

# VILLAGE OF ELM GROVE

13600 Juneau Boulevard  
Elm Grove, WI 53122

## LEGISLATIVE COMMITTEE

Tuesday, October 12, 2021 \* 5:30 PM \* Parkview Room

### AGENDA

1. **Call the Meeting to Order and Roll Call.**
2. **Review and possible action on meeting minutes.**

*Documents:*

[2021-09-14 LC Minutes DRAFT.pdf](#)

3. **Review and possible action on the DNR recommended Floodplain Zoning Ordinance.**

*Documents:*

[20211012 Meeting Memo.pdf](#)  
[V Elm Grove\\_draft ordinance\\_DNR 09172021.pdf](#)  
[Class 8 Freeboard Prerequisites FAQ .pdf](#)  
[FINAL COMMUNITY QUICK GUIDE 2019.pdf](#)

4. **Other Business**
5. **Adjournment**

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, Michelle Luedtke, 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 5:33PM.

Roll Call:

Trustee John Domaszek (Chair)  
President Neil Palmer  
Trustee George Haas  
Committee Member Angie Jodie (absent)  
Committee Member Marlee Jansen  
Thomas Harrigan, Village Zoning Administrator  
Hector De La Mora, Village Attorney  
Michelle Luedtke, Village Clerk/Deputy Treasurer

Review and act on meeting minutes dated 5/11/2021.

**MOTION BY TRUSTEE HAAS, SECOND BY PRESIDENT PALMER, TO ACCEPT THE MEETING MINUTES AS PRESENTED.**

**ALL WERE IN FAVOR. MOTION CARRIED.**

Review and possible action on an Ordinance for Chapter 65 of the Municipal Code: record retention for video recordings.

Chair Domaszek introduced the item and asked about the timeframe and why we do not keep the recordings for a longer period of time.

Trustee Haas indicated the normal timeframe for record retention of recordings is 90 days. With the 1 year plus 90 days – Village staff would be able to remove all recordings from the prior year and still be in compliance. This would eliminate the need to purge recordings every month and instead allow it to be done once per year.

President Palmer followed up by indicating because of the cost of storage for video recordings, we opted for not more than this timeframe as the cost would be higher and unnecessary. We have minutes to look back on.

Trustee Haas clarified that the only meetings we currently record are Village Board and Plan Commission.

**MOTION BY PRESIDENT PALMER, SECOND BY TRUSTEE HAAS, TO APPROVE AN ORDINANCE FOR CHAPTER 65 OF THE MUNICIPAL CODE; RECORD RETENTION FOR VIDEO RECORDINGS. THIS ITEM WILL BE FORWARDED TO THE VILLAGE BOARD WITH RECOMMENDATION.**

Village of Elm Grove Legislative Committee  
Minutes

**DRAFT**

**ALL WERE IN FAVOR. MOTION CARRIED.**

Review and possible action on an Ordinance for Chapter 19 of the Municipal Code: election wards and reporting units.

Chair Domaszek introduced the item and referred to the Clerk's memo. He also gave a brief overview of what happened with regards to this ward map at the last Village Board of Trustees meeting. This ordinance would bring us back into compliance for the size of our reporting units and allow the Clerk to report to the County with one set of data.

President Palmer explained that after the last Census, the Village is not split in any way that would require us to have the separate reporting units. The benefits of the one reporting unit work because we are all at one polling location anyway.

**MOTION BY MEMBER JANSEN, SECOND BY PRESIDENT PALMER, TO APPROVE AN ORDINANCE FOR CHAPTER 19 OF THE MUNICIPAL CODE; ELECTION WARDS AND REPORTING UNITS. THIS ITEM WILL BE FORWARDED TO THE VILLAGE BOARD WITH RECOMMENDATION. THE VILLAGE BOARD MUST VOTE WITH A 2/3 MAJORITY.**

**ALL WERE IN FAVOR. MOTION CARRIED.**

Review and possible action on an Ordinance for Chapter 106 of the Municipal Code: the description and value of work for building permits.

Chair Domaszek introduced the item and referred to Case 2017CV005134, Document 82, from the Wisconsin Circuit Court Branch 13 document outlining the court case between the City of Wauwatosa and Meijer Stores Limited Partners. This is one reason the Village is adopting this type of legislation.

Attorney De La Mora explained when this would take effect in the building process for commercial properties that have significant renovations or brand new construction.

President Palmer added this would have commercial entities start providing this information right away instead of in the 11<sup>th</sup> hour.

Trustee Haas indicated after major construction or building, there would be no usable sales data for the Assessor to figure a value. This would help.

Attorney De La Mora would like to change the wording "Assessing Department" to "Village Assessor" in line 14.

Village of Elm Grove Legislative Committee  
Minutes

**DRAFT**

Trustee Haas would like to change line 16 and 17 to read: Paragraph A in Section 1 supersedes all other contravening ordinances and parts of ordinances.

**MOTION BY PRESIDENT PALMER, SECOND BY TRUSTEE HAAS, TO APPROVE AN ORDINANCE FOR CHAPTER 106 OF THE MUNICIPAL CODE; THE DESCRIPTION AND VALUE OF WORK FOR BUILDING PERMITS. TO INCLUDE THE CHANGES REQUESTED ABOVE AND FOR THE CLERK TO INFORM THE BUILDING INSPECTOR OF THE CHANGE. THIS ITEM WILL BE FORWARDED TO THE VILLAGE BOARD WITH RECOMMENDATION.**

**ALL WERE IN FAVOR. MOTION CARRIED.**

Other Business – none.

Adjournment

There was no further business.

**MOTION BY PRESIDENT PALMER, SECOND BY MEMBER JANSEN, TO ADJOURN THE MEETING.**

**ALL WERE IN FAVOR. MOTION CARRIED. MEETING ADJOURNED AT 5:58PM.**

Minutes transcribed by: Michelle Luedtke

Minutes Approved on:

# Memo



To: Legislative Committee  
From: Thomas Harrigan, Zoning and Planning Administrator/Assistant Manager  
Date: October 8, 2021  
Re: Review of Agenda for Tuesday, October 12<sup>th</sup>, 2021

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

As you may be aware, the Village of Elm Grove is a participant in the National Flood Insurance Program (NFIP) Community Rating System (CRS). As stated on the FEMA NFIP webpage:

*“The Community Rating System (CRS) is a voluntary incentive program that recognizes and encourages community floodplain management practices that exceed the minimum requirements of the National Flood Insurance Program (NFIP). Over 1,500 communities participate nationwide. In CRS communities, flood insurance premium rates are discounted to reflect the reduced flood risk resulting from the community’s efforts that address the three goals of the program. 1. Reduce and avoid flood damage to insurable property. 2. Strengthen and support the insurance aspects of the National Flood Insurance Program. And 3. Foster comprehensive floodplain management.”*

In 2021, several changes were made to the prerequisites for participants within the CRS program. Most notable, the Village’s current *Floodplain Zoning Ordinance §330* will need to be revised in order to address discrepancies with the new “Freeboard” requirements of the new 2021 CRS prerequisites. In your packet of meeting materials, you will find a document titled *NFIP’s Community Rating System (CRS) Class 8 Freeboard Prerequisite*. Currently, the Village is a Class 5 CRS participant community (Classes range from 1 through 10, with 1 being highest credentialed communities). The new prerequisite affects communities in Classes 5 through 8, as the “freeboard requirement” is already implemented in Classes 1 through 4.

In working with the Village’s CRS Specialist consultant, and the Floodplain Management Policy Coordinator at the Wisconsin Department of Natural Resources, it has been recommended the Village repeal and recreate *§330 Floodplain Zoning* by utilizing the WDNR’s Model Floodplain Ordinance. The WDNR has conducted a cross comparison of the Village’s existing Floodplain Ordinance as it relates to the changes made in the proposed WDNR Model Floodplain Ordinance.

At this time, the Legislative Committee is charged with making suggested revisions to the Model Ordinance. In the document, the areas highlighted in yellow required Village specific information which has already been incorporated into the document. Once the Legislative Committee has completed its

review, the document will be sent back to the WDNR for a final compliance review which will verify if the changes proposed meet the state and federal requirements. Once complete, the final version will be sent back to the Village for adoption.

Please see the enclosed Draft Model Floodplain Ordinance and supporting information for review. As always, if you have any questions prior to the meeting, please do not hesitate contacting us.

# FLOODPLAIN ORDINANCE FOR VILLAGE OF ELM GROVE

Effective **October**, 2021

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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1 **1.0 STATUTORY AUTHORIZATION, FINDING OF FACT, STATEMENT OF PURPOSE,**  
2 **TITLE AND GENERAL PROVISIONS**

3  
4 **1.1 STATUTORY AUTHORIZATION**

5 This ordinance is adopted pursuant to the authorization in s. 61.35 and 62.23, for  
6 villages and cities, and the requirements in s. 87.30, Stats.

7  
8 **1.2 FINDING OF FACT**

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

11  
12 **1.3 STATEMENT OF PURPOSE**

13 This ordinance is intended to regulate floodplain development to:

- 14  
15 (1) Protect life, health and property;  
16  
17 (2) Minimize expenditures of public funds for flood control projects;  
18  
19 (3) Minimize rescue and relief efforts undertaken at the expense of the taxpayers;  
20  
21 (4) Minimize business interruptions and other economic disruptions;  
22  
23 (5) Minimize damage to public facilities in the floodplain;  
24  
25 (6) Minimize the occurrence of future flood blight areas in the floodplain;  
26  
27 (7) Discourage the victimization of unwary land and homebuyers;  
28  
29 (8) Prevent increases in flood heights that could increase flood damage and result in  
30 conflicts between property owners; and  
31  
32 (9) Discourage development in a floodplain if there is any practicable alternative to  
33 locate the activity, use or structure outside of the floodplain.

34  
35 **1.4 TITLE**

36 This ordinance shall be known as the Floodplain Zoning Ordinance for Village of Elm  
37 Grove, Wisconsin.

38  
39 **1.5 GENERAL PROVISIONS**

40 (1) AREAS TO BE REGULATED

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

46  
47 (2) OFFICIAL MAPS & REVISIONS

48 Special Flood Hazard Areas (SFHA) are designated as zones A, A1-30, AE, AH,  
49 and AO on the Flood Insurance Rate Maps (FIRMs) based on flood hazard  
50 analyses summarized in the Flood Insurance Study (FIS) listed in subd. (a)  
51 below. Additional flood hazard areas subject to regulation under this ordinance  
52 are identified on maps based on studies approved by the DNR and listed in subd.  
53 (b) below. These maps and revisions are on file in the office of the **Zoning and**  
54 **Planning Administrator, Village of Elm Grove.**

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(a) OFFICIAL MAPS : Based on the Flood Insurance Study (FIS):

- 1. Flood Insurance Rate Map (FIRM), panel numbers 55133C0236G and 55133C0237G, dated 11/05/2014;
- 2. Flood Insurance Study (FIS) for Village of Elm Grove, 55133CV001C, 55133CV002C, and 55133CV003C, dated 11/05/2014.

Approved by: The DNR and FEMA

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

- 1. Village of Elm Grove Flood Storage District Map, panel number 4 of 12, dated 11/5/2014, approved by the DNR.

(3) ESTABLISHMENT OF FLOODPLAIN ZONING DISTRICTS

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

- (a) The Floodway District (FW), is the channel of a river or stream and those portions of the floodplain adjoining the channel required to carry the regional floodwaters, within AE Zones as shown on the FIRM, or within A Zones shown on the FIRM when determined according to s. 5.1(5).
- (b) The Floodfringe District (FF) is that portion of a riverine special flood hazard area outside the floodway within AE Zones on the FIRM, or, when floodway limits have been determined according to s. 5.1(5), within A Zones shown on the FIRM.
- (c) The General Floodplain District (GFP) is those riverine areas that may be covered by floodwater during the regional flood in which a floodway boundary has not been delineated on the FIRM and also includes shallow flooding areas identified as AH and AO zones on the FIRM.
- (d) The Flood Storage District (FSD) is that area of the floodplain where storage of floodwaters is calculated to reduce the regional flood discharge.

(4) LOCATING FLOODPLAIN BOUNDARIES

Discrepancies between the exterior boundaries of zones A1-30, AE, AH, or A on the official floodplain zoning map and actual field conditions may be resolved using the criteria in subd (a) or (b) below. If a significant difference exists, the map shall be amended according to s. 8.0 *Amendments*. The zoning administrator can rely on a boundary derived from a profile elevation to grant or deny a land use permit, whether or not a map amendment is required. The zoning administrator shall be responsible for documenting actual pre-development field conditions and the basis upon which the district boundary was determined. Disputes between the zoning administrator and an applicant over the district boundary line shall be settled according to s. 7.3(3) and the criteria in (a) and (b) below. Where the flood profiles are based on established base flood elevations from a FIRM, FEMA must approve any map amendment or revision pursuant to s. 8.0 *Amendments*.

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

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

(5) REMOVAL OF LANDS FROM FLOODPLAIN

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

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

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

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

(c) Removal of lands from the floodplain may also occur by operation of §87.30(1)(e), Wis. Stat. if a property owner has obtained a letter of map amendment from the federal emergency management agency under 44 C.F.R. 70.

