

AN ORDINANCE
TO AMEND CHAPTER 532, FLOODPLAIN AND SHORELAND-WETLAND ZONING,
THROUGH THE REMOVAL OF LANGUAGE, THE ADDITION OF LANGUAGE,
AND/OR RECREATION OF LANGUAGE

Sponsor: Mayor McFarland, Chair
From: Plan Commission with Positive Recommendation

SECTION 1. Amend Section § 532-1 through removal and addition of language:

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§ 532-1 Statutory authorization.

This chapter for floodplain and wetland protection is adopted pursuant to the authorization contained in §§ ss. 61.35, and 62.23, 62.231, 87.30 and 281.31 59.69, 59.692, and the requirements in s. 87.30, Stats.

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SECTION 2. Amend Section § 532-5 through removal and addition of language:

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§ 532-5 Compliance; other permits.

Any development, as defined in § 532-49, in floodplains and wetlands shall be in full compliance with the terms of this chapter and other applicable local, state and federal regulations. It is the responsibility of the applicant to secure all other necessary permits from appropriate federal, state and local agencies, including those required by the United States Army Corps of Engineers under Section 404 of the Federal Water Pollution Control Act, amendments of 1972, 33 U.S.C. § 1344, as amended. Any development or use within the areas regulated by this ordinance shall be in compliance with the terms of this ordinance, and other applicable local, state, and federal regulations.

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SECTION 3. Amend Section § 532-7A through removal and addition of language:

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- A. *This chapter supersedes all the provisions of the City of Watertown Zoning Code, Chapter 550, except that where the Zoning Code is more restrictive than the provisions contained in this chapter, the Zoning Code shall continue in full force and effect to the extent of the greater restrictions, but not otherwise. The more restrictive of either the Wetland District or Floodplain District regulations shall apply when a property is located in both zoning districts. This ordinance supersedes all the provisions of any municipal zoning ordinance enacted under s. 62.23 for cities or s. 87.30, Stats., which relate to floodplains. A more restrictive ordinance shall continue in full force and effect to the extent of the greater restrictions, but not otherwise.*

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SECTION 4. Amend Section § 532-11A(3) through removal of language:

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(3) FEMA Letter of Map Revision (LOMR) for Dodge County, Panel No. 55027C0678G, dated February 26, 2019, based on Case No. 18-05-4306P, dated February 26, 2019.

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SECTION 5. Amend Section § 532-11B through removal and addition of language:

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B. Official maps based on other studies. Any maps referenced in this section must be approved by the DNR and be more restrictive than those based on the FIS at the site of the proposed development.

(1) ~~Dodge County Flood Storage Map Panel No. 3 of 13, dated May 19, 2014, approved by the DNR.~~ Upper Watertown (a/k/a Rough and Ready) Dam Failure Analysis approved by the Department of Natural Resources on November 4, 2004, including:

(a) The elevations (NGVD29 datum) shown in the column titled "WS Elev" in the data table labeled 'Upper Watertown DAMBRK Study (Dam Breach Scenario)" published by Mead & Hunt dated April 2004.

(b) The flood profile labeled "WS Max WS – Breach" as shown in Exhibit 6 of the report entitled "Dam Failure Analysis – Upper Watertown Dam – Rock River" published by Mead & Hunt dated February 2004. In the case of any apparent discrepancy between this profile and the data table referenced in (a), above, the information in the data table shall govern.

(c) Maps as shown in Exhibit 7 of the report entitled "Dam Failure Analysis – Upper Watertown Dam – Rock River" published by Mead & Hunt dated February 2004. In the case of any apparent discrepancy between the map and the data table referenced in (a), above, the information in the data table shall govern

(2) ~~Jefferson County Flood Storage Map Panel No. 12 of 13, dated February 4, 2015, approved by the DNR.~~ Lower Watertown Dam Failure Analysis approved by the Department of Natural Resources in October 1987, including:

(a) The elevations (NGVD29 datum) shown in the column titled "Max Elev (ft)" in the data table titled "Profile of Crests and Times for Rock River Below Watertown Dam" under the "RUN-B" output printout as shown in Appendix C of the report entitled "Phase 1 – Compliance with State Statutes – Lower Watertown Dam, Rock River – Jefferson County, Wisconsin" published by Warzyn Engineering Inc. dated September 1987.

