

## Chapter 14

### FLOODS\*

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\*Cross references: Buildings and building regulations, ch. 10; health and sanitation, ch. 18; public safety and public works, ch. 38; subdivisions and platting, ch. 46; utilities, ch. 54; zoning, ch. 58.

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**ARTICLE I. IN GENERAL****Sec. 14-1. Statutory authorization.**

This chapter for floodplain protection is adopted pursuant to the authorization contained in Wis. Stats. §§ 61.35, 62.23 and 87.30.  
(Code 1988, § 10-2-1)

**Sec. 14-2. Findings of fact.**

The uncontrolled development and use of the floodplains, rivers or streams of the village would adversely affect the public health, safety, convenience and general welfare and impair its tax base.  
(Code 1988, § 10-2-2)

**Sec. 14-3. Statement of purpose.**

The purpose of this chapter is to provide a uniform base for the preparation, implementation and administration of sound floodplain regulations for all floodplains within the village to:

- (1) Protect life, health and property;
- (2) Minimize expenditure of public monies for costly flood control projects;
- (3) Minimize rescue and relief efforts, generally undertaken at the expense of the public;
- (4) Minimize business interruptions which usually result in the loss of local incomes;
- (5) Minimize damage to public facilities on the floodplain, such as water mains, sewer lines, streets and bridges;
- (6) Minimize the occurrence of future flood blight areas on floodplains;
- (7) Discourage the victimization of unwary land and home buyers; and
- (8) Prevent increases in regional flood heights that could increase flood damage and may result in conflicts or litigation between property owners.

(Code 1988, § 10-2-3)

**Sec. 14-4. Areas to be regulated.**

Areas regulated by this chapter include all lands within the corporate limits of the village that would be inundated by the regional flood defined in section 14-10, and includes floodplain islands where emergency rescue and relief routes would be inundated by the regional flood.

(Code 1988, § 10-2-10)

**Sec. 14-5. Removal of lands from floodplain.**

Compliance with the provisions of this chapter shall not be grounds for removing lands from the floodplain district, unless they are removed by filling to a height of at least two feet above the regional flood elevation, the fill is contiguous to land lying outside the floodplain district and the map is amended pursuant to sections 14-48 and 14-49. To remove the land from flood insurance requirements, the Federal Emergency Management Agency (FEMA) must first reverse the flood insurance rate map or issue a letter of map amendment or revision.

(Code 1988, § 10-2-13)

#### **Sec. 14-6. Compliance.**

(a) *Required.* The use or development, as defined in section 14-10, or use within the areas to be regulated by this chapter shall be in compliance with the terms of this chapter and other applicable local, state and federal regulations.

(b) *Municipalities and state agencies regulated.* Unless specifically exempted by law, all cities, villages, towns and counties are required to comply with this chapter and obtain all necessary permits. State agencies are required to comply with this chapter if Wis. Stats. § 13.48(13) applies. The construction, reconstruction, maintenance and repair of state highways and bridges by the state department of transportation are exempt from compliance with this chapter when Wis. Stats. § 30.12(4)(a) applies.

(Code 1988, § 10-2-14)

#### **Sec. 14-7. Abrogation and greater restrictions; interpretation.**

(a) *Greater restrictions.* This chapter supersedes all of the provisions of any municipal zoning ordinance enacted under Wis. Stats. § 61.35, 62.23 or 87.30, which relate to floodplains, except that where another municipal zoning ordinance is more restrictive than the provisions contained in this chapter, that ordinance shall continue in full force and effect to the extent of the greater restrictions, but not otherwise.

(b) *Abrogation.* It is not otherwise intended by this chapter to repeal, abrogate or impair any existing easements, covenants or deed restrictions,; however, where this chapter imposes greater restrictions, the provisions of this chapter shall prevail.

(c) *Interpretation.* In their interpretation and application, the provisions of this chapter shall be held to be minimum requirements, shall be liberally construed in favor of the village board and shall not be deemed a limitation on or repeal of any other powers granted by statute. Where a provision of this chapter is required by a standard in Wis. Admin. Code ch. NR 116, and where the meaning of the chapter provisions is unclear, the provisions shall be interpreted in light of Wis. Admin. Code ch. NR 116 standards in effect on the date of the adoption of the ordinance from which this article is derived or in effect on the date of the most recent text amendment to this chapter.

