel or other materials, ~~subject to the provisions of Sec. 28.04(20)(a)1 and 2.~~~~

~~4.7. ~~Marinas, docks, and piers.~~ Functionally water-dependent uses, such as docks, piers or wharves, dams, flowage areas, culverts, navigational aids and river crossings of transmission lines, and pipelines that comply within Wis. Stats. Chs. 30 and 31.~~

(c) Standards for Developments in Floodway Areas.

1. General.

a. Any development in floodway areas shall ~~meet all of~~ comply with the provisions of Section 28.04(20) and have a low flood damage potential.

b. Applicants shall provide the following data for the Zoning Administrator to determine the effects of the proposal according to Sec. 28.04(20)(~~ab~~)1. and 2.:

i. A cross-section elevation view of the proposal, perpendicular to the watercourse, indicating whether the proposed development will obstruct flow; or

ii. An analysis calculating the effects of this proposal on regional flood height.

c. The Zoning Administrator shall deny the permit application ~~where it is determined~~ if the project will increase flood elevations upstream or downstream 0.01 foot or more, based on the data submitted for Subparagraph b. above.

2. ~~Structures. Only s~~ Structures which are accessory to permitted open space uses, ~~or are essential for~~ classified as historical areas, or ~~are~~ functionally dependent on a waterfront location, may be allowed by permit, providing the structures meet all of the following criteria:
 - a. The structures are not designed for human habitation- and do not have a high flood damage potential;
 - b. The structures are constructed and placed on the building site so as to ~~cause an increase less than 0.01 foot in~~ flood heights less than 0.01 foot and ~~offer minimum~~ minimally obstruction to the flow of floodwaters. Structures shall be constructed with the longitudinal axis parallel to the direction of flow of floodwaters, and approximately on the same line as ~~those of~~ adjoining structures-;
 - c. The structures are firmly properly anchored to prevent them from floating away and restricting bridge openings or other restricted sections of the stream or river-; and
 - d. The structures have all service facilities, ~~such as electrical and heating equipment,~~ at or above the flood protection elevation ~~for the particular area.~~
3. Public utilities, streets and bridges may be allowed by permit, provided that:
 - a. Adequate flood-proofing measures are provided to the flood protection elevation-; and
 - b. ~~Construction does not cause an increase in the regional flood height according to Sec. 28.04(20)(a)1. and 2., except where the water surface profiles, floodplain zoning maps and floodplain zoning ordinance are amended as needed, to reflect any changes resulting from such construction meets the standard in Sec. 28.04(20)(b)1. and 2.~~
4. Fills or deposition of materials may be allowed by permit, provided that:
 - a. The requirements of Sec. 28.04(20)(~~ab~~)1. and 2. are met-;
 - b. ~~The fill or deposition of No materials does not encroach on the is deposited in the navigable channel area between the ordinary high water mark on each bank of the stream unless a permit has been granted by the Department of Natural Resources pursuant to Ch. 30, Wis. Stats., and a permit pursuant to S. 404 of the Federal Water Pollution Control Act, Amendments of 1972, 33 U.S.C. 1334 has been issued, if applicable, and the other requirements of this section are met.~~
 - c. The fill or other materials will be protected against erosion by riprap, vegetative cover, sheet piling or bulkheading sufficient to prevent erosion-; and
 - d. ~~Such~~ The fills are is not associated with private or public classified as a solid waste disposal or hazardous material.
- (d) Prohibited Uses. All uses not listed as permitted uses in Subsection (b) above are prohibited within the floodway district and in the floodway portion of the general floodplain district including the following uses ~~which are always prohibited in the floodway:~~
 1. The storage of any materials that are buoyant, flammable, explosive, or injurious to property, water quality, or human, animal, plant, fish or other aquatic life.
 2. Any uses ~~which are~~ not in harmony with, or which may be detrimental to, the uses permitted in the adjoining districts.
 3. All private or public ~~on-site~~ sewage ~~disposal~~ systems, except portable latrines that are removed during prior to flooding, and systems associated with public recreational areas and Wisconsin Department of Natural Resources approved campgrounds, that meet the applicable provisions of Ch. ~~ILHRCOMM~~ 83, Wis. Adm. Code.
 4. All public or private wells which are used to obtain potable water ~~for ultimate human consumption~~, except those for recreational areas that meet the requirements of local ordinances and Chs. NR ~~444811~~ and NR ~~442812~~, Wis. Adm. Code.
 5. All solid and hazardous waste disposal sites, ~~whether public or private.~~
 6. All wastewater treatment ponds or facilities, except those permitted under §§ NR 110.15(3)(b), Wis. Adm. Code.
 7. All sanitary sewer or water lines except those to service existing or proposed development located outside the floodway which complies with the regulations for the floodplain area occupied.

8. Habitable structures, structures with high flood damage potential, or those not associated with permanent open-space uses.

