



# **WISCONSIN DEPARTMENT OF NATURAL RESOURCES**

## **MODEL FLOODPLAIN ORDINANCE**

**Revised October 2005**

### STATUTORY APPROVAL REQUIREMENTS

The public hearing notice must be published twice, THE SECOND TIME AT LEAST 7 DAYS BEFORE THE HEARING, to meet statutory notice requirements to legally adopt any zoning ordinance or amendment. The community must also furnish a certified copy of the ordinance and proof of publication or posting of the amended ordinance.

**There are six places in this document where blanks must be completed.** After filling in those blanks (and putting in proper map references), publishing a Class 2 public hearing notice, and conducting the hearing, this document may be adopted as is by the municipality's governing body.

This model ordinance includes both the minimum regulatory standards required in ch. NR 116, Wis. Admin. Code, and those of the National Flood Insurance Program. Section 87.30(1)(b), Stats., permits a county, city, village or town to adopt a floodplain zoning ordinance that is more restrictive than the provisions required by the State, but not less restrictive. Other model ordinances are available from DNR, or we will help you develop alternative regulations to meet state and federal guidelines.

Submit the proposed ordinance to the DNR Regional Office zoning specialist for review at least 30 days before the public hearing to determine whether it meets all minimum standards. After public hearing and adoption, it is an added expense to change unacceptable ordinance language. No floodplain zoning ordinance amendment is effective until officially approved by DNR. All amendments must also be submitted to the Federal Emergency Management Agency.

Model ordinances and FEMA flood insurance maps are periodically revised. Contact the DNR before public hearing or adoption to assure you are using the most recent and accurate map and ordinance text available.

A handbook entitled *The Floodplain-Shoreland Management Guidebook* has been developed and distributed to all counties, cities and villages with floodplain or shoreland zoning ordinances. Look for this document in your municipal zoning office for answers to many questions about floodplain, wetland and shoreland zoning, dam safety, and the NFIP.

**If possible, please submit your draft ordinance electronically. If you have made any changes to the model ordinance, please note the location of the changes in the draft.**

***The community must fill in these sections prior to adoption:***

**Section**

1.4 [Insert community name](#) ..... 2

1.5(2) [Insert source, name, date, and location of official floodplain zoning maps and other related maps](#) .....3

1.5(12) [Insert name of your county](#) (Counties delete this section).....5

7.1(2)(d) [Insert permit expiration date](#) .....19

7.2(1) [Name of this committee](#).....20

9.0 [Insert correct amounts, both minimum and maximum](#).....25

Date of Public Hearing:\_\_\_\_\_ Class 2 Hearing Notice Publication

Date of Adoption:\_\_\_\_\_ Dates:

Date of Publication:\_\_\_\_\_ (Second must be at least 7 days before hearing, see definition)

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

**1.1 STATUTORY AUTHORIZATION**

This ordinance is adopted pursuant to the authorization in Wis. Stat. s. 62.23, and the requirements in Wis. Stat. s. 87.30.

**1.2 FINDING OF FACT**

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

**1.3 STATEMENT OF PURPOSE**

This article is intended to regulate floodplain development to:

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

**1.4 TITLE**

This article shall be known as the Floodplain Zoning Ordinance for the City of Racine, Wisconsin.

**1.5 GENERAL PROVISIONS**

(1) AREAS TO BE REGULATED

This article regulates all areas that would be covered by the regional flood or base flood.

**Note:** Base flood elevations are derived from the flood profiles in the Flood Insurance Study. Regional flood elevations may be derived from other studies. Areas covered by the base flood are identified as A-Zones on the Flood Insurance Rate Map.

(2) OFFICIAL MAPS & REVISIONS

The boundaries of all floodplain districts are designated as floodplains or A-Zones on the maps listed below and the revisions in the City of Racine Floodplain Appendix. Any change to the base flood elevations (BFE) in the Flood Insurance Study (FIS) or on the Flood Insurance Rate Map (FIRM) must be reviewed and approved by the Department of Natural Resources and Federal Emergency Management Agency before it is effective. No changes to regional flood elevations (RFE's) on non-FEMA maps shall be effective until approved by DNR. These maps and revisions are on file in the office of the zoning administrator. If more than one map or revision is referenced, the most current approved information shall apply.

OFFICIAL MAPS : Based on the FIS

- (a) Flood Insurance Rate Map (FIRM), panel number Community No. 555575A panels 01-08, dated last revised January 2, 1976; with corresponding profiles that are based on the Flood Insurance Study (FIS) dated last revised January 2, 1976
- (b) Flood Hazard Boundary Map (FHBM), panel number Community No. 555575A panels 01-08, dated last revised January 2, 1976

Approved by: DNR and FEMA

OFFICIAL MAPS: Based on other studies

- (a) The boundaries of the floodplains in the city are hereby established as shown upon the official floodplain and floodway maps, dated September, 1972; December, 1972; January 1973; July 1973; August 1973; April 1973; May 1974; and November, 1977(floodlines taken from the Root River Watershed Topographic Maps as copyrighted by Racine County which were prepared by Alster and Associates Engineers, Inc. and the Southeastern Regional Planning Commission), which are based on the flood insurance study maps and corresponding profiles dated September 1972, including flood insurance rate maps as revised January 2, 1976. The floodlines along Root River at the Racine Country Club have been modified as shown on the engineering studies by Foth and Van Dyke Engineers, dated June 25, 1993, and as shown on the map modifications dated October 4, 1993.

Approved by: DNR and FEMA

- (b) The boundaries of the floodplain for the Pike River in the city between 16<sup>th</sup> Street and the abandoned C.M.St. P & P Railroad right-of-way east of Oakes Road are shown on the map dated July 29, 1993

Approved by: DNR and FEMA

(3) ESTABLISHMENT OF DISTRICTS

The regional floodplain areas are divided into three 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.
- (b) The Floodfringe District (FF) is that portion of the floodplain between the regional flood limits and the floodway.
- (c) The General Floodplain District (GFP) is those areas that have been or may be covered by floodwater during the regional flood.

(4) LOCATING FLOODPLAIN BOUNDARIES

Discrepancies between boundaries on the official floodplain zoning map and actual field conditions shall be resolved using the criteria in paragraphs (a) or (b) below. If a significant difference exists, the map shall be amended according to s. 8.0. The zoning administrator can rely on a boundary derived from a profile elevation to grant or deny a land use permit, whether or not a map amendment is required. The zoning administrator shall be responsible for documenting actual pre-development field conditions and the basis upon which the district boundary was determined and for initiating any map amendments required under this section. Disputes between the zoning administrator and an applicant over the district boundary line shall be settled according to s. 7.3(3) and the criteria in (a) and (b) below.

- (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, the location of the boundary shall be determined by the map scale, visual on-site inspection and any information provided by the department.

**Note:** Where the flood profiles are based on established base flood elevations from a FIRM, FEMA must also approve any map amendment pursuant to s. 8.1 (6).

(5) REMOVAL OF LANDS FROM FLOODPLAIN

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.

