

VILLAGE OF ELM GROVE

13600 Juneau Boulevard
Elm Grove, WI 53122

LEGISLATIVE COMMITTEE

Thursday, August 11, 2022 * 5:00 PM * Parkview Room

AGENDA

1. Call the Meeting to Order and Roll Call.

2. Review and act on meeting minutes dated 6/9/2022.

Documents:

[2022-06-9 LC Minutes DRAFT.pdf](#)

3. Review and act on Draft Model Floodplain Zoning Ordinance as recommended by the Wisconsin Department of Natural Resources.

Documents:

[2022 flood plain ordinance_FINAL REDLINE_ 08.05.22.pdf](#)

4. Adjournment

5. Other Business

Any person who has a qualifying disability as defined by the Americans with Disabilities Act who requires that the meeting or materials for the meeting has to be in an accessible location or format must contact the Village Clerk, Sandee Policello, at 262-782-6700 or 13600 Juneau Boulevard by 3:00 PM Friday prior to the meeting so that any necessary arrangements can be made to accommodate your request.

NOTICE: It is possible that members of, and possibly a quorum of, other governmental bodies of the Village may be in attendance at the above stated meeting to gather information. No action will be taken by any governmental body at the above stated meeting other than the governmental body specifically referred to in the above notice.

Village of Elm Grove Legislative Committee
Minutes

DRAFT

Call to Order

The meeting was called to order by the Chair at 5:00 PM.

Roll Call:

Trustee Tom Michalski (Chair)

President Neil Palmer - absent

Trustee Jennifer Stuckert

Committee Member Jeremy Arn

David De Angelis, Village Manager - Absent

Thomas Harrigan, Village Assistant Manager/Zoning Administrator

Hector De La Mora, Village Attorney

Sandee Policello, Village Clerk/Deputy Treasurer - Absent

Review and act on meeting minutes dated 1/11/2022.

MOTION BY TRUSTEE STUCKERT, SECOND BY MEMBER ARN, TO PLACE THE METING MINUTES ON FILE.

ALL WERE IN FAVOR. MOTION CARRIED.

Review and act on Draft Model Floodplain Zoning Ordinance as recommended by the Wisconsin Department of Natural Resources.

Zoning Administrator Harrigan went over the proposed floodplain ordinance and identified the changes that have been made since the last meeting.

Trustee Stuckert acknowledged that much effort has been committed to this ordinance amendment, and there does not appear to be anything left outstanding.

Attorney de la Mora confirmed there are limitations set by the WDNR and FEMA as to what the Village is allowed to modify in the draft ordinance at this point.

MOTION BY TRUSTEE STUCKERT, SECOND BY MEMBER ARN TO RECOMMEND APPROVAL OF THE DRAFT FLOODPLAIN ORDINANCE TO THE VILLAGE BOARD OF TRUSTEES. MOTION CARRIED.

Review and possible action on amendment to Rm-2 Multi-Family Residential Housing.

ITEM WITHDRAWN

Review and possible action on Ordinance to allow beekeeping.

ITEM WITHDRAWN

Village of Elm Grove Legislative Committee
Minutes

DRAFT

Other Business – none.

Adjournment

There was no further business.

MOTION BY MEMBER STUCKERT, SECOND BY TRUSTEE ARN, TO ADJOURN THE MEETING.

ALL WERE IN FAVOR. MOTION CARRIED. MEETING ADJOURNED AT 5:17PM.

Minutes transcribed by: Thomas Harrigan

Minutes Approved on:

FLOODPLAIN ORDINANCE FOR VILLAGE OF ELM GROVE

Effective August, 2022

Yellow highlights are places where the ordinance needs to be filled in with community specific information

Date of Class 2 Notice posting: _____ (Requires a Class 2 Hearing Notice of Posting, Second/last date must be at least 7 days before hearing, see definition, Ch 985 Stats)

Date of Public Hearing: _____

Date of Adoption: _____

Date of Posting of Notice of Enacted Ordinance _____ (Requires posting a Class 1 Notice)

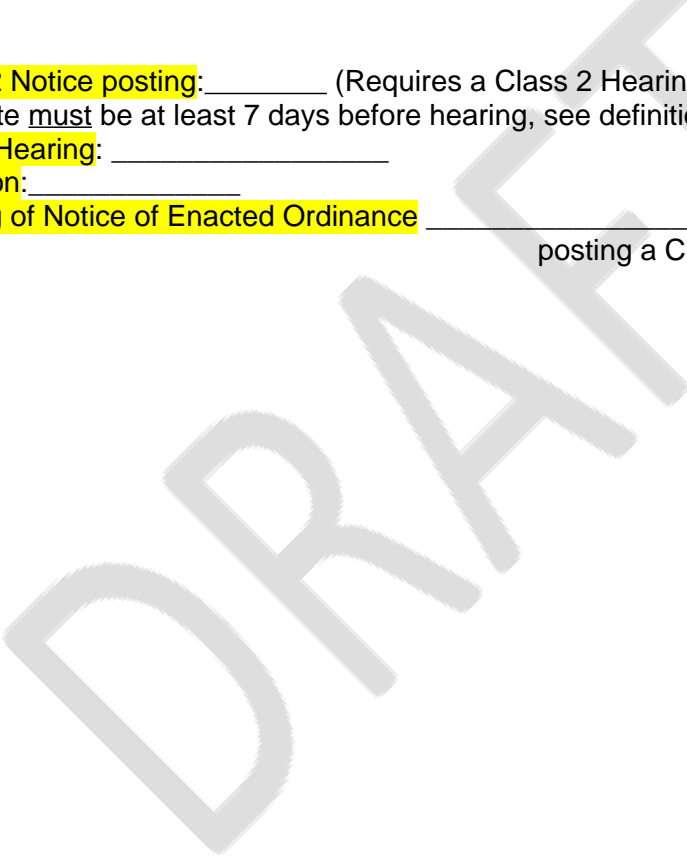


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Article I
General Provisions

1.0 STATUTORY AUTHORIZATION, FINDING OF FACT, STATEMENT OF PURPOSE, TITLE AND GENERAL PROVISIONS

1.1 STATUTORY AUTHORIZATION

This ordinance is adopted pursuant to the authorization in §§ 61.35 and 62.23, for villages, and the requirements in §§ 87.30, Wis. Stats.

1.2 FINDING OF FACT

Uncontrolled development and use of the floodplains and rivers of this municipality would impair the public health, safety, convenience, general welfare and tax base.

1.3 STATEMENT OF PURPOSE

To regulate development in flood hazard areas, the governing body does ordain the purpose of these rules is to:

- (1) Protect life, health and property;
- (2) Minimize expenditures of public funds for flood control projects;
- (3) Minimize rescue and relief efforts undertaken at the expense of the taxpayers;
- (4) Minimize business interruptions and other economic disruptions;
- (5) Minimize damage to public facilities in the floodplain;
- (6) Minimize the occurrence of future flood blight areas in the floodplain;
- (7) Discourage the victimization of unwary land and home buyers;
- (8) Prevent increases in flood heights that could increase flood damage and result in conflicts between property owners; and
- (9) Discourage development in a floodplain if there is any practicable alternative to locate the activity, use or structure outside of the floodplain.

1.4 TITLE

This Chapter shall be known as the "Floodplain Zoning Ordinance for Village of Elm Grove, Wisconsin."

1.5 GENERAL PROVISIONS

(1) AREAS TO BE REGULATED

This Chapter regulates all areas of special flood hazard identified as zones A, AO, AH, A1-30, and AE on the Flood Insurance Rate Map. Additional areas identified on maps approved by the Department of Natural Resources (DNR) and local community may also be regulated under the provisions of this ordinance, where applicable.

(2) OFFICIAL MAPS & REVISIONS

Special Flood Hazard Areas (SFHA) are designated as zones A, A1-30, AE, AH,

52 and AO on the Flood Insurance Rate Maps (FIRMs) based on flood hazard
53 analyses summarized in the Flood Insurance Study (FIS) listed in subd. (a)
54 below. Additional flood hazard areas subject to regulation under this ordinance
55 are identified on maps based on studies approved by the DNR and listed in subd.
56 (b) below. These maps and revisions are on file in the office of the Zoning and
57 Planning Administrator, Village of Elm Grove.
58

59 (a) OFFICIAL MAPS : Based on Waukesha County Flood Insurance Study (FIS)
60 dated November 5, 2014:

- 61 1. Flood Insurance Rate Map (FIRM), panel numbers 55133C0236G and
62 55133C0237G;
- 63 2. Flood Insurance Study (FIS) for Village of Elm Grove, 55133CV001C,
64 55133CV002C, and 55133CV003C.

65 Prepared and approved by: The DNR and FEMA
66

67 (b) OFFICIAL MAPS: Based on other studies, any maps referenced in this
68 section must be approved by the DNR and be more restrictive than those
69 based on the FIS at the site of the proposed development.
70

- 71 1. Village of Elm Grove Flood Storage District Map, panel number 4 of 12,
72 dated November 5, 2014, prepared and approved by the DNR.
73

74 (3) ESTABLISHMENT OF FLOODPLAIN ZONING DISTRICTS

75 The flood hazard areas regulated by this ordinance are divided into districts as
76 follows:
77

78 (a) The Floodway District (FW), is the channel of a river or stream and those
79 portions of the floodplain adjoining the channel required to carry the regional
80 floodwaters, within AE Zones as shown on the FIRM, or within A Zones
81 shown on the FIRM when determined according to § 5.1(5).
82

83 (b) The Floodfringe District (FF) is that portion of a riverine special flood hazard
84 area outside the floodway within AE Zones on the FIRM, or, when floodway
85 limits have been determined according to § 5.1(5), within A Zones shown on
86 the FIRM.
87

88 (c) The General Floodplain District (GFP) is those riverine areas that may be
89 covered by floodwater during the regional flood in which a floodway boundary
90 has not been delineated on the FIRM and also includes shallow flooding
91 areas identified as AH and AO zones on the FIRM.
92

93 (d) The Flood Storage District (FSD) is that area of the floodplain where storage
94 of floodwaters is calculated to reduce the regional flood discharge.
95

96 (4) LOCATING FLOODPLAIN BOUNDARIES

97 Discrepancies between the exterior boundaries of zones A1-30, AE, AH, or A on
98 the official floodplain zoning map and actual field conditions may be resolved
99 using the criteria in subd (a) or (b) below. If a significant difference exists, the
100 map shall be amended according to § 8.0 *Amendments*. The Zoning
101 Administrator can rely on a boundary derived from a profile elevation to grant or
102 deny a land use permit, whether or not a map amendment is required. The
103
104
105

106 Zoning Administrator shall be responsible for documenting actual pre-
107 development field conditions and the basis upon which the district boundary was
108 determined. Disputes between the Zoning Administrator and an applicant over
109 the district boundary line shall be settled according to § 7.3(3) and the criteria in
110 (a) and (b) below. Where the flood profiles are based on established base flood
111 elevations from a FIRM, FEMA must approve any map amendment or revision
112 pursuant to § 8.0 *Amendments*.

113
114 (a) If flood profiles exist, the map scale and the profile elevations shall determine
115 the district boundary. The regional or base flood elevations shall govern if
116 there are any discrepancies.

117
118 (b) Where flood profiles do not exist, including any boundary of zone A, and AO
119 the location of the boundary shall be determined by the map scale.

120
121 (5) REMOVAL OF LANDS FROM FLOODPLAIN

122 (a) Compliance with the provisions of this ordinance shall not be grounds for
123 removing land from the floodplain unless it is filled at least two feet above the
124 regional or base flood elevation, the fill is contiguous to land outside the
125 floodplain, and the map is amended pursuant to § 8.0 *Amendments*.

126
127 (b) The delineation of any of the Floodplain Districts may be revised by the
128 Village where natural or man-made changes have occurred and/or where
129 more detailed studies have been conducted. However, prior to any such
130 change, approval must be obtained from the Wisconsin Department of
131 Natural Resources and Federal Emergency Management Agency. A
132 completed Letter of Map Revision is a record of this approval. The Floodplain
133 Administrator shall not sign a community acknowledgement form unless all
134 criteria set forth in the following paragraphs are met:

135
136 1. The land and/or land around the structure must be filled at least two
137 feet above the regional or base flood elevation;

138
139 2. The fill must be contiguous to land outside the floodplain; Applicant
140 shall obtain floodplain development permit before applying for a
141 LOMR or LOMR-F;

142
143 (c) Removal of lands from the floodplain may also occur by operation of
144 §87.30(1)(e), Wis. Stat. if a property owner has obtained a letter of map
145 amendment from the Federal Emergency Management Agency under 44
146 C.F.R. § 70.