(e) Nonconforming Uses.

1. Additions or ~~enlargements~~ modifications shall not be allowed to any nonconforming structure or any structure with a nonconforming use in a floodway area unless such addition or ~~enlargement~~ modification:
 - a. Has been granted a permit or variance that meets all ordinance requirements;
 - b. Meets the requirements of Sec. 28.105(3)(e)~~05~~;
 - c. Will not increase the obstruction to flood flows or regional flood height; and
 - d. Any addition to the existing structure shall be flood-proofed, pursuant to Sec. 28.04(20)(~~bc~~), by means other than the use of fill, to the flood protection elevation.
2. No new on-site sewage disposal system, or addition to an existing on-site sewage disposal system, except where an addition has been ordered by a government agency to correct a hazard to public health, shall be allowed in a floodway area. Any replacement, repair or maintenance of an existing on-site sewage disposal system in a floodway area shall meet the applicable requirements of all municipal ordinances and Ch. ~~LR~~COMM 83, Wis. Adm. Code.
3. No new well or modification to an existing well, used to obtain potable water for ultimate human consumption, shall be allowed in a floodway area. Any replacement, repair or maintenance of an existing well in a floodway area shall meet the applicable requirements of all municipal ordinances and Ch. ~~NR 44811~~ and ~~NR 442812~~, Wis. Adm. Code.

(2) F2 Floodfringe District.

(a) Applicability.

The F2 Floodfringe District consists of that portion of the floodplain between the regional flood limits and the floodway ~~area~~. The provisions of this section shall apply to all areas within the F2 Floodfringe District and to those portions of the F3 General Floodplain District determined to be in the floodfringe area. The F2 Floodfringe District shall also include the A-zones so designated on the floodplain zoning district maps and for which floodways are delineated and mapped.

(b) Permitted Uses.

The following uses are permitted in the F2 Floodfringe District and in the floodfringe portion of the F3 General Floodplain District:

1. Any building, structure or use otherwise allowed as permitted or conditional uses in the Madison Zoning Ordinance, except for mobile home parks and solid waste disposal sites.

(c) Standards for Development in Floodfringe Areas.

1. All of the provisions of Sec. 28.04(20)(~~ab~~)1. and 2. shall apply in addition to the following requirements according to the use requested.
2. Residential Uses. Any structure or building used for human habitation, including a manufactured home, which is to be erected, constructed, reconstructed, altered, or moved into the floodfringe area shall meet or exceed the following standards:
 - a. The elevation of the lowest floor, excluding the basement or crawlway, shall be placed on fill at or above the flood protection elevation (which is a point two feet above the regional flood elevation) except where Subparagraph b. below is applicable. The fill elevation shall be one foot or more above the regional flood elevation extending at least 15 feet beyond the limits of the structure. The Wisconsin Department of Natural Resources may authorize other flood-proofing measures where existing streets or sewer lines are at elevations which make compliance

- impractical provided the Board of Appeals grants a variance due to dimensional restrictions.
- b. The basement or crawlway floor may be placed at the regional flood elevation provided it is flood-proofed to the flood protection elevation. No permit or variance shall allow any floor, basement or crawlway below the regional flood elevation.
 - c. Contiguous dry land access, as a vehicle access route above regional flood elevation, shall be provided from a structure or building to land which is outside of the floodplain except as provided in sub. d.
 - d. In developments where existing street or sewer line elevations make compliance with (c) impractical, the municipality may permit new development and substantial improvements where access roads are at or below the regional flood elevation, if:
 1. The municipality has written assurance from police, fire, and emergency services that rescue and relief will be provided to the structure(s) by wheeled vehicles during a regional flood event; or
 2. The municipality has a natural disaster plan approved by Wisconsin Emergency Management and the Department of Natural Resources.
3. ~~Accessory Structures or Uses. An accessory structure or use not connected to a principal structure, including nonresidential agricultural structures, shall meet all the applicable provisions of Sec. 28.105(1)(c)1., 2. and 4. and (d). A lesser degree of protection, compatible with these criteria and the criteria in Paragraph 4. below may be permissible for an accessory structure or use providing that the site is not inundated to a depth greater than two feet or subjected to flood velocities greater than two feet per second during the regional flood.~~
 - a. Except as provided in Subparagraph b., below, an accessory structure that is not connected to a principal structure shall be constructed with its lowest floor at or above the Regional Flood Elevation.
 - b. An accessory structure that is not connected to the principal structure and which is less than six hundred (600) square feet in size and valued at less than ten thousand dollars (\$10,000) may be constructed with its lowest floor no more than two (2) feet below the regional flood elevation, provided that it is subject to flood velocities of no more than two (2) feet per second and that it meets all the provisions in Sec. 28.105(1)(c)2. and Sec. 28.105(2)(c)6.
4. ~~Commercial Uses. In Any commercial areas, any structure or building which is to be erected, constructed, reconstructed, altered or moved into the floodfringe area shall meet the requirements of Paragraph 2. above. Storage yards, surface parking lots and other accessory structures or land such uses may be at lower elevations, subject to the requirements of Paragraph 6. below. However, no such area in general use by the public shall be inundated to a depth greater than two feet or subjected to flood velocities greater than two feet per second during the regional flood. Inundation of such yards or parking areas exceeding two feet may be allowed provided an adequate warning system exists to protect life and property.~~