**Note:** This procedure does not remove the requirements for the mandatory purchase of flood insurance. The property owner must contact FEMA to request a Letter of Map Change (LOMC).

(6) COMPLIANCE

Any development or use within the areas regulated by this article shall be in compliance with the terms of this article and other applicable local, state, and federal regulations.



(7) MUNICIPALITIES AND STATE AGENCIES REGULATED

Unless specifically exempted by law, the city is required to comply with this article and obtain all necessary permits.

(8) ABROGATION AND GREATER RESTRICTIONS

(a) This article supersedes all the provisions of any zoning ordinance enacted under Wis. Stats. s. 62.23 or s. 87.30, which relate to floodplains. If another section is more restrictive than this article, that section shall continue in full force and effect to the extent of the greater restrictions, but not otherwise.

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

(9) INTERPRETATION

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

(10) WARNING AND DISCLAIMER OF LIABILITY

The flood protection standards in this article are based on engineering experience and scientific research. Larger floods may occur or the flood height may be increased by man-made or natural causes. This article does not imply or guarantee that non-floodplain areas or permitted floodplain uses will be free from flooding and flood damages. Nor does this article create liability on the part of, or a cause of action against, the city or any officer or employee thereof for any flood damage that may result from reliance on this article.

(11) SEVERABILITY

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

(12) ANNEXED AREAS FOR CITIES AND VILLAGES

The Racine County floodplain zoning provisions, or other governmental unit's duly adopted floodplain zoning provisions in effect on the date of annexation shall remain in effect and shall be enforced by the municipality for all annexed areas until the municipality adopts and enforces an ordinance which meets the requirements of Wis. Adm. Code ch. NR 116, and the National Flood Insurance Program (NFIP). These annexed lands are described on the municipality's official zoning map. County floodplain zoning provisions or other governmental unit's duly adopted floodplain zoning provisions are incorporated by reference for the purpose of administering this section and are on file in the office of the

municipal zoning administrator. All plats or maps of annexation shall show the regional flood elevation and the location of the floodway.

(13) **GENERAL DEVELOPMENT STANDARDS**

The city shall review all permit applications to determine whether proposed building sites will be reasonably safe from flooding. If a proposed building site is in a flood-prone area, all new construction and substantial improvements shall be designed or modified and adequately anchored to prevent flotation, collapse, or lateral movement of the structure resulting from hydrodynamic and hydrostatic loads; be constructed with materials resistant to flood damage; be constructed by methods and practices that minimize flood damages; and be constructed with electrical, heating, ventilation, plumbing, and air conditioning equipment and other service facilities designed and/or located so as to prevent water from entering or accumulating within the components during conditions of flooding. Subdivisions shall be reviewed for compliance with the above standards. All subdivision proposals (including manufactured home parks) shall include regional flood elevation and floodway data for any development that meets the subdivision definition of this article.

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

**2.1 HYDRAULIC AND HYDROLOGIC ANALYSES**

- (1) Except as allowed in par. (3) below, no floodplain development shall:
  - (a) Obstruct flow, defined as development which blocks the conveyance of floodwaters by itself or with other development, increasing regional flood height; or
  - (b) Increase regional flood height due to floodplain storage area lost, which equals or exceeds 0.01 foot.
- (2) The zoning administrator shall deny permits if it is determined that the proposed development will obstruct flow or increase regional flood heights 0.01 foot or more, based on the officially adopted FIRM or other adopted map, unless the provisions of sub. (3) are met.
- (3) Obstructions or increases equal to or greater than 0.01 foot may be permitted only if amendments are made to this article, the official floodplain zoning maps, floodway lines and water surface profiles, in accordance with s. 8.0.

**Note:** This section refers to obstructions or increases in base flood elevations as shown on the officially adopted FIRM or other adopted map. Any such alterations must be reviewed and approved by FEMA and DNR.

**2.2 WATERCOURSE ALTERATIONS**

No permit to alter or relocate a watercourse in a mapped floodplain shall be issued until the zoning administrator has notified in writing all adjacent municipalities, DNR and FEMA regional offices and required the applicant to secure all necessary state and federal permits. The flood carrying capacity of any altered or relocated watercourse shall be maintained. As soon as is practicable, but not later than six months after the date of the watercourse alteration or relocation, the zoning administrator shall notify FEMA of the changes by submitting appropriate technical or scientific

data in accordance with NFIP guidelines that shall be used to revise the FIRM, risk premium rates and floodplain management regulations as required.

### **2.3 WIS. STAT. CHAPTERS 30, & 31, DEVELOPMENT**

Development which requires a permit from DNR, under Wis. Stat. chs. 30 or 31, such as docks, piers, wharves, bridges, culverts, dams and navigational aids, may be allowed if the necessary permits are obtained and amendments to the floodway lines, water surface profiles, BFE's established in the FIS, or other data from the officially adopted FIRM, or other floodplain zoning maps or the floodplain zoning ordinance are made according to s. 8.0.

### **3.0 FLOODWAY OVERLAY DISTRICT (FWO)**

#### **3.1 APPLICABILITY**

This section applies to all floodway areas on the floodplain zoning maps and those identified pursuant to s. 5.4.

#### **3.2 PERMITTED USES**

The following open space uses are allowed in the floodway overlay district and the floodway areas of the general floodplain district, if they are not prohibited by any other section; they meet the standards in s. 3.3 and 3.4; and all permits or certificates have been issued according to s. 7.1.

- (1) Agricultural uses, such as: farming, outdoor plant nurseries, horticulture, viticulture and wild crop harvesting.
- (2) Nonstructural industrial and commercial uses, such as loading areas, parking areas and airport landing strips.
- (3) Nonstructural recreational uses, such as golf courses, tennis courts, archery ranges, picnic grounds, boat ramps, swimming areas, parks, wildlife and nature preserves, game farms, fish hatcheries, shooting, trap and skeet activities, hunting and fishing areas and hiking and horseback riding trails, subject to the fill limitations of s. 3.3(4).
- (4) Uses or structures accessory to open space uses, or classified as historic structures that comply with ss. 3.3 and 3.4.
- (5) Extraction of sand, gravel or other materials that comply with s. 3.3(4).
- (6) Functionally water-dependent uses, such as docks, piers or wharves, dams, flowage areas, culverts, navigational aids and river crossings of transmission lines, and pipelines that comply with chs. 30, and 31, Stats.
- (7) Public utilities, streets and bridges that comply with s. 3.3(3).

### **3.3 STANDARDS FOR DEVELOPMENTS IN FLOODWAY AREAS**

(1) GENERAL

- (a) Any development in floodway areas shall comply with s. 2.0 and have a low flood damage potential.
- (b) Applicants shall provide the following data to determine the effects of the proposal according to s. 2.1:
  - 1. A cross-section elevation view of the proposal, perpendicular to the watercourse, showing if the proposed development will obstruct flow; or
  - 2. An analysis calculating the effects of this proposal on regional flood height.
- (c) The zoning administrator shall deny the permit application if the project will increase flood elevations upstream or downstream 0.01 foot or more, based on the data submitted for par. (b) above.