147
148 (6) COMPLIANCE

149 (a) No structure or use within areas regulated by this ordinance shall hereafter be
150 located, erected, constructed, reconstructed, repaired, extended, converted,
151 enlarged, or altered without full compliance with the terms of these
152 regulations and all other applicable regulations that apply to uses within the
153 jurisdiction of these regulations.

154
155 (b) Failure to obtain a floodplain development permit shall be a violation of these
156 regulations and shall be punishable in accordance with § 9.0.

158 (c) Floodplain development permits issued on the basis of plans and applications
159 approved by the Floodplain Administrator authorize only the use, and
160 arrangement, set forth in such approved plans and applications, or
161 amendments thereto if approved by the Floodplain Administrator. Use,
162 arrangement, or construction contrary to that authorized shall be deemed a
163 violation of these regulations and punishable in accordance with § 9.0.
164

165 (7) MUNICIPALITIES AND STATE AGENCIES REGULATED

166 Unless specifically exempted by law, all cities, villages, towns, and counties are
167 required to comply with this ordinance and obtain all necessary permits. State
168 agencies are required to comply if s. 13.48(13), Stats., applies. The construction,
169 reconstruction, maintenance and repair of state highways and bridges by the
170 Wisconsin Department of Transportation is exempt when s. 30.2022, Stats.,
171 applies. Although exempt from a local zoning permit and permit fees, DOT must
172 provide sufficient project documentation and analysis to ensure that the
173 community is in compliance with Federal, State, and local floodplain standards. If
174 a local transportation project is located within a Zone A floodplain and is not a
175 WisDOT project under s. 30.2022, then the road project design documents
176 (including appropriate detailed plans and profiles) may be sufficient to meet the
177 requirements for issuance of a local floodplain permit if the following apply: The
178 applicant provides documentation to the Floodplain Administrator that the
179 proposed project is a culvert replacement or bridge replacement under 20' span
180 at the same location, the project is exempt from a DNR permit under s.
181 30.123(6)(d), the capacity is not decreased, the top road grade is not raised, and
182 no floodway data is available from a federal, state, or other source. If floodway
183 data is available in the impacted area from a federal, state, or other source that
184 existing data must be utilized by the applicant in the analysis of the project site.
185

186 (8) ABROGATION AND GREATER RESTRICTIONS

- 187 (a) This ordinance Chapter supersedes all the provisions of any municipal zoning
188 ordinance enacted under §§ 61.35 for villages; or §§ 87.30, Wis. Stats., which
189 relate to floodplains. A more restrictive ordinance shall continue in full force
190 and effect to the extent of the greater restrictions, but not otherwise.
191
192 (a) This Chapter is not intended to repeal, abrogate or impair any existing deed
193 restrictions, covenants or easements. If this chapter imposes greater
194 restrictions, the provisions of this chapter shall prevail.
195

196 (9) INTERPRETATION

197 In their interpretation and application, the provisions of this Chapter are the
198 minimum requirements liberally construed in favor of the governing body and
199 are not a limitation on or repeal of any other powers granted by the Wisconsin
200 Statutes. If a provision of this Chapter, required by Ch. NR 116, Wis. Adm.
201 Code, is unclear, the provision shall be interpreted in light of the standards in
202 effect on the date of the adoption of this Chapter or in effect on the date of the
203 most recent text amendment to this Chapter.
204

- 205 (10) WARNING AND DISCLAIMER OF LIABILITY
206 The flood protection standards in this Chapter are based on engineering
207 experience and scientific research. Larger floods may occur, or the flood height
208 may be increased by man-made or natural causes. This Chapter does not imply
209 or guarantee that non-floodplain areas or permitted floodplain uses will be free
210 from flooding and flood damages. Nor does this chapter create liability on the
211 part of, or a cause of action against, the municipality or any officer or employee
212 thereof for any flood damage that may result from reliance on this Chapter.
213
- 214 (11) SEVERABILITY
215 Should any portion of this chapter be declared unconstitutional or invalid by a
216 court of competent jurisdiction, the remainder of this Chapter shall not be
217 affected.
218
- 219 (12) ANNEXEX AREAS FOR CITIES AND VILLAGES
220 The Waukesha County floodplain zoning provisions in effect on the date of
221 annexation shall remain in effect and shall be enforced by the municipality for all
222 annexed areas until the municipality adopts and enforces an ordinance which
223 meets the requirements of ch. NR 116, Wis. Adm. Code and 44 CFR 59-72,
224 National Flood Insurance Program (NFIP). These annexed lands are described
225 on the municipality's official zoning map. County floodplain zoning provisions are
226 incorporated by reference for the purpose of administering this section and are
227 on file in the office of the municipal zoning administrator. All plats or maps of
228 annexation shall show the regional flood elevation and the floodway location.
229

230
231 Article II

232 **2.0 GENERAL STANDARDS APPLICABLE TO ALL FLOODPLAIN DISTRICTS**

233 The Village shall review all permit applications to determine whether proposed building
234 sites will be reasonably safe from flooding and assure that all necessary permits have
235 been received from those governmental agencies whose approval is required by federal
236 or state law.
237

- 238 (1) If a proposed building site is in a flood-prone area, all new construction and
239 substantial improvements shall:
240
- 241 (a) be designed and anchored to prevent flotation, collapse, or lateral movement of
242 the structure resulting from hydrodynamic and hydrostatic loads, including the
243 effects of buoyancy;
244
 - 245 (b) be constructed with flood-resistant materials;
246
 - 247 (c) be constructed by methods and practices that minimize flood damages; and
248
 - 249 (d) be constructed with electrical, heating, ventilation, plumbing, and air conditioning
250
- 251
- 252 (2) If a subdivision or other proposed new development is in a flood-prone area, the
253 community shall assure that:
254
- 255 (a) such proposed subdivision or other proposed new development is consistent with
256 the need to minimize flood damage within the flood-prone area;
257
 - 258 (b) public utilities and facilities such as sewer, gas, electrical, and water systems are

259 located and constructed to minimize or eliminate flood damage; and

260
261 (c) adequate drainage is provided to reduce exposure to flood hazards.

262
263 All subdivision proposals shall include regional flood elevation and floodway data for any
264 development that meets the subdivision definition of this Chapter and all other
265 requirements in § 7.1(2).

266
267 **2.1 HYDRAULIC AND HYDROLOGIC ANALYSES**

268 (1) No floodplain development shall:

269
270 (a) Obstruct flow, defined as any development which physically blocks the
271 conveyance of floodwaters by itself or in conjunction with other development,
272 causing any increase in the regional flood height; or

273
274 (b) Cause any increase in the regional flood height due to floodplain storage area
275 lost.

276
277 (2) The Zoning Administrator shall deny permits if it is determined the proposed
278 development will obstruct flow or cause any increase in the regional flood height,
279 based on the officially adopted FIRM or other adopted map, unless the provisions of
280 Article 8.0 *Amendments* are met.

281
282 **2.2 WATERCOURSE ALTERATIONS**

283 No land use permit to alter or relocate a watercourse in a mapped floodplain shall be
284 issued until the local official has notified in writing all adjacent municipalities, the
285 Department and FEMA regional offices, and required the applicant to secure all
286 necessary state and federal permits. The standards of § 2.1 must be met and the flood
287 carrying capacity of any altered or relocated watercourse shall be maintained.

288
289 As soon as is practicable, but not later than six months after the date of the watercourse
290 alteration or relocation and pursuant to Chapter 8.0 *Amendments*, the Village shall apply
291 for a Letter of Map Revision (LOMR) from FEMA. Any such alterations must be
292 reviewed and approved by FEMA and the DNR through the LOMC process.

293
294 **2.3 CHAPTER 30, 31, WIS. STATS., DEVELOPMENT**

295 Development which requires a permit from the Department, under §§ 30 and 31, Wis.
296 Stats., such as docks, piers, wharves, bridges, culverts, dams and navigational aids,
297 may be allowed if the necessary permits are obtained and amendments to the floodplain
298 zoning ordinance are made according to § 8.0 *Amendments*.

299
300 **2.4 PUBLIC OR PRIVATE CAMPGROUNDS**

301 Public or private campgrounds are prohibited within the Village of Elm Grove.

302
303 Article III

304 **3.0 FLOODWAY DISTRICT (FW)**

305
306 **3.1 APPLICABILITY**

307 This article applies to all floodway areas on the floodplain zoning maps and those
308 identified pursuant to § 5.1(5).

309
310 **3.2 PERMITTED USES**

311 The following open-space uses are allowed in the Floodway District and the floodway
312 areas of the General Floodplain District, if:

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- they are not prohibited by any other ordinance;
- they meet the standards in §§ 3.3 and 3.4; and
- all permits or certificates have been issued according to § 7.1.

- (1) Nonstructural industrial and commercial uses, such as loading areas, parking areas and airport landing strips.
- (2) Nonstructural recreational uses, such as tennis courts, archery ranges, picnic grounds, swimming areas, parks, wildlife and nature preserves, fishing areas and hiking trails, subject to the fill limitations of § 3.3(4).
- (3) Uses or structures accessory to open space uses or classified as historic structures that comply with § 3.3 and 3.4.
- (4) Functionally water-dependent uses, such as docks, piers or wharves, dams, flowage areas, culverts, navigational aids and river crossings of transmission lines, and pipelines that comply with §§ 30 and 31, Wis. Stats.
- (5) Public utilities, streets and bridges that comply with § 3.3(3).
- (6) Portable latrines that are removed prior to flooding and systems associated with recreational areas that meet the applicable provisions of local ordinances and Ch. SPS 383, Wis. Adm. Code.
- (7) Public or private wells used to obtain potable water for recreational areas operated by the Village and chs. NR 811 and NR 812, Wis. Adm. Code.
- (8) Sanitary sewer or water supply lines to service existing or proposed development located outside the floodway that complies with the regulations for the floodplain area occupied.

3.3 STANDARDS FOR DEVELOPMENTS IN THE FLOODWAY

(1) GENERAL

- (a) Any development in the floodway shall comply with § 2.0 and have a low flood damage potential.
- (b) Applicants shall provide an analysis calculating the effects of this proposal on the regional flood height to determine the effects of the proposal according to §§ 2.1 and 7.1(2)(c). The analysis must be completed by a registered professional engineer in the state of Wisconsin.
- (c) Any encroachment in the regulatory floodway is prohibited unless the data submitted for subd. 3.3(1)(b) above demonstrates that the encroachment will cause no increase in flood elevations in flood events up to the base flood at any location or removes the encroached area from the regulatory floodway as provided in § 1.5(5).

(2) STRUCTURES

366 Structures accessory to permanent open space uses, including utility and sanitary
367 facilities, classified as historic structures, or functionally dependent on a waterfront
368 location may be allowed by permit if the structures comply with the following criteria:

369 (a) The structures are not designed for human habitation, do not have a high flood
370 damage potential and are constructed to minimize flood damage;

371 (b) The structures shall either have the lowest floor elevated to or above the flood
372 protection elevation or shall meet all the following standards:

373 1. Have the lowest floor elevated to or above the regional flood elevation and
374 be dry floodproofed so that the structure is watertight with walls
375 substantially impermeable to the passage of water and completely dry to
376 the flood protection elevation without human intervention during flooding;

377
378 2. Have structural components capable of meeting all provisions of Section
379 3.3(2)(g) and;

380
381 3. Be certified by a registered professional engineer or architect, through the
382 use of a Federal Emergency Management Agency Floodproofing
383 Certificate, that the design and methods of construction are in accordance
384 with Section 3.3(2)(g).

385
386 (c) Must be anchored to resist flotation, collapse and lateral movement and to
387 prevent restricting bridge openings or other restricted sections of the stream or river;

388 (d) The structures must have all mechanical and utility equipment elevated to or
389 above the flood protection elevation; and

390 (e) Must not obstruct flow of flood waters or cause any increase in flood levels
391 during the occurrence of the regional flood.