(Code 1988, § 10-2-15)

#### **Sec. 14-8. Warning and disclaimer of liability.**

The degree of flood protection intended to be provided by this chapter is considered reasonable for regulatory purposes and is based on scientific and engineering experience and scientific methods of

study. Larger floods may occur or the flood height may be increased by manmade or natural causes, such as ice jams and bridge openings restricted by debris. This chapter does not imply that areas outside of the delineated floodplain or permitted land uses within the floodplain will be totally free from flooding and associated flood damages, not does this chapter create a liability on the part of, or a cause of action against, the village or any officer or employee thereof for any flood damage that may result from reliance on this chapter.

(Code 1988, § 10-2-16)

#### **Sec. 14-9. Severability.**

If any section, clause provision or portion of this chapter is adjusted unconstitutionally or invalid by a court of competent jurisdiction, the remainder of this chapter shall not be affected by such judgment.

(Code 1988, § 10-2-17)

#### **Sec. 14-10. Definitions.**

The following words, terms and phrases, when used in this chapter, shall have the meaning ascribed to them in this section, except where the context clearly indicates a different meaning. Words used in the singular number include the plural and words in the plural number shall include the singular. The term “may” is permissible. The term “shall” is mandatory and not discretionary.

A *zone* means the areas shown on a municipality’s official floodplain zoning map (see the definition of “Official floodplain zoning map”) which would be inundated by the regional flood, as defined in this section. Such areas may be numbered or unnumbered, depending on the availability of data for a given area.

*Accessory structure or use* means a detached subordinate structure or a use which is clearly incidental to and customarily found in connection with the principal structure or use to which it is related and which is located on the same lot as the principal structure or use.

*Base flood* means a flood having a one percent chance of being equaled or exceeding in any given year. (See also the definition of “Regional flood.”)

*Base flood elevation* means an elevation equal to that which reflects the height of the base flood, as defined in this section.

*Board of appeals/adjustment* means the body established under Wis. Stats. § 62.23 for cities or villages and designated as the board of appeals, or as established under Wis. Stats. § 59.694 for counties and designated as the board of adjustment.

*Bulkhead line* means a geographical line along a reach of a navigable body of water that has been adopted by a municipal ordinance and approved by the department of natural resources pursuant to Wis. Stats. § 30.11, and which allows limited filling between the bulkhead line and the original ordinary high water mark, except where such filling is prohibited by the floodway provisions of this chapter.

*Certificate of compliance* means a certification by the zoning administrator stating that the construction and 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 chapter.

*Channel* means a natural or artificial watercourse with a definite bed and banks to confine and conduct the normal flow of water.

*Department* means the state department of natural resources.

*Development* means any artificial change to improve or unimproved real estate, including, but not limited to, construction of buildings, structures or accessory structures; construction of additions or substantial improvements to buildings, structures or accessory structures; the placement of buildings or structures; mining, dredging, filling, grading, paving, excavating or drilling operations; and the storage, deposition or extraction of materials, public or private sewage disposal systems or water supply facilities.

*Dryland access* means 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.

*Encroachment* means any fill, structure, building, use or development in the floodway.

*Existing mobile home park or subdivision* means a parcel, or contiguous parcels, of land divided into two or more mobile home lots for rent or sale, for which the construction of facilities for servicing the lots including, as a minimum, the installation of utilities, either final site grading or the pouring of concrete pads, and the construction of streets, is completed before the effective date of the ordinance from which this chapter is derived.

*Federal Emergency Management Agency (FEMA)* means the federal agency that administers the National Flood Insurance Program. Such agency was previously known as the Federal Insurance Administration (FIA) or the Department of Housing and Urban Development (HUD).

*Flood* and *flooding* mean a general and temporary condition of partial or complete inundation of normally dry land areas caused by the:

- a. Overflow or rise of inland waters;
- b. Rapid accumulation or runoff of surface waters from any source;
- c. Inundation caused by waves or currents of water exceeding anticipated cyclical levels along the shore of Lake Michigan or Lake Superior; and
- d. Sudden increase caused by an unusually high water level in a natural body of water, accompanied by a severe storm or an unanticipated force of nature, such as a seiche or some similar unusual event.

*Flood frequency* means the probability of a flood occurrence. A flood frequency is generally 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.

*Flood fringe* means the portion of the floodplain outside of the floodway which is covered by floodwaters during the regional flood, and generally associated with standing water rather than flowing water.

*Flood hazard boundary map* means a map prepared by FEMA, designating approximate flood hazard areas. Flood hazard areas are designated as unnumbered A zones and do not contain floodway lines or regional flood elevations. Such map forms the basis for both the regulatory and insurance aspects of the National Flood Insurance Program.