(6) COMPLIANCE

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

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

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

(7) MUNICIPALITIES AND STATE AGENCIES REGULATED

Unless specifically exempted by law, all cities, villages, towns, and counties are required to comply with this ordinance and obtain all necessary permits. State

164 agencies are required to comply if s. 13.48(13), Stats., applies. The construction,  
165 reconstruction, maintenance and repair of state highways and bridges by the  
166 Wisconsin Department of Transportation is exempt when s. 30.2022, Stats.,  
167 applies. Although exempt from a local zoning permit and permit fees, DOT must  
168 provide sufficient project documentation and analysis to ensure that the  
169 community is in compliance with Federal, State, and local floodplain standards.  
170

171 (8) ABROGATION AND GREATER RESTRICTIONS

172 (a) This ordinance supersedes all the provisions of any municipal zoning  
173 ordinance enacted under s. 61.35 for villages; or s. 87.30, Stats., which relate  
174 to floodplains. A more restrictive ordinance shall continue in full force and  
175 effect to the extent of the greater restrictions, but not otherwise.  
176

177 (b) This ordinance is not intended to repeal, abrogate or impair any existing deed  
178 restrictions, covenants or easements. If this ordinance imposes greater  
179 restrictions, the provisions of this ordinance shall prevail.  
180

181 (9) INTERPRETATION

182 In their interpretation and application, the provisions of this ordinance are the  
183 minimum requirements liberally construed in favor of the governing body and  
184 are not a limitation on or repeal of any other powers granted by the Wisconsin  
185 Statutes. If a provision of this ordinance, required by ch. NR 116, Wis. Adm.  
186 Code, is unclear, the provision shall be interpreted in light of the standards in  
187 effect on the date of the adoption of this ordinance or in effect on the date of the  
188 most recent text amendment to this ordinance.  
189

190 (10) WARNING AND DISCLAIMER OF LIABILITY

191 The flood protection standards in this ordinance are based on engineering  
192 experience and research. Larger floods may occur, or the flood height may be  
193 increased by man-made or natural causes. This ordinance does not imply or  
194 guarantee that non-floodplain areas or permitted floodplain uses will be free from  
195 flooding and flood damages. This ordinance does not create liability on the part  
196 of, or a cause of action against, the municipality or any officer or employee  
197 thereof for any flood damage that may result from reliance on this ordinance.  
198

199 (11) SEVERABILITY

200 Should any portion of this ordinance be declared unconstitutional or invalid by a  
201 court of competent jurisdiction, the remainder of this ordinance shall not be  
202 affected.  
203

204 (12) ANNEXED AREAS FOR CITIES AND VILLAGES

205 The Waukesha County floodplain zoning provisions in effect on the date of  
206 annexation shall remain in effect and shall be enforced by the municipality for all  
207 annexed areas until the municipality adopts and enforces an ordinance which  
208 meets the requirements of ch. NR 116, Wis. Adm. Code and 44 CFR 59-72,  
209 *National Flood Insurance Program* (NFIP). These annexed lands are described  
210 on the municipality's official zoning map. County floodplain zoning provisions are  
211 incorporated by reference for the purpose of administering this section and are  
212 on file in the office of the municipal zoning administrator. All plats or maps of  
213 annexation shall show the regional flood elevation and the floodway location.  
214

215 **2.0 GENERAL STANDARDS APPLICABLE TO ALL FLOODPLAIN DISTRICTS**

216 The community shall review all permit applications to determine whether proposed  
217 building sites will be reasonably safe from flooding and assure that all necessary permits  
218

219 have been received from those governmental agencies whose approval is required by  
220 federal or state law.

221  
222 (1) If a proposed building site is in a flood-prone area, all new construction and  
223 substantial improvements shall:

224  
225 (a) be designed and anchored to prevent flotation, collapse, or lateral movement of  
226 the structure resulting from hydrodynamic and hydrostatic loads, including the  
227 effects of buoyancy;

228  
229 (b) be constructed with flood-resistant materials;

230  
231 (c) be constructed by methods and practices that minimize flood damages; and

232  
233 (d) be constructed with electrical, heating, ventilation, plumbing, and air conditioning  
234 equipment and other service facilities that are designed and/or located so as to  
235 prevent water from entering or accumulating within the components during  
236 conditions of flooding.

237  
238 (2) If a subdivision or other proposed new development is in a flood-prone area, the  
239 community shall assure that:

240  
241 (a) such proposed subdivision or other proposed new development is consistent with  
242 the need to minimize flood damage within the flood-prone area;

243  
244 (b) public utilities and facilities such as sewer, gas, electrical, and water systems are  
245 located and constructed to minimize or eliminate flood damage; and

246  
247 (c) adequate drainage is provided to reduce exposure to flood hazards.

248  
249 All subdivision proposals (including manufactured home parks) shall include regional  
250 flood elevation and floodway data for any development that meets the subdivision  
251 definition of this ordinance and all other requirements in s. 7.1(2).

## 252 253 **2.1 HYDRAULIC AND HYDROLOGIC ANALYSES**

254 (1) No floodplain development shall:

255  
256 (a) Obstruct flow, defined as development which blocks the conveyance of  
257 floodwaters by itself or with other development, causing any increase in the  
258 regional flood height; or

259  
260 (b) Cause any increase in the regional flood height due to floodplain storage area  
261 lost.

262  
263 (2) The zoning administrator shall deny permits if it is determined the proposed  
264 development will obstruct flow or cause any increase in the regional flood height,  
265 based on the officially adopted FIRM or other adopted map, unless the provisions of  
266 s. 8.0 *Amendments* are met.

## 267 268 **2.2 WATERCOURSE ALTERATIONS**

269 No land use permit to alter or relocate a watercourse in a mapped floodplain shall be  
270 issued until the local official has notified in writing all adjacent municipalities, the  
271 Department and FEMA regional offices, and required the applicant to secure all  
272 necessary state and federal permits. The standards of s. 2.1 must be met and the flood

273 carrying capacity of any altered or relocated watercourse shall be maintained.  
274

275 As soon as is practicable, but not later than six months after the date of the watercourse  
276 alteration or relocation and pursuant to s. 8.0 *Amendments*, the community shall apply  
277 for a Letter of Map Revision (LOMR) from FEMA. Any such alterations must be  
278 reviewed and approved by FEMA and the DNR through the LOMC process.  
279

### 280 **2.3 CHAPTER 30, 31, WIS. STATS., DEVELOPMENT**

281 Development which requires a permit from the Department, under chs. 30 and 31,  
282 Stats., such as docks, piers, wharves, bridges, culverts, dams and navigational aids,  
283 may be allowed if the necessary permits are obtained and amendments to the floodplain  
284 zoning ordinance are made according to s. 8.0 *Amendments*.  
285

### 286 **2.4 PUBLIC OR PRIVATE CAMPGROUNDS**

287 Public or private campgrounds shall have a low flood damage potential and shall meet  
288 the following provisions:  
289

- 290 (1) The campground is approved by the Department of Agriculture, Trade and  
291 Consumer Protection;
- 292
- 293 (2) A land use permit for the campground is issued by the zoning administrator;
- 294
- 295 (3) The character of the river system and the campground elevation are such that a 72-  
296 hour warning of an impending flood can be given to all campground occupants;
- 297
- 298 (4) There is an adequate flood warning procedure for the campground that offers the  
299 minimum notice required under this section to all persons in the campground. This  
300 procedure shall include a written agreement between the campground owner, the  
301 municipal emergency government coordinator and the chief law enforcement official  
302 which specifies the flood elevation at which evacuation shall occur, personnel  
303 responsible for monitoring flood elevations, types of warning systems to be used  
304 and the procedures for notifying at-risk parties, and the methods and personnel  
305 responsible for conducting the evacuation;
- 306
- 307 (5) This agreement shall be for no more than one calendar year, at which time the  
308 agreement shall be reviewed and updated - by the officials identified in sub. (4) - to  
309 remain in compliance with all applicable regulations, including those of the state  
310 Department of Agriculture, Trade and Consumer Protection and all other applicable  
311 regulations;
- 312
- 313 (6) All mobile recreational vehicles placed on the site must meet one of the following:  
314
- 315 (a) Only camping units that are fully licensed, if required, and ready for highway use  
316 are allowed; or
- 317
- 318 (b) The camping units shall not occupy any site in the campground for more than  
319 180 consecutive days, at which time the camping unit must be removed from  
320 the floodplain for a minimum of 24 hours;
- 321

322 A mobile recreational vehicle is ready for highway use if it is on its wheels or jacking  
323 system, is attached to the site only by quick-disconnect utilities and security devices  
324 and has no permanently attached additions.  
325

- 326 (7) All camping units that remain on site for more than 30 days shall be issued a limited

- 327 authorization by the campground operator, a written copy of which is kept on file at  
328 the campground. Such authorization shall allow placement of a camping unit for a  
329 period not to exceed 180 days and shall ensure compliance with all the provisions  
330 of this section;  
331  
332 (8) The municipality shall monitor the limited authorizations issued by the campground  
333 operator to assure compliance with the terms of this section;  
334  
335 (9) All camping units that remain in place for more than 180 consecutive days must  
336 meet the applicable requirements in either s. 3.0, 4.0, 5.1, or 5.3 for the floodplain  
337 district in which the structure is located;  
338  
339 (10) The campground shall have signs clearly posted at all entrances warning of the  
340 flood hazard and the procedures for evacuation when a flood warning is issued; and  
341  
342 (11) All service facilities, including but not limited to refuse collection, electrical service,  
343 gas lines, propane tanks, sewage systems and wells shall be properly anchored  
344 and placed at or floodproofed to the flood protection elevation.  
345

### 346 **3.0 FLOODWAY DISTRICT (FW)**

#### 347 **3.1 APPLICABILITY**

349 This section applies to all floodway areas on the floodplain zoning maps and those  
350 identified pursuant to s. 5.1(5).  
351

#### 352 **3.2 PERMITTED USES**

353 The following open space uses are allowed in the Floodway District and the floodway  
354 areas of the General Floodplain District, if:  
355

- 356 • they are not prohibited by any other ordinance;
  - 357 • they meet the standards in s. 3.3 and 3.4; and
  - 358 • all permits or certificates have been issued according to s. 7.1.
- 359 (1) Agricultural uses, such as: farming, outdoor plant nurseries, horticulture, viticulture  
360 and wild crop harvesting.  
361  
362 (2) Nonstructural industrial and commercial uses, such as loading areas, parking areas  
363 and airport landing strips.  
364  
365 (3) Nonstructural recreational uses, such as golf courses, tennis courts, archery ranges,  
366 picnic grounds, boat ramps, swimming areas, parks, wildlife and nature preserves,  
367 game farms, fish hatcheries, shooting, trap and skeet activities, hunting and fishing  
368 areas and hiking and horseback riding trails, subject to the fill limitations of s. 3.3(4).  
369  
370 (4) Uses or structures accessory to open space uses or classified as historic structures  
371 that comply with s. 3.3 and 3.4.  
372  
373 (5) Extraction of sand, gravel or other materials that comply with s. 3.3(4).  
374  
375 (6) Functionally water-dependent uses, such as docks, piers or wharves, dams, flowage  
376 areas, culverts, navigational aids and river crossings of transmission lines, and  
377 pipelines that comply with chs. 30 and 31, Stats.  
378  
379 (7) Public utilities, streets and bridges that comply with s. 3.3(3).  
380



- 381  
382 (8) Portable latrines that are removed prior to flooding and systems associated with  
383 recreational areas and Department-approved campgrounds that meet the applicable  
384 provisions of local ordinances and ch. SPS 383, Wis. Adm. Code.  
385  
386 (9) Public or private wells used to obtain potable water for recreational areas that meet  
387 the requirements of local ordinances and chs. NR 811 and NR 812, Wis. Adm. Code.  
388  
389 (10) Wastewater treatment ponds or facilities permitted under s. NR 110.15(3)(b), Wis.  
390 Adm. Code.  
391  
392 (11) Sanitary sewer or water supply lines to service existing or proposed development  
393 located outside the floodway that complies with the regulations for the floodplain  
394 area occupied.  
395

### 396 **3.3 STANDARDS FOR DEVELOPMENTS IN THE FLOODWAY**

#### 397 (1) GENERAL

- 398  
399 (a) Any development in the floodway shall comply with s. 2.0 and have a low flood  
400 damage potential.  
401  
402 (b) Applicants shall provide an analysis calculating the effects of this proposal on  
403 the regional flood height to determine the effects of the proposal according to s.  
404 2.1 and 7.1(2)(c). The analysis must be completed by a registered professional  
405 engineer in the state of Wisconsin.  
406  
407 (c) Any encroachment in the regulatory floodway is prohibited unless the data  
408 submitted for subd. 3.3(1)(b) above demonstrates that the encroachment will  
409 cause no increase in flood elevations in flood events up to the base flood at  
410 any location or removes the encroached area from the regulatory floodway as  
411 provided in s. 1.5(5).  
412

#### 413 (2) STRUCTURES

414 Structures accessory to permanent open space uses, including utility and sanitary  
415 facilities, or functionally dependent on a waterfront location may be allowed by  
416 permit if the structures comply with the following criteria:

- 417 (a) Not designed for human habitation, does not have a high flood damage potential  
418 and is constructed to minimize flood damage;
- 419 (b) Shall either have the lowest floor elevated to or above the flood protection  
420 elevation or shall meet all the following standards:
- 421 1. Have the lowest floor elevated to or above the regional flood elevation and  
422 be dry floodproofed so that the structure is watertight with walls  
423 substantially impermeable to the passage of water and completely dry to  
424 the flood protection elevation without human intervention during flooding;  
425
  - 426 2. Have structural components capable of meeting all provisions of Section  
427 3.3(2)(g) and;  
428

- 429 3. Be certified by a registered professional engineer or architect, through the  
430 use of a Federal Emergency Management Agency Floodproofing  
431 Certificate, that the design and methods of construction are in accordance  
432 with Section 3.3(2)(g).  
433
- 434 (c) Must be anchored to resist flotation, collapse, and lateral movement;
- 435 (d) Mechanical and utility equipment must be elevated to or above the flood  
436 protection elevation; and
- 437 (e) Must not obstruct flow of flood waters or cause any increase in flood levels  
438 during the occurrence of the regional flood.
- 439 (f) For a structure designed to allow the automatic entry of floodwaters below the  
440 Regional Flood Elevation, the applicant shall submit a plan that meets s.  
441 3.3(2)(a) through 3.3(2)(e) and meets or exceeds the following standards:
- 442 1. The lowest floor must be elevated to or above the regional flood  
443 elevation;
  - 444 2. a minimum of two openings having a total net area of not less than one  
445 square inch for every square foot of enclosed area subject to flooding;
  - 446 3. the bottom of all openings shall be no higher than one foot above the  
447 lowest adjacent grade; openings may be equipped with screens, louvers,  
448 valves, or other coverings or devices provided that they permit the  
449 automatic entry and exit of floodwaters, otherwise must remain open.
  - 450 4. The use must be limited to parking, building access or limited storage.
- 451 (g) Certification: Whenever floodproofing measures are required, a registered  
452 professional engineer or architect shall certify that the following floodproofing  
453 measures will be utilized, where appropriate, and are adequate to withstand the  
454 flood depths, pressures, velocities, impact and uplift forces and other factors  
455 associated with the regional flood:
- 456 1. Reinforcement of floors and walls to resist rupture, collapse, or lateral  
457 movement caused by water pressures or debris buildup;
  - 458 2. Construction of wells, water supply systems and waste treatment systems  
459 so as to prevent the entrance of flood waters in such systems and must be  
460 in accordance with provisions in Sections 3.4(4) and 3.4(5);
  - 461 3. Subsurface drainage systems to relieve external pressures on foundation  
462 walls and basement floors;
  - 463 4. Cutoff valves on sewer lines or the elimination of gravity flow basement  
464 drains; and
  - 465 5. Placement of utilities to or above the flood protection elevation.