392 (f) For a structure designed to allow the automatic entry of floodwaters below the
393 Regional Flood Elevation, the applicant shall submit a plan that meets § 3.3(2)(a)
394 through 3.3(2)(e) and meets or exceeds the following standards:

395 1. The lowest floor must be elevated to or above the regional flood
396 elevation;

397 2. a minimum of two openings having a total net area of not less than one
398 square inch for every square foot of enclosed area subject to flooding;

399 3. the bottom of all openings shall be no higher than one foot above the
400 lowest adjacent grade; openings may be equipped with screens, louvers,
401 valves, or other coverings or devices provided that they permit the
402 automatic entry and exit of floodwaters, otherwise must remain open.

403 4. The use must be limited to parking, building access or limited storage.

404 (g) Certification: Whenever floodproofing measures are required, a registered
405 professional engineer or architect shall certify that the following floodproofing
406 measures will be utilized, where appropriate, and are adequate to withstand the
407 flood depths, pressures, velocities, impact and uplift forces and other factors
408 associated with the regional flood:

- 409 1. Reinforcement of floors and walls to resist rupture, collapse, or lateral
410 movement caused by water pressures or debris buildup;
- 411 2. Construction of wells, water supply systems and waste treatment systems
412 so as to prevent the entrance of flood waters in such systems and must be
413 in accordance with provisions in Sections 3.4(4) and 3.4(5);
- 414 3. Subsurface drainage systems to relieve external pressures on foundation
415 walls and basement floors;
- 416 4. Cutoff valves on sewer lines or the elimination of gravity flow basement
417 drains; and
- 418 5. Placement of utilities to or above the flood protection elevation.

419 (3) PUBLIC UTILITIES, STREETS AND BRIDGES

420 Public utilities, streets and bridges may be allowed by permit, if:

- 421 (a) Adequate floodproofing measures are provided to the flood protection elevation;
422 and
423
- 424 (b) Construction meets the development standards of §2.1.
425

426 (4) FILLS OR DEPOSITION OF MATERIALS

427 Fills or deposition of materials may be allowed by permit, if:

- 428 (a) The requirements of §2.1 are met;
429
- 430 (b) No material is deposited in navigable waters unless a permit is issued by the
431 Department pursuant to §§ 30, Wis. Stats., and a permit pursuant to § 404 of the
432 Federal Water Pollution Control Act, Amendments of 1972, 33 U.S.C. § 1344
433 has been issued, if applicable, and all other requirements of this section have
434 been met;
435
- 436 (c) The fill or other materials will be protected against erosion by riprap, vegetative
437 cover, sheet piling or bulkheading; and
438
- 439 (a) The fill is not classified as a solid or hazardous material.
440

441 **3.4 PROHIBITED USES**

442 All uses not listed as permitted uses in § 3.2 are prohibited, including the following uses:
443

- 444 (1) Habitable structures, structures with high flood damage potential, or those not
445 associated with permanent open-space uses;
446
- 447 (2) Storing materials that are buoyant, flammable, explosive, injurious to property, water
448 quality, or human, animal, plant, fish or other aquatic life;
449

- 451
452 (3) Uses not in harmony with or detrimental to uses permitted in the adjoining districts;
453
454 (4) Any private sewage systems, except privately owned laterals connected to a public
455 sewerage system and portable latrines that are removed prior to flooding and
456 systems associated with recreational areas that meet the applicable provisions of
457 local ordinances and Ch. SPS 383, Wis. Adm. Code;
458
459 (5) Any public or private wells which are used to obtain potable water, except those for
460 recreational areas operated by the Village and Chs. NR 811 and NR 812, Wis. Adm.
461 Code;
462
463 (6) Any solid or hazardous waste disposal sites;
464
465 (7) Any wastewater treatment ponds or facilities, except those permitted under § NR
466 110.15(3)(b), Wis. Adm. Code; and
467
468 (8) Any sanitary sewer or water supply lines, except those to service existing or
469 proposed development located outside the floodway which complies with the
470 regulations for the floodplain area occupied.
471

472 Article IV

473 **4.0 FLOOD-FRINGE DISTRICT (FF)**

474
475 **4.1 APPLICABILITY**

476 This section applies to all flood-fringe areas shown on the floodplain zoning maps and
477 those identified pursuant to § 5.1(5).
478

479 **4.2 PERMITTED USES**

480 Any structure, land use, or development is allowed in the Flood-Fringe District if the
481 standards in § 4.3 are met, the use is not prohibited by this or any other ordinance or
482 regulation and all permits or certificates specified in § 7.1 have been issued.
483

484 **4.3 STANDARDS FOR DEVELOPMENT IN THE FLOODFRINGE**

485 Section 2.0 shall apply in addition to the following requirements according to the use
486 requested. Any existing structure in the floodfringe must meet the requirements of Article
487 VI *Nonconforming Uses*;
488

489 (1) **RESIDENTIAL USES**

490 Any structure, including a manufactured home, which is to be newly constructed or
491 moved into the floodfringe, shall meet or exceed the following standards. Any
492 existing structure in the floodfringe must meet the requirements of Article VI
493 *Nonconforming Uses*;
494

495 (a) All new construction, including placement of manufactured homes, and
496 substantial improvement of residential structures, shall have the lowest floor
497 elevated to or above the flood protection elevation on fill. The fill around the
498 structure shall be one foot or more above the regional flood elevation extending
499 at least 15 feet beyond the limits of the structure. No area may be removed from
500 the floodfringe district unless it can be shown to meet § 1.5(5).
501

502 (b) Notwithstanding § 4.3 (1)(a), a basement or crawlspace floor may be placed at or
503 **above one foot above** the regional flood elevation if the basement or crawlspace
504 is designed to make all portions of the structure below the flood protection

505 elevation watertight with walls substantially impermeable to the passage of water
506 and with structural components having the capability of resisting hydrostatic and
507 hydrodynamic loads and effects of buoyancy. No floor of any kind is allowed
508 lower than one foot above the regional flood elevation;
509

510 (c) Contiguous dryland access shall be provided from a structure to land outside of
511 the floodplain, except as provided in subd. (d).
512

513 (d) In developments where existing street or sewer line elevations make compliance
514 with subd. (c) impractical, the municipality may permit new development and
515 substantial improvements where roads are below the regional flood elevation, if:
516

517 1. The municipality has written assurance from police, fire and emergency
518 services that rescue and relief will be provided to the structure(s) by wheeled
519 vehicles during a regional flood event; or
520

521 2. The municipality has a DNR-approved emergency evacuation plan that
522 follows acceptable hazard mitigation planning guidelines.
523

524 (2) ACCESSORY STRUCTURES OR USES

525 In addition to § 2.0, new construction and substantial improvements of Accessory
526 structures shall be constructed on fill with the lowest floor at or above the regional
527 flood elevation.
528

529 (3) COMMERCIAL USES

530 In addition to § 2.0, any commercial structure which is erected, altered or moved into
531 the floodfringe shall meet the requirements of § 4.3(1). Subject to the requirements
532 of § 4.3(5), storage yards, surface parking lots and other such uses may be placed at
533 lower elevations if an adequate warning system exists to protect life and property.
534

535 (4) MANUFACTURING AND INDUSTRIAL USES

536 In addition to § 2.0, any manufacturing or industrial structure which is erected,
537 altered or moved into the floodfringe shall have the lowest floor elevated to or above
538 the flood protection elevation or meet the floodproofing standards in s 7.5. Subject to
539 the requirements of § 4.3(5), storage yards, surface parking lots and other such uses
540 may be placed at lower elevations if an adequate warning system exists to protect
541 life and property.
542

543 (5) STORAGE OF MATERIALS

544 Materials that are buoyant, flammable, explosive, or injurious to property, water
545 quality or human, animal, plant, fish or aquatic life shall be stored at or above the
546 flood protection elevation or floodproofed in compliance with § 7.5. Adequate
547 measures shall be taken to ensure that such materials will not enter the water body
548 during flooding.
549

550 (6) PUBLIC UTILITIES, STREETS AND BRIDGES

551 All utilities, streets and bridges shall be designed to be compatible with
552 comprehensive floodplain development plans; and
553

554 (a) When failure of public utilities, streets and bridges would endanger public health
555 or safety, or where such facilities are deemed essential, construction or repair of
556 such facilities shall only be permitted if they are designed to comply with § 7.5.
557

558 (b) Minor roads or non-essential utilities may be constructed at lower elevations if

559 they are designed to withstand flood forces to the regional flood elevation.

560
561 (7) SEWAGE SYSTEMS

562 All sewage disposal systems shall be designed to minimize or eliminate infiltration of
563 flood water into the system, pursuant to § 7.5(3), to the flood protection elevation and
564 meet the provisions of all local ordinances and Ch. SPS 383, Wis. Adm. Code.

565
566 (8) WELLS

567 All wells shall be designed to minimize or eliminate infiltration of flood waters into the
568 system, pursuant to § 7.5(3), to the flood protection elevation and shall meet the
569 provisions of chs. NR 811 and NR 812, Wis. Adm. Code.

570
571 (9) SOLID WASTE DISPOSAL SITES

572 Disposal of solid or hazardous waste is prohibited in floodfringe areas.

573
574 (10) DEPOSITION OF MATERIALS

575 Any deposited material must meet all the provisions of this ordinance.

576
577 (11) MANUFACTURED HOMES

578
579 (a) Manufactured home parks are prohibited within the Village of Elm Grove.

580
581 (12) MOBILE RECREATIONAL VEHICLES

582 All mobile recreational vehicles must be compliant with the storage requirements in
583 §335-33 of the Village Code of Ordinances, and are not a permitted use within the
584 Village of Elm Grove.

585
586
587 Article V

588 **5.0 OTHER FLOODPLAIN DISTRICTS**

589
590 **5.1 GENERAL FLOODPLAIN DISTRICT (GFP)**

591
592 (1) APPLICABILITY

593 The provisions for the General Floodplain District shall apply to development in all
594 floodplains mapped as A, AO, AH, and in AE zones within which a floodway is not
595 delineated on the Flood Insurance Rate Maps identified in § 1.5(2)(a).

596
597 (2) FLOODWAY BOUNDARIES

598 For proposed development in zone A, or in zone AE within which a floodway is not
599 delineated on the Flood Insurance Rate Map identified in § 1.5(2)(a), the boundaries of
600 the regulatory floodway shall be determined pursuant to § 5.1(5). If the development is
601 proposed to encroach upon the regulatory floodway, the development is subject to the
602 standards of § 3.0. If the development is located entirely within the floodfringe, the
603 development is subject to the standards of § 4.0.

604
605 (3) PERMITTED USES

606 Pursuant to § 5.1(5) it shall be determined whether the proposed use is located within
607 the floodway or floodfringe. Those uses permitted in the Floodway (§ 3.2) and
608 Floodfringe (§ 4.2) Districts are allowed within the General Floodplain District, according
609 to the standards of § 5.1(4) provided that all permits or certificates required under §7.1
610 have been issued.

611
612 (4) STANDARDS FOR DEVELOPMENT IN THE GENERAL FLOODPLAIN DISTRICT

613 Section 3.0 applies to floodway areas, determined to pursuant to § 5.1(5); Article IV
614 applies to floodfringe areas, determined to pursuant to § 5.1(5).
615

616 (a) New construction and substantial improvement of structures in zone AO shall have
617 the lowest floor, including basement, elevated:

- 618 1. To or above the depth, in feet, as shown on the FIRM above the highest adjacent
619 natural grade; plus one additional foot of freeboard; or
620
- 621 2. If the depth is not specified on the FIRM, to or above three (3) feet above the
622 highest adjacent natural grade.
623

624 (b) New Construction and substantial improvement of structures in zone AH shall have the
625 lowest floor, including basement, elevated to or above the flood protection elevation.
626

627 (c) In AO/AH zones, provide adequate drainage paths to guide floodwaters around
628 structures.
629

630 (d) All development in zones AO and zone AH shall meet the requirements of § 4.0
631 applicable to floodfringe areas.
632

633
634 (5) **DETERMINING FLOODWAY AND FLOODFRINGE LIMITS**

635 Upon receiving an application for development within zone A, or within zone AE where a
636 floodway has not been delineated on the Flood Insurance Rate Maps, the Zoning
637 Administrator shall:
638

639 (a) Require the applicant to submit two copies of an aerial photograph or a plan which
640 shows the proposed development with respect to the general floodplain district limits,
641 stream channel, and existing floodplain developments, along with a legal description of
642 the property, fill limits and elevations, building floor elevations and flood proofing
643 measures; and the flood zone as shown on the FIRM.
644

645 (b) Require the applicant to furnish any of the following information deemed necessary by
646 the Department to evaluate the effects of the proposal upon flood height and flood
647 flows, regional flood elevation and to determine floodway boundaries.
648

- 649 1. A Hydrologic and Hydraulic Study as specified in § 7.1(2)(c).
650
- 651 2. Plan (surface view) showing elevations or contours of the ground; pertinent
652 structure, fill or storage elevations; size, location and layout of all proposed and
653 existing structures on the site; location and elevations of streets, water supply, and
654 sanitary facilities; soil types and other pertinent information;
655
- 656 3. Specifications for building construction and materials, floodproofing, filling,
657 dredging, channel improvement, storage, water supply and sanitary facilities.
658

659 **5.2 FLOOD STORAGE DISTRICT**

660 The flood storage district delineates that portion of the floodplain where storage of
661 floodwaters has been taken into account and is relied upon to reduce the regional flood
662 discharge. The district protects the flood storage areas and assures that any development
663 in the storage areas will not decrease the effective flood storage capacity which would
664 cause higher flood elevations.
665

666 (1) **APPLICABILITY**

667 The provisions of this section apply to all areas within the Flood Storage District (FSD),
668 as shown on the official floodplain zoning maps.