(b) The flood profile labeled "Breach Flood Profile" as shown in Figure C1 of the report entitled "Phase 1 – Compliance with State Statutes – Lower Watertown Dam, Rock River – Jefferson County, Wisconsin" published by Warzyn Engineering Inc. dated September 1987. In the case of any apparent discrepancy between this profile and the data table referenced in (a), above, the information in the data table shall govern.

(c) The map labeled "Hydraulic Shadow – Lower Watertown Dam" as shown in Map C1 of the report entitled "Phase 1 – Compliance with State Statutes – Lower Watertown Dam, Rock River – Jefferson County, Wisconsin" published by Warzyn Engineering Inc. dated September 1987. In the case of any apparent discrepancy between this map and the data table

referenced in (a), above, the information in the data table shall govern.

- (d) If the Lower Watertown Dam is “compliant” as defined in NR 116.08(3)(a), (a) through (c) above shall not apply.
- (3) Wisconsin wetland inventory maps stamped "Final" on January 23, 1986. Letter of Map Revision (LOMR) Case #18-05-4306P, effective date February 26, 2019
- (4) One hundred year dam failure floodplain map for the upper Watertown DAMBRK Study, dated April 2004, prepared by Mead & Hunt, Inc., and approved by the Wisconsin Department of Natural Resources and the Federal Emergency Management Agency.

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SECTION 6. Recreate Section § 532-16D:

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- D. Locating floodplain boundaries. Where an apparent discrepancy exists between the location of the outermost boundary of the flood-fringe district or general floodplain district shown on the Official Floodplain Zoning Map and actual field conditions, the location of the district boundary line shall be initially determined by the Zoning Administrator using the criteria set forth in Subsection D(1) or (2) below. Where the Zoning Administrator finds that there is a significant difference between the district boundary shown on the map and the actual field conditions, the map shall be amended using the procedures established in Article VII, Amendments. The Zoning Administrator can rely on a boundary derived from a profile elevation to grant or deny a building permit, whether or not a map amendment is required. The Zoning Administrator shall be responsible for documenting actual predevelopment 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 by the Zoning Board of Appeals according to § 532-37D. Where the flood profiles are based on established base flood elevations from a FIRM, FEMA must approve any map amendment or revision pursuant to Article VII, Amendments.

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SECTION 7. Amend Sections § 532-16D(1) & 532-16D(2) through removal and addition of language:

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- (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 boundary line location shown on 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 immediately grant or deny a building permit on the basis of a district boundary derived from the elevations shown on the water surface profile of the regional flood, whether or not a map amendment is required. The Zoning Administrator shall be responsible for initiating any map amendments required under this section within a reasonable period of time. If flood profiles exist, the map scale and the profile elevations shall determine the district boundary. The regional or base flood elevations shall govern if there are any discrepancies.

- (2) Where flood profiles do not exist, the location of the district boundary line shall be

~~determined by the Zoning Administrator using the scale appearing on the map. Where there is a significant difference between the district boundary line shown on the map and actual field conditions, the Zoning Administrator shall be responsible for initiating a map amendment within a reasonable time. Where a map amendment has been approved by both Common Council and the Department, the Zoning Administrator shall have the authority to grant or deny a building permit. Where flood profiles do not exist for projects, the location of the boundary shall be determined by the map scale.~~

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SECTION 8. Amend Section § 532-16I(10) through removal and addition of language:

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- (10) *All camping units that remain in place for more than 180 consecutive days must meet the applicable requirements in either § 532-17, or 532-18, or 532-19 for the floodplain district in which the structure is located.*

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SECTION 9. Amend Section § 532-17A through the addition of language:

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- A. *Applicability. The provisions of this section apply to all areas mapped as floodway on the official floodplain zoning maps, and to those portions of the general floodplain district determined to be floodway as identified pursuant to 532-20D.*