(2) STRUCTURES

Structures accessory to permanent open space uses, classified as historic structures, or functionally dependent on a waterfront location may be allowed by permit if the structures comply with the following criteria. : The structure:

- (a) is not designed for human habitation and does not have a high flood damage potential;
- (b) is anchored to resist flotation, collapse and lateral movement;
- (c) has mechanical and utility equipment must be elevated to, or floodproofed to or above the flood protection elevation; and
- (d) does not obstruct the flow of flood waters or cause any increase in flood levels during the occurrence of the regional flood.

(3) PUBLIC UTILITIES, STREETS AND BRIDGES

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

- (a) Adequate floodproofing measures are provided to the flood protection elevation; and
- (b) Construction meets the development standards of s. 2.1.

(4) **FILLS OR DEPOSITION OF MATERIALS**

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

- (a) The requirements of s. 2.1 are met;
- (b) No material is deposited in the navigable channel unless a permit is issued by DNR pursuant to Wis. Stat. ch. 30, and a permit pursuant to s. 404 of the Federal Water Pollution Control Act, Amendments of 1972, 33 U.S.C. 1344 has been issued, if applicable, and the other requirements of such section are met;
- (c) The fill or other materials will be protected against erosion by riprap, vegetative cover, sheet piling or bulkheading; and
  - (d) The fill is not classified as, or determined to be a solid, trash, scrap, junk, garbage or hazardous material.

**3.4 PROHIBITED USES**

All uses not listed as permitted uses in s. 3.2 or in the underlying zoning district are prohibited, including the following uses:

- (1) Habitable structures, structures with high flood damage potential, or those not associated with permanent open-space uses;
- (2) Storing materials that are buoyant, flammable, explosive, injurious to property, water quality, or human, animal, plant, fish or other aquatic life;
- (3) Uses not in harmony with or detrimental to uses permitted in the adjoining districts;
- (4) Any private or public sewage system, except portable latrines that are removed prior to flooding and systems associated with recreational areas and Department-approved campgrounds that meet the applicable provisions of local ordinances and Wis. Adm. Code.ch. COMM 83.
- (5) Any public or private well which is used to obtain potable water, except those for recreational areas that meet the requirements of local codes and Wis. Adm. Code chs. NR 811 and NR 812.
- (6) Any solid or hazardous waste disposal site;
- (7) Any wastewater treatment pond or facility, except those permitted under Wis. Adm. Code. NR 110.15(3)(b).
- (8) Any sanitary sewer or water supply lines, except those to service existing or proposed development located outside the floodway which complies with the regulations for the floodplain area occupied.
- (9) Any public or private campground.

#### **4.0 FLOODFRINGE OVERLAY DISTRICT (FFO)**

#### **4.1 APPLICABILITY**

This section applies to all floodfringe areas shown on the floodplain zoning maps and those identified pursuant to s. 5.4.

#### **4.2 PERMITTED USES**

Any structure, land use, or development is allowed in the floodfringe overlay district if the standards in s. 4.3 are met, the use is not prohibited by this or any other section or regulation and all permits or certificates specified in s. 7.1 have been issued. Public or private campgrounds are a prohibited use in the floodfringe overlay district.

#### **4.3 STANDARDS FOR DEVELOPMENT IN FLOODFRINGE AREAS**

S. 2.1 shall apply in addition to the following requirements according to the use requested.

##### **(1) RESIDENTIAL USES**

Any habitable structure, including a manufactured home, which is to be erected, constructed, reconstructed, altered, or moved into the floodfringe area, shall meet or exceed the following standards;

- (a) The elevation of the lowest floor, excluding the basement or crawlway, shall be at or above the flood protection elevation on fill. The fill shall be one foot or more above the regional flood elevation extending at least 15 feet beyond the limits of the structure DNR may authorize other floodproofing measures if the elevations of existing streets or sewer lines makes compliance with the fill standards impractical;
- (b) The basement or crawlway floor may be placed at the regional flood elevation if it is floodproofed to the flood protection elevation. No basement or crawlway floor is allowed below the regional flood elevation;
- (c) Contiguous dryland access shall be provided from a structure to land outside of the floodplain, except as provided in par. (d).
- (d) In developments where existing street or sewer line elevations make compliance with par. (c) impractical, the municipality may permit new development and substantial improvements where access roads are at or below the regional flood elevation, if:
  1. The city has written assurance from police, fire and emergency services that rescue and relief will be provided to the structure(s) by wheeled vehicles during a regional flood event; or
  2. The city has a natural disaster plan approved by Wisconsin Emergency Management and DNR.

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

(a) Except as provided in par. (b), an accessory structure which is not connected to a principal structure may be constructed with its lowest floor at or above the regional flood elevation.

(b) An accessory structure which is not connected to the principal structure and which is less than 600 square feet in size and valued at less than \$10,000 may be constructed with its lowest floor no more than two feet below the regional flood elevation provided that it is subject to flood velocities of no more than two feet per second and that it meets all of the provisions of sections 3.3 (2) (a), (b), (c), (d), (e), (f), (g) and 4.3 (5) below.

(3) COMMERCIAL USES

Any commercial structure which is erected, altered or moved into the floodfringe area shall meet the requirements of s. 4.3(1). Subject to the requirements of sub. (5), storage yards, surface parking lots and other such uses may be placed at lower elevations if an adequate warning system exists to protect life and property.

(4) MANUFACTURING AND INDUSTRIAL USES

Any manufacturing or industrial structure which is erected, altered or moved into the floodfringe area shall be protected to the flood protection elevation using fill, levees, floodwalls, or other flood proofing measures in s. 7.5. Subject to the requirements of sub. (5), storage yards, surface parking lots and other such uses may be placed at lower elevations if an adequate warning system exists to protect life and property.

(5) STORAGE OF MATERIALS

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

(6) PUBLIC UTILITIES, STREETS AND BRIDGES

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

(a) When failure of public utilities, streets and bridges would endanger public health or safety, or where such facilities are deemed essential, construction of and substantial improvements to such facilities may be permitted only if they are floodproofed in compliance with s. 7.5 to the flood protection elevation;

(b) Minor roads or nonessential utilities may be constructed at lower elevations if they are designed to withstand flood forces to the regional flood elevation.

(7) WELLS

All wells shall be floodproofed, pursuant to s. 7.5, to the flood protection elevation and shall meet the provisions of Wis. Adm. Code chs. NR 811 and NR 812.

(8) SOLID WASTE DISPOSAL SITES

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

(9) DEPOSITION OF MATERIALS

Any deposited material must meet all the provisions of this article.

(  
**5.0 GENERAL FLOODPLAIN OVERLAY DISTRICT (GFPO)**

**5.1 APPLICABILITY**

The provisions for this GFPO shall apply to all floodplains for which flood profiles are not available or where flood profiles are available but floodways have not been delineated. Floodway and floodfringe districts shall be delineated when adequate data is available.

**5.2 PERMITTED USES**

Pursuant to s. 5.4, it shall be determined whether the proposed use is located within a floodway or floodfringe area.