669

670 (2) PERMITTED USES

671 Any use or development which occurs in a flood storage district must meet the
672 applicable requirements in § 4.3.

673

674 (3) STANDARDS FOR DEVELOPMENT IN FLOOD STORAGE DISTRICTS

675 (a) Development in a flood storage district shall not cause an increase equal or greater
676 than 0.00 of a foot in the height of the regional flood.

677

678 (b) No development shall be allowed which removes flood storage volume unless an
679 equal volume of storage as defined by the pre-development ground surface and
680 the regional flood elevation shall be provided in the immediate area of the
681 proposed development to compensate for the volume of storage which is lost,
682 (compensatory storage). Excavation below the groundwater table is not
683 considered to provide an equal volume of storage.

684

685 (c) If compensatory storage cannot be provided, the area may not be developed unless
686 the entire area zoned as flood storage district – on this waterway – is rezoned to
687 the floodfringe district. This must include a revision to the floodplain study and
688 map done for the waterway to revert to the higher regional flood discharge
689 calculated without floodplain storage, as per *Article VIII Amendments* of this
690 ordinance.

691

692 (d) No area may be removed from the flood storage district unless it can be shown that
693 the area has been filled to the flood protection elevation and is contiguous to other
694 lands lying outside of the floodplain.

695

696 **6.0 NONCONFORMING USES**

697

698 Article VI
699 **Nonconforming Uses**

700 **6.1 Applicability and Continuance.**

701 (1) APPLICABILITY

702

703 (a) The standards in this section shall apply to all uses and buildings that do not
704 conform to the provisions contained within a floodplain zoning ordinance or with §
705 87.30, Wis. Stats. and §§ NR 116.12-14, Wis. Adm. Code and 44 C.F.R. 59-72.,
706 these standards shall apply to all modifications or additions to any nonconforming
707 use or structure and to the use of any structure or premises which was lawful
708 before the passage of this ordinance or any amendment thereto. A party asserting
709 existence of a lawfully established nonconforming use or structure has the burden
710 of proving that the use or structure was compliant with the floodplain zoning
711 ordinance in effect at the time the use or structure was created.

712

713 (b) As permit applications are received for additions, modifications, or substantial
714 improvements to nonconforming buildings in the floodplain, municipalities shall
715 develop a list of those nonconforming buildings, their present equalized assessed
716 value and a list of the costs of those activities associated with changes to those
717 buildings.

718

719 (2) The existing lawful use of a structure or its accessory use which is not in conformity
720 with the provisions of this Chapter may continue subject to the following conditions:

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- (a) No modifications or additions to a nonconforming use or structure shall be permitted unless they comply with this Chapter and all municipal ordinances. 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. Maintenance is not considered a modification; this includes painting, decorating, paneling and other nonstructural components and the maintenance, repair or replacement of existing private sewage or water supply systems or connections to public utilities. Any costs associated with the repair of a damaged structure are not considered maintenance.

The construction of a deck that does not exceed 200 square feet and that is adjacent to the exterior wall of a principal structure is not an extension, modification or addition. The roof of the structure may extend over a portion of the deck in order to provide safe ingress and egress to the principal structure.

- (b) 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 Chapter and all municipal ordinances;
- (c) The Village shall keep a record which lists all nonconforming uses and nonconforming structures, 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;
- (d) No modification or addition to any nonconforming structure or any structure with a nonconforming use, which over the life of the structure would equal or exceed 50% 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 § 4.3(1). The costs of elevating the lowest floor of a nonconforming building or a building with a nonconforming use to the flood protection elevation are excluded from the 50% provisions of this paragraph;
- (e) No maintenance on a per event basis to any nonconforming structure or any structure with a nonconforming use, the cost of which would equal or exceed 50% 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 Chapter. Contiguous dry land access must be provided for residential and commercial uses in compliance with § 4.3(1). Maintenance to any nonconforming structure, which does not exceed 50% of its present equalized assessed value on a per event basis, does not count against the cumulative calculations over the life of the structure for substantial improvement calculations.
- (f) If on a per event basis the total value of the work being done under (d) and (e) equals or exceeds 50% of the present equalized assessed value the work shall not be permitted unless the entire structure is permanently changed to a conforming structure with a conforming use in compliance with the applicable requirements of this ordinance. Contiguous dry land access must be provided for residential and commercial uses in compliance with § 4.3(1).

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(g) Except as provided in subd. (h), 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 50% of the structure's present equalized assessed value.

(h) For nonconforming buildings that are substantially damaged or destroyed by a non-flood disaster, the repair or reconstruction of any such nonconforming building shall be permitted in order to restore it to the size and use in effect prior to the damage event, provided that the following minimum requirements are met and all required permits have been granted prior to the start of construction:

1. Residential Structures

- a. Shall have the lowest floor, including basement, elevated to or above the flood protection elevation using fill, pilings, columns, posts or perimeter walls. Perimeter walls must meet the requirements of § 7.5(2).
- b. Shall be anchored to prevent flotation, collapse, or lateral movement of the structure resulting from hydrodynamic and hydrostatic loads, including the effects of buoyancy and shall be constructed with methods and materials resistant to flood damage.
- c. Shall be constructed with electrical, heating, ventilation, plumbing and air conditioning equipment and other service facilities that are designed and/or elevated to a minimum of one foot above the Base Flood (Regional Flood) so as to prevent water from entering or accumulating within the components during conditions of flooding.
- d. In A Zones, obtain, review and utilize any flood data available from a federal, state or other source.
- e. In AO Zones with no elevations specified, shall have the lowest floor, including basement, meet the standards in § 5.1(4).
- f. in AO Zones, shall have adequate drainage paths around structures on slopes to guide floodwaters around and away from the structure.

2. Nonresidential Structures

- a. Shall meet the requirements of §§ 6.1(2)(h)1a-f.
- b. Shall either have the lowest floor, including basement, elevated to or above the regional flood elevation; or, together with attendant utility and sanitary facilities, shall meet the standards in §§ 7.5 (1) or (2).
- c. In AO Zones with no elevations specified, shall have the lowest floor, including basement, meet the standards in § 5.1(4).

(3) A nonconforming historic structure may be altered if the alteration will not preclude the structure's continued designation as a historic structure, the alteration will comply with § 3.3 (1), flood resistant materials are used, and construction practices and

829 floodproofing methods that comply with § 7.5 are used. Repair or rehabilitation of
830 historic structures shall be exempt from the development standards of § 6.1 (2)(h)1 if it
831 is determined that the proposed repair or rehabilitation will not preclude the structure's
832 continued designation as a historic structure and is the minimum necessary to
833 preserve the historic character and design of the structure.
834
835

836 **6.2 FLOODWAY DISTRICT**

837 (1) No modification or addition shall be allowed to any nonconforming structure or any
838 structure with a nonconforming use in the Floodway District, unless such modification or
839 addition:

840 (a) Has been granted a permit or variance which meets all ordinance requirements;

841 (b) Meets the requirements of § 6.1;

842 (c) Shall not increase the obstruction to flood flows or regional flood height;

843 (d) Any addition to the existing structure shall be floodproofed, pursuant to § 7.5, by
844 means other than the use of fill, to the flood protection elevation; and

845 (e) If any part of the foundation below the flood protection elevation is enclosed, the
846 following standards shall apply:

847 1. The enclosed area shall be designed by a registered architect or engineer to
848 allow for the efficient entry and exit of flood waters without human intervention. A
849 minimum of two openings must be provided with a minimum net area of at least
850 one square inch for every one square foot of the enclosed area. The lowest part
851 of the opening can be no more than 12 inches above the adjacent grade;

852 2. The parts of the foundation located below the flood protection elevation must be
853 constructed of flood-resistant materials;

854 3. Mechanical and utility equipment must be elevated to or above the Flood
855 Protection Elevation; and

856 4. The use must be limited to parking, building access or limited storage.
857

858 (2) No new on-site sewage disposal system, or addition to an existing on-site sewage
859 disposal system, except where an addition has been ordered by a government agency
860 to correct a hazard to public health, shall be allowed in the Floodway District. Any
861 replacement, repair or maintenance of an existing on-site sewage disposal system in a
862 floodway area shall meet the applicable requirements of all municipal ordinances, §
863 7.5(3) and Ch. SPS 383, Wis. Adm. Code.
864

865 (3) No new well or modification to an existing well used to obtain potable water shall be
866 allowed in the Floodway District. Any replacement, repair or maintenance of an existing
867 well in the Floodway District shall meet the applicable requirements of all municipal
868 ordinances, § 7.5(3) and Chs. NR 811 and NR 812, Wis. Adm. Code.
869

870 **6.3 FLOODFRINGE DISTRICT**

871 (1) No modification or addition shall be allowed to any nonconforming structure or any
872 structure with a nonconforming use unless such modification or addition has been
873

883 granted a permit or variance by the municipality and meets the requirements of § 4.3
884 except where § 6.3(2) is applicable.

885
886 (2) Where compliance with the provisions of subd. (1) would result in unnecessary
887 hardship and only where the structure will not be used for human habitation or be
888 associated with a high flood damage potential, the Board of Appeals, using the
889 procedures established in § 7.3, may grant a variance from those provisions of subd.
890 (1) for modifications or additions using the criteria listed below. Modifications or
891 additions which are protected to elevations lower than the flood protection elevation
892 may be permitted if:

893
894 (a) No floor is allowed below the regional flood elevation for residential or
895 commercial structures;

896
897 (b) Human lives are not endangered;

898
899 (c) Public facilities, such as water or sewer, shall not be installed;

900
901 (d) Flood depths shall not exceed two feet;

902
903 (e) Flood velocities shall not exceed two feet per second; and

904
905 (f) The structure shall not be used for storage of materials as described in § 4.3(5).

906
907 (3) All new private sewage disposal systems, or addition to, replacement, repair or
908 maintenance of a private sewage disposal system shall meet all the applicable
909 provisions of all local ordinances, § 7.5 (3) and Ch. SPS 383, Wis. Adm. Code.

910
911 (4) All new wells, or addition to, replacement, repair or maintenance of a well shall meet
912 the applicable provisions of this ordinance, § 7.5 (3) and Chs. NR 811 and NR 812, Wis.
913 Adm. Code.

914 **6.4 FLOOD STORAGE DISTRICT**

915
916 No modifications or additions shall be allowed to any nonconforming structure in a flood
917 storage area unless the standards outlined in 5.2(3) are met.

918 Article VII

919 Administration

920 **7.0 PURPOSE**

921
922 Where the Zoning Administrator, plan commission or a board of appeals of the Village has
923 already been appointed to administer a zoning ordinance adopted under §§ 59.69, 59.692
924 or 62.23(7), Wis. Stats., those entities shall also administer this Chapter.

925 **7.1 ZONING ADMINISTRATOR**

926 (1) DUTIES AND POWERS

927
928 The Zoning Administrator is authorized to administer this Chapter and shall have the
929 following duties and powers:

930
931 (a) Advise applicants of the ordinance provisions, assist in preparing permit
932 applications and appeals, and assure that the regional flood elevation for the
933 proposed development is shown on all permit applications.