466 (3) PUBLIC UTILITIES, STREETS AND BRIDGES

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

468  
469 (a) Adequate floodproofing measures are provided to the flood protection elevation;  
470 and

471  
472 (b) Construction meets the development standards of s. 2.1.

473  
474 (4) FILLS OR DEPOSITION OF MATERIALS

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

476  
477 (a) The requirements of s. 2.1 are met;

478  
479 (b) No material is deposited in navigable waters unless a permit is issued by the  
480 Department pursuant to ch. 30, Stats., and a permit pursuant to s. 404 of the  
481 Federal Water Pollution Control Act, Amendments of 1972, 33 U.S.C. 1344 has  
482 been issued, if applicable, and all other requirements have been met;

483  
484 (c) The fill or other materials will be protected against erosion by riprap, vegetative  
485 cover, sheet piling or bulkheading; and

486  
487 (a) The fill is not classified as a solid or hazardous material.

488  
489 **3.4 PROHIBITED USES**

490 All uses not listed as permitted uses in s. 3.2 are prohibited, including the following uses:

491  
492 (1) Habitable structures, structures with high flood damage potential, or those not  
493 associated with permanent open-space uses;

494  
495 (2) Storing materials that are buoyant, flammable, explosive, injurious to property, water  
496 quality, or human, animal, plant, fish or other aquatic life;

497  
498 (3) Uses not in harmony with or detrimental to uses permitted in the adjoining districts;

499  
500 (4) Any private or public sewage systems, except portable latrines that are removed  
501 prior to flooding and systems associated with recreational areas and Department-  
502 approved campgrounds that meet the applicable provisions of local ordinances and  
503 ch. SPS 383, Wis. Adm. Code;

504  
505 (5) Any public or private wells which are used to obtain potable water, except those for  
506 recreational areas that meet the requirements of local ordinances and chs. NR 811  
507 and NR 812, Wis. Adm. Code;

508  
509 (6) Any solid or hazardous waste disposal sites;

510  
511 (7) Any wastewater treatment ponds or facilities, except those permitted under s. NR  
512 110.15(3)(b), Wis. Adm. Code; and

513  
514 (8) Any sanitary sewer or water supply lines, except those to service existing or  
515 proposed development located outside the floodway which complies with the  
516 regulations for the floodplain area occupied.

517  
518 **4.0 FLOODFRINGE DISTRICT (FF)**

520 **4.1 APPLICABILITY**

521 This section applies to all floodfringe areas shown on the floodplain zoning maps and  
522 those identified pursuant to s. 5.1(5).  
523

524 **4.2 PERMITTED USES**

525 Any structure, land use, or development is allowed in the Floodfringe District if the  
526 standards in s. 4.3 are met, the use is not prohibited by this or any other ordinance or  
527 regulation and all permits or certificates specified in s. 7.1 have been issued.  
528

529 **4.3 STANDARDS FOR DEVELOPMENT IN THE FLOODFRINGE**

530 Section 2.0 shall apply in addition to the following requirements according to the use  
531 requested. Any existing structure in the floodfringe must meet the requirements of s. 6.0  
532 *Nonconforming Uses*;  
533

534 (1) **RESIDENTIAL USES**

535 Any structure, including a manufactured home, which is to be newly constructed or  
536 moved into the floodfringe, shall meet or exceed the following standards. Any  
537 existing structure in the floodfringe must meet the requirements of s. 6.0  
538 *Nonconforming Uses*;  
539

540 (a) All new construction, including placement of manufactured homes, and  
541 substantial improvement of residential structures, shall have the lowest floor  
542 elevated to or above the flood protection elevation on fill. The fill around the  
543 structure shall be one foot or more above the regional flood elevation extending  
544 at least 15 feet beyond the limits of the structure. No area may be removed from  
545 the floodfringe district unless it can be shown to meet s. 1.5(5).  
546

547 (b) Notwithstanding s. 4.3 (1)(a), a basement or crawlspace floor may be placed at  
548 the regional flood elevation if the basement or crawlspace is designed to make all  
549 portions of the structure below the flood protection elevation watertight with walls  
550 substantially impermeable to the passage of water and with structural  
551 components having the capability of resisting hydrostatic and hydrodynamic  
552 loads and effects of buoyancy. No floor of any kind is allowed below the regional  
553 flood elevation;  
554

555 (c) Contiguous dryland access shall be provided from a structure to land outside of  
556 the floodplain, except as provided in subd. (d).  
557

558 (d) In developments where existing street or sewer line elevations make compliance  
559 with subd. (c) impractical, the municipality may permit new development and  
560 substantial improvements where roads are below the regional flood elevation, if:  
561

562 1. The municipality has written assurance from police, fire and emergency  
563 services that rescue and relief will be provided to the structure(s) by wheeled  
564 vehicles during a regional flood event; or  
565

566 2. The municipality has a DNR-approved emergency evacuation plan that  
567 follows acceptable hazard mitigation planning guidelines.  
568

569 (2) **ACCESSORY STRUCTURES OR USES**

570 In addition to s. 2.0, new construction and substantial improvements of Accessory  
571 structures shall be constructed on fill with the lowest floor at or above the regional  
572 flood elevation.  
573

- 574 (3) COMMERCIAL USES  
575 In addition to s. 2.0, any commercial structure which is erected, altered or moved into  
576 the floodfringe shall meet the requirements of s. 4.3(1). Subject to the requirements  
577 of s. 4.3(5), storage yards, surface parking lots and other such uses may be placed  
578 at lower elevations if an adequate warning system exists to protect life and property.  
579
- 580 (4) MANUFACTURING AND INDUSTRIAL USES  
581 In addition to s. 2.0, any manufacturing or industrial structure which is erected,  
582 altered or moved into the floodfringe shall have the lowest floor elevated to or above  
583 the flood protection elevation or meet the floodproofing standards in s 7.5. Subject to  
584 the requirements of s. 4.3(5), storage yards, surface parking lots and other such  
585 uses may be placed at lower elevations if an adequate warning system exists to  
586 protect life and property.  
587
- 588 (5) STORAGE OF MATERIALS  
589 Materials that are buoyant, flammable, explosive, or injurious to property, water  
590 quality or human, animal, plant, fish or aquatic life shall be stored at or above the  
591 flood protection elevation or floodproofed in compliance with s. 7.5. Adequate  
592 measures shall be taken to ensure that such materials will not enter the water body  
593 during flooding.  
594
- 595 (6) PUBLIC UTILITIES, STREETS AND BRIDGES  
596 All utilities, streets and bridges shall be designed to be compatible with  
597 comprehensive floodplain development plans; and  
598
- 599 (a) When failure of public utilities, streets and bridges would endanger public health  
600 or safety, or where such facilities are deemed essential, construction or repair of  
601 such facilities shall only be permitted if they are designed to comply with s. 7.5.  
602
- 603 (b) Minor roads or non-essential utilities may be constructed at lower elevations if  
604 they are designed to withstand flood forces to the regional flood elevation.  
605
- 606 (7) SEWAGE SYSTEMS  
607 All sewage disposal systems shall be designed to minimize or eliminate infiltration of  
608 flood water into the system, pursuant to s. 7.5(3), to the flood protection elevation and  
609 meet the provisions of all local ordinances and ch. SPS 383, Wis. Adm. Code.  
610
- 611 (8) WELLS  
612 All wells shall be designed to minimize or eliminate infiltration of flood waters into the  
613 system, pursuant to s. 7.5(3), to the flood protection elevation and shall meet the  
614 provisions of chs. NR 811 and NR 812, Wis. Adm. Code.  
615
- 616 (9) SOLID WASTE DISPOSAL SITES  
617 Disposal of solid or hazardous waste is prohibited in floodfringe areas.  
618
- 619 (10) DEPOSITION OF MATERIALS  
620 Any deposited material must meet all the provisions of this ordinance.  
621
- 622 (11) MANUFACTURED HOMES  
623
- 624 (a) Owners or operators of all manufactured home parks and subdivisions shall  
625 provide adequate surface drainage to minimize flood damage, and prepare,  
626 secure approval and file an evacuation plan, indicating vehicular access and  
627 escape routes, with local emergency management authorities.

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(b) In existing manufactured home parks, all new homes, replacement homes on existing pads, and substantially improved homes shall:

1. have the lowest floor elevated to the flood protection elevation; and
2. be anchored so they do not float, collapse or move laterally during a flood

(c) Outside of existing manufactured home parks, including new manufactured home parks and all single units outside of existing parks, all new, replacement and substantially improved manufactured homes shall meet the residential development standards for the floodfringe in s. 4.3(1).

(12) MOBILE RECREATIONAL VEHICLES

All mobile recreational vehicles must be on site for less than 180 consecutive days and be either:

- (a) fully licensed and ready for highway use; or
- (b) shall meet the elevation and anchoring requirements in s. 4.3 (11)(b) and (c).

A mobile recreational vehicle is ready for highway use if it is on its wheels or jacking system, is attached to the site only by quick-disconnect utilities and security devices and has no permanently attached additions.

**5.0 OTHER FLOODPLAIN DISTRICTS**

**5.1 GENERAL FLOODPLAIN DISTRICT (GFP)**

(1) APPLICABILITY

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

(2) FLOODWAY BOUNDARIES

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

(3) PERMITTED USES

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

(4) STANDARDS FOR DEVELOPMENT IN THE GENERAL FLOODPLAIN DISTRICT

Section 3.0 applies to floodway areas, determined to pursuant to 5.1(5); Section 4.0 applies to floodfringe areas, determined to pursuant to 5.1(5).

- (a) New construction and substantial improvement of structures in zone AO shall have

682 the lowest floor, including basement, elevated:

683

684 1. To or above the depth, in feet, as shown on the FIRM above the highest adjacent  
685 natural grade; or

686

687 2. If the depth is not specified on the FIRM, to or above two (2) feet above the  
688 highest adjacent natural grade.

689

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

692

693 (c) In AO/AH zones, provide adequate drainage paths to guide floodwaters around  
694 structures.

695

696 (d) All development in zones AO and zone AH shall meet the requirements of s. 4.0  
697 applicable to flood fringe areas.

698

699 (5) DETERMINING FLOODWAY AND FLOODFRINGE LIMITS

700 Upon receiving an application for development within zone A, or within zone AE where a  
701 floodway has not been delineated on the Flood Insurance Rate Maps, the zoning  
702 administrator shall:

703

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

709

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

713

714 1. A Hydrologic and Hydraulic Study as specified in s. 7.1(2)(c).

715

716 2. Plan (surface view) showing elevations or contours of the ground; pertinent  
717 structure, fill or storage elevations; size, location and layout of all proposed and  
718 existing structures on the site; location and elevations of streets, water supply, and  
719 sanitary facilities; soil types and other pertinent information;

720

721 3. Specifications for building construction and materials, floodproofing, filling,  
722 dredging, channel improvement, storage, water supply and sanitary facilities.

722

723 **5.2 FLOOD STORAGE DISTRICT**

724 The flood storage district delineates that portion of the floodplain where storage of  
725 floodwaters has been taken into account and is relied upon to reduce the regional flood  
726 discharge. The district protects the flood storage areas and assures that any development  
727 in the storage areas will not decrease the effective flood storage capacity which would  
728 cause higher flood elevations.

729

730 (1) APPLICABILITY

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

733

734 (2) PERMITTED USES

735 Any use or development which occurs in a flood storage district must meet the

736 applicable requirements in s. 4.3.

737  
738 (3) STANDARDS FOR DEVELOPMENT IN FLOOD STORAGE DISTRICTS

- 739 (a) Development in a flood storage district shall not cause an increase equal or greater  
740 than 0.00 of a foot in the height of the regional flood.  
741  
742 (b) No development shall be allowed which removes flood storage volume unless an  
743 equal volume of storage as defined by the pre-development ground surface and  
744 the regional flood elevation shall be provided in the immediate area of the  
745 proposed development to compensate for the volume of storage which is lost,  
746 (compensatory storage). Excavation below the groundwater table is not  
747 considered to provide an equal volume of storage.  
748  
749 (c) If compensatory storage cannot be provided, the area may not be developed unless  
750 the entire area zoned as flood storage district – on this waterway – is rezoned to  
751 the floodfringe district. This must include a revision to the floodplain study and  
752 map done for the waterway to revert to the higher regional flood discharge  
753 calculated without floodplain storage, as per s. 8.0 *Amendments* of this ordinance.  
754  
755 (d) No area may be removed from the flood storage district unless it can be shown that  
756 the area has been filled to the flood protection elevation and is contiguous to other  
757 lands lying outside of the floodplain.  
758

759 **6.0 NONCONFORMING USES**

760  
761 **6.1 GENERAL**

762 (1) APPLICABILITY

- 763  
764 (a) The standards in this section shall apply to all uses and buildings that do not  
765 conform to the provisions contained within a floodplain zoning ordinance or with s.  
766 87.30, Stats. and §§ NR 116.12-14, Wis. Adm. Code and 44 CFR 59-72., these  
767 standards shall apply to all modifications or additions to any nonconforming use or  
768 structure and to the use of any structure or premises which was lawful before the  
769 passage of this ordinance or any amendment thereto. A party asserting existence  
770 of a lawfully established nonconforming use or structure has the burden of proving  
771 that the use or structure was compliant with the floodplain zoning ordinance in  
772 effect at the time the use or structure was created.  
773  
774 (b) As permit applications are received for additions, modifications, or substantial  
775 improvements to nonconforming buildings in the floodplain, municipalities shall  
776 develop a list of those nonconforming buildings, their present equalized assessed  
777 value and a list of the costs of those activities associated with changes to those  
778 buildings.  
779  
780 (2) The existing lawful use of a structure or its accessory use which is not in conformity  
781 with the provisions of this ordinance may continue subject to the following conditions:  
782  
783 (a) No modifications or additions to a nonconforming use or structure shall be  
784 permitted unless they comply with this ordinance. The words "modification" and  
785 "addition" include, but are not limited to, any alteration, addition, modification,  
786 structural repair, rebuilding or replacement of any such existing use, structure or  
787 accessory structure or use. Maintenance is not considered a modification; this  
788 includes painting, decorating, paneling and other nonstructural components and  
789 the maintenance, repair or replacement of existing private sewage or water supply