Unless prohibited by the underlying zoning district, those uses permitted in floodway (s. 3.2) and floodfringe areas (s. 4.2) are allowed within the general floodplain district, according to the standards of s. 5.3, provided that all permits or certificates required under s. 7.1 have been issued.

**5.3 STANDARDS FOR DEVELOPMENT IN THE GENERAL FLOODPLAIN DISTRICT**

S. 3.0 applies to floodway areas, s. 4.0 applies to floodfringe areas. The balance of this article applies to either district.

**5.4 DETERMINING FLOODWAY AND FLOODFRINGE LIMITS**

Upon receiving an application for development within the general floodplain district, the zoning administrator shall:

- (1) Require the applicant to submit two copies of an aerial photograph or a plan that shows the proposed development with respect to the general floodplain district limits, stream channel, and existing floodplain developments, along with a legal description of the property, fill limits and elevations, building floor elevations and flood proofing measures;
- (2) Require the applicant to furnish any of the following information deemed necessary by DNR to evaluate the effects of the proposal upon flood height and flood flows, regional flood elevation and to determine floodway boundaries:
  - (a) A typical valley cross-section showing the stream channel, the floodplain adjoining each side of the channel, the cross-sectional area to be occupied by the proposed development, and all historic high water information;
  - (b) Plan (surface view) showing elevations or contours of the ground; pertinent structure, fill or storage elevations; size, location and layout of all proposed and existing structures on the site; location and elevations of streets, water supply, and



sanitary facilities; soil types and other pertinent information;

- (c) Profile showing the slope of the bottom of the channel or flow line of the stream;
  - (d) Specifications for building construction and materials, floodproofing, filling, dredging, channel improvement, storage, water supply and sanitary facilities.
- (3) Transmit one copy of the information described in pars. (1) and (2) to DNR Regional office along with a written request for technical assistance to establish regional flood elevations and, where applicable, floodway data. Where the provisions of s. 7.1(2)(c) apply, the applicant shall provide all required information and computations to delineate floodway boundaries and the effects of the project on flood elevations.

## **6.0 NONCONFORMING USES**

### **6.1 GENERAL**

#### **(1) APPLICABILITY**

If these standards conform with Wis. Stat. s. 62.23(7)(h), for cities and villages, they shall apply to all modifications or additions to any nonconforming use or structure and to the use of any structure or premises which was lawful before the passage of this article or any amendment thereto.

- (2) The existing lawful use of a structure or its accessory use which is not in conformity with the provisions of this article may continue subject to the following conditions:
- (a) No modifications or additions to a nonconforming use or structure shall be permitted unless they comply with this article. The words "modification" and "addition" include, but are not limited to, any alteration, addition, modification, structural repair, rebuilding or replacement of any such existing use, structure or accessory structure or use. Ordinary maintenance repairs are not considered an extension, modification or addition; these include painting, decorating, paneling and the replacement of doors, windows and other nonstructural components and the maintenance, repair or replacement of existing private sewage or water supply systems or connections to public utilities. Ordinary maintenance repairs do not include any costs associated with the repair of a damaged structure.  
  
The construction of a deck that does not exceed 200 square feet and that is adjacent to the exterior wall of a principal structure is not an extension, modification or addition. The roof of the structure may extend over a portion of the deck in order to provide safe ingress and egress to the principal structure.
  - (b) If a nonconforming use or the use of a nonconforming structure is discontinued for 12 consecutive months, it is no longer permitted and any future use of the property, and any structure or building thereon, shall conform to the applicable requirements of this article.
  - (c) The municipality shall keep a record which lists all nonconforming uses and nonconforming structures, their present equalized assessed value, the cost of all modifications or additions which have been permitted, and the percentage of the

structure's total current value those modifications represent;

- (d) No modification or addition to any nonconforming structure or any structure with a nonconforming use, which over the life of the structure would exceed 50% of its present equalized assessed value, shall be allowed unless the entire structure is permanently changed to a conforming structure with a conforming use in compliance with the applicable requirements of this article. Contiguous dry land access must be provided for residential and commercial uses in compliance with s. 4.3(1). The costs of elevating a nonconforming building or a building with a nonconforming use to the flood protection elevation are excluded from the 50% provisions of this paragraph;
- (e)
  - 1. Except as provided in subd. 2., if any nonconforming structure or any structure with a nonconforming use is destroyed or is substantially damaged, it cannot be replaced, reconstructed or rebuilt unless the use and the structure meet the current requirements of this chapter. A structure is considered substantially damaged if the total cost to restore the structure to its pre-damaged condition exceeds 50% of the structure's present equalized assessed value just before the destruction or damage.
  - 2. For nonconforming buildings that are damaged or destroyed by a nonflood disaster, the repair or reconstruction of any such nonconforming building may be permitted in order to restore it after the nonflood disaster, provided that the nonconforming building will meet all of the minimum requirements under 44 CFR Part 60, or under the regulations promulgated thereunder.
- (f) A nonconforming historic structure may be altered if the alteration will not preclude the structure's continued designation as a historic structure, the alteration will comply with s. 3.3 (1), flood resistant materials are used, and construction practices and floodproofing methods that comply with s. 7.5 are used.

## **6.2 FLOODWAY AREAS**

- (1) No modification or addition shall be allowed to any nonconforming structure or any structure with a nonconforming use in a floodway area, unless such modification or addition:
  - (a) Has been granted a permit or variance which meets all article requirements;
  - (b) Meets the requirements of s. 6.1;
  - (c) Will not increase the obstruction to flood flows or regional flood height;
  - (d) Any addition to the existing structure shall be floodproofed, pursuant to s. 7.5, by means other than the use of fill, to the flood protection elevation;
  - (e) If any part of the foundation below the flood protection elevation is enclosed, the following standards shall apply:
    - 1. The enclosed area shall be designed by a Wisconsin registered architect or engineer to allow for the efficient entry and exist of flood waters without human intervention. A minimum of two openings must be provided with a minimum net area of at least one square inch for every one square foot of the

enclose area. The lowest part of the opening can be no more than 12 inches above the adjacent grade;

2. The parts of the foundation located below the flood protection elevation must be constructed of flood-resistant material;
  3. Mechanical and utility equipment must be elevated or floodproofed to or above the flood protection elevation; and
  4. The use must be limited to parking or limited storage.
- (2) Any repair or maintenance of an existing on-site sewage disposal system in a floodway area shall meet the applicable requirements of this code and Wis. Adm. Code ch. COMM 83.
- (3) No new well or modification to an existing well used to obtain potable water shall be allowed in a floodway area. Any replacement, repair or maintenance of an existing well in a floodway area shall meet the applicable requirements of this code and Wis. Adm. Code chs. NR 811 and NR 812.