934
935 (b) Issue permits and inspect properties for compliance with provisions of this Chapter
936 and issue certificates of compliance where appropriate.

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(c) Inspect and assess all damaged floodplain structures to determine if substantial damage to the structures has occurred.

(d) Keep records of all official actions such as:

1. All permits issued, inspections made, and work approved;
2. Documentation of certified lowest floor and regional flood elevations;
3. Floodproofing certificates.
4. Water surface profiles, floodplain zoning maps and ordinances, nonconforming uses and structures including changes, appeals, variances and amendments.
5. All substantial damage assessment reports for floodplain structures.
6. List of nonconforming structures and uses.

(e) Submit copies of the following items to the Department Regional office:

1. Within 10 days of the decision, a copy of any decisions on variances, appeals for map or text interpretations, and map or text amendments;
2. Copies of case-by-case analyses and other required information.
3. Copies of substantial damage assessments performed and all related correspondence concerning the assessments.

(f) Investigate, prepare reports, and report violations of this Chapter to the Elm Grove Plan Commission and Village Attorney for prosecution. Copies of the reports shall also be sent to the Department Regional office.

(g) Submit copies of amendments to the FEMA Regional office.

(2) LAND USE PERMIT

A land use permit shall be obtained from the Zoning Administrator before any development; repair, modification or addition to an existing structure; or change in the use of a building or structure, including sewer and water facilities, may be initiated. Application to the Zoning Administrator shall include:

(a) GENERAL INFORMATION

1. Name and address of the applicant, property owner and contractor;
2. Legal description, proposed use, and whether it is new construction or a modification;

(b) SITE DEVELOPMENT PLAN

A site plan drawn to scale shall be submitted with the permit application form and shall contain:

1. Location, dimensions, area and elevation of the lot;
2. Location of the ordinary highwater mark of any abutting navigable waterways;
3. Location of any structures with distances measured from the lot lines and street center lines;

- 991 4. Location of any existing or proposed on-site sewage systems or private water
992 supply systems;
993
994 5. Location and elevation of existing or future access roads;
995
996 6. Location of floodplain and floodway limits as determined from the official
997 floodplain zoning maps;
998
999 7. The elevation of the lowest floor of proposed buildings and any fill using the
1000 vertical datum from the adopted study – either National Geodetic Vertical
1001 Datum (NGVD) or North American Vertical Datum (NAVD);
1002
1003 8. Data sufficient to determine the regional flood elevation in NGVD or NAVD at
1004 the location of the development and to determine whether or not the
1005 requirements of §§ 3.0 or 4.0 are met; and
1006
1007 9. Data to determine if the proposed development will cause an obstruction to flow
1008 or an increase in regional flood height or discharge according to § 2.1. This
1009 may include any of the information noted in § 3.3(1).
1010

1011 (c) HYDRAULIC AND HYDROLOGIC STUDIES TO ANALYZE DEVELOPMENT

1012 All hydraulic and hydrologic studies shall be completed under the direct supervision
1013 of a professional engineer registered in the State of Wisconsin. The study
1014 contractor shall be responsible for the technical adequacy of the study. All studies
1015 shall be reviewed and approved by the Department.
1016

- 1017 1. Zone A floodplains and in AE zones within which a floodway is not delineated:
1018 a. Hydrology
1019 i. The appropriate method shall be based on the standards in Ch. NR
1020 116.07(3), Wis. Admin. Code, *Hydrologic Analysis: Determination of*
1021 *Regional Flood Discharge*.
1022
1023 b. Hydraulic modeling
1024 The regional flood elevation shall be based on the standards in Ch. NR
1025 116.07(4), Wis. Admin. Code, *Hydraulic Analysis: Determination of*
1026 *Regional Flood Elevation* and the following:
1027
1028 i. Determination of the required limits of the hydraulic model shall be based
1029 on detailed study information for downstream structures (dam, bridge,
1030 culvert) to determine adequate starting WSEL for the study.
1031
1032 ii. Channel sections must be surveyed.
1033
1034 iii. Minimum four-foot contour data in the overbanks shall be used for the
1035 development of cross section overbank and floodplain mapping.
1036
1037 iv. A maximum distance of 500 feet between cross sections is allowed in
1038 developed areas with additional intermediate cross sections required at
1039 transitions in channel bottom slope including a survey of the channel at
1040 each location.
1041
1042 v. The most current version of HEC_RAS shall be used.
1043

- 1044 vi. A survey of bridge and culvert openings and the top of road is required
1045 at each structure.
1046
- 1047 vii. Additional cross sections are required at the downstream and upstream
1048 limits of the proposed development and any necessary intermediate
1049 locations based on the length of the reach if greater than 500 feet.
1050
- 1051 viii. Standard accepted engineering practices shall be used when assigning
1052 parameters for the base model such as flow, Manning's N values,
1053 expansion and contraction coefficients or effective flow limits. The base
1054 model shall be calibrated to past flooding data such as high water marks
1055 to determine the reasonableness of the model results. If no historical
1056 data is available, adequate justification shall be provided for any
1057 parameters outside standard accepted engineering practices.
1058
- 1059 ix. The model must extend past the upstream limit of the difference in the
1060 existing and proposed flood profiles in order to provide a tie-in to existing
1061 studies. The height difference between the proposed flood profile and the
1062 existing study profiles shall be no more than 0.00 feet.
1063
- 1064 c. Mapping
1065 A work map of the reach studied shall be provided, showing all cross-section
1066 locations, floodway/floodplain limits based on best available topographic
1067 data, geographic limits of the proposed development and whether the
1068 proposed development is located in the floodway.
1069
- 1070 i. If the proposed development is located outside of the floodway, then it is
1071 determined to have no impact on the regional flood elevation.
1072
- 1073 ii. If any part of the proposed development is in the floodway, it must be
1074 added to the base model to show the difference between existing and
1075 proposed conditions. The study must ensure that all coefficients remain
1076 the same as in the existing model, unless adequate justification based on
1077 standard accepted engineering practices is provided.
1078
- 1079 2. Zone AE Floodplains
1080
- 1081 a. Hydrology
1082 If the proposed hydrology will change the existing study, the appropriate
1083 method to be used shall be based on Ch. NR 116.07(3), Wis. Admin. Code,
1084 *Hydrologic Analysis: Determination of Regional Flood Discharge*.
- 1085 b. Hydraulic model
1086 The regional flood elevation shall be based on the standards in Ch. NR
1087 116.07(4), Wis. Admin. Code, *Hydraulic Analysis: Determination of*
1088 *Regional Flood Elevation* and the following:
1089
- 1090 i. Duplicate Effective Model
1091 The effective model shall be reproduced to ensure correct transference of
1092 the model data and to allow integration of the revised data to provide a
1093 continuous FIS model upstream and downstream of the revised reach. If
1094 data from the effective model is available, models shall be generated that
1095 duplicate the FIS profiles and the elevations shown in the Floodway Data
1096 Table in the FIS report to within 0.1 foot.
1097

- 1098 ii. Corrected Effective Model.
1099 The Corrected Effective Model shall not include any man-made physical
1100 changes since the effective model date but shall import the model into the
1101 most current version of HEC-RAS for Department review.
1102
- 1103 iii. Existing (Pre-Project Conditions) Model.
1104 The Existing Model shall be required to support conclusions about the
1105 actual impacts of the project associated with the Revised (Post-Project)
1106 Model or to establish more up-to-date models on which to base the
1107 Revised (Post-Project) Model.
1108
- 1109 iv. Revised (Post-Project Conditions) Model.
1110 The Revised (Post-Project Conditions) Model shall incorporate the
1111 Existing Model and any proposed changes to the topography caused by
1112 the proposed development. This model shall reflect proposed conditions.
1113
- 1114 v. All changes to the Duplicate Effective Model and subsequent models
1115 must be supported by certified topographic information, bridge plans,
1116 construction plans and survey notes.
1117
- 1118 vi. Changes to the hydraulic models shall be limited to the stream reach for
1119 which the revision is being requested. Cross sections upstream and
1120 downstream of the revised reach shall be identical to those in the
1121 effective model and result in water surface elevations and topwidths
1122 computed by the revised models matching those in the effective models
1123 upstream and downstream of the revised reach as required. The
1124 Effective Model shall not be truncated.
1125
- 1126 c. Mapping
1127 Maps and associated engineering data shall be submitted to the Department
1128 for review which meet the following conditions:
1129
- 1130 i. Consistency between the revised hydraulic models, the revised floodplain
1131 and floodway delineations, the revised flood profiles, topographic work
1132 map, annotated FIRMs and/or Flood Boundary Floodway Maps (FBFMs),
1133 construction plans, bridge plans.
1134
- 1135 ii. Certified topographic map of suitable scale, contour interval, and a
1136 planimetric map showing the applicable items. If a digital version of the
1137 map is available, it may be submitted in order that the FIRM may be more
1138 easily revised.
1139
- 1140 iii. Annotated FIRM panel showing the revised 1% and 0.2% annual chance
1141 floodplains and floodway boundaries.
1142
- 1143 iv. If an annotated FIRM and/or FBFM and digital mapping data (GIS or
1144 CADD) are used then all supporting documentation or metadata must be
1145 included with the data submission along with the Universal Transverse
1146 Mercator (UTM) projection and State Plane Coordinate System in
1147 accordance with FEMA mapping specifications.
1148
- 1149 v. The revised floodplain boundaries shall tie into the effective floodplain
1150 boundaries.
1151

- 1152 vi. All cross sections from the Effective Model shall be labeled in
1153 accordance with the effective map and a cross section lookup table shall
1154 be included to relate to the model input numbering scheme.
1155
1156 vii. Both the current and proposed floodways shall be shown on the map.
1157
1158 viii. The stream centerline, or profile baseline used to measure stream
1159 distances in the model shall be visible on the map.
1160

1161 (d) EXPIRATION

1162 All permits issued under the authority of this Chapter shall expire no more than
1163 180 days after issuance. The permit may be extended for a maximum of 180 days
1164 for good and sufficient cause. If the permitted work has not started within 180
1165 days of the permit date, the development must comply with any regulation,
1166 including any revision to the FIRM or FIS, that took effect after the permit date.
1167

1168 (3) CERTIFICATE OF COMPLIANCE

1169 No land shall be occupied or used, and no building which is hereafter constructed,
1170 altered, added to, modified, repaired, rebuilt or replaced shall be occupied until a
1171 certificate of compliance is issued by the Zoning Administrator, except where no permit
1172 is required, subject to the following provisions:
1173

1174 (a) The certificate of compliance shall show that the building or premises or part
1175 thereof, and the proposed use, conform to the provisions of this Chapter;
1176

1177 (b) Application for such certificate shall be concurrent with the application for a permit;
1178

1179 (c) If all Chapter provisions are met, the certificate of compliance shall be issued
1180 within 10 days after written notification that the permitted work is completed;
1181

1182 (d) The applicant shall submit a certification signed by a registered professional
1183 engineer, architect or land surveyor that the fill, lowest floor and floodproofing
1184 elevations are in compliance with the permit issued. Floodproofing measures also
1185 require certification by a registered professional engineer or architect that the
1186 requirements of § 7.5 are met.
1187

1188 (e) Where applicable pursuant to § 5.1(4), the applicant must submit a certification by
1189 a registered professional engineer or surveyor of the elevation of the bottom of the
1190 lowest horizontal structural member supporting the lowest floor (excluding pilings
1191 or columns), and an indication of whether the structure contains a basement.
1192

1193 (f) Where applicable pursuant to § 5.1(4), the applicant must submit certifications by a
1194 registered professional engineer or architect that the structural design and methods
1195 of construction meet accepted standards of practice as required by § 5.1(4).
1196

1197 (4) OTHER PERMITS

1198 Prior to obtaining a floodplain development permit the applicant must secure all
1199 necessary permits from federal, state, and local agencies, including but not limited to
1200 those required by the U.S. Army Corps of Engineers under § 404 of the Federal Water
1201 Pollution Control Act, Amendments of 1972, 33 U.S.C. 1344.
1202