790 systems or connections to public utilities. Any costs associated with the repair of a  
791 damaged structure are not considered maintenance.  
792

793 The construction of a deck that does not exceed 200 square feet and that is  
794 adjacent to the exterior wall of a principal structure is not an extension, modification  
795 or addition. The roof of the structure may extend over a portion of the deck in  
796 order to provide safe ingress and egress to the principal structure.  
797

- 798 (b) If a nonconforming use or the use of a nonconforming structure is discontinued for  
799 12 consecutive months, it is no longer permitted and any future use of the property,  
800 and any structure or building thereon, shall conform to the applicable requirements  
801 of this ordinance;  
802
- 803 (c) The municipality shall keep a record which lists all nonconforming uses and  
804 nonconforming structures, their present equalized assessed value, the cost of all  
805 modifications or additions which have been permitted, and the percentage of the  
806 structure's total current value those modifications represent;  
807
- 808 (d) No modification or addition to any nonconforming structure or any structure with a  
809 nonconforming use, which over the life of the structure would equal or exceed 50%  
810 of its present equalized assessed value, shall be allowed unless the entire  
811 structure is permanently changed to a conforming structure with a conforming use  
812 in compliance with the applicable requirements of this ordinance. Contiguous dry  
813 land access must be provided for residential and commercial uses in compliance  
814 with s. 4.3(1). The costs of elevating the lowest floor of a nonconforming building  
815 or a building with a nonconforming use to the flood protection elevation are  
816 excluded from the 50% provisions of this paragraph;  
817
- 818 (e) No maintenance on a per event basis to any nonconforming structure or any  
819 structure with a nonconforming use, the cost of which would equal or exceed 50%  
820 of its present equalized assessed value, shall be allowed unless the entire  
821 structure is permanently changed to a conforming structure with a conforming use  
822 in compliance with the applicable requirements of this ordinance. Contiguous dry  
823 land access must be provided for residential and commercial uses in compliance  
824 with s. 4.3(1). Maintenance to any nonconforming structure, which does not exceed  
825 50% of its present equalized assessed value on a per event basis, does not count  
826 against the cumulative calculations over the life of the structure for substantial  
827 improvement calculations.  
828
- 829 (f) If on a per event basis the total value of the work being done under (d) and (e)  
830 equals or exceeds 50% of the present equalized assessed value the work shall not  
831 be permitted unless the entire structure is permanently changed to a conforming  
832 structure with a conforming use in compliance with the applicable requirements of  
833 this ordinance. Contiguous dry land access must be provided for residential and  
834 commercial uses in compliance with s. 4.3(1).  
835
- 836 (g) Except as provided in subd. (h), if any nonconforming structure or any structure  
837 with a nonconforming use is destroyed or is substantially damaged, it cannot be  
838 replaced, reconstructed or rebuilt unless the use and the structure meet the current  
839 ordinance requirements. A structure is considered substantially damaged if the  
840 total cost to restore the structure to its pre-damaged condition equals or exceeds  
841 50% of the structure's present equalized assessed value.  
842
- 843 (h) For nonconforming buildings that are substantially damaged or destroyed by a

844 nonflood disaster, the repair or reconstruction of any such nonconforming building  
845 shall be permitted in order to restore it to the size and use in effect prior to the  
846 damage event, provided that the following minimum requirements are met and all  
847 required permits have been granted prior to the start of construction:  
848

849 1. Residential Structures

- 850
- 851 a. Shall have the lowest floor, including basement, elevated to or above the  
852 flood protection elevation using fill, pilings, columns, posts or perimeter walls.  
853 Perimeter walls must meet the requirements of s. 7.5(2).  
854
- 855 b. Shall be anchored to prevent flotation, collapse, or lateral movement of the  
856 structure resulting from hydrodynamic and hydrostatic loads, including the  
857 effects of buoyancy and shall be constructed with methods and materials  
858 resistant to flood damage.  
859
- 860 c. Shall be constructed with electrical, heating, ventilation, plumbing and air  
861 conditioning equipment and other service facilities that are designed and/or  
862 elevated so as to prevent water from entering or accumulating within the  
863 components during conditions of flooding.  
864
- 865 d. In A Zones, obtain, review and utilize any flood data available from a federal,  
866 state or other source.  
867
- 868 e. In AO Zones with no elevations specified, shall have the lowest floor,  
869 including basement, meet the standards in s. 5.1(4).  
870
- 871 f. in AO Zones, shall have adequate drainage paths around structures on slopes  
872 to guide floodwaters around and away from the structure.  
873

874 2. Nonresidential Structures

- 875
- 876 a. Shall meet the requirements of s. 6.1(2)(h)1a-f.  
877
- 878 b. Shall either have the lowest floor, including basement, elevated to or above  
879 the regional flood elevation; or, together with attendant utility and sanitary  
880 facilities, shall meet the standards in s. 7.5 (1) or (2).  
881
- 882 c. In AO Zones with no elevations specified, shall have the lowest floor,  
883 including basement, meet the standards in s. 5.1(4).  
884

- 885 (3) A nonconforming historic structure may be altered if the alteration will not preclude the  
886 structure's continued designation as a historic structure, the alteration will comply with  
887 s. 3.3 (1), flood resistant materials are used, and construction practices and  
888 floodproofing methods that comply with s. 7.5 are used. Repair or rehabilitation of  
889 historic structures shall be exempt from the development standards of s. 6.1 (2)(h)1 if it  
890 is determined that the proposed repair or rehabilitation will not preclude the structure's  
891 continued designation as a historic structure and is the minimum necessary to  
892 preserve the historic character and design of the structure.  
893

- 894 (4) [Reserve for Communities who want to implement Act 175]

896 Notwithstanding anything in this chapter to the contrary, modifications, additions,  
897 maintenance, and repairs to a nonconforming building shall not be prohibited based on  
898

899 cost and the building's nonconforming use shall be permitted to continue if:

900  
901 (a) Any living quarters in the nonconforming building are elevated to be at or above  
902 the flood protection elevation;

903  
904 (b) The lowest floor of the nonconforming building, including the basement, is  
905 elevated to or above the regional flood elevation;

906  
907 (c) The nonconforming building is permanently changed to conform to the  
908 applicable requirements of 2.0; and

909  
910 (d) If the nonconforming building is in the floodway, the building is permanently  
911 changed to conform to the applicable requirements of 3.3(1), 3.3(2)(b) through  
912 (e), 3.3(3), 3.3(4), and 6.2; or

913  
914 (a) If the nonconforming building is in the floodfringe, the building is permanently  
915 changed to conform to the applicable requirements of 4.3 and 6.3.

916  
917 **6.2 FLOODWAY DISTRICT**

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

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

922 (b) Meets the requirements of s. 6.1;

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

924 (d) Any addition to the existing structure shall be floodproofed, pursuant to s. 7.5, by  
925 means other than the use of fill, to the flood protection elevation; and

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

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

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

936 3. Mechanical and utility equipment must be elevated or floodproofed to or above  
937 the flood protection elevation; and

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

939 (2) No new on-site sewage disposal system, or addition to an existing on-site sewage  
940 disposal system, except where an addition has been ordered by a government agency  
941 to correct a hazard to public health, shall be allowed in the Floodway District. Any  
942 replacement, repair or maintenance of an existing on-site sewage disposal system in a  
943

953 floodway area shall meet the applicable requirements of all municipal ordinances, s.  
954 7.5(3) and ch. SPS 383, Wis. Adm. Code.

955  
956 (3) No new well or modification to an existing well used to obtain potable water shall be  
957 allowed in the Floodway District. Any replacement, repair or maintenance of an existing  
958 well in the Floodway District shall meet the applicable requirements of all municipal  
959 ordinances, s. 7.5(3) and chs. NR 811 and NR 812, Wis. Adm. Code.

960  
961 **6.3 FLOODFRINGE DISTRICT**

962 (1) No modification or addition shall be allowed to any nonconforming structure or any  
963 structure with a nonconforming use unless such modification or addition has been  
964 granted a permit or variance by the municipality and meets the requirements of s. 4.3  
965 except where s. 6.3(2) is applicable.

966  
967 (2) Where compliance with the provisions of subd. (1) would result in unnecessary  
968 hardship and only where the structure will not be used for human habitation or be  
969 associated with a high flood damage potential, the Board of Adjustment/Appeals, using  
970 the procedures established in s. 7.3, may grant a variance from those provisions of  
971 subd. (1) for modifications or additions using the criteria listed below. Modifications or  
972 additions which are protected to elevations lower than the flood protection elevation  
973 may be permitted if:

974  
975 (a) No floor is allowed below the regional flood elevation for residential or  
976 commercial structures;

977  
978 (b) Human lives are not endangered;

979  
980 (c) Public facilities, such as water or sewer, shall not be installed;

981  
982 (d) Flood depths shall not exceed two feet;

983  
984 (e) Flood velocities shall not exceed two feet per second; and

985  
986 (f) The structure shall not be used for storage of materials as described in s. 4.3(5).

987  
988 (3) All new private sewage disposal systems, or addition to, replacement, repair or  
989 maintenance of a private sewage disposal system shall meet all the applicable  
990 provisions of all local ordinances, s. 7.5 (3) and ch. SPS 383, Wis. Adm. Code.

991  
992 (4) All new wells, or addition to, replacement, repair or maintenance of a well shall meet  
993 the applicable provisions of this ordinance, s. 7.5 (3) and ch. NR 811 and NR 812, Wis.  
994 Adm. Code.

995  
996 **6.4 FLOOD STORAGE DISTRICT**

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

999  
1000 **7.0 ADMINISTRATION**

1001 Where a zoning administrator, planning agency or a board of appeals has already been  
1002 appointed to administer a zoning ordinance adopted under ss. 59.69, 59.692 or 62.23(7),  
1003 Stats., these officials shall also administer this ordinance.

1004

1005 **7.1 ZONING ADMINISTRATOR**

1006 (1) DUTIES AND POWERS

1007 The zoning administrator is authorized to administer this ordinance and shall have the  
1008 following duties and powers:

1009  
1010 (a) Advise applicants of the ordinance provisions, assist in preparing permit  
1011 applications and appeals, and assure that the regional flood elevation for the  
1012 proposed development is shown on all permit applications.

1013  
1014 (b) Issue permits and inspect properties for compliance with provisions of this  
1015 ordinance and issue certificates of compliance where appropriate.

1016  
1017 (c) Inspect and assess all damaged floodplain structures to determine if substantial  
1018 damage to the structures has occurred.

1019  
1020 (d) Keep records of all official actions such as:

- 1021  
1022 1. All permits issued, inspections made, and work approved;  
1023 2. Documentation of certified lowest floor and regional flood elevations;  
1024 3. Floodproofing certificates.  
1025 4. Water surface profiles, floodplain zoning maps and ordinances, nonconforming  
1026 uses and structures including changes, appeals, variances and amendments.  
1027 5. All substantial damage assessment reports for floodplain structures.  
1028 6. List of nonconforming structures and uses.

1029  
1030 (e) Submit copies of the following items to the Department Regional office:

- 1031  
1032 1. Within 10 days of the decision, a copy of any decisions on variances, appeals  
1033 for map or text interpretations, and map or text amendments;  
1034  
1035 2. Copies of case-by-case analyses and other required information.  
1036  
1037 3. Copies of substantial damage assessments performed and all related  
1038 correspondence concerning the assessments.

1039  
1040 (f) Investigate, prepare reports, and report violations of this ordinance to the municipal  
1041 zoning agency and attorney for prosecution. Copies of the reports shall also be  
1042 sent to the Department Regional office.

1043  
1044 (g) Submit copies of amendments to the FEMA Regional office.

1045  
1046 (2) LAND USE PERMIT

1047 A land use permit shall be obtained before any development; repair, modification or  
1048 addition to an existing structure; or change in the use of a building or structure,  
1049 including sewer and water facilities, may be initiated. Application to the zoning  
1050 administrator shall include:

1051  
1052 (a) GENERAL INFORMATION

- 1053  
1054 1. Name and address of the applicant, property owner and contractor;  
1055  
1056 2. Legal description, proposed use, and whether it is new construction or a  
1057 modification;

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

(c) HYDRAULIC AND HYDROLOGIC STUDIES TO ANALYZE DEVELOPMENT

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

1. Zone A floodplains and in AE zones within which a floodway is not delineated:
  - a. Hydrology
    - i. The appropriate method shall be based on the standards in ch. NR 116.07(3), Wis. Admin. Code, *Hydrologic Analysis: Determination of Regional Flood Discharge*.
  - b. Hydraulic modeling

The regional flood elevation shall be based on the standards in ch. NR 116.07(4), Wis. Admin. Code, *Hydraulic Analysis: Determination of Regional Flood Elevation* and the following:

    - i. determination of the required limits of the hydraulic model shall be based on detailed study information for downstream structures (dam, bridge, culvert) to determine adequate starting WSEL for the study.
    - ii. channel sections must be surveyed.

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- iii. minimum four-foot contour data in the overbanks shall be used for the development of cross section overbank and floodplain mapping.
  - iv. a maximum distance of 500 feet between cross sections is allowed in developed areas with additional intermediate cross sections required at transitions in channel bottom slope including a survey of the channel at each location.
  - v. the most current version of HEC\_RAS shall be used.
  - vi. a survey of bridge and culvert openings and the top of road is required at each structure.
  - vii. additional cross sections are required at the downstream and upstream limits of the proposed development and any necessary intermediate locations based on the length of the reach if greater than 500 feet.
  - viii. standard accepted engineering practices shall be used when assigning parameters for the base model such as flow, Manning's N values, expansion and contraction coefficients or effective flow limits. The base model shall be calibrated to past flooding data such as high water marks to determine the reasonableness of the model results. If no historical data is available, adequate justification shall be provided for any parameters outside standard accepted engineering practices.
  - ix. the model must extend past the upstream limit of the difference in the existing and proposed flood profiles in order to provide a tie-in to existing studies. The height difference between the proposed flood profile and the existing study profiles shall be no more than 0.00 feet.