5. Manufacturing and Industrial Uses. Any manufacturing, agricultural or industrial structure or building which is to be erected, constructed, reconstructed, altered or moved into the floodfringe area shall be protected to the flood protection elevation utilizing fill, levees, flood walls,

~~or other flood-proofing measures, adequate flood-proofing measures or any combination thereof. On streams or rivers having prolonged flood durations, greater protection may be required to minimize interference with normal plant operations. A lesser degree of protection, compatible with the criteria in Paragraph 4. above and 6. below may be permissible for storage yards, parking lots and other accessory structures or uses. Subject to the requirements in 7. below, storage yards, surface parking lots and other such uses may be placed at lower elevations if an~~
adequate warning system exists to protect life and property.

6. Storage or Processing of Materials. The storage or processing of materials that are buoyant, flammable, or explosive, or ~~which in times of flooding could be~~ injurious to property, water quality or human, animal, plant, fish or aquatic life, shall be stored at or above the flood protection elevation for the particular area or flood-proofed. Adequate measures shall be taken to ~~assure~~ ensure that ~~said~~ such materials will not enter the ~~river or stream water body~~ during flooding.
7. Public Utilities, Streets and Bridges should be designed to be compatible with the local comprehensive floodplain development plans and:
 - a. When failure or interruption of public utilities, streets and bridges would result in danger to the public health or safety or where such facilities are essential to the orderly functioning of the area, construction of and substantial improvements to such facilities may only be permitted if they are flood-proofed to the flood protection elevation.
 - b. ~~Minor or auxiliary~~ roads or nonessential utilities may be constructed at lower elevations providing they withstand flood forces to the regional flood elevation.
8. Sewage Systems. All on-site sewage disposal systems shall be flood-proofed to the flood protection elevation and shall meet the applicable provisions of all local ordinances and Ch. ~~HLRCOMM~~ 83, Wis. Adm. Code.
9. Wells. All public or private wells shall be flood-proofed to the flood protection elevation and shall meet the applicable provisions of Chs. NR 444811 and NR 442812, Wis. Adm. Code.
10. Solid Waste Disposal Sites. ~~All public or private disposal of solid or hazardous waste disposal sites are~~ is prohibited in floodfringe areas.
11. Deposition of Materials for any purpose may only be allowed if all the provisions of this ordinance are met.
12. Manufactured Homes.
 - a. Owners or operators of all manufactured home parks and subdivisions shall provide adequate surface drainage to minimize flood damage, and prepare, secure approval and file an excavation plan, indicating vehicular access and escape routes, with local emergency management authorities.
 - b. In existing manufactured home parks, all new homes, replacement homes on existing pads, and substantially improved homes shall:
 1. Have the lowest floor elevated to the flood protection elevation; and
 2. Be anchored so they do not float, collapse or move laterally during a flood.
 - c. Outside of existing manufactured home parks, including manufactured home parks and all single units outside of existing parks, all new, replacement and substantially improved manufactured homes shall meet the requirements in Sec. 28.105(2)(c).

- (d) Nonconforming Uses.
1. Additions or ~~enlargements~~ modifications shall not be allowed to any nonconforming structure or any structure with a nonconforming use unless such addition or ~~enlargement~~ modification has been granted a permit or variance. In addition, the addition or ~~enlargement~~ modification shall be placed on fill or flood-protected to the flood protection elevation in compliance with the standards for that particular use in Subdivision (c) above except where Paragraph 2. below is applicable.
 2. Where compliance with the provisions of Paragraph 1. above would result in unnecessary hardship, and only where the structure will not be used for human habitation or be associated with a high flood damage potential, the ~~Zoning Board~~ Board of Appeals may grant a variance from those provisions of Paragraph 1. above for additions or ~~enlargements~~ modifications using the criteria listed below. Additions or ~~enlargements~~ modifications which are protected to elevations lower than the flood protection elevation may be permitted provided:
 - a. No floor is allowed below the regional flood elevation for structures with residential or commercial uses;
 - b. Human lives are not endangered;
 - c. Public facilities, such as water or sewer, will not be installed;
 - d. Flood depths will not exceed two feet;
 - e. Flood velocities will not exceed two feet per second; and
 - f. The structure will not be used for storage of materials described in Sec. 28.105(2)(c)6.
 3. If neither the provisions of Paragraphs 1. nor 2. above can be met, ~~an~~ one addition to an existing room in a nonconforming building or a building with a nonconforming use may be allowed in the floodfringe ~~on a one-time basis only,~~ if the addition:
 - a. Meets all other regulations and will be granted by permit or variance;
 - b. Does not exceed 60 square feet in area; and
 - c. In combination with other previous modifications or additions to the building, does not exceed fifty percent (50%) of the present equalized assessed value of the building.
 4. All new private sewage disposal systems, or addition to, replacement, repair or maintenance of a private sewage disposal system shall meet all the applicable provisions of all local ordinances and Ch. ~~LHRCOMM~~ 83, Wis. Adm. Code.
 5. All new wells, or addition to, replacement, repair or maintenance of a well shall meet the applicable provisions of this ordinance and Ch. ~~NR 444811~~ and NR 442812, Wis. Adm. Code.