1203 **7.2 ZONING AGENCY**

1204 (1) The Elm Grove Plan Commission shall:
1205

- 1206 (a) Oversee the functions of the office of the Zoning Administrator; and
 1207
 1208 (b) Review and Advise the governing body on all proposed amendments to this
 1209 Chapter, maps and text.
 1210
 1211 (c) Publish adequate notice pursuant to Ch. 985, Wis. Stats., specifying the date, time,
 1212 place and subject of the public hearing.
 1213
 1214 (2) The Elm Grove Plan Commission shall not:
 1215
 1216 (a) Grant variances to the terms of the ordinance in place of action by the Elm Grove
 1217 Board of Appeals; or
 1218
 1219 (b) Amend the text or zoning maps in place of official action by the Village Board.
 1220

1221 **7.3 ELM GROVE BOARD OF APPEALS**

1222 The Elm Grove Board of Appeals, created under §§ 62.23(7)(e), Wis. Stats., for villages, is
 1223 hereby authorized or shall be appointed to act for the purposes of this ordinance. The
 1224 Board of Appeals shall exercise the powers conferred by Wisconsin Statutes and adopt
 1225 rules for the conduct of business. The Zoning Administrator shall not be the secretary of the
 1226 Board of Appeals.
 1227

1228 (1) POWERS AND DUTIES

1229 The Elm Grove Board of Appeals shall:

- 1230
 1231 (a) Appeals - Hear and decide appeals where it is alleged there is an error in any
 1232 order, requirement, decision or determination made by an administrative official in
 1233 the enforcement or administration of this Chapter;
 1234
 1235 (b) Boundary Disputes - Hear and decide disputes concerning the district boundaries
 1236 shown on the Official Floodplain Zoning Map; and
 1237
 1238 (c) Variances - Hear and decide, upon appeal, variances from the standards of this
 1239 Chapter.
 1240

1241 (2) APPEALS TO THE BOARD OF APPEALS

- 1242 (a) Appeals to the Board of Appeals may be taken by any person aggrieved, or by
 1243 any officer or department of the municipality affected by any decision of the
 1244 Zoning Administrator or other administrative officer. Such appeal shall be taken
 1245 within 30 days unless otherwise provided by the rules of the board, by filing with
 1246 the official whose decision is in question, and with the Board of Appeals, a notice
 1247 of appeal specifying the reasons for the appeal. The official whose decision is in
 1248 question shall transmit to the Board of Appeals all records regarding the matter
 1249 appealed.
 1250

1251 (b) NOTICE AND HEARING FOR APPEALS INCLUDING VARIANCES

- 1252
 1253 1. Notice - The Board of Appeals shall:
 1254 a. Fix a reasonable time for the hearing;
 1255 b. Publish adequate notice pursuant to Wisconsin Statutes, specifying the
 1256 date, time, place and subject of the hearing; and
 1257 c. Assure that notice shall be mailed to the parties in interest and the
 1258 Department Regional office at least 10 days in advance of the hearing.
 1259

1260 2. Hearing - Any party may appear in person or by agent. The Board of Appeals
1261 shall:

- 1262
- 1263 a. Resolve boundary disputes according to § 7.3(3);
 - 1264 b. Decide variance applications according to § 7.3(4); and
 - 1265 c. Decide appeals of permit denials according to § 7.4.
- 1266

1267 (c) DECISION: The final decision regarding the appeal or variance application shall:

- 1268
- 1269 1. Be made within a reasonable time;
 - 1270
 - 1271 2. Be sent to the Department Regional office within 10 days of the decision;
 - 1272
 - 1273 3. Be a written determination signed by the Chairman or Secretary of the Board of
 - 1274 Appeals;
 - 1275
 - 1276 4. State the specific facts which are the basis for the Board of Appeals' decision;
 - 1277
 - 1278 5. Either affirm, reverse, vary or modify the order, requirement, decision or
 - 1279 determination appealed, in whole or in part, dismiss the appeal for lack of
 - 1280 jurisdiction or grant or deny the variance application; and
 - 1281
 - 1282 6. Include the reasons for granting an appeal, describing the hardship
 - 1283 demonstrated by the applicant in the case of a variance, clearly stated in the
 - 1284 recorded minutes of the Board of Appeals proceedings.
- 1285

1286 (3) BOUNDARY DISPUTES

1287 The following procedure shall be used by the Board of Appeals in hearing disputes
1288 concerning floodplain district boundaries:

- 1289
- 1290 (a) If a floodplain district boundary is established by approximate or detailed floodplain
 - 1291 studies, the flood elevations or profiles shall prevail in locating the boundary.
 - 1292
 - 1293 (b) The person contesting the boundary location shall be given a reasonable
 - 1294 opportunity to present arguments and technical evidence to the Board of Appeals;
 - 1295 and
 - 1296
 - 1297 (c) If the boundary is incorrectly mapped, the Board should inform the Zoning
 - 1298 Committee or the person contesting the boundary location to petition the
 - 1299 governing body for a map amendment according to § 8.0 *Amendments*.
- 1300

1301 (4) VARIANCE

1302 (a) The Board of Appeals may, upon appeal, grant a variance from the standards of
1303 this Chapter if an applicant convincingly demonstrates that:

- 1304
- 1305 1. Literal enforcement of the Chapter will cause unnecessary hardship;
 - 1306
 - 1307 2. The hardship is due to adoption of the Floodplain Ordinance and unique
 - 1308 property conditions, not common to adjacent lots or premises. In such case the
 - 1309 ordinance or map must be amended;
 - 1310
 - 1311 3. The variance is not contrary to the public interest; and
 - 1312
 - 1313 4. The variance is consistent with the purpose of this Chapter in § 1.3.

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- (b) In addition to the criteria in subsection (a), to qualify for a variance under FEMA regulations, the Board of Appeals must find that the following criteria have been met:
 - 1. The variance shall not cause any increase in the regional flood elevation;
 - 2. The applicant has shown good and sufficient cause for issuance of the variance;
 - 3. Failure to grant the variance would result in exceptional hardship;
 - 4. Granting the variance will not result in additional threats to public safety, extraordinary expense, create a nuisance, cause fraud on or victimization of the public, or conflict with existing local laws or ordinances;
 - 5. The variance granted is the minimum necessary, considering the flood hazard, to afford relief.
- (c) A variance shall not:
 - 1. Grant, extend or increase any use prohibited in the zoning district;
 - 2. Be granted for a hardship based solely on an economic gain or loss;
 - 3. Be granted for a hardship which is self-created.
 - 4. Damage the rights or property values of other persons in the area;
 - 5. Allow actions without the amendments to this Chapter or map(s) required in § 8.0 *Amendments*; and
 - 6. Allow any alteration of an historic structure, including its use, which would preclude its continued designation as an historic structure.
- (d) When a floodplain variance is granted the Board of Appeals shall notify the applicant in writing that it may increase risks to life and property and flood insurance premiums could increase up to \$25.00 per \$100.00 of coverage. A copy shall be maintained with the variance record.

7.4 TO REVIEW APPEALS OF PERMIT DENIALS

- (1) The Zoning Agency (§ 7.2) or Board of Appeals shall review all data related to the appeal. This data may include (where appropriate):
 - (a) Permit application data listed in §7.1(2);
 - (b) Floodway/floodfringe determination data in §5.1(5);
 - (c) Data listed in §3.3(1)(b) where the applicant has not submitted this information to the Zoning Administrator; and
 - (d) Other data submitted with the application or submitted to the Board with the appeal.

- 1367 (2) For appeals of all denied permits the Board shall:
1368
1369 (a) Follow the procedures of §7.3;
1370
1371 (b) Consider zoning agency recommendations; and
1372
1373 (c) Either uphold the denial or grant the appeal.
1374
1375 (3) For appeals concerning increases in regional flood elevation the Board shall:
1376
1377 (a) Uphold the denial where the Board agrees with the data showing an increase in
1378 flood elevation. Increases may only be allowed after amending the flood profile
1379 and map and all appropriate legal arrangements are made with all adversely
1380 affected property owners as per the requirements of §8.0 *Amendments*; and
1381
1382 (b) Grant the appeal where the Board agrees that the data properly demonstrates that
1383 the project does not cause an increase provided no other reasons for denial exist.
1384

1385 **7.5 FLOODPROOFING STANDARDS**

- 1386 (1) No permit or variance shall be issued for a non-residential structure designed to be
1387 watertight below the regional flood elevation until the applicant submits a plan certified
1388 by a registered professional engineer or architect that the floodproofing measures will
1389 protect the structure or development to or above the flood protection elevation and
1390 submits a FEMA Floodproofing Certificate. Floodproofing is not an alternative to the
1391 development standards in §§ 2.0, 3.0, 4.0, 5.1, or 5.3.
1392
1393 (2) For a structure designed to allow the entry of floodwaters, no permit or variance shall
1394 be issued until the applicant submits a plan either:
1395
1396 (a) Certified by a registered professional engineer or architect; or
1397
1398 (b) Meeting or exceeding the following standards:
1399
1400 1. A minimum of two openings having a total net area of not less than one square
1401 inch for every square foot of enclosed area subject to flooding;
1402
1403 2. The bottom of all openings shall be no higher than one-foot above grade; and
1404
1405 3. Openings may be equipped with screens, louvers, valves, or other coverings or
1406 devices provided that they permit the automatic entry and exit of floodwaters.
1407
1408 (3) Floodproofing measures shall be designed, as appropriate, to:
1409
1410 (a) Withstand flood pressures, depths, velocities, uplift and impact forces and other
1411 regional flood factors;
1412
1413 (b) Protect structures to the flood protection elevation;
1414
1415 (c) Anchor structures to foundations to resist flotation and lateral movement;
1416
1417 (d) Minimize or eliminate infiltration of flood waters;
1418
1419 (e) Minimize or eliminate discharges into flood waters;
1420 (f) Placement of essential utilities to or above the flood protection elevation; and

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(g) If any part of the foundation below the flood protection elevation is enclosed, the following standards shall apply:

1. The enclosed area shall be designed by a registered architect or engineer to allow for the efficient entry and exit of flood waters without human intervention. A minimum of two openings must be provided with a minimum net area of at least one square inch for every one square foot of the enclosed area. The lowest part of the opening can be no more than 12 inches above the adjacent grade;
2. The parts of the foundation located below the flood protection elevation must be constructed of flood-resistant materials;
3. Mechanical and utility equipment must be elevated to or above the Flood Protection Elevation; and
4. The use of that enclosed area must be limited to parking, building access or limited storage.

7.6 PUBLIC INFORMATION

- (1) Place marks on structures to show the depth of inundation during the regional flood.
- (2) All maps, engineering data and regulations shall be available and widely distributed.
- (3) Real estate transfers should show what floodplain district any real property is in.

Article VIII
Amendments

8.0 AMENDMENTS

Obstructions or increases may only be permitted if amendments are made to this Chapter, the official floodplain zoning maps, floodway lines and water surface profiles, in accordance with § 8.1.

- (1) In AE Zones with a mapped floodway, no obstructions or increases shall be permitted unless the applicant receives a Conditional Letter of Map Revision from FEMA and amendments are made to this ordinance, the official floodplain zoning maps, floodway lines and water surface profiles, in accordance with § 8.1. Any such alterations must be reviewed and approved by FEMA and the DNR.
- (2) In A Zones increases equal to or greater than 1.0 foot may only be permitted if the applicant receives a Conditional Letter of Map Revision from FEMA and amendments are made to this ordinance, the official floodplain maps, floodway lines, and water surface profiles, in accordance with § 8.1.