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c. Mapping

A work map of the reach studied shall be provided, showing all cross-section locations, floodway/floodplain limits based on best available topographic data, geographic limits of the proposed development and whether the proposed development is located in the floodway.

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

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1159

2. Zone AE Floodplains

a. Hydrology

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1161  
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If the proposed hydrology will change the existing study, the appropriate method to be used shall be based on ch. NR 116.07(3), Wis. Admin. Code, *Hydrologic Analysis: Determination of Regional Flood Discharge*.

1164

b. Hydraulic model

1165 The regional flood elevation shall be based on the standards in ch. NR  
1166 116.07(4), Wis. Admin. Code, *Hydraulic Analysis: Determination of*  
1167 *Regional Flood Elevation* and the following:  
1168  
1169 i. Duplicate Effective Model  
1170 The effective model shall be reproduced to ensure correct transference of  
1171 the model data and to allow integration of the revised data to provide a  
1172 continuous FIS model upstream and downstream of the revised reach. If  
1173 data from the effective model is available, models shall be generated that  
1174 duplicate the FIS profiles and the elevations shown in the Floodway Data  
1175 Table in the FIS report to within 0.1 foot.  
1176  
1177 ii. Corrected Effective Model.  
1178 The Corrected Effective Model shall not include any man-made physical  
1179 changes since the effective model date but shall import the model into the  
1180 most current version of HEC-RAS for Department review.  
1181  
1182 iii. Existing (Pre-Project Conditions) Model.  
1183 The Existing Model shall be required to support conclusions about the  
1184 actual impacts of the project associated with the Revised (Post-Project)  
1185 Model or to establish more up-to-date models on which to base the  
1186 Revised (Post-Project) Model.  
1187  
1188 iv. Revised (Post-Project Conditions) Model.  
1189 The Revised (Post-Project Conditions) Model shall incorporate the  
1190 Existing Model and any proposed changes to the topography caused by  
1191 the proposed development. This model shall reflect proposed conditions.  
1192  
1193 v. All changes to the Duplicate Effective Model and subsequent models  
1194 must be supported by certified topographic information, bridge plans,  
1195 construction plans and survey notes.  
1196  
1197 vi. Changes to the hydraulic models shall be limited to the stream reach for  
1198 which the revision is being requested. Cross sections upstream and  
1199 downstream of the revised reach shall be identical to those in the  
1200 effective model and result in water surface elevations and topwidths  
1201 computed by the revised models matching those in the effective models  
1202 upstream and downstream of the revised reach as required. The  
1203 Effective Model shall not be truncated.  
1204  
1205 c. Mapping  
1206 Maps and associated engineering data shall be submitted to the Department  
1207 for review which meet the following conditions:  
1208  
1209 i. Consistency between the revised hydraulic models, the revised floodplain  
1210 and floodway delineations, the revised flood profiles, topographic work  
1211 map, annotated FIRMs and/or Flood Boundary Floodway Maps (FBFMs),  
1212 construction plans, bridge plans.  
1213  
1214 ii. Certified topographic map of suitable scale, contour interval, and a  
1215 planimetric map showing the applicable items. If a digital version of the  
1216 map is available, it may be submitted in order that the FIRM may be more  
1217 easily revised.  
1218



- 1219 iii. Annotated FIRM panel showing the revised 1% and 0.2% annual chance  
1220 floodplains and floodway boundaries.  
1221  
1222 iv. If an annotated FIRM and/or FBFM and digital mapping data (GIS or  
1223 CADD) are used then all supporting documentation or metadata must be  
1224 included with the data submission along with the Universal Transverse  
1225 Mercator (UTM) projection and State Plane Coordinate System in  
1226 accordance with FEMA mapping specifications.  
1227  
1228 v. The revised floodplain boundaries shall tie into the effective floodplain  
1229 boundaries.  
1230  
1231 vi. All cross sections from the effective model shall be labeled in  
1232 accordance with the effective map and a cross section lookup table shall  
1233 be included to relate to the model input numbering scheme.  
1234  
1235 vii. Both the current and proposed floodways shall be shown on the map.  
1236  
1237 viii. The stream centerline, or profile baseline used to measure stream  
1238 distances in the model shall be visible on the map.  
1239

1240 (d) EXPIRATION

1241 All permits issued under the authority of this ordinance shall expire no more than  
1242 180 days after issuance. The permit may be extended for a maximum of 180 days  
1243 for good and sufficient cause. If the permitted work has not started within 180  
1244 days of the permit date, the development must comply with any regulation,  
1245 including any revision to the FIRM or FIS, that took effect after the permit date.  
1246

1247 (3) CERTIFICATE OF COMPLIANCE

1248 No land shall be occupied or used, and no building which is hereafter constructed,  
1249 altered, added to, modified, repaired, rebuilt or replaced shall be occupied until a  
1250 certificate of compliance is issued by the zoning administrator, except where no permit  
1251 is required, subject to the following provisions:  
1252

- 1253 (a) The certificate of compliance shall show that the building or premises or part  
1254 thereof, and the proposed use, conform to the provisions of this ordinance;  
1255  
1256 (b) Application for such certificate shall be concurrent with the application for a permit;  
1257  
1258 (c) If all ordinance provisions are met, the certificate of compliance shall be issued  
1259 within 10 days after written notification that the permitted work is completed;  
1260  
1261 (d) The applicant shall submit a certification signed by a registered professional  
1262 engineer, architect or land surveyor that the fill, lowest floor and floodproofing  
1263 elevations are in compliance with the permit issued. Floodproofing measures also  
1264 require certification by a registered professional engineer or architect that the  
1265 requirements of s. 7.5 are met.  
1266  
1267 (e) Where applicable pursuant to s. 5.1(4), the applicant must submit a certification by  
1268 a registered professional engineer or surveyor of the elevation of the bottom of the  
1269 lowest horizontal structural member supporting the lowest floor (excluding pilings  
1270 or columns), and an indication of whether the structure contains a basement.  
1271  
1272 (f) Where applicable pursuant to s. 5.1(4), the applicant must submit certifications by a

1273 registered professional engineer or architect that the structural design and methods  
1274 of construction meet accepted standards of practice as required by s. 5.1(4).  
1275

1276 (4) OTHER PERMITS

1277 Prior to obtaining a floodplain development permit the applicant must secure all  
1278 necessary permits from federal, state, and local agencies, including but not limited to  
1279 those required by the U.S. Army Corps of Engineers under s. 404 of the Federal Water  
1280 Pollution Control Act, Amendments of 1972, 33 U.S.C. 1344.  
1281

1282 **7.2 ZONING AGENCY**

1283 (1) The **Plan Commission** [community provide agency/committee name] shall:

- 1284 (a) oversee the functions of the office of the zoning administrator; and  
1285  
1286 (b) review and advise the governing body on all proposed amendments to this  
1287 ordinance, maps and text.  
1288  
1289 (c) publish adequate notice pursuant to Ch. 985, Stats., specifying the date, time, place  
1290 and subject of the public hearing.  
1291

1292  
1293 (2) The (**Plan Commission**) [community provide agency/committee name] shall not:

- 1294 (a) grant variances to the terms of the ordinance in place of action by the Board of  
1295 Adjustment/Appeals; or  
1296  
1297 (b) amend the text or zoning maps in place of official action by the governing body.  
1298  
1299

1300 **7.3 BOARD OF APPEALS**

1301 The Board of Appeals, created under s. 62.23(7)(e), Stats., for cities or villages, is hereby  
1302 authorized or shall be appointed to act for the purposes of this ordinance. The Board shall  
1303 exercise the powers conferred by Wisconsin Statutes and adopt rules for the conduct of  
1304 business. The zoning administrator shall not be the secretary of the Board.  
1305

1306 (1) POWERS AND DUTIES

1307 The Board of Appeals shall:

- 1308 (a) Appeals - Hear and decide appeals where it is alleged there is an error in any  
1309 order, requirement, decision or determination made by an administrative official in  
1310 the enforcement or administration of this ordinance;  
1311  
1312 (b) Boundary Disputes - Hear and decide disputes concerning the district boundaries  
1313 shown on the official floodplain zoning map; and  
1314  
1315 (c) Variances - Hear and decide, upon appeal, variances from the ordinance  
1316 standards.  
1317  
1318

1319 (2) APPEALS TO THE BOARD

- 1320 (a) Appeals to the board may be taken by any person aggrieved, or by any officer or  
1321 department of the municipality affected by any decision of the zoning  
1322 administrator or other administrative officer. Such appeal shall be taken within 30  
1323 days unless otherwise provided by the rules of the board, by filing with the official  
1324 whose decision is in question, and with the board, a notice of appeal specifying  
1325 the reasons for the appeal. The official whose decision is in question shall  
1326 transmit to the board all records regarding the matter appealed.

1327  
1328 (b) NOTICE AND HEARING FOR APPEALS INCLUDING VARIANCES  
1329

1330 1. Notice - The board shall:

- 1331  
1332 a. Fix a reasonable time for the hearing;  
1333 b. Publish adequate notice pursuant to Wisconsin Statutes, specifying the  
1334 date, time, place and subject of the hearing; and  
1335 c. Assure that notice shall be mailed to the parties in interest and the  
1336 Department Regional office at least 10 days in advance of the hearing.  
1337

1338 2. Hearing - Any party may appear in person or by agent. The board shall:

- 1339  
1340 a. Resolve boundary disputes according to s. 7.3(3);  
1341 b. Decide variance applications according to s. 7.3(4); and  
1342 c. Decide appeals of permit denials according to s. 7.4.  
1343

1344 (c) DECISION: The final decision regarding the appeal or variance application shall:

- 1345  
1346 1. Be made within a reasonable time;  
1347  
1348 2. Be sent to the Department Regional office within 10 days of the decision;  
1349  
1350 3. Be a written determination signed by the chairman or secretary of the Board;  
1351  
1352 4. State the specific facts which are the basis for the Board's decision;  
1353  
1354 5. Either affirm, reverse, vary or modify the order, requirement, decision or  
1355 determination appealed, in whole or in part, dismiss the appeal for lack of  
1356 jurisdiction or grant or deny the variance application; and  
1357  
1358 6. Include the reasons for granting an appeal, describing the hardship  
1359 demonstrated by the applicant in the case of a variance, clearly stated in the  
1360 recorded minutes of the Board proceedings.  
1361

1362 (3) BOUNDARY DISPUTES

1363 The following procedure shall be used by the Board in hearing disputes concerning  
1364 floodplain district boundaries:  
1365

- 1366 (a) If a floodplain district boundary is established by approximate or detailed floodplain  
1367 studies, the flood elevations or profiles shall prevail in locating the boundary.  
1368  
1369 (b) The person contesting the boundary location shall be given a reasonable  
1370 opportunity to present arguments and technical evidence to the Board; and  
1371  
1372 (c) If the boundary is incorrectly mapped, the Board should inform the zoning  
1373 committee or the person contesting the boundary location to petition the  
1374 governing body for a map amendment according to s. 8.0 *Amendments*.  
1375

1376 (4) VARIANCE

1377 (a) The Board may, upon appeal, grant a variance from the standards of this  
1378 ordinance if an applicant convincingly demonstrates that:

- 1379  
1380 1. Literal enforcement of the ordinance will cause unnecessary hardship;

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2. The hardship is due to adoption of the floodplain ordinance and unique property conditions, not common to adjacent lots or premises. In such case the ordinance or map must be amended;
  3. The variance is not contrary to the public interest; and
  4. The variance is consistent with the purpose of this ordinance in s. 1.3.
- (b) In addition to the criteria in subd. (a), to qualify for a variance under FEMA regulations, the Board 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 ordinance or map(s) required in s. 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 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 (s. 7.2) or Board shall review all data related to the appeal. This may include:
  - (a) Permit application data listed in s. 7.1(2);
  - (b) Floodway/floodfringe determination data in s. 5.1(5);

- 1435  
1436 (c) Data listed in s. 3.3(1)(b) where the applicant has not submitted this information to  
1437 the zoning administrator; and  
1438  
1439 (d) Other data submitted with the application or submitted to the Board with the appeal.  
1440  
1441 (2) For appeals of all denied permits the Board shall:  
1442  
1443 (a) Follow the procedures of s. 7.3;  
1444  
1445 (b) Consider zoning agency recommendations; and  
1446  
1447 (c) Either uphold the denial or grant the appeal.  
1448  
1449 (3) For appeals concerning increases in regional flood elevation the Board shall:  
1450  
1451 (a) Uphold the denial where the Board agrees with the data showing an increase in  
1452 flood elevation. Increases may only be allowed after amending the flood profile  
1453 and map and all appropriate legal arrangements are made with all adversely  
1454 affected property owners as per the requirements of s. 8.0 *Amendments*; and  
1455  
1456 (b) Grant the appeal where the Board agrees that the data properly demonstrates that  
1457 the project does not cause an increase provided no other reasons for denial exist.  
1458

## 1459 **7.5 FLOODPROOFING STANDARDS**

- 1460 (1) No permit or variance shall be issued for a non-residential structure designed to be  
1461 watertight below the regional flood elevation until the applicant submits a plan certified  
1462 by a registered professional engineer or architect that the floodproofing measures will  
1463 protect the structure or development to or above the flood protection elevation and  
1464 submits a FEMA Floodproofing Certificate. Floodproofing is not an alternative to the  
1465 development standards in ss. 2.0, 3.0, 4.0, 5.1, or 5.3.  
1466  
1467 (2) For a structure designed to allow the entry of floodwaters, no permit or variance shall  
1468 be issued until the applicant submits a plan either:  
1469  
1470 (a) certified by a registered professional engineer or architect; or  
1471  
1472 (b) meeting or exceeding the following standards:  
1473  
1474 1. a minimum of two openings having a total net area of not less than one square  
1475 inch for every square foot of enclosed area subject to flooding;  
1476  
1477 2. the bottom of all openings shall be no higher than one-foot above grade; and  
1478  
1479 3. openings may be equipped with screens, louvers, valves, or other coverings or  
1480 devices provided that they permit the automatic entry and exit of floodwaters.  
1481  
1482 (3) Floodproofing measures shall be designed, as appropriate, to:  
1483  
1484 (a) Withstand flood pressures, depths, velocities, uplift and impact forces and other  
1485 regional flood factors;  
1486  
1487 (b) Protect structures to the flood protection elevation;  
1488