(3) F3 General Floodplain District.

(a) Applicability.

The F3 General Floodplain District consists of the land which has been or may be hereafter covered by flood water during the regional flood and encompasses both the F1 Floodway and F2 Floodfringe Districts. The provisions of this ~~section~~ district shall apply to all floodplains ~~areas where for which floodways profiles have not been delineated primarily because of lack of regional flood data. When the floodways are delineated, such portions of the floodplain areas shall be designated as either within the F1 Floodway District or the F2 Floodfringe District~~ are not available or where flood profiles are available but floodways have not been delineated. Floodway and floodfringe districts shall be delineated when adequate data are available. The F3 General Floodplain district shall include all A-zones so designated on the zoning district maps and for which no floodways are delineated and mapped.

(b) Permitted Uses.

The following uses are permitted in the F3 General Floodplain District, provided a determination shall be made as to what portion of the floodplain is within the floodway or floodfringe as provided in Sec. 28.04(20)(c):

1. Uses permitted in the F1 Floodway District are also permitted in that portion determined to be within the floodway.
 2. Uses permitted in the F2 Floodfringe District are also permitted in that portion determined to be within the floodfringe.
- (c) Standards for Development in the General Floodplain District. Once it is determined according to Subdivision (d) below that a proposed use is located within a floodway, the provisions of Subsection (1) above shall apply. Once determined that the proposed use is located within the floodfringe, the provisions of Subsection (2) above shall apply. All provisions of the remainder of this ordinance apply to either district.
- (d) Determining Floodway and Floodfringe Limits. Upon receiving an application for development within the general floodplain district, the Zoning Administrator shall:
1. Require the applicant to submit, at the time of application, two copies of an aerial photograph, or a plan which accurately locates the proposed development with respect to the general floodplain district limits, stream channel of stream, and existing floodplain developments, together with all pertinent information such as the nature of the proposal, legal description of the property, fill limits and elevations, building floor elevations and flood-proofing measures.
 2. Require the applicant to furnish any of the following additional information as is deemed necessary by the Wisconsin Department of Natural Resources for evaluation of the effects of the proposal upon flood height and flood flows, ~~the~~ regional flood elevation, ~~and where applicable~~ to determine the boundaries of the floodway:
 - a. A typical valley cross-section showing the stream channel of the stream, the floodplain adjoining each side of the channel, the cross-sectional area to be occupied by the proposed development, and all historic high-water information.
 - b. Plan (surface view) showing: elevations or contours of the ground; pertinent structure, fill or storage elevations; size, location and spatial ~~arrangement~~ 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.
 - c. Profile showing the slope of the bottom of the channel or flow line of the stream.
 - d. Specifications for building construction and materials, flood-proofing, filling, dredging, channel improvement, storage of materials, water supply and sanitary facilities.
 3. Transmit one copy of the information described in Paragraphs 1. and 2. above to the Southern District office along with a written request for technical assistance to establish regional flood elevations and where applicable, floodway data. Where the provisions of Sec. 28.04(20)(a)5. apply, the applicant shall provide all required information and computations, to delineate floodway boundaries and the effects of the project on flood elevations.
- (e) Nonconforming Uses.
1. No modifications or additions to a nonconforming use or structure shall be permitted unless they comply with this ordinance: the words "modification" and "addition" include, but are not limited to any alteration, addition, modification, structural repair, rebuilding or replacement of any such existing use, structure or accessory structure or use. Ordinary

maintenance repairs are not considered an extension, modification or addition; these include painting, decorating, paneling and replacement of doors, windows and other nonstructural components and the maintenance, repair, or replacement of existing private sewage or water supply systems or connections to public utilities. Ordinary maintenance repairs do not include any costs associated with the repair of a damaged structure. The construction of a deck that does not exceed two hundred (200) square feet and is adjacent to the exterior wall of a principal structure is not an extension, modification or addition. The roof of the structure may extend over a portion of the deck in order to provide safe ingress and egress to the principal structure.