8.1 GENERAL

The Village Board of Trustees shall change or supplement the floodplain zoning district boundaries and this Chapter in the manner outlined in § 8.2 below. Actions which require an amendment to the Chapter and/ or submittal of a Letter of Map Change (LOMC) include, but are not limited to, the following:

- (1) Any fill or floodway encroachment that obstructs flow causing any increase in the regional flood height;

- 1475 (2) Any change to the floodplain boundaries and/or watercourse alterations on the FIRM;
1476
1477 (3) Any changes to any other officially adopted floodplain maps listed in § 1.5 (2)(b);
1478
1479 (4) Any floodplain fill which raises the elevation of the filled area to a height at or above
1480 the flood protection elevation and is contiguous to land lying outside the floodplain;
1481
1482 (5) Correction of discrepancies between the water surface profiles and floodplain maps;
1483
1484 (6) Any upgrade to a floodplain zoning ordinance text required by § NR 116.05, Wis. Adm.
1485 Code, or otherwise required by law, or for changes by the municipality; and
1486
1487 (7) All channel relocations and changes to the maps to alter floodway lines or to remove
1488 an area from the floodway or the floodfringe that is based on a base flood elevation
1489 from a FIRM requires prior approval by FEMA.
1490

1491 **8.2 AMENDMENT PROCEDURES**

1492 Amendments to this Chapter may be made upon petition of any party according to the
1493 provisions of § 62.23, Wis. Stats., for villages. The petitions shall include all data required
1494 by § 5.1(5) and 7.1(2). The Land Use Permit shall not be issued until a Letter of Map
1495 Revision is issued by FEMA for the proposed changes.
1496

- 1497 (1) The proposed amendment shall be referred to the zoning agency for a public hearing
1498 and recommendation to the governing body. The amendment and notice of public
1499 hearing shall be submitted to the Department Regional office for review prior to the
1500 hearing. The amendment procedure shall comply with the provisions of § 62.23, Wis.
1501 Stats., for villages.
1502
1503 (2) No amendments shall become effective until reviewed and approved by the
1504 Department.
1505
1506 (3) All persons petitioning for a map amendment that obstructs flow causing any increase
1507 in the regional flood height, shall obtain flooding easements or other appropriate legal
1508 arrangements from all adversely affected property owners and notify local units of
1509 government before the amendment can be approved by the governing body.
1510

1511 Article IX

1512 **Enforcement and Penalties**

1513 **9.0 ENFORCEMENT AND PENALTIES**

1514 Any violation of the provisions of this Chapter by any person shall be unlawful and shall be
1515 referred to the Municipal Attorney who shall expeditiously prosecute all such violators. A
1516 violator shall, upon conviction, forfeit to the Village of Elm Grove a penalty of not more than
1517 \$50.00 (fifty dollars), together with a taxable cost of such action. Each day of continued
1518 violation shall constitute a separate offense. Every violation of this Chapter is a public
1519 nuisance and the creation may be enjoined and the maintenance may be abated by action
1520 at suit of the municipality, the state, or any citizen thereof pursuant to § 87.30, Wis. Stats.
1521

1522 Article X

1523 **Definitions**

1524 **10.0 DEFINITIONS**

1525 A. Unless specifically defined in the Village of Elm Grove Code of Ordinances, words and
1526 phrases in this Chapter shall have their common-law meaning and shall be applied in
1527 accordance with their common usage. Words used in the present tense include the future,
1528 the singular number includes the plural and the plural number includes the singular. The

1529 word "may" is permissive, "shall" is mandatory and is not discretionary. Definitions
1530 enumerated below in Subsection B shall apply only to such terms used in this Chapter and
1531 shall not apply to any other chapters within the Village of Elm Grove Code of Ordinances.
1532

1533 B. As used in this chapter, the following terms shall have the meanings indicated
1534

- 1535 1. A ZONES – Those areas shown on the Official Floodplain Zoning Map which would be
1536 inundated by the regional flood. These areas may be numbered or unnumbered A Zones.
1537 The A Zones may or may not be reflective of flood profiles, depending on the availability of
1538 data for a given area.
1539
- 1540 2. AH ZONE – See “AREA OF SHALLOW FLOODING”.
1541
- 1542 3. AO ZONE – See “AREA OF SHALLOW FLOODING”.
1543
- 1544 4. ACCESSORY STRUCTURE OR USE – A facility, structure, building or use which is
1545 accessory or incidental to the principal use of a property, structure or building. An accessory
1546 structure shall not be used for human habitation.
1547
- 1548 5. ALTERATION – An enhancement, upgrade or substantial change or modification other than
1549 an addition or repair to a dwelling or to electrical, plumbing, heating, ventilating, air
1550 conditioning and other systems within a structure.
1551
- 1552 6. AREA OF SHALLOW FLOODING – A designated AO, AH, AR/AO, AR/AH, or VO zone on a
1553 community’s Flood Insurance Rate Map (FIRM) with a 1 percent or greater annual chance of
1554 flooding to an average depth of 1 to 3 feet where a clearly defined channel does not exist,
1555 where the path of flooding is unpredictable, and where velocity flood may be evident. Such
1556 flooding is characterized by ponding or sheet flow.
1557
- 1558 7. BASE FLOOD – Means the flood having a one percent chance of being equaled or
1559 exceeded in any given year, as published by FEMA as part of a FIS and depicted on a
1560 FIRM.
1561
- 1562 8. BASEMENT – Any enclosed area of a building having its floor sub-grade on all sides.
1563
- 1564 9. BUILDING – See STRUCTURE.
1565
- 1566 10. BULKHEAD LINE – A geographic line along a reach of navigable water that has been
1567 adopted by a municipal ordinance and approved by the Department pursuant to s. 30.11,
1568 Stats., and which allows limited filling between this bulkhead line and the original ordinary
1569 highwater mark, except where such filling is prohibited by the floodway provisions of this
1570 ordinance.
1571
- 1572 11. CAMPGROUND – Any parcel of land which is designed, maintained, intended or used for
1573 the purpose of providing sites for nonpermanent overnight use by 4 or more camping units,
1574 or which is advertised or represented as a camping area.
1575
- 1576 12. CAMPING UNIT – Any portable device, no more than 400 square feet in area, used as a
1577 temporary shelter, including but not limited to a camping trailer, motor home, bus, van, pick-
1578 up truck, or tent that is fully licensed, if required, and ready for highway use.
1579
- 1580 13. CERTIFICATE OF COMPLIANCE – A certification that the construction and the use of land
1581 or a building, the elevation of fill or the lowest floor of a structure is in compliance with all of
1582 the provisions of this ordinance.

- 1583 14. CHANNEL – A natural or artificial watercourse with definite bed and banks to confine and
1584 conduct normal flow of water.
1585
1586
- 1587 15. CRAWLWAYS or CRAWL SPACE – An enclosed area below the first usable floor of a
1588 building, generally less than five feet in height, used for access to plumbing and electrical
1589 utilities.
1590
- 1591 16. DECK – An unenclosed exterior structure that has no roof or sides and has a permeable
1592 floor which allows the infiltration of precipitation.
1593
- 1594 17. DEPARTMENT – The Wisconsin Department of Natural Resources.
1595
- 1596 18. DEVELOPMENT – Any artificial change to improved or unimproved real estate, including,
1597 but not limited to, the construction of buildings, structures or accessory structures; the
1598 construction of additions or alterations to buildings, structures or accessory structures; the
1599 repair of any damaged structure or the improvement or renovation of any structure,
1600 regardless of percentage of damage or improvement; the placement of buildings or
1601 structures; subdivision layout and site preparation; mining, dredging, filling, grading, paving,
1602 excavation or drilling operations; the storage, deposition or extraction of materials or
1603 equipment; and the installation, repair or removal of public or private sewage disposal
1604 systems or water supply facilities.
1605
- 1606 19. DRYLAND ACCESS – A vehicular access route which is above the regional flood elevation
1607 and which connects land located in the floodplain to land outside the floodplain, such as a
1608 road with its surface above regional flood elevation and wide enough for wheeled rescue
1609 and relief vehicles.
1610
- 1611 20. ENCROACHMENT – Any fill, structure, equipment, use or development in the floodway.
1612
- 1613 21. FEDERAL EMERGENCY MANAGEMENT AGENCY (FEMA) – The federal agency that
1614 administers the National Flood Insurance Program.
1615
- 1616 22. FLOOD INSURANCE RATE MAP (FIRM) – A map of a community on which the Federal
1617 Insurance Administration has delineated both the floodplain and the risk premium zones
1618 applicable to the community. This map can only be amended by the Federal Emergency
1619 Management Agency.
1620
- 1621 23. FLOOD or FLOODING – A general and temporary condition of partial or complete
1622 inundation of normally dry land areas caused by one of the following conditions:
1623
 - The overflow or rise of inland waters;
 - The rapid accumulation or runoff of surface waters from any source;
 - The inundation caused by waves or currents of water exceeding anticipated cyclical
1625 levels along the shore of Lake Michigan or Lake Superior; or
 - The sudden increase caused by an unusually high water level in a natural body of
1627 water, accompanied by a severe storm, or by an unanticipated force of nature, such
1628 as a seiche, or by some similarly unusual event.
1629
1630
- 1631 24. FLOOD FREQUENCY – The probability of a flood occurrence which is determined from
1632 statistical analyses. The frequency of a particular flood event is usually expressed as
1633 occurring, on the average once in a specified number of years or as a percent (%) chance of
1634 occurring in any given year.
1635
- 1636 25. FLOOD-FRINGE – That portion of the floodplain outside of the floodway which is covered by

- 1637 flood waters during the regional flood and associated with standing water rather than flowing
1638 water.
1639
- 1640 26. FLOOD HAZARD BOUNDARY MAP – A map designating approximate flood hazard areas.
1641 Flood hazard areas are designated as unnumbered A-Zones and do not contain floodway
1642 lines or regional flood elevations. This map forms the basis for both the regulatory and
1643 insurance aspects of the National Flood Insurance Program (NFIP) until superseded by a
1644 Flood Insurance Study and a Flood Insurance Rate Map.
1645
- 1646 27. FLOOD INSURANCE STUDY – A technical engineering examination, evaluation, and
1647 determination of the local flood hazard areas. It provides maps designating those areas
1648 affected by the regional flood and provides both flood insurance rate zones and base flood
1649 elevations and may provide floodway lines. The flood hazard areas are designated as
1650 numbered and unnumbered A-Zones. Flood Insurance Rate Maps, that accompany the
1651 Flood Insurance Study, form the basis for both the regulatory and the insurance aspects of
1652 the National Flood Insurance Program.
1653
- 1654 28. FLOODPLAIN – Land which has been or may be covered by flood water during the regional
1655 flood. It includes the floodway and the floodfringe and may include other designated
1656 floodplain areas for regulatory purposes.
1657
- 1658 29. FLOODPLAIN ISLAND – A natural geologic land formation within the floodplain that is
1659 surrounded, but not covered, by floodwater during the regional flood.
1660
- 1661 30. FLOODPLAIN MANAGEMENT – Policy and procedures to ensure wise use of floodplains,
1662 including mapping and engineering, mitigation, education, and administration and
1663 enforcement of floodplain regulations.
1664
- 1665 31. FLOOD PROFILE – A graph or a longitudinal profile line showing the relationship of the
1666 water surface elevation of a flood event to locations of land surface elevations along a
1667 stream or river.
1668
- 1669 32. FLOODPROOFING – Any combination of structural provisions, changes or adjustments to
1670 properties and structures, water and sanitary facilities and contents of buildings subject to
1671 flooding, for the purpose of reducing or eliminating flood damage.
1672
- 1673 33. FLOOD PROTECTION ELEVATION – An elevation of two feet of freeboard above the
1674 Regional Flood Elevation. (Also see: FREEBOARD.)
1675
- 1676 34. FLOOD STORAGE – Those floodplain areas where storage of floodwaters has been taken
1677 into account during analysis in reducing the regional flood discharge.
1678
- 1679 35. FLOODWAY – The channel of a river or stream and those portions of the floodplain
1680 adjoining the channel required to carry the regional flood discharge.
1681
- 1682 36. FREEBOARD – A safety factor expressed in terms of a specified number of feet above a
1683 calculated flood level. Freeboard compensates for any factors that cause flood heights
1684 greater than those calculated, including ice jams, debris accumulation, wave action,
1685 obstruction of bridge openings and floodways, the effects of watershed urbanization, loss of
1686 flood storage areas due to development and aggregation of the river or stream bed.
1687