- 1489 (c) Anchor structures to foundations to resist flotation and lateral movement;  
 1490  
 1491 (d) Minimize or eliminate infiltration of flood waters;  
 1492  
 1493 (e) Minimize or eliminate discharges into flood waters;  
 1494 (f) Placement of essential utilities to or above the flood protection elevation; and  
 1495  
 1496 (g) If any part of the foundation below the flood protection elevation is enclosed, the  
 1497 following standards shall apply:  
 1498  
 1499 1. The enclosed area shall be designed by a registered architect or engineer to  
 1500 allow for the efficient entry and exit of flood waters without human intervention.  
 1501 A minimum of two openings must be provided with a minimum net area of at  
 1502 least one square inch for every one square foot of the enclosed area. The  
 1503 lowest part of the opening can be no more than 12 inches above the adjacent  
 1504 grade;  
 1505  
 1506 2. The parts of the foundation located below the flood protection elevation must  
 1507 be constructed of flood-resistant materials;  
 1508  
 1509 3. Mechanical and utility equipment must be elevated or floodproofed to or above  
 1510 the flood protection elevation; and  
 1511  
 1512 4. The use must be limited to parking, building access or limited storage.  
 1513

1514 **7.6 PUBLIC INFORMATION**

- 1515 (1) Place marks on structures to show the depth of inundation during the regional flood.  
 1516  
 1517 (2) All maps, engineering data and regulations shall be available and widely distributed.  
 1518  
 1519 (3) Real estate transfers should show what floodplain district any real property is in.  
 1520

1521 **8.0 AMENDMENTS**

1522 Obstructions or increases may only be permitted if amendments are made to this  
 1523 ordinance, the official floodplain zoning maps, floodway lines and water surface profiles, in  
 1524 accordance with s. 8.1.  
 1525

- 1526 (1) In AE Zones with a mapped floodway, no obstructions or increases shall be permitted  
 1527 unless the applicant receives a Conditional Letter of Map Revision from FEMA and  
 1528 amendments are made to this ordinance, the official floodplain zoning maps, floodway  
 1529 lines and water surface profiles, in accordance with s. 8.1. Any such alterations must  
 1530 be reviewed and approved by FEMA and the DNR.  
 1531  
 1532 (2) In A Zones increases equal to or greater than 1.0 foot may only be permitted if the  
 1533 applicant receives a Conditional Letter of Map Revision from FEMA and amendments  
 1534 are made to this ordinance, the official floodplain maps, floodway lines, and water  
 1535 surface profiles, in accordance with s. 8.1.  
 1536

1537 **8.1 GENERAL**

1538 The governing body shall change or supplement the floodplain zoning district boundaries  
 1539 and this ordinance in the manner outlined in s. 8.2 below. Actions which require an  
 1540 amendment to the ordinance and/ or submittal of a Letter of Map Change (LOMC)  
 1541 include, but are not limited to, the following:  
 1542

- 1543 (1) Any fill or floodway encroachment that obstructs flow causing any increase in the  
1544 regional flood height;  
1545  
1546 (2) Any change to the floodplain boundaries and/or watercourse alterations on the FIRM;  
1547  
1548 (3) Any changes to any other officially adopted floodplain maps listed in s. 1.5 (2)(b);  
1549  
1550 (4) Any floodplain fill which raises the elevation of the filled area to a height at or above  
1551 the flood protection elevation and is contiguous to land lying outside the floodplain;  
1552  
1553 (5) Correction of discrepancies between the water surface profiles and floodplain maps;  
1554  
1555 (6) Any upgrade to a floodplain zoning ordinance text required by s. NR 116.05, Wis.  
1556 Adm. Code, or otherwise required by law, or for changes by the municipality; and  
1557  
1558 (7) All channel relocations and changes to the maps to alter floodway lines or to remove  
1559 an area from the floodway or the floodfringe that is based on a base flood elevation  
1560 from a FIRM requires prior approval by FEMA.  
1561

## 1562 **8.2 PROCEDURES**

1563 Ordinance amendments may be made upon petition of any party according to the  
1564 provisions of s. 62.23, Stats., for cities and villages. The petitions shall include all data  
1565 required by s. 5.1(5) and 7.1(2). The Land Use Permit shall not be issued until a Letter of  
1566 Map Revision is issued by FEMA for the proposed changes.  
1567

- 1568 (1) The proposed amendment shall be referred to the zoning agency for a public hearing  
1569 and recommendation to the governing body. The amendment and notice of public  
1570 hearing shall be submitted to the Department Regional office for review prior to the  
1571 hearing. The amendment procedure shall comply with the provisions of s. 62.23, Stats.,  
1572 for cities and villages.  
1573  
1574 (2) No amendments shall become effective until reviewed and approved by the  
1575 Department.  
1576  
1577 (3) All persons petitioning for a map amendment that obstructs flow causing any increase  
1578 in the regional flood height, shall obtain flooding easements or other appropriate legal  
1579 arrangements from all adversely affected property owners and notify local units of  
1580 government before the amendment can be approved by the governing body.  
1581

## 1582 **9.0 ENFORCEMENT AND PENALTIES**

1583 Any violation of the provisions of this ordinance by any person shall be unlawful and shall  
1584 be referred to the municipal attorney who shall expeditiously prosecute all such violators. A  
1585 violator shall, upon conviction, forfeit to the municipality a penalty of not more than \$50.00  
1586 (fifty dollars), together with a taxable cost of such action. Each day of continued violation  
1587 shall constitute a separate offense. Every violation of this ordinance is a public nuisance  
1588 and the creation may be enjoined and the maintenance may be abated by action at suit of  
1589 the municipality, the state, or any citizen thereof pursuant to s. 87.30, Stats.  
1590

## 1591 **10.0 DEFINITIONS**

1592 Unless specifically defined, words and phrases in this ordinance shall have their common  
1593 law meaning and shall be applied in accordance with their common usage. Words used in  
1594 the present tense include the future, the singular number includes the plural and the plural  
1595 number includes the singular. The word "may" is permissive, "shall" is mandatory and is  
1596 not discretionary.

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1650
1. A ZONES – Those areas shown on the Official Floodplain Zoning Map which would be inundated by the regional flood. These areas may be numbered or unnumbered A Zones. The A Zones may or may not be reflective of flood profiles, depending on the availability of data for a given area.
  2. AH ZONE – See “AREA OF SHALLOW FLOODING”.
  3. AO ZONE – See “AREA OF SHALLOW FLOODING”.
  4. ACCESSORY STRUCTURE OR USE – A facility, structure, building or use which is accessory or incidental to the principal use of a property, structure or building. An accessory structure shall not be used for human habitation.
  5. ALTERATION – An enhancement, upgrade or substantial change or modification other than an addition or repair to a dwelling or to electrical, plumbing, heating, ventilating, air conditioning and other systems within a structure.
  6. AREA OF SHALLOW FLOODING – A designated AO, AH, AR/AO, AR/AH, or VO zone on a community’s Flood Insurance Rate Map (FIRM) with a 1 percent or greater annual chance of flooding to an average depth of 1 to 3 feet where a clearly defined channel does not exist, where the path of flooding is unpredictable, and where velocity flood may be evident. Such flooding is characterized by ponding or sheet flow.
  7. BASE FLOOD – Means the flood having a one percent chance of being equaled or exceeded in any given year, as published by FEMA as part of a FIS and depicted on a FIRM.
  8. BASEMENT – Any enclosed area of a building having its floor sub-grade on all sides.
  9. BREAKAWAY WALL – A wall that is not part of the structural support of the building and is intended through its design and construction to collapse under specific lateral loading forces, without causing damage to the elevated portion of the building or supporting foundation system.
  10. BUILDING – See STRUCTURE.
  11. BULKHEAD LINE – A geographic line along a reach of navigable water that has been adopted by a municipal ordinance and approved by the Department pursuant to s. 30.11, Stats., and which allows limited filling between this bulkhead line and the original ordinary highwater mark, except where such filling is prohibited by the floodway provisions of this ordinance.
  12. CAMPGROUND – Any parcel of land which is designed, maintained, intended or used for the purpose of providing sites for nonpermanent overnight use by 4 or more camping units, or which is advertised or represented as a camping area.
  13. CAMPING UNIT – Any portable device, no more than 400 square feet in area, used as a temporary shelter, including but not limited to a camping trailer, motor home, bus, van, pick-up truck, or tent that is fully licensed, if required, and ready for highway use.
  14. CERTIFICATE OF COMPLIANCE – A certification that the construction and the use of land or a building, the elevation of fill or the lowest floor of a structure is in compliance with all of the provisions of this ordinance.



- 1651  
1652 15. CHANNEL – A natural or artificial watercourse with definite bed and banks to confine and  
1653 conduct normal flow of water.  
1654  
1655 16. COASTAL FLOODPLAIN – An area along the coast of Lake Michigan or Lake Superior  
1656 which is inundated by the regional flood and which is also subject to additional hazard due  
1657 to wave runup.  
1658  
1659 17. COASTAL HIGH HAZARD AREA – An area of special flood hazard extending from offshore  
1660 to the inland limit of a primary frontal dune along an open coast, and any other area subject  
1661 to high velocity wave action from storms.  
1662  
1663 18. CRAWLWAYS or CRAWL SPACE – An enclosed area below the first usable floor of a  
1664 building, generally less than five feet in height, used for access to plumbing and electrical  
1665 utilities.  
1666  
1667 19. DECK – An unenclosed exterior structure that has no roof or sides and has a permeable  
1668 floor which allows the infiltration of precipitation.  
1669  
1670 20. DEPARTMENT – The Wisconsin Department of Natural Resources.  
1671  
1672 21. DEVELOPMENT – Any artificial change to improved or unimproved real estate, including,  
1673 but not limited to, the construction of buildings, structures or accessory structures; the  
1674 construction of additions or alterations to buildings, structures or accessory structures; the  
1675 repair of any damaged structure or the improvement or renovation of any structure,  
1676 regardless of percentage of damage or improvement; the placement of buildings or  
1677 structures; subdivision layout and site preparation; mining, dredging, filling, grading, paving,  
1678 excavation or drilling operations; the storage, deposition or extraction of materials or  
1679 equipment; and the installation, repair or removal of public or private sewage disposal  
1680 systems or water supply facilities.  
1681  
1682 22. DRYLAND ACCESS – A vehicular access route which is above the regional flood elevation  
1683 and which connects land located in the floodplain to land outside the floodplain, such as a  
1684 road with its surface above regional flood elevation and wide enough for wheeled rescue  
1685 and relief vehicles.  
1686  
1687 23. ENCROACHMENT – Any fill, structure, equipment, use or development in the floodway.  
1688  
1689 24. FEDERAL EMERGENCY MANAGEMENT AGENCY (FEMA) – The federal agency that  
1690 administers the National Flood Insurance Program.  
1691  
1692 25. FLOOD INSURANCE RATE MAP (FIRM) – A map of a community on which the Federal  
1693 Insurance Administration has delineated both the floodplain and the risk premium zones  
1694 applicable to the community. This map can only be amended by the Federal Emergency  
1695 Management Agency.  
1696  
1697 26. FLOOD or FLOODING – A general and temporary condition of partial or complete  
1698 inundation of normally dry land areas caused by one of the following conditions:  
1699
  - 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  
1700 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  
1701 water, accompanied by a severe storm, or by an unanticipated force of nature, such  
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- 1706 as a seiche, or by some similarly unusual event.  
1707  
1708 27. FLOOD FREQUENCY – The probability of a flood occurrence which is determined from  
1709 statistical analyses. The frequency of a particular flood event is usually expressed as  
1710 occurring, on the average once in a specified number of years or as a percent (%) chance of  
1711 occurring in any given year.  
1712  
1713 28. FLOODFRINGE – That portion of the floodplain outside of the floodway which is covered by  
1714 flood waters during the regional flood and associated with standing water rather than flowing  
1715 water.  
1716  
1717 29. FLOOD HAZARD BOUNDARY MAP – A map designating approximate flood hazard areas.  
1718 Flood hazard areas are designated as unnumbered A-Zones and do not contain floodway  
1719 lines or regional flood elevations. This map forms the basis for both the regulatory and  
1720 insurance aspects of the National Flood Insurance Program (NFIP) until superseded by a  
1721 Flood Insurance Study and a Flood Insurance Rate Map.  
1722  
1723 30. FLOOD INSURANCE STUDY – A technical engineering examination, evaluation, and  
1724 determination of the local flood hazard areas. It provides maps designating those areas  
1725 affected by the regional flood and provides both flood insurance rate zones and base flood  
1726 elevations and may provide floodway lines. The flood hazard areas are designated as  
1727 numbered and unnumbered A-Zones. Flood Insurance Rate Maps, that accompany the  
1728 Flood Insurance Study, form the basis for both the regulatory and the insurance aspects of  
1729 the National Flood Insurance Program.  
1730  
1731 31. FLOODPLAIN – Land which has been or may be covered by flood water during the regional  
1732 flood. It includes the floodway and the floodfringe and may include other designated  
1733 floodplain areas for regulatory purposes.  
1734  
1735 32. FLOODPLAIN ISLAND – A natural geologic land formation within the floodplain that is  
1736 surrounded, but not covered, by floodwater during the regional flood.  
1737  
1738 33. FLOODPLAIN MANAGEMENT – Policy and procedures to ensure wise use of floodplains,  
1739 including mapping and engineering, mitigation, education, and administration and  
1740 enforcement of floodplain regulations.  
1741  
1742 34. FLOOD PROFILE – A graph or a longitudinal profile line showing the relationship of the  
1743 water surface elevation of a flood event to locations of land surface elevations along a  
1744 stream or river.  
1745  
1746 35. FLOODPROOFING – Any combination of structural provisions, changes or adjustments to  
1747 properties and structures, water and sanitary facilities and contents of buildings subject to  
1748 flooding, for the purpose of reducing or eliminating flood damage.  
1749  
1750 36. FLOOD PROTECTION ELEVATION – An elevation of two feet of freeboard above the  
1751 Regional Flood Elevation. (Also see: FREEBOARD.)  
1752  
1753 37. FLOOD STORAGE – Those floodplain areas where storage of floodwaters has been taken  
1754 into account during analysis in reducing the regional flood discharge.  
1755  
1756 38. FLOODWAY – The channel of a river or stream and those portions of the floodplain  
1757 adjoining the channel required to carry the regional flood discharge.  
1758  
1759 39. FREEBOARD – A safety factor expressed in terms of a specified number of feet above a