### **6.3 FLOODFRINGE AREAS**

- (1) No modification or addition shall be allowed to any nonconforming structure or any structure with a nonconforming use unless such modification or addition has been granted a permit or variance, and the modification or addition shall be placed on fill or floodproofed to the flood protection elevation in compliance with the standards for that particular use in ss. 4.3 and 7.5, except where s. 6.3(2) is applicable.
- (2) Where compliance with the provisions of sec. (1) would result in unnecessary hardship and only where the structure will not be used for human habitation or be associated with a high flood damage potential, the Zoning Board of Appeals, using the procedures established in s. 7.3, may grant a variance from those provisions of par. (1) for modifications or additions, using the criteria listed below. Modifications or additions that are protected to elevations lower than the flood protection elevation may be permitted if:
  - (a) No floor is allowed below the regional flood elevation for residential or commercial structures;
  - (b) Human lives are not endangered;
  - (c) Public facilities, such as water or sewer, will not be installed;
  - (d) Flood depths will not exceed two feet;
  - (e) Flood velocities will not exceed two feet per second; and
  - (f) The structure will not be used for storage of materials as described in s. 4.3(6).
- (3) If neither the provisions of sec. (1) or (2) above can be met, one addition to an existing room in a nonconforming building or a building with a nonconforming use may be allowed in the floodfringe, if the addition:

- (a) Meets all other regulations and will be granted by permit or variance;
  - (b) Does not exceed 60 square feet in area; and
  - (c) In combination with other previous modifications or additions to the building, does not exceed 50% of the present equalized assessed value of the building.
- (4) All repair or maintenance of a private sewage disposal system shall meet all the applicable provisions of this code and Wis. Adm. Code ch. COMM 83.
- (5) All new wells, or addition to, replacement, repair or maintenance of a well shall meet the applicable provisions of this article and Wis. Adm. Code chs. NR 811 and NR 812.

## **7.0 ADMINISTRATION**

In addition to those duties and powers of administration as described in Section II of this article , the following shall apply.

### **7.1 ZONING ADMINISTRATOR**

- (1) In addition to those duties and powers as described in Section II of this article, the zoning administrator shall have the followings duties and powers:
- (a) Inspect all damaged floodplain structures and perform a substantial damage assessment to determine if substantial damage to the structures has occurred.
  - (b) Keep records of all official actions such as:
    1. Documentation of certified lowest floor and regional flood elevations for floodplain development;
    2. Records of water surface profiles, floodplain zoning maps and ordinances, nonconforming uses and structures including changes, appeals, variances and amendments.
    3. All substantial damage assessment reports for floodplain structures.
  - (c) Submit copies of the following items to the DNR Regional office:
    1. Within 10 days of the decision, a copy of any decisions on variances, appeals for map or text interpretations, and map or text amendments;
    2. Copies of any case-by-case analyses, and any other information required by DNR including an annual summary of the number and types of floodplain zoning actions taken.
    3. Copies of substantial damage assessments performed and all related correspondence concerning the assessments.
  - (d) Investigate, prepare reports, and report violations of this article to the plan commission and attorney for prosecution. Copies of the reports shall also be sent to

DNR Regional office.

- (c) Submit copies of text and map amendments and biennial reports to the FEMA Regional office.

(2) CONDITIONAL USE PERMIT

A conditional use permit shall be obtained before any new development or any repair or change in the use of a building or structure, including sewer and water facilities, may be initiated. In addition to the requirements of Section III of this article, an application to the zoning administrator shall include:

(a) 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 existing or proposed on-site sewage systems or private water supply systems;
4. Location and elevation of existing or future access roads;
5. Location of floodplain and floodway limits as determined from the official floodplain zoning maps;
6. The elevation of the lowest floor of proposed buildings and any fill using National Geodetic and Vertical Datum (NGVD);
7. Data sufficient to determine the regional flood elevation in NGVD at the location of the development and to determine whether or not the requirements of s. 3.0 or 4.0 are met; and
8. 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) DATA REQUIREMENTS TO ANALYZE DEVELOPMENTS

1. The applicant shall provide all survey data and computations required to show the effects of the project on flood heights, velocities and floodplain storage, for all subdivision proposals, as "subdivision" is defined in s. Wis. Stat. 236, and other proposed developments exceeding 5 acres in area or where the estimated cost exceeds \$125,000. The applicant shall provide:
  - a. An analysis of the effect of the development on the regional flood

profile, velocity of flow and floodplain storage capacity;

- b. A map showing location and details of vehicular access to lands outside the floodplain; and
- c. A surface drainage plan showing how flood damage will be minimized.

The estimated cost of the proposal shall include all structural development, landscaping, access and road development, utilities, and other pertinent items, but need not include land costs.

(3) OCCUPANCY CERTIFICATE

In addition to the procedures set forth in Section II, sub-section 5 of this article, no land shall be occupied or used, and no building which is hereafter constructed, altered, added to, modified, repaired, rebuilt or replaced shall be occupied until an occupancy certificate is issued by the zoning administrator

- (a) The applicant shall submit a certification signed by a Wisconsin registered professional engineer, architect or land surveyor that the fill, lowest floor and floodproofing elevations are in compliance with the permit issued. Floodproofing measures also require certification by a Wisconsin registered professional engineer or architect that floodproofing measures meet the requirements of s. 7.5.

(4) OTHER PERMITS

The applicant must secure all necessary permits from federal, state, and local agencies, including those required by the U.S. Army Corps of Engineers under s. 404 of the Federal Water Pollution Control Act, Amendments of 1972, 33 U.S.C. 1344.

**7.3 ZONING BOARD OF APPEALS**

The zoning board of appeals, is hereby authorized to act for the purposes of this article. The board shall exercise the powers conferred by Wisconsin Statutes and adopt rules for the conduct of business.

(1) POWERS AND DUTIES

The zoning board of appeals shall hear and decide appeals:

- (a) Where it is alleged there is an error in any order, requirement, decision or determination made by an administrative official in the enforcement or administration of this article .
- (b) Concerning the district boundaries shown on the official floodplain zoning map.
- (c) Regarding variances from the article standards.

(2) APPEALS TO THE BOARD

(a) Appeals to the board may be taken as provided for in Section III Sub-section 3 of this article.

(b) **NOTICE AND HEARING FOR APPEALS INCLUDING VARIANCES**

1. Notice – In addition to requirements as may be defined in Section III, Sub-section 3 of this article, the board shall:

a. Assure that notice shall be mailed to the parties in interest and the DNR Regional office at least 10 days in advance of the hearing.

2. Hearing - In addition to duties as may be defined in Section III, Sub-section 3 of this article, any party may appear in person or by agent. The board shall:

a. Resolve boundary disputes according to s. 7.3(3).

b. Decide variance applications according to s. 7.3(4).

c. Decide appeals of permit denials according to s. 7.4.

(c) **DECISION:** In addition to requirements as may be defined in Section III, Sub-section 3 of this article the final decision regarding the appeal or variance application shall:

1. Be sent to the DNR Regional office within 10 days of the decision;

2. Be a written determination signed by the chairman or secretary of the board;

3. State the specific facts which are the basis for the board's decision;

4. Include the reasons for granting an appeal, describing the hardship demonstrated by the applicant in the case of a variance, clearly stated in the recorded minutes of the board proceedings.