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SECTION 10. Amend Section § 532-17B through the removal and addition of language:

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- B. *Permitted uses. The following open space uses are allowed within the floodway district and in the floodway portion of the general floodplain district, provided that they are not prohibited by any other regulations, that the standards contained in Subsections C and D are met, and that all permits or certificates required under this chapter have been issued: all permits or certificates have been issued according to 532-30.*

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SECTION 11. Amend Section § 532-17C(1)(b) through the addition of language:

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- (b) *Applicants shall provide a cross-section elevation view of the proposal, perpendicular to the watercourse, indicating whether the proposed development will obstruct flow, or an analysis calculating the effects of the proposal on the regional flood height for the Zoning Administrator to determine the effects of the proposal according to § 532-16F & 532-32.*

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SECTION 12. Amend Section § 532-17C(2)(a) through the removal and addition of language:

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- (a) *The structures are not designed for human habitation, or associated with high flood damage potential, and is constructed to minimize flood damage;*

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SECTION 13. Amend Section § 532-17C(4)(a) through the addition of language:

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- (a) *The requirements of § 532-16A & 532-16F are met;*

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SECTION 14. Amend Section § 532-18A through removal and addition of language:

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- A. *Applicability. The provisions of this section apply to all areas within the flood-fringe district, as shown on the official floodplain zoning maps, and to those portions of the general floodplain district that are determined to be in the flood-fringe area, and identified pursuant to section 532-20D.*

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SECTION 15. Amend Section § 532-18C through removal and addition of language:

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- C. *Standards for developments in flood-fringe areas. Any existing structure in the flood fringe must meet the requirements of Article V Nonconforming Uses. All the provisions of § 532-16AF shall apply in addition to the following requirements according to the use requested*

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SECTION 16. Amend Section § 532-18C(1) through the addition of language:

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- (1) *Residential uses. Any existing structure in the flood fringe must meet the requirements of Article V Nonconforming Uses. Any structure or building used for human habitation which is to be erected, constructed, reconstructed, altered or moved into the flood-fringe area shall meet or exceed the following standards:*

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SECTION 17. Amend Section § 532-18C(1)(b) through removal and addition of language:

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- (b) *The basement or crawlway floor may be placed at the regional flood elevation, provided that if it is dry floodproofed to the flood protection elevation. No permit or variance shall allow any floor, basement or crawlway floor below the regional flood elevation.*

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SECTION 18. Amend Section § 532-18C(2) through the removal and addition of language:

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- (2) *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 § 532-17C(2) and D. Accessory Structures shall be constructed on fill with the lowest floor at or above the regional flood elevation.*

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SECTION 19. Amend Section § 532-18C(4) through the removal and addition of language:

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- (4) *Manufacturing and industrial uses. Any manufacturing or industrial structure or building which is to be erected, constructed, reconstructed, altered or moved into the flood-fringe area shall have the lowest floor (including basement) elevated to or above the base-flood level flood protection elevation or meet the floodproofing standards in § 532-42. 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 may be permissible for storage yards, parking lots and other similar uses subject to the criteria in Subsection C(3) above and (5) below.*

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SECTION 20. Amend Section § 532-20B through addition of language:

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- B. *Permitted uses. The general floodplain district encompasses both floodway and flood-fringe areas. Therefore, a determination shall be made pursuant to Subsection D below to determine whether the proposed use is located within a floodway or flood-fringe area. Those uses permitted in § 532-17B, Floodway district (FW), above and § 532-18B, Flood-fringe district (FF), above are allowed within the general floodplain district, according to the standards of Subsection C, Standards for development in the general floodplain district, below, and provided that all permits or certificates required under this chapter and under section 532-30 have been issued.*
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SECTION 21. Amend Section § 532-22 through the removal and addition of language:

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§ 532-22 Applicability.