- 1760 calculated flood level. Freeboard compensates for any factors that cause flood heights  
1761 greater than those calculated, including ice jams, debris accumulation, wave action,  
1762 obstruction of bridge openings and floodways, the effects of watershed urbanization, loss of  
1763 flood storage areas due to development and aggregation of the river or stream bed.  
1764
- 1765 40. HABITABLE STRUCTURE – Any structure or portion thereof used or designed for human  
1766 habitation.  
1767
- 1768 41. HEARING NOTICE – Publication or posting meeting the requirements of Ch. 985, Stats.  
1769 For appeals, a Class 1 notice, published once at least one week (7 days) before the hearing,  
1770 is required. For all zoning ordinances and amendments, a Class 2 notice, published twice,  
1771 once each week consecutively, the last at least a week (7 days) before the hearing. Local  
1772 ordinances or bylaws may require additional notice, exceeding these minimums.  
1773
- 1774 42. HIGH FLOOD DAMAGE POTENTIAL – Damage that could result from flooding that includes  
1775 any danger to life or health or any significant economic loss to a structure or building and its  
1776 contents.  
1777
- 1778 43. HIGHEST ADJACENT GRADE – The highest natural elevation of the ground surface prior to  
1779 construction next to the proposed walls of a structure.  
1780
- 1781 44. HISTORIC STRUCTURE – Any structure that is either:  
1782
  - 1783 • Listed individually in the National Register of Historic Places or preliminarily determined  
1784 by the Secretary of the Interior as meeting the requirements for individual listing on the  
1785 National Register;
  - 1786 • Certified or preliminarily determined by the Secretary of the Interior as contributing to the  
1787 historical significance of a registered historic district or a district preliminarily determined  
1788 by the Secretary to qualify as a registered historic district;
  - 1789 • Individually listed on a state inventory of historic places in states with historic  
1790 preservation programs which have been approved by the Secretary of the Interior; or
  - 1791 • Individually listed on a local inventory of historic places in communities with historic  
1792 preservation programs that have been certified either by an approved state program, as  
1793 determined by the Secretary of the Interior; or by the Secretary of the Interior in states  
1794 without approved programs.
- 1795 45. INCREASE IN REGIONAL FLOOD HEIGHT – A calculated upward rise in the regional flood  
1796 elevation greater than 0.00 foot, based on a comparison of existing conditions and proposed  
1797 conditions which is directly attributable to development in the floodplain but not attributable  
1798 to manipulation of mathematical variables such as roughness factors, expansion and  
1799 contraction coefficients and discharge.  
1800
- 1801 46. LAND USE – Any nonstructural use made of unimproved or improved real estate. (Also see  
1802 DEVELOPMENT.)  
1803
- 1804 47. LOWEST ADJACENT GRADE – Elevation of the lowest ground surface that touches any of  
1805 the exterior walls of a building.  
1806
- 1807 48. LOWEST FLOOR – The lowest floor of the lowest enclosed area (including basement).  
1808
- 1809 49. MAINTENANCE – The act or process of ordinary upkeep and repairs, including  
1810 redecorating, refinishing, nonstructural repairs, or the replacement of existing fixtures,  
1811 systems or equipment with equivalent fixtures, systems or structures.  
1812

- 1813 50. MANUFACTURED HOME – A structure transportable in one or more sections, which is built  
1814 on a permanent chassis and is designed to be used with or without a permanent foundation  
1815 when connected to required utilities. The term "manufactured home" includes a mobile  
1816 home but does not include a "mobile recreational vehicle."  
1817
- 1818 51. MOBILE/MANUFACTURED HOME PARK OR SUBDIVISION – A parcel (or contiguous  
1819 parcels) of land, divided into two or more manufactured home lots for rent or sale.  
1820
- 1821 52. MOBILE/MANUFACTURED HOME PARK OR SUBDIVISION, EXISTING – A parcel of land,  
1822 divided into two or more manufactured home lots for rent or sale, on which the construction  
1823 of facilities for servicing the lots is completed before the effective date of this ordinance. At  
1824 a minimum, this would include the installation of utilities, the construction of streets and  
1825 either final site grading or the pouring of concrete pads.  
1826
- 1827 53. MOBILE/MANUFACTURED HOME PARK, EXPANSION TO EXISTING – The preparation  
1828 of additional sites by the construction of facilities for servicing the lots on which the  
1829 manufactured homes are to be affixed. This includes installation of utilities, construction of  
1830 streets and either final site grading, or the pouring of concrete pads.  
1831
- 1832 54. MOBILE RECREATIONAL VEHICLE – A vehicle which is built on a single chassis, 400  
1833 square feet or less when measured at the largest horizontal projection, designed to be self-  
1834 propelled, carried or permanently towable by a licensed, light-duty vehicle, is licensed for  
1835 highway use if registration is required and is designed primarily not for use as a permanent  
1836 dwelling, but as temporary living quarters for recreational, camping, travel or seasonal use.  
1837 Manufactured homes that are towed or carried onto a parcel of land, but do not remain  
1838 capable of being towed or carried, including park model homes, do not fall within the  
1839 definition of "mobile recreational vehicles."  
1840
- 1841 55. MODEL, CORRECTED EFFECTIVE – A hydraulic engineering model that corrects any  
1842 errors that occur in the Duplicate Effective Model, adds any additional cross sections to the  
1843 Duplicate Effective Model, or incorporates more detailed topographic information than that  
1844 used in the current effective model.  
1845
- 1846 56. MODEL, DUPLICATE EFFECTIVE – A copy of the hydraulic analysis used in the effective  
1847 FIS and referred to as the effective model.  
1848
- 1849 57. MODEL, EFFECTIVE – The hydraulic engineering model that was used to produce the  
1850 current effective Flood Insurance Study.  
1851
- 1852 58. MODEL, EXISTING (PRE-PROJECT) – A modification of the Duplicate Effective Model or  
1853 Corrected Effective Model to reflect any man made modifications that have occurred within  
1854 the floodplain since the date of the effective model but prior to the construction of the project  
1855 for which the revision is being requested. If no modification has occurred since the date of  
1856 the effective model, then this model would be identical to the Corrected Effective Model or  
1857 Duplicate Effective Model.  
1858
- 1859 59. MODEL, REVISED (POST-PROJECT) – A modification of the Existing or Pre-Project  
1860 Conditions Model, Duplicate Effective Model or Corrected Effective Model to reflect revised  
1861 or post-project conditions.  
1862

- 1863 60. MODERATE WAVE ACTION AREA (MoWA) – A special flood hazard area subject to the  
1864 potential for breaking wave heights of greater than or equal to 1.5 feet, but less than 3 feet,  
1865 where the primary source of flooding is astronomical tides, storm surges, seiches, and/or  
1866 tsunamis. A MoWA is an area within zone AE on a FIRM that is between the inland limit of  
1867 zone VE and a Limit of Moderate Wave Action, where identified. (Also known as “coastal A  
1868 zone”)  
1869
- 1870 61. MUNICIPALITY or MUNICIPAL – The county, city or village governmental units enacting,  
1871 administering and enforcing this zoning ordinance.  
1872
- 1873 62. NAVD or NORTH AMERICAN VERTICAL DATUM – Elevations referenced to mean sea  
1874 level datum, 1988 adjustment.  
1875
- 1876 63. NGVD or NATIONAL GEODETIC VERTICAL DATUM – Elevations referenced to mean sea  
1877 level datum, 1929 adjustment.  
1878
- 1879 64. NEW CONSTRUCTION – Structures for which the start of construction commenced on or  
1880 after the effective date of a floodplain zoning regulation adopted by this community and  
1881 includes any subsequent improvements to such structures.  
1882
- 1883 65. NON-FLOOD DISASTER – A fire or an ice storm, tornado, windstorm, mudslide or other  
1884 destructive act of nature, but excludes a flood.  
1885
- 1886 66. NONCONFORMING STRUCTURE – An existing lawful structure or building which is not in  
1887 conformity with the dimensional or structural requirements of this ordinance for the area of  
1888 the floodplain which it occupies. (For example, an existing residential structure in the  
1889 floodfringe district is a conforming use. However, if the lowest floor is lower than the flood  
1890 protection elevation, the structure is nonconforming.)  
1891
- 1892 67. NONCONFORMING USE – An existing lawful use or accessory use of a structure or  
1893 building which is not in conformity with the provisions of this ordinance for the area of the  
1894 floodplain which it occupies. (Such as a residence in the floodway.)  
1895
- 1896 68. OBSTRUCTION TO FLOW – Any development which blocks the conveyance of floodwaters  
1897 such that this development alone or together with any future development will cause an  
1898 increase in regional flood height.  
1899
- 1900 69. OFFICIAL FLOODPLAIN ZONING MAP – That map, adopted and made part of this  
1901 ordinance, as described in s. 1.5(2), which has been approved by the Department and  
1902 FEMA.  
1903
- 1904 70. OPEN SPACE USE – Those uses having a relatively low flood damage potential and not  
1905 involving structures.  
1906
- 1907 71. ORDINARY HIGHWATER MARK – The point on the bank or shore up to which the  
1908 presence and action of surface water is so continuous as to leave a distinctive mark such as  
1909 by erosion, destruction or prevention of terrestrial vegetation, predominance of aquatic  
1910 vegetation, or other easily recognized characteristic.  
1911
- 1912 72. PERSON – An individual, or group of individuals, corporation, partnership, association,  
1913 municipality or state agency.  
1914
- 1915 73. PRIMARY FRONTAL DUNE – A continuous or nearly continuous mound or ridge of sand  
1916 with relatively steep seaward and landward slopes immediately landward and adjacent to  
1917

- 1918 the beach and subject to erosion and overtopping from high tides and waves during major  
 1919 coastal storms. The inland limit of the primary frontal dune occurs at the point where there  
 1920 is a distinct change from a relatively steep slope to a relatively mild slope.  
 1921
- 1922 74. PRIVATE SEWAGE SYSTEM – A sewage treatment and disposal system serving one  
 1923 structure with a septic tank and soil absorption field located on the same parcel as the  
 1924 structure. It also means an alternative sewage system approved by the Department of  
 1925 Safety and Professional Services, including a substitute for the septic tank or soil absorption  
 1926 field, a holding tank, a system serving more than one structure or a system located on a  
 1927 different parcel than the structure.  
 1928
- 1929 75. PUBLIC UTILITIES – Those utilities using underground or overhead transmission lines such  
 1930 as electric, telephone and telegraph, and distribution and collection systems such as water,  
 1931 sanitary sewer and storm sewer.  
 1932
- 1933 76. REASONABLY SAFE FROM FLOODING – Means base flood waters will not inundate the  
 1934 land or damage structures to be removed from the floodplain and that any subsurface  
 1935 waters related to the base flood will not damage existing or proposed buildings.  
 1936
- 1937 77. REGIONAL FLOOD – A flood determined to be representative of large floods known to have  
 1938 occurred in Wisconsin. A regional flood is a flood with a one percent chance of being  
 1939 equaled or exceeded in any given year, and if depicted on the FIRM, the RFE is equivalent  
 1940 to the BFE.  
 1941
- 1942 78. SAND DUNES – Naturally occurring accumulations of sand in ridges or mounds landward of  
 1943 the beach.  
 1944
- 1945 79. START OF CONSTRUCTION – The date the building permit was issued, provided the  
 1946 actual start of construction, repair, reconstruction, rehabilitation, addition, placement, or  
 1947 other improvement was within 180 days of the permit date. The actual start means either  
 1948 the first placement of permanent construction on a site, such as the pouring of slab or  
 1949 footings, the installation of piles, the construction of columns, or any work beyond initial  
 1950 excavation, or the placement of a manufactured home on a foundation. Permanent  
 1951 construction does not include land preparation, such as clearing, grading and filling, nor  
 1952 does it include the installation of streets and/or walkways, nor does it include excavation for  
 1953 a basement, footings, piers or foundations or the erection of temporary forms, nor does it  
 1954 include the installation on the property of accessory buildings, such as garages or sheds not  
 1955 occupied as dwelling units or not part of the main structure. For an alteration, the actual  
 1956 start of construction means the first alteration of any wall, ceiling, floor or other structural  
 1957 part of a building, whether or not that alteration affects the external dimensions of the  
 1958 building.  
 1959
- 1960 80. STRUCTURE – Any manmade object with form, shape and utility, either permanently or  
 1961 temporarily attached to, placed upon or set into the ground, stream bed or lake bed,  
 1962 including, but not limited to, roofed and walled buildings, gas or liquid storage tanks, bridges,  
 1963 dams and culverts.  
 1964
- 1965 81. SUBDIVISION – Has the meaning given in s. 236.02(12), Wis. Stats.  
 1966
- 1967 82. SUBSTANTIAL DAMAGE – Damage of any origin sustained by a structure, whereby the  
 1968 cost of restoring the structure to its pre-damaged condition would equal or exceed 50  
 1969 percent of the equalized assessed value of the structure before the damage occurred.  
 1970
- 1971 83. SUBSTANTIAL IMPROVEMENT – Any repair, reconstruction, rehabilitation, addition or

- 1972 improvement of a building or structure, the cost of which equals or exceeds 50 percent of  
 1973 the equalized assessed value of the structure before the improvement or repair is started. If  
 1974 the structure has sustained substantial damage, any repairs are considered substantial  
 1975 improvement regardless of the work performed. The term does not include either any  
 1976 project for the improvement of a building required to correct existing health, sanitary or  
 1977 safety code violations identified by the building official and that are the minimum necessary  
 1978 to assure safe living conditions; or any alteration of a historic structure provided that the  
 1979 alteration will not preclude the structure's continued designation as a historic structure.  
 1980
- 1981 84. UNNECESSARY HARDSHIP – Where special conditions affecting a particular property,  
 1982 which were not self-created, have made strict conformity with restrictions governing areas,  
 1983 setbacks, frontage, height or density unnecessarily burdensome or unreasonable in light of  
 1984 the purposes of the ordinance.  
 1985
- 1986 85. VARIANCE – An authorization by the board of adjustment or appeals for the construction or  
 1987 maintenance of a building or structure in a manner which is inconsistent with dimensional  
 1988 standards (not uses) contained in the floodplain zoning ordinance.  
 1989
- 1990 86. VIOLATION – The failure of a structure or other development to be fully compliant with the  
 1991 floodplain zoning ordinance. A structure or other development without required permits,  
 1992 lowest floor elevation documentation, floodproofing certificates or required floodway  
 1993 encroachment calculations is presumed to be in violation until such time as that  
 1994 documentation is provided.  
 1995
- 1996 87. WATERSHED – The entire region contributing runoff or surface water to a watercourse or  
 1997 body of water.  
 1998
- 1999 88. WATER SURFACE PROFILE – A graphical representation showing the elevation of the  
 2000 water surface of a watercourse for each position along a reach of river or stream at a certain  
 2001 flood flow. A water surface profile of the regional flood is used in regulating floodplain areas.  
 2002
- 2003 89. WELL – means an excavation opening in the ground made by digging, boring, drilling,  
 2004 driving or other methods, to obtain groundwater regardless of its intended use.