(3) **BOUNDARY DISPUTES**

The following procedure shall be used by the board in hearing disputes concerning floodplain district boundaries:

(a) If a floodplain district boundary is established by approximate or detailed floodplain studies, the flood elevations or profiles shall prevail in locating the boundary. If none exist, other evidence may be examined.

(b) In all cases, the person contesting the boundary location shall be given a reasonable opportunity to present arguments and technical evidence to the board.

(c) If the boundary is incorrectly mapped, the board should inform the zoning committee or the person contesting the boundary location to petition the governing body for a map amendment according to s. 8.0.

(4) **VARIANCE**

(a) In addition to standards as may be defined in Section III, Sub-section 3 of this

chapter the board may, upon appeal, grant a variance from the standards of this article if an applicant convincingly demonstrates that:

1. 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 code or map must be amended;
  2. The variance is consistent with the purpose of this article in s. 1.3.
- (b) In addition to the criteria in par. (a), to qualify for a variance under FEMA regulations, the following criteria must be met:
1. The variance may not cause any increase in the regional flood elevation;
  2. Variances can only be granted for lots that are less than one-half acre and are contiguous to existing structures constructed below the RFE;
  3. Variances shall be only granted upon a showing of good and sufficient cause, shall be the minimum relief necessary, shall not cause increased risks to public safety or create nuisances, shall not increase costs for rescue and relief efforts and shall not be contrary to the purpose of the article.
- (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 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 article or map(s) required in s. 8.1.
  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 the variance may result in an increase the flood insurance premiums and risks to life and property, and maintain a copy with the variance record.

#### **7.4 TO REVIEW APPEALS OF PERMIT DENIALS**

- (1) The 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. 5.4.
  - (c) Data listed in s. 3.3(1)(b)2. where the applicant has not submitted this information to



the zoning administrator.

- (c) Other data submitted with the application, or submitted to the board with the appeal.
- (2) For appeals of all denied permits the board shall:
- (a) Follow the procedures of s. 7.3;
  - (b) Consider zoning agency recommendations; and
  - (c) Either uphold the denial or grant the appeal.
- (3) For appeals concerning increases in regional flood elevation the board shall:
- (a) Uphold the denial where the Board agrees with the data showing an increase in flood elevation. Increases equal to or greater than 0.01 foot may be allowed only after amending the flood profile and map and all appropriate legal arrangements are made with all adversely affected property owners.
  - (b) Grant the appeal where the board agrees that the data properly demonstrates that the project does not cause an increase equal to or greater than 0.01 foot provided no other reasons for denial exist.

## **7.5 FLOODPROOFING**

- (1) No permit or variance shall be issued until the applicant submits a plan certified by a Wisconsin registered professional engineer or architect that the floodproofing measures will protect the structure or development to the flood protection elevation.
- (2) Floodproofing measures shall be designed to:
  - (a) Withstand flood pressures, depths, velocities, uplift and impact forces and other regional flood factors;
  - (b) Protect structures to the flood protection elevation;
  - (c) Anchor structures to foundations to resist flotation and lateral movement; and
  - (d) Insure that structural walls and floors are watertight to the flood protection elevation, and the interior remains completely dry during flooding without human intervention.
- (3) Floodproofing measures could include:
  - (a) Reinforcing walls and floors to resist rupture or collapse caused by water pressure or floating debris.
  - (b) Adding mass or weight to prevent flotation.
  - (c) Placing essential utilities above the flood protection elevation.
  - (d) Installing surface or subsurface drainage systems to relieve foundation wall and

basement floor pressures.

- (f) Constructing water supply wells and waste treatment systems to prevent the entry of flood waters.
- (g) Putting cutoff valves on sewer lines or eliminating gravity flow basement drains.

## **7.6 PUBLIC INFORMATION**

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

## **8.0 AMENDMENTS**

### **8.1 GENERAL**

The common council may amend or supplement the floodplain zoning district boundaries and this article in the manner provided by law. Actions which require an amendment include, but are not limited to, the following:

- (1) Any change to the official floodplain zoning map, including the floodway line or boundary of any floodplain area.
- (2) Correction of discrepancies between the water surface profiles and floodplain zoning maps.
- (3) Any fill in the floodplain which raises the elevation of the filled area to a height at or above the flood protection elevation and is contiguous to land lying outside the floodplain.
- (4) Any fill or floodplain encroachment that obstructs flow, increasing regional flood height 0.01 foot or more.
- (5) Any upgrade to a floodplain zoning ordinance text required by s. NR 116.05, Wis. Adm. Code, or otherwise required by law, or for changes by the city.
- (6) All channel relocations and changes to the maps to alter floodway lines or to remove an area from the floodway or the floodfringe that is based on a base flood elevation from a FIRM requires prior approval by FEMA.

**Note:** Consult the FEMA web site - [www.fema.gov](http://www.fema.gov) - for the map change fee schedule.

### **8.2 PROCEDURES**

Amendments to this article may be made upon petition of any interested party according to the provisions of Section II, Sub-section 4 of this article and s. 62.23. Such petitions shall include all necessary data required by ss. 5.4 and 7.1(2).

- (1) The proposed amendment shall be referred to the plan commission for a public hearing and recommendation to the common council. The amendment and notice of public hearing

shall be submitted to the DNR Regional office for review prior to the hearing. The amendment procedure shall comply with the provisions of Wis. Stats. 62.23.

- (2) No amendments shall become effective until reviewed and approved by DNR
- (3) All persons petitioning for a map amendment that obstructs flow, increasing regional flood height 0.01 foot or more, shall obtain flooding easements or other appropriate legal arrangements from all adversely affected property owners and notify local units of government before the amendment can be approved by the common council.
- (4) For amendments in areas with no water surface profiles, the plan commission shall consider data submitted by DNR, the zoning administrator's visual on-site inspections and other available information. (See s. 1.5(4).)

## **9.0 ENFORCEMENT AND PENALTIES**

Any violation of the provisions of this article by any person shall be unlawful and shall be referred to the municipal attorney who shall expeditiously prosecute all such violators. A violator shall, upon conviction, forfeit of a maximum of \$1,000 plus costs and assessments. Each day of continued violation shall constitute a separate offense. Every violation of this article is a public nuisance and the creation may be enjoined and the maintenance may be abated by action at suit of the city, the state, or any citizen thereof pursuant to Wis. Stats 87.30.

## **10.0 DEFINITIONS**

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

- 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) "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.
- 3) "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.
- 4) "BASEMENT" - Any enclosed area of a building having its floor sub-grade, i.e., below ground level, on all sides.
- 5) "BUILDING" - See STRUCTURE.
- 6) "BULKHEAD LINE" - A geographic line along a reach of navigable water that has been adopted by a municipal ordinance and approved by DNR pursuant to s. 30.11, Stats., and which allows limited filling between the bulkhead line and the original ordinary highwater mark, except where such filling is prohibited by the floodway provisions of this article.
- 7) "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.

