

CITY OF MADISON, WISCONSIN

AN ORDINANCE _____

PRESENTED October 28, 2008
REFERRED Plan Commission

Amending Secs. 28.04(20)(d), 28.06(3),
28.105(1)(c)4.b., 28.105(2)(d), 28.105(3)(e)5.a.,
28.12(2)(b)11., and 28.12(10)(i) of the Madison
General Ordinances to update the Floodplain
Insurance Rate Map and the Flood Insurance
Study for the City of Madison.

RULES SUSPENSION _____
PUBLIC HEARING PC: 11/17/08
CC: 12/2/08

Drafted by: Katherine Noonan

Date: October 20, 2008

SPONSORS: Ald. Cnare

DRAFTER'S ANALYSIS: The Federal Emergency Management Agency has issued a new Flood Insurance Rate Map and Flood Insurance study for the City of Madison. Federal and state law require that the City's Floodplain ordinance be updated to incorporate the new map and study in order to remain eligible for the National Flood Insurance Program. Additional amendments are required to remain consistent with Wis. Adm. Code Ch. NR 116.

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

1. Paragraph 1. of Subdivision (d) entitled "Application Requirements for Permits and Zoning Certificates" of 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:

- " 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:
- a. Name and address of the applicant, property owner and contractor.
 - b. Legal description, proposed use, and whether the development is new construction or a modification.
 - ac. Location, dimensions, area and elevation of the lot.
 - bd. Location of the ordinary high-water mark of any abutting navigable waterways.
 - ee. Location of any structures with distances measured from the lot lines and center line of all abutting streets or highways.
 - df. Location of any existing or proposed on-site sewage systems or private water supply systems.
 - eg. Location and elevation of existing or future access roads.
 - fh. Location of floodplain and floodway limits on the property as determined from the official floodplain zoning maps.
 - gi. The elevation of the lowest floor of proposed buildings and any fill using ~~National Geodetic and~~ North American Vertical Datum (NGAVD).
 - hj. Data sufficient to determine the regional flood elevation in NGAVD at the location of the development and to determine whether or not the requirements of the Floodway District or the Floodfringe District apply."

2. Subdivision (a) entitled "Incorporation of Floodplain Maps" of 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:

Approved as to form:

“(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~~January 2, 2009, 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~~ revised Flood Insurance Rate Maps, provided by the Federal Emergency Management Agency, and shown on map panels 55025C0242G, 55025C0243G, 55025C0244G, 55025C0261G, 55025C0262G, 55025C0263G, 55025C0264G, 55025C0266G, 55025C0267G, 55025C0268G, 55025C0269G, 55025C0288G, 55025C0379G, 55025C0383G, 55025C0389G, 55025C0390G, 55025C0393G, 55025C0394G, 55025C0401G, 55025C0402G, 55025C0403G, 55025C0404G, 55025C0406G, 55025C0407G, 55025C0408G, 55025C0413G, 55025C0416G, 55025C0417G, 55025C0418G, 55025C0419G, 55025C0426G, 55025C0428G, 55025C0429G, 55025C0431G, 55025C0432G, 55025C0433G, 55025C0434G, 55025C0436G, 55025C0437G, 55025C0438G, 55025C0439G, 55025C0441G, 55025C0442G, 55025C0443G, 55025C0444G, 55025C0451G, 55025C0453G, 55025C0465G, 55025C0557G, 55025C0576G. 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~~Numbers 55025CV001B and 55025CV002B, 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~~January 2, 2009. 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.”

3. Paragraph 4. of Subdivision (c) entitled “Standards for Developments in Floodway Areas” of Subsection (1) entitled “F1 Floodway District” of Section 28.105 entitled “Flood Plain Districts” of the Madison General Ordinances is amended to read as follows:

- “4. Fills or deposition of materials may be allowed by permit, provided that:
- a. The requirements of Sec. 28.04(20)(a)1. and 2. are met.
 - b. No material is deposited in the navigable channel 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. The fill is not classified as a solid or hazardous material.”

4. Subdivision (d) entitled “Nonconforming Uses” of Subsection (2) entitled ” F2 Flood Fringe District” of Section 28.105 entitled “Flood Plain Districts” of the Madison General Ordinances is amended to read as follows:

“(d) Nonconforming Uses.

- 1. The provisions of Sec. 28.105(3)(e) shall apply to all nonconforming structures and uses.
- 42. Additions or modifications shall not be allowed to any nonconforming structure or any structure with a nonconforming use unless such addition or modification has been granted a permit or variance. In addition, the addition or modification shall be placed on fill or flood-proofed 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.

- ~~23.~~ 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 of Appeals may grant a variance from those provisions of Paragraph 1. above for additions or modifications using the criteria listed below. Additions or 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.
- ~~34.~~ If neither the provisions of Paragraphs 1. nor 2. above can be met, one addition to an existing room in a nonconforming building or a building with a nonconforming use may be allowed in the flood fringe, 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.
- ~~45.~~ 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. COMM 83, Wis. Adm. Code.
- ~~56.~~ All new wells, or addition to, replacement, repair or maintenance of a well shall meet the applicable provisions of this ordinance and Ch. NR 811 and NR 812, Wis. Adm. Code.”

5. Subparagraph (a) of Paragraph (5) of Subdivision (e) entitled "Nonconforming Uses" of Subsection (3) entitled "F3 General Floodplain District" of Section 28.105 entitled "Flood Plain Districts" of the Madison General Ordinances is amended to read as follows:

- "5. 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 equals or exceeds fifty percent (50%) of the structure's present equalized assessed value."

6. Paragraph 11. Of 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:

- " 11. Submit copies of any adopted amendments, 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, 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. Decisions by the Zoning Board of Appeals on appeals and variances to the flood plain regulations and flood plain maps shall be signed by the Chair of the Zoning Board of Appeals and shall state the basis for the Board's decision, including appropriate facts."

7. Subdivision (i) entitled "Approval of Amendments to Flood Plain Regulations and Flood Plain Maps by the Wisconsin Department of Natural Resources" 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. No amendment to floodplain regulations, either text or map, shall

become effective until approved by the Wisconsin Department of Natural Resources and the Federal Emergency Management Agency.”