Insofar as the standards in this article are not inconsistent with the provisions of § 62.23(7)(h), Wis. Stats., for cities and villages conform with s 87.30, Stats. and ch. NR 116.15, Wis. Adm. Code and 44 CFR 59-72, they shall apply to all nonconforming uses and nonconforming structures. These regulations apply to the modification of, or addition to, any structure and to the use of any structure or premises which was lawful before the passage of this chapter or any amendment thereto.

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SECTION 22. Amend Sections § 532-26B & 532-26C through the removal and addition of language:

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- B. *No new on-site sewage disposal system or addition to an existing on-site sewage disposal system, except where an addition has been ordered by a government agency to correct a hazard to public health, shall be allowed in 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 local ordinances and Ch. SPS 383, Wis. Adm. Code all applicable requirements of this chapter, section 532-42B, and ch SPS 383, Wis. Adm. Code.*
- C. *No new well or modification to an existing well, used to obtain 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 this chapter and Chs. NR 811 and NR 812, Wis. Adm. Code all applicable requirements of this chapter, section 532-42B, and chs NR 811 and NR 812, Wis. Adm. Code.*
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SECTION 23. Amend Section § 532-27B(6) through addition of language:

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- (6) *The structure will not be used for storage of materials that are buoyant, flammable, explosive or injurious to human, animal, plant, fish or other aquatic life as described in section 532-18C(5).*
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SECTION 24. Amend Section § 532-27C through the addition of language:

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- C. *All new on-site sewage disposal systems or addition to, replacement, repair or maintenance of an on-site sewage disposal system in a flood-fringe area shall meet all the applicable provisions of all local ordinances, section 532-42B, and Ch. SPS 383, Wis. Adm. Code.*

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SECTION 25. Amend Section § 532-27D through the removal and addition of language:

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- D. *All new wells or addition to, replacement, repair or maintenance of a well in a flood-fringe area shall meet ~~the all~~ applicable provisions of ~~this chapter all local ordinances, section 532-42B,~~ and Chs. NR 811 and NR 812, Wis. Adm. Code.*

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SECTION 26. Amend Section § 532-31B(2)(k) through the removal and addition of language:

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- (k) *Data sufficient to determine the regional flood elevation at the location of the development and to determine whether or not the requirements of § 532-1617 & 532-18 are met. This may include any of the information noted in § 532-20D.*

SECTION 27. Amend Section § 532-37C(1) through the addition of language:

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- (1) *Notice and hearing. The Board of Appeals shall fix a reasonable time for a hearing on the appeal or application. The Board shall give public notice by publishing a Class 1 notice under Ch. 985, Wis. Stats., specifying the date, time and place of the hearing and the matters to come before the Board. Notice shall be mailed to the parties in interest. Written notice shall be given to the appropriate regional office of the Department at least 10 days prior to hearings on proposed variances and appeals for map or text interpretations. At the public hearing, any party may appear in person or by agent or attorney. The Board shall resolve boundary disputes, decide variance applications, and decide appeals of permit denials in accordance to sections 532-37D, 532-38, and 532-40.*

SECTION 28. Amend Section § 532-40C(1) through the addition of language:

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- (1) *Affirm the denial where the Common Council agrees with the data showing an increase in flood elevation. Increases equal to or greater than 0.00 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 as per the requirements of Article VII Amendments.*

SECTION 29. Amend Section § 532-44 through the addition of language:

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§ 532-44 Actions requiring amendment.

The Common Council may supplement or change floodplain and wetland zoning districts and regulations contained in this chapter according to § 62.23, Wis. Stats., Chs. NR 116 and 117, Wis. Adm. Code, and, for wetlands, § 532-15 as outlined in section 532-45 below. Actions which require an amendment to this chapter and/or submittal of a Letter of Map Change (LOMC) include, but are not limited to, the following

SECTION 30. Amend Section § 532-44A through the removal and addition of language:

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- A. *~~Any change to the Official Floodplain Zoning Map, including the floodway line or boundary of any floodplain area~~ Any change to the Official Floodplain Zoning Map*

listed in section 532-11, including the floodway line or boundary of any floodplain area.

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SECTION 31. Amend Section § 532-45 through the removal and addition of language:

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§ 532-45 Procedures.