2. If a nonconforming use or the use of a nonconforming structure is discontinued for 12 consecutive months, it is no longer permitted and any future use of the property, and any structure or building thereon, shall conform to the applicable requirements of this ordinance;
3. The municipality shall keep a record which lists all nonconforming uses and nonconforming structures in floodplain districts, their present equalized assessed value, the cost of all modifications or additions which have been permitted, and the percentage of the structure's total current value those modifications represent;
4. No modification or addition to any nonconforming structure or any structure with a nonconforming use, which over the life of the structure would exceed fifty percent (50%) of its present equalized assessed value, shall be allowed unless the entire structure is permanently changed to a conforming structure with a conforming use in compliance with the applicable requirements of this ordinance. Contiguous dry land access must be provided for residential and commercial uses in compliance with Sec. 28.105(2)(c)2.c. The costs of elevating a nonconforming building or a building with a nonconforming use to the flood protection elevation are excluded from the fifty percent (50%) provisions of this paragraph:
 - a. Except as provided in sub. b., if any nonconforming structure or any structure with a nonconforming use is destroyed or is substantially damaged, it cannot be replaced, reconstructed or rebuilt unless the use and the structure meet the current ordinance requirements. A structure is considered substantially damaged if the total cost to restore the structure to its pre-damaged condition exceeds fifty percent (50%) of the structure's present equalized assessed value.
 - b. For nonconforming buildings that are damaged or destroyed by a nonflood disaster, the repair or reconstruction of any such nonconforming building may be permitted in order to restore it after the nonflood disaster, provided that the nonconforming building will meet all of the minimum requirements under 42 USC 4001-4129, or under the regulations promulgated thereunder.
6. 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 Sec. 28.105(1)(c), flood resistant materials are used, and construction practices and floodproofing methods that comply with Sec. 28;04(20)(b) are used.

(4) F4 Flood Storage District.

- (a) Applicability. The F4 Flood Storage District consists of that portion of the floodplain where storage of floodwaters ~~has been taken into account in~~ is calculated to reduce the regional flood discharge. The district provides for the protection of the storage areas and assures that development in the storage areas will not cause higher floodplain elevations. The provisions of this section

shall apply to all areas within the F4 Flood Storage District and to those portions of the F3 General Floodplain District determined to be in the flood storage area.

- (b) Development in Flood Storage District.
1. Development in a flood storage district shall not cause an increase equal to or greater than 0.01 of a foot in the height of the regional flood.
 2. ~~No~~ ~~When any proposed~~ development shall be allowed that would remove flood storage volume; unless an equal volume of storage, as defined by the predevelopment ground surface and the regional flood elevation, shall be provided in the immediate area of the proposed development to compensate for the volume of storage which is lost (compensatory storage). Excavation below the groundwater table is not considered as ~~providing~~ an equal volume of storage.
 3. No area in the floodplain may be removed from the flood storage district unless it can be shown that the area has been filled to the flood protection elevation and is contiguous to other lands lying outside the floodplain.
 4. If compensatory storage cannot be provided, the area may not be developed unless the entire area zoned as flood storage district affected flood storage area is rezoned to the floodfringe district.
 3. ~~A flood zone permit from the Zoning Administrator is required for any development in a flood storage district.~~
- (c) Rezone from Flood Storage District to Floodfringe District.
1. Department of Natural Resources approval of any project that results in an increase in the height of the regional flood shall be secured prior to the submitting of a petition to rezone.
 2. The effect of rezoning from the flood storage district to the floodfringe district shall be calculated by comparing the current flood profile to the flood profile determined by assuming that the area to be rezoned is not available to store floodwater.
 3. The zoning maps for the flood storage district may not be amended without first amending the applicable portions of the water surface profiles, and floodplain zoning ordinances and securing Department of Natural Resources approval for such amendments.
- (d) Permitted Uses. The following uses are permitted in the F4 Flood Storage District:
1. Any use permitted in the F1 Floodway District.
- (e) Nonconforming Uses. No modifications or additions shall be allowed to any nonconforming structure in a flood storage district unless the standards in Sec. 28.105(4)(b) are met.

6. Subdivision (b) entitled "Duties Of The Office Of The Zoning Administrator" of Subsection (2) entitled "Office of the Zoning Administrator" of Section 28.12 entitled "Administration and Enforcement" of the Madison General Ordinances is amended to read as follows:

- "(b) Duties Of The Office Of The Zoning Administrator. The Zoning Administrator shall enforce this ordinance, and in addition thereto and in furtherance of said authority, they shall:
1. Issue all zoning certificates, and make and maintain records thereof.
 2. Issue all certificates of occupancy, and make and maintain records thereof.
 3. Conduct inspections of buildings structures and use of land, including substantial damage assessment for floodplain structures, to determine compliance with the terms of this ordinance.
 4. Maintain permanent and current records of this ordinance, including but not limited to all maps, including floodplain maps, ~~and~~ all water surface profiles, substantial damage assessment reports, amendments, conditional uses, variances, appeals and applications therefor.