- 1688 37. HABITABLE STRUCTURE – Any structure or portion thereof used or designed for human
1689 habitation.
1690
- 1691 38. HEARING NOTICE – Publication or posting meeting the requirements of Ch. 985, Stats.
1692 For appeals, a Class 1 notice, published once at least one week (7 days) before the hearing,
1693 is required. For all zoning ordinances and amendments, a Class 2 notice, published twice,
1694 once each week consecutively, the last at least a week (7 days) before the hearing. Local
1695 ordinances or bylaws may require additional notice, exceeding these minimums.
1696
- 1697 39. HIGH FLOOD DAMAGE POTENTIAL – Damage that could result from flooding that includes
1698 any danger to life or health or any significant economic loss to a structure or building and its
1699 contents.
1700
- 1701 40. HIGHEST ADJACENT GRADE – The highest natural elevation of the ground surface prior to
1702 construction next to the proposed walls of a structure.
1703
- 1704 41. HISTORIC STRUCTURE – Any structure that is either:
1705 • Listed individually in the National Register of Historic Places or preliminarily determined
1706 by the Secretary of the Interior as meeting the requirements for individual listing on the
1707 National Register;
1708 • Certified or preliminarily determined by the Secretary of the Interior as contributing to the
1709 historical significance of a registered historic district or a district preliminarily determined
1710 by the Secretary to qualify as a registered historic district;
1711 • Individually listed on a state inventory of historic places in states with historic
1712 preservation programs which have been approved by the Secretary of the Interior; or
1713 • Individually listed on a local inventory of historic places in communities with historic
1714 preservation programs that have been certified either by an approved state program, as
1715 determined by the Secretary of the Interior; or by the Secretary of the Interior in states
1716 without approved programs.
1717
- 1718 42. INCREASE IN REGIONAL FLOOD HEIGHT – A calculated upward rise in the regional flood
1719 elevation greater than 0.00 foot, based on a comparison of existing conditions and proposed
1720 conditions which is directly attributable to development in the floodplain but not attributable
1721 to manipulation of mathematical variables such as roughness factors, expansion and
1722 contraction coefficients and discharge.
1723
- 1724 43. LAND USE – Any nonstructural use made of unimproved or improved real estate. (Also see
1725 DEVELOPMENT.)
1726
- 1727 44. LOWEST ADJACENT GRADE – Elevation of the lowest ground surface that touches any of
1728 the exterior walls of a building.
1729
- 1730 45. LOWEST FLOOR – The lowest floor of the lowest enclosed area (including basement).
1731
- 1732 46. MAINTENANCE – The act or process of ordinary upkeep and repairs, including
1733 redecorating, refinishing, nonstructural repairs, or the replacement of existing fixtures,
1734 systems or equipment with equivalent fixtures, systems or structures.
1735
- 1736 47. MANUFACTURED HOME – A structure transportable in one or more sections, which is built
1737 on a permanent chassis and is designed to be used with or without a permanent foundation
1738 when connected to required utilities. The term "manufactured home" includes a mobile
1739 home but does not include a "mobile recreational vehicle."
1740
- 1741 48. MOBILE/MANUFACTURED HOME PARK OR SUBDIVISION – A parcel (or contiguous

- 1742 parcels) of land, divided into two or more manufactured home lots for rent or sale.
1743
- 1744 49. MOBILE/MANUFACTURED HOME PARK OR SUBDIVISION, EXISTING – A parcel of land,
1745 divided into two or more manufactured home lots for rent or sale, on which the construction
1746 of facilities for servicing the lots is completed before the effective date of this ordinance. At
1747 a minimum, this would include the installation of utilities, the construction of streets and
1748 either final site grading or the pouring of concrete pads.
1749
- 1750 50. MOBILE/MANUFACTURED HOME PARK, EXPANSION TO EXISTING – The preparation
1751 of additional sites by the construction of facilities for servicing the lots on which the
1752 manufactured homes are to be affixed. This includes installation of utilities, construction of
1753 streets and either final site grading, or the pouring of concrete pads.
1754
- 1755 51. MOBILE RECREATIONAL VEHICLE – A vehicle which is built on a single chassis, 400
1756 square feet or less when measured at the largest horizontal projection, designed to be self-
1757 propelled, carried or permanently towable by a licensed, light-duty vehicle, is licensed for
1758 highway use if registration is required and is designed primarily not for use as a permanent
1759 dwelling, but as temporary living quarters for recreational, camping, travel or seasonal use.
1760 Manufactured homes that are towed or carried onto a parcel of land, but do not remain
1761 capable of being towed or carried, including park model homes, do not fall within the
1762 definition of "mobile recreational vehicles."
1763
- 1764 52. MODEL, CORRECTED EFFECTIVE – A hydraulic engineering model that corrects any
1765 errors that occur in the Duplicate Effective Model, adds any additional cross sections to the
1766 Duplicate Effective Model, or incorporates more detailed topographic information than that
1767 used in the current effective model.
1768
- 1769 53. MODEL, DUPLICATE EFFECTIVE – A copy of the hydraulic analysis used in the effective
1770 FIS and referred to as the effective model.
1771
- 1772 54. MODEL, EFFECTIVE – The hydraulic engineering model that was used to produce the
1773 current effective Flood Insurance Study.
1774
- 1775 55. MODEL, EXISTING (PRE-PROJECT) – A modification of the Duplicate Effective Model or
1776 Corrected Effective Model to reflect any man made modifications that have occurred within
1777 the floodplain since the date of the effective model but prior to the construction of the project
1778 for which the revision is being requested. If no modification has occurred since the date of
1779 the effective model, then this model would be identical to the Corrected Effective Model or
1780 Duplicate Effective Model.
1781
- 1782 56. MODEL, REVISED (POST-PROJECT) – A modification of the Existing or Pre-Project
1783 Conditions Model, Duplicate Effective Model or Corrected Effective Model to reflect revised
1784 or post-project conditions.
1785
- 1786
- 1787 57. MUNICIPALITY or MUNICIPAL – The county, city or village governmental units enacting,
1788 administering and enforcing this zoning ordinance.
1789
- 1790 58. NAVD or NORTH AMERICAN VERTICAL DATUM – Elevations referenced to mean sea
1791 level datum, 1988 adjustment.
1792
- 1793 59. NGVD or NATIONAL GEODETIC VERTICAL DATUM – Elevations referenced to mean sea
1794 level datum, 1929 adjustment.
1795

- 1796 60. NEW CONSTRUCTION – Structures for which the start of construction commenced on or
1797 after the effective date of a floodplain zoning regulation adopted by this community and
1798 includes any subsequent improvements to such structures.
1799
- 1800 61. NON-FLOOD DISASTER – A fire or an ice storm, tornado, windstorm, mudslide or other
1801 destructive act of nature, but excludes a flood.
1802
- 1803 62. NONCONFORMING STRUCTURE – An existing lawful structure or building which is not in
1804 conformity with the dimensional or structural requirements of this ordinance for the area of
1805 the floodplain which it occupies. (For example, an existing residential structure in the
1806 floodfringe district is a conforming use. However, if the lowest floor is lower than the flood
1807 protection elevation, the structure is nonconforming.)
1808
- 1809 63. NONCONFORMING USE – An existing lawful use or accessory use of a structure or
1810 building which is not in conformity with the provisions of this ordinance for the area of the
1811 floodplain which it occupies. (Such as a residence in the floodway.)
1812
- 1813 64. OBSTRUCTION TO FLOW – Any development which blocks the conveyance of floodwaters
1814 such that this development alone or together with any future development will cause an
1815 increase in regional flood height.
1816
- 1817 65. OFFICIAL FLOODPLAIN ZONING MAP – That map, adopted and made part of this
1818 ordinance, as described in § 1.5(2), which has been approved by the Department and
1819 FEMA.
1820
- 1821 66. OPEN SPACE USE – Those uses having a relatively low flood damage potential and not
1822 involving structures.
1823
- 1824 67. ORDINARY HIGHWATER MARK – The point on the bank or shore up to which the
1825 presence and action of surface water is so continuous as to leave a distinctive mark such as
1826 by erosion, destruction or prevention of terrestrial vegetation, predominance of aquatic
1827 vegetation, or other easily recognized characteristic.
1828
- 1829 68. PERSON – An individual, or group of individuals, corporation, partnership, association,
1830 municipality or state agency.
1831
- 1832 69. PRIVATE SEWAGE SYSTEM – A sewage treatment and disposal system serving one
1833 structure with a septic tank and soil absorption field located on the same parcel as the
1834 structure. It also means an alternative sewage system approved by the Department of
1835 Safety and Professional Services, including a substitute for the septic tank or soil absorption
1836 field, a holding tank, a system serving more than one structure or a system located on a
1837 different parcel than the structure.
1838
- 1839 70. PUBLIC UTILITIES – Those utilities using underground or overhead transmission lines such
1840 as electric, telephone and telegraph, and distribution and collection systems such as water,
1841 sanitary sewer and storm sewer.
1842
- 1843 71. REASONABLY SAFE FROM FLOODING – Means base flood waters will not inundate the
1844 land or damage structures to be removed from the floodplain and that any subsurface
1845 waters related to the base flood will not damage existing or proposed buildings.
1846
- 1847 72. REGIONAL FLOOD – A flood determined to be representative of large floods known to have
1848 occurred in Wisconsin. A regional flood is a flood with a one percent chance of being
1849 equaled or exceeded in any given year, and if depicted on the FIRM, the RFE is equivalent

1850 to the BFE.

1851

1852 73. **START OF CONSTRUCTION** – The date the building permit was issued, provided the
1853 actual start of construction, repair, reconstruction, rehabilitation, addition, placement, or
1854 other improvement was within 180 days of the permit date. The actual start means either
1855 the first placement of permanent construction on a site, such as the pouring of slab or
1856 footings, the installation of piles, the construction of columns, or any work beyond initial
1857 excavation, or the placement of a manufactured home on a foundation. Permanent
1858 construction does not include land preparation, such as clearing, grading and filling, nor
1859 does it include the installation of streets and/or walkways, nor does it include excavation for
1860 a basement, footings, piers or foundations or the erection of temporary forms, nor does it
1861 include the installation on the property of accessory buildings, such as garages or sheds not
1862 occupied as dwelling units or not part of the main structure. For an alteration, the actual
1863 start of construction means the first alteration of any wall, ceiling, floor or other structural
1864 part of a building, whether or not that alteration affects the external dimensions of the
1865 building.

1866

1867 74. **STRUCTURE** – Any manmade object with form, shape and utility, either permanently or
1868 temporarily attached to, placed upon or set into the ground, stream bed or lake bed,
1869 including, but not limited to, roofed and walled buildings, gas or liquid storage tanks, bridges,
1870 dams and culverts.

1871

1872 75. **SUBDIVISION** – Has the meaning given in § 236.02(12), Wis. Stats.

1873

1874 76. **SUBSTANTIAL DAMAGE** – Damage of any origin sustained by a structure, whereby the
1875 cost of restoring the structure to its pre-damaged condition would equal or exceed 50
1876 percent of the equalized assessed value of the structure before the damage occurred.

1877

1878 77. **SUBSTANTIAL IMPROVEMENT** – Any repair, reconstruction, rehabilitation, addition or
1879 improvement of a building or structure, the cost of which equals or exceeds 50 percent of
1880 the equalized assessed value of the structure before the improvement or repair is started. If
1881 the structure has sustained substantial damage, any repairs are considered substantial
1882 improvement regardless of the work performed. The term does not include either any
1883 project for the improvement of a building required to correct existing health, sanitary or
1884 safety code violations identified by the building official and that are the minimum necessary
1885 to assure safe living conditions; or any alteration of a historic structure provided that the
1886 alteration will not preclude the structure's continued designation as a historic structure.

1887

1888 78. **UNNECESSARY HARDSHIP** – Where special conditions affecting a particular property,
1889 which were not self-created, have made strict conformity with restrictions governing areas,
1890 setbacks, frontage, height or density unnecessarily burdensome or unreasonable in light of
1891 the purposes of the ordinance.

1892

1893 79. **VARIANCE** – An authorization by the board of adjustment or appeals for the construction or
1894 maintenance of a building or structure in a manner which is inconsistent with dimensional
1895 standards (not uses) contained in the floodplain zoning ordinance.

1896

1897 80. **Village** means the Village of Elm Grove, Wisconsin.

1898

1899 81. **VIOLATION** – The failure of a structure or other development to be fully compliant with the
1900 floodplain zoning ordinance. A structure or other development without required permits,
1901 lowest floor elevation documentation, floodproofing certificates or required floodway
1902 encroachment calculations is presumed to be in violation until such time as that
1903 documentation is provided.

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- 82. WATERSHED – The entire region contributing runoff or surface water to a watercourse or body of water.
- 83. WATER SURFACE PROFILE – A graphical representation showing the elevation of the water surface of a watercourse for each position along a reach of river or stream at a certain flood flow. A water surface profile of the regional flood is used in regulating floodplain areas.
- 84. WELL – means an excavation opening in the ground made by digging, boring, drilling, driving or other methods, to obtain groundwater regardless of its intended use.
- 85. ZONING ADMINISTRATOR means the Zoning and Planning Administrator of the Village of Elm Grove, Wisconsin.

DRAFT