- 8) "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, tent or other mobile recreational vehicle.
- 9) "OCCUPANCY CERTIFICATE " 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 article.
- 10) "CHANNEL" – A natural or artificial watercourse with definite bed and banks to confine and conduct normal flow of water.
- 11) "CRAWLWAYS" OR "CRAWL SPACE" - An enclosed area below the first usable floor of a building, generally less than five feet in height, used for access to plumbing and electrical utilities.
- 12) "DECK" – An unenclosed exterior structure that has no roof or sides, but has a permeable floor which allows the infiltration of precipitation.
- 13) "DNR" - The Wisconsin Department of Natural Resources.
- 14) "DEVELOPMENT" - Any artificial change to improved or unimproved real estate, including, but not limited to, the construction of buildings, structures or accessory structures; the construction of additions or alterations to buildings, structures or accessory structures; the repair of any damaged structure or the improvement or renovation of any structure, regardless of percentage of damage or improvement; the placement of buildings or structures; subdivision layout and site preparation; mining, dredging, filling, grading, paving, excavation or drilling operations; the storage, deposition or extraction of materials or equipment; and the installation, repair or removal of public or private sewage disposal systems or water supply facilities.
- 15) "DRYLAND ACCESS" - A vehicular access route which is above the regional flood elevation and which connects land located in the floodplain to land outside the floodplain, such as a road with its surface above regional flood elevation and wide enough for wheeled rescue and relief vehicles.
- 16) "ENCROACHMENT" - Any fill, structure, equipment, building, use or development in the floodway.
- 17) "EXISTING MANUFACTURED HOME PARK OR SUBDIVISION" - A parcel of land, divided into two or more manufactured home lots for rent or sale, on which the construction of facilities for servicing the lots is completed before the effective date of this article At a minimum, this would include the installation of utilities, the construction of streets and either final site grading or the pouring of concrete pads

- 18) "EXPANSION TO EXISTING MOBILE/MANUFACTURED HOME PARK" - The preparation of additional sites by the construction of facilities for servicing the lots on which the manufactured homes are to be affixed. This includes installation of utilities, construction of streets and either final site grading, or the pouring of concrete pads.
- 19) "FEDERAL EMERGENCY MANAGEMENT AGENCY (FEMA)" - The federal agency that administers the National Flood Insurance Program.
- 20) "FLOOD INSURANCE RATE MAP" (FIRM) - A map of a community on which the Federal Insurance Administration has delineated both special flood hazard areas (the floodplain) and the risk premium zones applicable to the community. This map can only be amended by the Federal Emergency Management Agency.
- 21) "FLOOD" or "FLOODING" – A general and temporary condition of partial or complete inundation of normally dry land areas caused by one of the following conditions:
  - ✓ 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 levels along the shore of Lake Michigan.
  - ✓ The sudden increase caused by an unusually high water level in a natural body of water, accompanied by a severe storm, or by an unanticipated force of nature, such as a seiche, or by some similarly unusual event.
- 22) "FLOOD FREQUENCY" - The probability of a flood occurrence which is determined from statistical analyses. The frequency of a particular flood event is usually expressed as occurring, on the average, once in a specified number of years or as a percent (%) chance of occurring in any given year.
- 23) "FLOODFRINGE" - That portion of the floodplain outside of the floodway which is covered by flood waters during the regional flood and associated with standing water rather than flowing water.
- 24) "FLOOD HAZARD BOUNDARY MAP" - A map designating approximate flood hazard areas. Flood hazard areas are designated as unnumbered A-Zones and do not contain floodway lines or regional flood elevations. This map forms the basis for both the regulatory and insurance aspects of the National Flood Insurance Program (NFIP) until superseded by a Flood Insurance Study and a Flood Insurance Rate Map.
- 25) "FLOOD INSURANCE STUDY" - A technical engineering examination, evaluation, and determination of the local flood hazard areas. It provides maps designating those areas affected by the regional flood and provides both flood insurance rate zones and base flood elevations and may provide floodway lines. The flood hazard areas are designated as numbered and unnumbered A-Zones. Flood Insurance Rate Maps, that accompany the Flood Insurance Study, form the basis for both the regulatory and the insurance aspects of the National Flood Insurance Program.
- 26) "FLOODPLAIN" - Land which has been or may be covered by flood water during the regional flood. It includes the floodway and the floodfringe, and may include other designated floodplain areas for regulatory purposes.

- 27) "FLOODPLAIN ISLAND" - A natural geologic land formation within the floodplain that is surrounded, but not covered, by floodwater during the regional flood.
- 28) "FLOODPLAIN MANAGEMENT" - Policy and procedures to ensure wise use of floodplains, including mapping and engineering, mitigation, education, and administration and enforcement of floodplain regulations.
- 29) "FLOOD PROFILE" - A graph or a longitudinal profile line showing the relationship of the water surface elevation of a flood event to locations of land surface elevations along a stream or river.
- 30) "FLOODPROOFING" - Any combination of structural provisions, changes or adjustments to properties and structures, water and sanitary facilities and contents of buildings subject to flooding, for the purpose of reducing or eliminating flood damage.
- 31) "FLOOD PROTECTION ELEVATION" - An elevation of two feet of freeboard above the water surface profile elevation designated for the regional flood.
- 32) "FLOOD STORAGE" - Those floodplain areas where storage of floodwaters has been taken into account during analysis in reducing the regional flood discharge.
- 33) "FLOODWAY" - The channel of a river or stream and those portions of the floodplain adjoining the channel required to carry the regional flood discharge.
- 34) "FREEBOARD" - A safety factor expressed in terms of a specified number of feet above a calculated flood level. Freeboard compensates for any factors that cause flood heights greater than those calculated, including ice jams, debris accumulation, wave action, obstruction of bridge openings and floodways, the effects of watershed urbanization, loss of flood storage areas due to development and aggregation of the river or stream bed.
- 35) "HABITABLE STRUCTURE" - Any structure or portion thereof used or designed for human habitation.
- 36) "HEARING NOTICE" - Publication or posting meeting the requirements of Wis. Stats. 985, For appeals, a Class 1 notice, is required. For all zoning ordinances and amendments, a Class 2 notice. Local ordinances or bylaws may require additional notice, exceeding these minimums.
- 37) "HIGH FLOOD DAMAGE POTENTIAL" - Damage that could result from flooding that includes any danger to life or health or any substantial damage to a structure or building and its contents.
- 38) "HISTORIC STRUCTURE" - Any structure that is:
  - ✓ Listed individually in the National Register of Historic Places or preliminarily determined by the Secretary of the Interior as meeting the requirements for individual listing on the National Register.
  - ✓ Certified or preliminarily determined by the Secretary of the Interior as contributing to the historical significance of a registered historic district or a district preliminarily determined by the Secretary to qualify as a registered historic district,
  - ✓ Individually listed on a state inventory of historic places in states with historic preservation programs which have been approved by the Secretary of the Interior, or