Amendments to this chapter may be made upon petition of any interested party according to the provisions of § 62.23, Wis. Stats. Such petitions shall include all necessary data required by §§ 532-20D and 532-31. The Land Use [Building] Permit shall not be issued until a Letter of Map Revision is issued by FEMA for the proposed changes.

- A. *A copy of each proposed amendment shall be referred to the Plan Commission for recommendation to the Common Council and be submitted to the appropriate regional office of the Department within five days of submission to the Plan Commission. The proposed amendment shall be referred to the zoning agency for a public hearing and recommendation to the governing body. The amendment and notice of public hearing shall be submitted to the Department Regional office for review prior to the hearing. The amendment procedure shall comply with the provisions of s. 62.23, Stats.*
- B. *A public hearing shall be held as required by § 62.23(7)(d)2, Wis. Stats., following publication of a Class 2 notice as defined in § 532-49. The appropriate regional office of the Department shall be provided with written notice of the public hearing at least 10 days prior to such hearing.*
- C. *A copy of the decision on each amendment shall be provided to the Department within 10 days of the decision.*
- D. No amendment to the maps or text of this chapter shall become effective until reviewed and approved by the Department. Any change to the base flood elevations (BFE) in the Flood Insurance Study (FIS) or on the Flood Insurance Rate Map (FIRM) must be reviewed and approved by the DNR and FEMA before it is effective. No changes to regional flood elevations (RFEs) on non-FEMA maps are effective until approved by the DNR.
- E. All persons petitioning for a map amendment which involves an obstruction to flow causing an increase of 0.01 foot or more in the height of the regional flood shall obtain flooding easements, or other appropriate legal arrangements, from all adversely affected property owners and notify the local unit of government before the amendment can be approved by the governing body.
- F. When considering amendments to the Official Floodplain Zoning Map, in areas where no water surface profiles exist, the Plan Commission shall consider data submitted by the Department, the Zoning Administrator's visual on-site inspections and other available information. (See § 532-16D.)

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SECTION 32. Amend the following definitions under Section § 532-49:

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CAMPING UNIT

Any portable device, no more than 400 square feet in area, used as a temporary shelter, including but not limited to a camping trailer, motor home, bus, van, pickup truck, tent or other mobile recreational vehicle that is fully licensed, if required, and ready for highway use.

FLOOD HAZARD BOUNDARY MAP

A map prepared for the City by FEMA, designating approximate flood hazard areas. Flood hazard areas are designated as unnumbered A Zones and do not contain floodway lines or regional flood elevations. These maps form the basis for both the regulatory and insurance aspects of the National Flood Insurance Program until superseded by a Flood Insurance Study and a Flood Insurance Rate Map.

FLOOD INSURANCE STUDY

A technical engineering examination, evaluation and determination of flood hazard areas. It provides maps designating those areas affected by the regional flood and provides both flood insurance rate zones and regional flood elevations as well as floodway lines. The flood hazard areas are designated as numbered and unnumbered A Zones. ~~Flood Insurance Study maps form the basis for both the regulatory and the insurance aspects of the National Flood Insurance Program~~ Flood Insurance Rate Maps, that accompany the Flood Insurance Study, form the basis for both the regulatory and the insurance aspects of the National Flood Insurance Program.

INCREASE IN REGIONAL FLOOD HEIGHT

A calculated upward rise in the regional flood elevation, equal to or greater than ~~0.01~~ 0.00 foot, resulting from 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.

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SECTION 33. Recreate Article X, Section § 532-50:

Article X
Severability

§ 532-50 Severability.

Should any portion of this ordinance be declared unconstitutional or invalid by a court of competent jurisdiction, the remainder of this ordinance shall not be affected.

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SECTION 34. All ordinances or parts of ordinances inconsistent with the provisions of this ordinance are hereby repealed**SECTION 35.** This ordinance shall take effect and be in force the day after its passage and publication.

Adopted October 20, 2020

Signed – Elissa Friedl – Clerk Treasurer

Approved October 20, 2020

Signed – Emily McFarland – Mayor

Ord #20-24