# NFIP's Community Rating System (CRS) Class 8 Freeboard Prerequisite

## Frequently Asked Questions

November 2020

The Community Rating System (CRS) is a voluntary program that provides flood insurance premium discounts to communities that implement programs and measures that exceed the minimum floodplain management requirements of the National Flood Insurance Program (NFIP). The CRS determines discounts based on credit points provided for floodplain management activities. To achieve certain CRS Class ratings, communities must meet certain program prerequisites in addition to obtaining the credit points. In January 2021, the CRS will implement a new Class 8 prerequisite for freeboard for all participating and new CRS communities. Below are some frequently asked questions about the CRS Class 8 freeboard prerequisite. Answers to questions 1–12 were released in July 2020. Questions 13–17 were added in October 2020. Questions 16 and 17 were clarified in November 2020.

A community with additional questions about the prerequisite or the CRS should contact its ISO/CRS Specialist. For a list of ISO/CRS Specialists, see the [CRS Resources website](#). State NFIP Coordinators or FEMA Regional CRS Coordinators can assist with model ordinance or sample regulatory language for freeboard, and other higher regulatory standards. A list of [State NFIP Coordinators](#) can be found here. Contact information for FEMA is available at the [FEMA website](#).

### 1. What is the new CRS Class 8 freeboard prerequisite?

Section 211 of the 2017 *CRS Coordinator's Manual* will be changed to read:

“In order to be a Class 8 or better . . .

- (1) The community must meet all the Class 9 prerequisites.
- (2) The community must adopt and enforce at least a 1-foot freeboard requirement (including machinery and equipment) for all residential buildings constructed, substantially improved, and/or reconstructed due to substantial damage, throughout its Special Flood Hazard Area (SFHA) where base flood elevations have been determined on the Flood Insurance Rate Map (FIRM) or in the Flood Insurance Study (FIS), except those areas that receive open space credit under Activity 420 (Open Space Preservation).”

### 2. Why is FEMA making freeboard a Class 8 prerequisite in the CRS?

The goal is to further the flood resiliency of our Nation. FEMA is working to ensure that homes are built to better withstand natural disasters, including floods. The CRS credits community efforts that exceed the minimum floodplain management requirements of the NFIP.

Freeboard—a margin of safety added to the level of the base flood—definitively exceeds those minimum standards. Research shows that higher regulatory standards reduce future flood



damage, and the importance is recognized by over 80% of CRS communities who already require freeboard. With freeboard in place, homes are not only better protected from flood damage, but also flood insurance costs less. The expense of elevating a new home an additional foot often can be recaptured in lower flood insurance premiums over 5 years or less.

**3. How will the change in the 2017 CRS Coordinator's Manual be made?**

FEMA will issue an addendum to the 2017 *CRS Coordinator's Manual* that will be effective on January 1, 2021. CRS communities and the Insurance Services Office, Inc. (ISO) will continue to use the 2017 *Coordinator's Manual* along with the 2021 Addendum, until such time that FEMA issues a new *Coordinator's Manual*, likely not before 2023.

**4. Which CRS communities does the Class 8 freeboard prerequisite affect?**

The Class 8 freeboard prerequisite affects Class 5 through Class 8 communities. The prerequisite will not affect Class 9 communities. Communities in Classes 1 through 4 already meet the new freeboard prerequisite.

**5. When will the Class 8 freeboard prerequisite be applied to participating CRS communities?**

The Class 8 freeboard prerequisite will be required of CRS communities at their first CRS cycle verification visit after January 1, 2021. Ordinance, regulatory, or building code language that meets the Class 8 prerequisite must be adopted, and provisions must be enforced, no later than the first cycle visit after January 1, 2021. However, an earlier date for community enforcement of the Class 8 freeboard prerequisite may be required in a new (2023 or later) *CRS Coordinator's Manual*. This means that communities that are not due for a cycle visit until 2023 or later should not wait to adopt the freeboard requirement.

**6. Can a community still join or participate in the CRS without a freeboard requirement?**

Yes. Any community that meets the CRS Class 9 prerequisites can apply to join the CRS and become a Class 9 community. Any already-participating CRS community that cannot meet the Class 8 freeboard prerequisite at its first cycle visit after 2021 will change to a Class 9 community (see previous question).

**7. Where must a community require at least 1 foot of freeboard?**

Communities must enforce the freeboard requirement for all residential buildings that are new, substantially improved, and/or reconstructed due to substantial damage throughout the SFHA where base flood elevations have been determined on the FIRM or in the FIS. This means all “numbered zones” in the SFHA. The CRS will not require freeboard in unnumbered zones within the SFHA.

**8. The prerequisite includes all residential buildings. Does this include manufactured homes?**

Yes. At least 1 foot of freeboard is required for manufactured homes, including machinery and equipment.

**9. If a community adopts the International Code Council codes, will it meet the requirements for the Class 8 freeboard prerequisite?**

Yes, provided that the adopted building code includes freeboard for residential buildings and the community is enforcing the freeboard provisions. This includes adopted state building codes that are enforced in the community. The CRS credits other higher standards included in building codes. For example, coastal CRS communities that have adopted and enforce recent building codes and have newer FIRMs often can qualify for Coastal A Zones credit under Activity 430 (Higher Regulatory Standards).

**10. Should a community require more than 1 foot of freeboard?**

All communities are encouraged to consider adopting additional freeboard. This may mean freeboard in all flood zones. It may mean more than 1 foot of freeboard. It may mean applying the freeboard standard to all building types. Remember, CRS credit is available for the enforcement of freeboard under CRS Activity 430 (Higher Regulatory Standards).

**11. Will communities receive CRS credit for the enforcement of freeboard for residential buildings?**

Yes. Communities will continue to receive freeboard credit (FRB) under Activity 430 (Higher Regulatory Standards) for enforcing freeboard for residential buildings. Communities that already receive FRB credit will continue to receive FRB credit. The basic FRB credit in the CRS is 100 points. FRB credit is higher when more freeboard is required or when elevation on fill is not allowed. An impact adjustment is applied to FRB credit.

**12. What should CRS communities do in light of the Class 8 prerequisite?**

Communities that currently enforce freeboard should check their floodplain ordinances and/or building codes to be sure that machinery and equipment are included, that substantially improved buildings are included, and that the provisions are being enforced.

Communities that do not now enforce at least 1 foot of freeboard for all new or substantially improved residential buildings, including machinery and equipment, within numbered zones of the SFHA will need to make changes to their floodplain ordinance and/or building code. Adoption and enforcement of the freeboard must occur before the community's first CRS cycle visit after January 1, 2021.

*Answers to questions 13 through 17, below, were provided in October 2020. In November 2020, more information was provided for question 13 and clarifications were made to questions 16 and 17.*

**13. What residential buildings are included in the Class 8 freeboard requirement?**

The Class 8 freeboard prerequisite applies to all residential buildings, whether single-family, multi-family, or manufactured. Note that one goal of the freeboard prerequisite is that all residential buildings benefit from a flood insurance rate based on a building elevation of at least 1 foot above the base flood elevation (BFE+1). For a full definition of "residential," see Appendix L of the NFIP's *Flood Insurance Manual*.

**14. Does the Class 8 prerequisite include the replacement of manufactured homes in pre-FIRM manufactured home parks? And can the replaced manufactured home be 48 inches above grade to meet the Class 8 prerequisite?**

The Class 8 freeboard prerequisite applies to all manufactured homes. All manufactured homes in numbered zones of the SFHA must have at least 1 foot of freeboard above the base flood elevation. This is consistent with the 2015 and 2018 International Residential Codes. A requirement that the manufactured home be 48 inches above grade is not by itself sufficient to meet the 1-foot freeboard requirement.

**15. Are historic buildings subject to the Class 8 freeboard prerequisite?**

No, historic structures (as defined in 44 *C.F.R* §59.1) that are allowed an exemption (or variance) as anticipated by 44 *C.F.R* §60.3 for substantial improvements may be exempt (or varied) from the Class 8 prerequisite. For CRS purposes, documentation of the exemption may be requested. A community interested in providing for the treatment of historic structures within its floodplain ordinance should contact its state historic preservation office or the FEMA Regional Office about recommended language.

**16. May machinery and equipment be floodproofed instead of elevated to at least 1 foot above base flood elevation to meet the Class 8 freeboard prerequisite?**

No. To meet the Class 8 prerequisite the building code or ordinance must require machinery or equipment to be elevated to at least 1 foot above the base flood elevation for buildings newly constructed, substantially improved, and/or reconstructed due to substantial damage. This requirement includes machinery and equipment placed within attached garages and/or within enclosures below elevated buildings, with the exception of utility meters and equipment specifically designed to withstand inundation according to the standards of the International Residential Codes and the NFIP. A community that allows floodproofing around machinery and equipment in lieu of elevation to the freeboard level does not meet the prerequisite.

**17. Does the freeboard requirement for Class 8 apply to attached garages?**

The Class 8 freeboard prerequisite will be met provided that attached garages and enclosures below elevated buildings meet the minimum requirements of the NFIP (elevated to the base flood elevation or having proper openings). As noted in question 16, all machinery and equipment in attached garages or in enclosures must be elevated to the freeboard level.

# Adopting an Ordinance: A Step-By-Step Guide

## Adopting an Ordinance

1. Proposal to Governing Body
2. Notice of Public Hearing
  - Two consecutive weeks at least a week before hearing.
3. Public Hearing
4. Decision by Governing Body
5. Ordinance Publication
6. Prepare for DNR Approval:
  - Affidavit of Publication of Notice
  - Certified Copy of Final Ordinance Text
  - Affidavit of Publication of Enacted Ordinance
7. Approval by DNR
  - This is the last step, but to speed the approval process up, submit the draft proposal to DNR before starting the ordinance adoption process.

### 1. Ordinance/Amendment Proposal

Generally, ordinance proposals are drafted by the zoning administrator, planning and zoning staff, corporation counsel or a regional planning commission at the request of the local governing body.

Notice of public hearing (a Class 2 notice under ch. 985, Stats.) must appear in a newspaper on two consecutive weeks, the last publication at least **seven days** prior to the hearing date.

### 2. Notice of Public Hearing

Communities must provide notice of the public hearing to be conducted on the proposed ordinance/ amendment. Publication of the notice of public hearing must meet the Class 2 legal requirements (under Ch. 985, Stats.) in order for the zoning ordinance or amendment to be valid. Posting notice of public hearing is permitted in lieu of publication only if the municipality is not required to have an official newspaper.

### 3. Public Hearing

In cities and villages, the hearing may be held before the designated planning and zoning committee or before the municipal governing body. In counties, hearings on proposed zoning ordinances or amendments are held by the county zoning committee before consideration of an ordinance or amendment by the county board.

if the municipality is not required to have an official newspaper published in the municipality that meets the requirements.

### 6. Ordinance/Amendment Approval

For the DNR to approve an adopted ordinance, the community must submit the following documentation:

- **An affidavit of publication from the newspaper and a copy of the published notice.** This verifies that the notice of public hearing was published or posted correctly. If the notice was posted, a notarized affidavit by the local official (i.e. clerk) stating that the notice of public hearing was posted in three public places (with date and location) is sufficient proof.
- **A certified copy of the adopted ordinance passed by the governing body.** A notarized statement by the local official (i.e. clerk) affixed to the ordinance stating that the ordinance is a true and correct copy of what was adopted by the municipality.
- **An affidavit of publication from the newspaper and a copy of the notice of the enacted ordinance.** If the enacted ordinance (or where to view enacted ordinance) was posted, a notarized affidavit by the local official (i.e., clerk) stating that it was posted in three public places (with date and location) is sufficient proof.

### 7. Wisconsin Department of Natural Resources

The DNR reviews ordinances for compliance with the minimum state standards. Both the ordinance and adoption procedures are reviewed. When it is determined that all the requirements are met, a formal approval letter is sent to the adopting community.

Floodplain zoning ordinances and amendments do not become effective until approved by the DNR; thus formal approvals are issued each time the ordinance is amended. DNR approvals are required by FEMA for a community to maintain their flood insurance.

To minimize the time and expense associated with ordinance revisions, communities should submit a draft of the proposed language to [DNRFLOODPLAIN@wi.gov](mailto:DNRFLOODPLAIN@wi.gov). Once the DNR has reviewed the draft and the community has made any needed revisions, please follow the complete adoption process outlined in this guide. If you have questions regarding floodplain ordinance adoption, please contact DNR Floodplain staff at [DNRFLOODPLAIN@wi.gov](mailto:DNRFLOODPLAIN@wi.gov) or 608-220-5633.

### 4. Decision of the Governing Body

In cities, two thirds of the members of the municipal governing body constitute a quorum except in cities with less than five aldermen, where a majority constitutes a quorum. In villages, a majority of the members constitute a quorum. In counties, a majority of the supervisors constitute a quorum and must be present for a legal vote on proposed zoning ordinances or amendments.

### 5. Publication of Adopted Ordinance Text

An adopted zoning ordinance or amendment must be published once in the municipality's official newspaper as a Class I Notice Posting. Posting is an option

Calendar						
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				N1		
				N2	1	2
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