5. Provide and maintain a public information bureau relative to all matters arising out of this ordinance.
6. Receive, file and forward to the City Clerk all applications for amendments to this ordinance.
7. Receive, file and forward to the City Plan Commission all applications for conditional uses.
8. Receive, file and forward to the Zoning Board of Appeals all applications for appeals, variances or other matters on which the Zoning Board of Appeals is required to act under this ordinance.
9. Initiate, direct and review, from time to time, a study of the provisions of this ordinance, and make recommendations to the City Plan Commission not less frequently than once a year.
10. Submit copies of applications for amendments, variances and appeals to the floodplain regulations and floodplain maps to the appropriate ~~District~~ Regional Office of the Wisconsin Department of Natural Resources, ~~the Federal Insurance Administration,~~ and the ~~Federal Insurance and Hazard Mitigation Office~~ Emergency Management Agency.
11. Submit copies of any adopted amendments, and any decisions by the Zoning Board of Appeals on appeals and variances to the floodplain regulations and floodplain maps within ten (10) days of the decision, any case-by-case analyses of proposals in floodplain areas, and an annual summary report of the number and types of zoning actions taken and substantial damage assessment reports to the appropriate District Office of the Wisconsin Department of Natural Resources.
12. The Zoning Administrator shall refer violations to the City Attorney who shall prosecute such violations. Copies of the violation report on floodplain regulations shall be sent to the Southern District office of the Wisconsin Department of Natural Resources.
13. Review and interpret deed restrictions which were initiated at the request of a City agency in order to relate the restrictions to uses of land authorized in this Zoning Code.”

7. Subdivision (b) entitled “Jurisdiction” of Subsection (3) entitled “Zoning Board of Appeals” of Section 28.12 entitled “Administration and Enforcement” of the Madison General Ordinances is amended to read as follows:

- “(b) Jurisdiction. The Zoning Board of Appeals is hereby vested with the following jurisdiction and authority:
1. To hear and decide appeals where it is alleged there is error in any order, requirement, decision or determination made by the Zoning Administrator in the enforcement of this ordinance.
 2. To hear and act upon applications for variances from the terms provided in this ordinance in the manner prescribed by and subject to the standards established herein.
 3. To hear and act upon applications for area exceptions in the manner prescribed by and subject to the standards established herein.
 4. To hear and decide appeals where it is alleged there is error in a determination made by the Director of the Department of Planning and Development pursuant to Sec. 28.11(2)(c).
 5. Hear and decide disputes concerning the district boundaries shown on the official floodplain zoning map.
 - ~~56.~~ To hear and act upon all other matters referred to it upon which it is required to act under this ordinance.”

8. Subsection (6) entitled “Occupancy Certificates” of Section 28.12 entitled “Administration and Enforcement” of the Madison General Ordinances is amended to read as follows:

- “(6) Occupancy Certificates. No building or addition thereto constructed after the effective date of this ordinance shall be used for any purpose, and no addition to a previously existing building shall be occupied, and no land (except land used for garden or public recreation purposes and land without buildings or structures that is not in the Wetland District) that is vacant on the effective

date of this ordinance shall be used for any purpose, until a certificate of occupancy has been issued by the office of the Zoning Administrator. No change in a use shall be made until a certificate of occupancy has been issued by the Zoning Administrator. Every certificate of occupancy shall state that the use of occupancy complies with all of the provisions of this ordinance. When applicable in floodplain areas, the Zoning Administrator shall require a certification by a registered professional engineer or architect that the finished fill, ~~and building lowest floor and~~ flood elevations, and other floodplain regulatory factors were accomplished in compliance with the provisions of this ordinance prior to issuance of a certificate of occupancy. In floodplain areas, it shall be the responsibility of the applicant to secure all other necessary permits from all appropriate Federal and Wisconsin State agencies, including those required under Sec. 404 of the Federal Water Pollution Control Act amendments of 1972, 33 United States Code 1334.

- (a) Application For Occupancy Certificates. Every application for a building permit shall be deemed to be an application for an occupancy certificate. Every application for an occupancy certificate for a new use or change in use of land or building shall be made directly to the office of the Zoning Administrator.
- (b) Issuance Of Occupancy Certificates. No occupancy certificate for a building or portion thereof, constructed after the effective date of this ordinance, shall be issued until construction has been substantially completed and the premises inspected and certified by the office of the Zoning Administrator to be in conformity with the plans and specifications upon which the zoning certificate was based. The office of the Zoning Administrator, under such rules and regulations established by such office, may issue a temporary certificate of occupancy for a part of a building.
- (c) Issuance of Certificates of Occupancy for Nonconforming Uses. Any person, firm or corporation having a legal or equitable ownership interest of record in a property which is nonconforming as to use shall obtain a certificate of occupancy from the office of the Zoning Administrator. To obtain such certificate of occupancy, such owner shall present documentary proof that said use was a lawful permitted or conditional use at the time it originated and was made nonconforming by the adoption of this ordinance or any amendment thereto or was made nonconforming by the zoning ordinance in effect at the time this ordinance was adopted. After verifying that the use in question is in fact a lawful nonconforming use, the Zoning Administrator shall issue a certificate of occupancy stating the said use, and the zoning of the property. For the purpose of determining nonconforming use, documentary proof may include leases, affidavits, lawfully issued permits and certificates of occupancy and other legal documents or public records without limitation because of enumeration, subject to verification of authenticity and accuracy.”