- ✓ Individually listed on a local inventory of historic places in communities with historic preservation programs that have been certified either by an approved state program, as determined by the Secretary of the Interior.
- 39) "INCREASE IN REGIONAL FLOOD HEIGHT" - A calculated upward rise in the regional flood elevation, equal to or greater than 0.01 foot, based on a comparison of existing conditions and proposed conditions which is directly attributable to development in the floodplain but not attributable to manipulation of mathematical variables such as roughness factors, expansion and contraction coefficients and discharge.
- 40) "LAND USE" - Any nonstructural use made of unimproved or improved real estate. (Also see DEVELOPMENT.)
- 41) "MANUFACTURED HOME" - A structure transportable in one or more sections which is built on a permanent chassis and is designed to be used with or without a permanent foundation when connected to required utilities. The term "manufactured home" includes a mobile home but does not include a "mobile recreational vehicle."
- 42) "MOBILE RECREATIONAL VEHICLE" - A vehicle which is built on a single chassis, 400 square feet or less when measured at the largest horizontal projection, designed to be self-propelled, carried or permanently towable by a licensed, light-duty vehicle, is licensed for highway use if registration is required and is designed primarily not for use as a permanent dwelling, but as temporary living quarters for recreational, camping, travel or seasonal use. Manufactured homes that are towed or carried onto a parcel of land, but do not remain capable of being towed or carried, including park model homes, do not fall within the definition of "mobile recreational vehicles."
- 43) "MUNICIPALITY" or "MUNICIPAL" - The county, city or village governmental units enacting, administering and enforcing this article.
- 44) "NGVD" or "NATIONAL GEODETIC VERTICAL DATUM" - Elevations referenced to mean sea level datum, 1929 adjustment.
- 45) "NEW CONSTRUCTION" - For floodplain management purposes, "new construction" means structures for which the start of construction commenced on or after the effective date of floodplain zoning regulations adopted by the common council and includes any subsequent improvements to such structures. For the purpose of determining flood insurance rates, it includes any structures for which the "start of construction" commenced on or after the effective date of an initial FIRM or after December 31, 1974, whichever is later, and includes any subsequent improvements to such structures.
- 46) "NONCONFORMING STRUCTURE" - An existing lawful structure or building which is not in conformity with the dimensional or structural requirements of this article for the area of the floodplain which it occupies. (For example, an existing residential structure in the floodfringe district is a conforming use. However, if the lowest floor is lower than the flood protection elevation, the structure is nonconforming.)
- 47) "NONCONFORMING USE" - An existing lawful use or accessory use of a structure or building which is not in conformity with the provisions of this article for the area of the floodplain which it occupies. Such as a residence in the floodway.

- 48) "OBSTRUCTION TO FLOW" - Any development which blocks the conveyance of floodwaters such that this development alone or together with any future development will cause an increase in regional flood height.
- 49) "OFFICIAL FLOODPLAIN ZONING MAP" - That map, adopted and made part of this article, as described in s. 1.5(2), which has been approved by the DNR and FEMA.
- 50) "OPEN SPACE USE" - Those uses having a relatively low flood damage potential and not involving structures.
- 51) "ORDINARY HIGHWATER MARK" - The point on the bank or shore up to which the presence and action of surface water is so continuous as to leave a distinctive mark, such as by erosion, destruction or prevention of terrestrial vegetation, predominance of aquatic vegetation, or other easily recognized characteristic.
- 52) "PERSON" - An individual or group of individuals, corporation, partnership, association, municipality or state agency.
- 53) "PRIVATE SEWAGE SYSTEM" - A sewage treatment and disposal system serving one structure with a septic tank and soil absorption field located on the same parcel as the structure. It also means an alternative sewage system approved by the Wisconsin Department of Commerce, including a substitute for the septic tank or soil absorption field, a holding tank, a system serving more than one structure or a system located on a different parcel than the structure.
- 54) "PUBLIC UTILITIES AND FACILITIES" - Those utilities and facilities using underground or overhead transmission lines such as electric, telephone and telegraph, and distribution and collection systems such as water, sanitary sewer and storm sewer.
- 55) "REASONABLY SAFE FROM FLOODING" - Means base flood waters will not inundate the land or damage structures to be removed from the special flood hazard area and that any subsurface waters related to the base flood will not damage existing or proposed buildings.
- 56) "REGIONAL FLOOD" - A flood determined to be representative of large floods known to have occurred in Wisconsin. A regional flood is a flood with a one percent chance of being equaled or exceeded in any given year, and if depicted on the FIRM, the RFE is equivalent to the BFE.
- 57) "START OF CONSTRUCTION" - The date the building permit was issued, provided the actual start of construction, repair, reconstruction, rehabilitation, addition, placement, or other improvement commenced within 180 days of the permit date. The actual start means either the first placement of permanent construction on a site, such as the pouring of slab or footings, the installation of piles, the construction of columns, or any work beyond initial excavation, or the placement of a manufactured home on a foundation. Permanent construction does not include land preparation, such as clearing, grading and filling, nor does it include the installation of streets and/or walkways, nor does it include excavation for a basement, footings, piers or foundations or the erection of temporary forms, nor does it include the installation on the property of accessory buildings, such as garages or sheds not occupied as dwelling units or not part of the main structure. For an alteration, the actual start of construction means the first alteration of any wall, ceiling, floor or other structural part of a building, whether or not that alteration affects the external dimensions of the building.
- 58) "STRUCTURE FOR PURPOSES OF A FLOODPLAIN" - Any manmade object with form, shape and utility, either permanently or temporarily attached to, placed upon or set into the ground, stream



bed or lake bed, including, but not limited to, roofed and walled buildings, gas or liquid storage tanks, bridges, dams and culverts.

- 59) "SUBDIVISION" - Has the meaning given in Wis. Stats. 236.02(12).
- 60) "SUBSTANTIAL DAMAGE" - Damage of any origin sustained by a structure, whereby the cost of restoring the structure to its pre-damaged condition would equal or exceed 50 percent of the equalized assessed value of the structure before the damage occurred.
- 61) "UNNECESSARY HARDSHIP" - Where special conditions affecting a particular property, which were not self-created, have made strict conformity with restrictions governing areas, setbacks, frontage, height or density unnecessarily burdensome or unreasonable in light of the purposes of the ordinance.
- 62) "VARIANCE" - An authorization by the board of appeals, or plan commission in the case of a conditional use permit request, for the construction or maintenance of a building or structure in a manner that is inconsistent with dimensional standards (not uses) contained in the floodplain zoning ordinance.
- 63) "VIOLATION" - The failure of a structure or other development to be fully compliant with the floodplain zoning ordinance. A structure or other development without required permits, lowest floor elevation documentation, floodproofing certificates or required floodway encroachment calculations is presumed to be in violation until such time as that documentation is provided.
- 64) "WATERSHED" - The entire region contributing runoff or surface water to a watercourse or body of water.
- 65) "WATER SURFACE PROFILE" - A graphical representation showing the elevation of the water surface of a watercourse for each position along a reach of river or stream at a certain flood flow. A water surface profile of the regional flood is used in regulating floodplain areas.
- 66) "WELL" - means an excavation opening in the ground made by digging, boring, drilling, driving or other methods, to obtain groundwater regardless of its intended use.