9. Subdivision (c) entitled “Notice of Hearing” of Subsection (7) entitled “Appeals” of Section 28.12 entitled “Administration and Enforcement” of the Madison General Ordinances is amended to read as follows:

- "(c) Notice of Hearing. The Zoning Board of Appeals shall fix a reasonable time for the hearing of the appeal. Notice of the time, place and purpose of such hearing shall be given by publication as a Class 2 Notice under the Wisconsin Statutes in the official City paper. Notice of the time, place and purpose of such hearing shall also be sent to the appellant, the Zoning Administrator, the Director of Planning and Development, the Alderperson of the ward in which the property affected by the appeal is located, and the owners of record as listed in the office of the City Assessor, who are owners of property adjoining the property affected by any appeal, said notice to be sent at least ~~five (5)~~ ten (10) days prior to the date of such public hearing. In the case of appeals to the flood plain regulations, such notice shall also be sent to the appropriate District Office of the Wisconsin Department of Natural Resources.

10. Subdivision (d) entitled "Findings of the Zoning Board of Appeals" of Subsection (7) entitled "Appeals" of Section 28.12 entitled "Administration and Enforcement" of the Madison General Ordinances is amended to read as follows:

- "(d) Findings of the Zoning Board of Appeals. The Zoning Board of Appeals, upon its findings, shall render a decision on the appeal within a reasonable time. The Board, upon the concurring vote of four (4) members, may 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 office of the Zoning Administrator, and may issue or direct the issue of a permit.
1. For appeals concerning increases in regional flood elevation the Board shall:
 - 1a. Uphold the denial where the Board agrees with the data showing an increase in flood elevation. Increases equal to or greater than 0.01 foot may only be allowed after amending the flood profile and map and any appropriate legal arrangements are made with all adversely affected property owners.
 - 2b. Grant the appeal where the Board agrees that the data properly demonstrates that the project does not cause an increase equal to or greater than 0.01 foot provided no other reasons for denial exist.
 2. For disputes concerning floodplain district boundaries:
 - a. If a floodplain district boundary is established by approximate or detailed floodplain studies, the map scale, and the flood elevations or profiles shall prevail in locating the boundary. If none exist, other evidence may be examined.
 - b. In all cases, the person contesting the boundary location shall be given a reasonable opportunity to present arguments and technical evidence to the Zoning Board of Appeals.
 - c. If the boundary is incorrectly mapped, the Zoning Board of Appeals should inform the person contesting the boundary location to petition the Common Council for a map amendment."

11. Subdivision (c) entitled "Standard for Variances" of Subsection (9) entitled "Variances" of Section 28.12 entitled "Administration and Enforcement" of the Madison General Ordinances is amended to read as follows:

- "(c) Standards for Variances. The Zoning Board of Appeals shall not vary the regulations of this ordinance as authorized in (8)(a) above unless it shall make findings based upon the evidence presented to it in each specific case that all of the following conditions are present:
1. ~~The particular physical surroundings, shape or topographical conditions of the specific property involved would result in a particular hardship upon the owner as distinguished from a mere inconvenience, if Compliance with the strict letter of the regulations were to be carried out ordinance would result in unnecessary hardship for the owner.~~
 2. The conditions upon which the application for a variance is based would not be applicable generally to other property within the same zoning classification.
 3. The purpose of the variance is not based exclusively upon a desire for economic or other material gain by the applicant or owner.
 4. The alleged difficulty or hardship is caused by ~~this~~ the ordinance and has not been created by any person presently having an interest in the property.
 5. The granting of the variance will not be detrimental to the public welfare, ~~or~~ injurious to other property or improvements in the neighborhood in which the property is located, or inconsistent with the purpose of the ordinance.
 6. The proposed variance will not impair an adequate supply of light and air to adjacent property, or substantially increase the congestion in the public streets, or increase the danger of fire, or endanger the public safety, or substantially diminish or impair property values within the neighborhood.
 7. In the case of floodplain areas, the granting of the variance ~~will~~ may not result in cause any ~~change~~ increase in ~~established~~ the regional flood elevations or profiles, permit a lower degree of flood protection in the floodplain than the flood elevation, allow any floor,

basement or crawlway below the regional flood elevation, allow actions without the required amendments nor have the effect of allowing or expanding a use or building which is prohibited in the zoning district.

8. In floodplain areas, variances can be granted only for lots that are less than one-half (1/2) acre and are contiguous to existing structures constructed below the regional flood elevation.

9. In floodplain areas, variances shall not increase costs for rescue and relief efforts.

The Zoning Board of Appeals may impose such conditions and restrictions upon the premises benefited by a variance as may be necessary to comply with the above standards to reduce or minimize the injurious effect of such variance upon other property in the neighborhood, and to better carry out the general intent of this ordinance. When a floodplain variance is granted, the Zoning Board of Appeals shall notify the applicant in writing that it may increase flood insurance premiums and risks to life and property."

12. Subdivision (a) entitled "Authority of Common Council" of Subsection (10) entitled "Map and Text Amendments" of Section 28.12 entitled "Administration and Enforcement" of the Madison General Ordinances is amended to read as follows:

"(10) Map and Text Amendments.

(a) Authority of Common Council. For the purpose of promoting the public health, safety, morals, comfort, prosperity and general welfare throughout the City and lessening or avoiding congestion in the public streets and highways, the Common Council may, from time to time, in the manner set forth in applicable Wisconsin Statutes, amend the regulations imposed in the districts created by this ordinance, provided that due allowance shall be made for existing conditions, the conservation of property values, the directions of building development to the best advantages of the entire City and environs, the uses to which property is devoted at the time of the adoption of such amendatory ordinance, and in the case of map amendments, the cost of providing municipal services to the property and the uses accommodated by the map amendment. In the case of map amendments to the floodplain zoning districts, actions which require an amendment shall include but not be limited to the following:

1. Any change to the official floodplain zoning map, including ~~Any~~ any change in the floodway lines or in the boundary of the any floodplain area.
2. ~~Settlement of conflicts~~ Correction of discrepancies between the water surface profiles and floodplain zoning maps.
3. ~~Any fill or encroachment into the floodway plain~~ Any fill or encroachment into the floodway plain which will result in raising the elevation of an area in the floodway ~~the filled area~~ to a height at or above the flood protection elevation of the regional flood and is contiguous to land lying outside the floodplain.
4. ~~Any fill or floodplain encroachment into the floodplain that will obstruct flow,~~ causing an increase of 0.01 foot or more in regional flood height.
5. Any upgrade to a floodplain zoning ordinance text required by s. NR 116.05, Wis. Adm. Code, or otherwise required by law, or for changes by the municipality.
6. All channel relocations and changes to maps to alter floodway lines or to remove an area from the floodway or the floodfringe that is based on a base flood elevation from a flood insurance rate map requires prior approval by FEMA."

13. Paragraph 5. of Subdivision (f) entitled "Recommendation by the City Plan Commission" of Subsection (10) entitled "Map and Text Amendments" of Section 28.12 entitled "Administration and Enforcement" of the Madison General Ordinances is amended to read as follows:

"5. That a rezoning may be subject to any of the following conditions:

- a. The ordinance shall take effect immediately upon passage and publication as provided by law;
- b. The rezoning shall occur when the conditions in this ordinance are met;

- c. That a building permit be obtained within eighteen (18) months of the effective date of this ordinance under which construction is commenced within six (6) months of the date of issuance and which shall not be renewed unless construction has commenced and is being diligently prosecuted;
- d. In the event any of these conditions are not met within twenty-four (24) months of the effective date of this ordinance, the ordinance shall be null and void and the property shall retain the original zoning;
- e. That the intended use of the property be designated;
- f. The rezoning shall occur when a conditional use is approved by the Plan Commission;
- g. In case of map amendments obstructing flow, or increasing regional flood height .01 foot or more, that flooding easements or other appropriate legal arrangements are obtained from all adversely affected property owners and that local units of government are notified.
- gh. Other conditions as the Plan Commission feels necessary to protect the public interest.”

14. Subdivision (i) entitled “Approval of Amendments to Flood Plain Regulations and Flood Plain Maps by the Wisconsin Department of Natural Resources and the Federal Insurance Administration of the U. S. Federal Emergency Management Agency” of Subsection (10) entitled “Map and Text Amendments” of Section 28.12 entitled “Administration and Enforcement” of the Madison General Ordinances is amended to read as follows:

“(i) Approval of Amendments to Flood Plain Regulations and Flood Plain Maps by the Wisconsin Department of Natural Resources and the Federal Insurance Administration of the U. S. Federal Emergency Management Agency.

No amendment to floodplain regulations, either text or map, shall become effective until approved by the Wisconsin Department of Natural Resources ~~and the Federal Insurance Administration~~. In the case of a map amendment, such amendment shall not become effective until receipt of an official letter of map amendment from the Federal Insurance Administration of the U. S. Federal Emergency Management Agency.”