*Flood insurance study* means a technical engineering examination, evaluation and determination of the municipal flood hazard areas. Such study provides maps designating the areas affected by the regional flood and provides both flood insurance rate zones and the regional flood elevations, and may provide floodway lines. The flood hazard areas designated as unnumbered and numbered A zones. Flood insurance study maps form the basis for both the regulatory and insurance aspects of the National Flood Insurance Program.

*Flood profile* means a graph or longitudinal profile line showing the relationship of the water surface elevation of a flood event to the locations of land surface elevations along a stream or river.

*Flood protection elevation* means an elevation two feet of freeboard above the water surface profile associated with the regional flood. (See also the definition of “Freeboard.”)

*Flood storage* means the floodplain areas where storage of floodwater has been taken into account in reducing the regional flood discharge.

*Floodplain* means the land which has been or may be covered by floodwater during the regional flood. The floodplain includes the floodway and flood fringes, and may include other designated floodplain areas for regulatory purposes.

*Floodplain island* means a natural geologic land formation within the floodplain that is surrounded, but not covered, by floodwater during the regional flood.

*Floodplain management* means the full range of public policy and action for ensuring wide use of floodplains. Such term includes everything from the collection and dissemination of flood data to the acquisition of floodplain lands and the enactment and administration of codes, ordinances and statutes for land use in the floodplain.

*Floodproofing* means any combination of structural provisions, changes or adjustments to properties or structures, water and sanitary facilities and contents of buildings subject to flooding for the purpose of reducing or eliminating flood damage.

*Floodway* means the channel of a river or stream and the portions of the floodplain adjoining the channel required to carry the regional flood discharge.

*Freeboard* means a flood protection elevation requirement designed as a safety factor, which is usually expressed in terms of a specific amount of feet above a calculated flood level. Freeboard compensates for the many unknown factors that contribute to flood heights greater than the height calculated. Such

unknown factors include, but are not limited to, ice jams, debris accumulation, wave action, obstructions of bridge openings and floodways, the effects of urbanization on the hydrology of the watershed and loss of flood storage areas due to the development and aggravation of the river or stream bed.

*Hearing notice* means the publication or posting meeting the requirements of Wis. Stats. ch. 985. A class 1 notice is the minimum required for appeals, published once at least one week (seven days) before the hearing. A class 2 notice is the minimum required for all zoning ordinances and amendments, including map amendments, published twice, once each week consecutively, and the last publication shall be at least a week (seven days) before the hearing. Local ordinances or bylaws may require additional notice exceeding the minimum notice requirements set forth in this definition.

*High flood damage potential* means the damage that could result from flooding, and that includes any danger to life or health or any significant economic loss to a structure or building and its contents.

*Human habitation* means a human residence or dwelling.

*Increase in regional flood height* means a calculated upward rise in the regional flood elevation, equal or greater than 0.01 foot, resulting from 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 discharges.

*Land use* means any nonstructural use made of unimproved or improved real estate. (See also the definition of “Development.”)

*Mobile home* and *manufactured home* means structures transportable in one or more sections, which are built on a permanent chassis and designed to be used with or without a permanent foundation when connected to the required utilities. Such terms do not include recreational vehicles or travel trailers.

*Municipality* and *municipal* mean the village governmental units enacting, administering and enforcing this chapter.

*National Geodetic Vertical Datum (NGVD)* means elevations referenced to mean sea level datum, 1929 adjustment.

*Nonconforming structure* means a lawful structure or building existing on the effective date of the ordinance from which this chapter is derived, which is not in conformity with the dimensional or structural requirements of this chapter for the area of floodplain which it occupies. (For example, an existing residential structure in the flood fringe district is a conforming use. However, if the first floor is lower than the flood protection elevation, the structure is nonconforming.)

*Nonconforming use* means a lawful or accessory use of a structure or building existing on the effective date of the ordinance from which this chapter is derived, which is not in conformity with the provisions of this chapter for the area of floodplain which it occupies, such as a residence in the floodway.

*Obstruction to flow* means any development which physically blocks the conveyance of floodwaters so that the development by itself or in conjunction with any future similar development will cause an



increase in regional flood height.

*Official floodplain zoning map* means the map adopted and made part of this chapter, which has been approved by the department of natural resources and FEMA.

*Open space use* means the uses having a relatively low flood damage potential and not involving structures.

*Ordinary high water mark* means the point on the bank or shore up to which the presence and action or surface water is continuous so 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.

*Person* means an individual, or group of individuals, corporation, partnership, association, municipality or state agency.

*Private sewage system* means a sewage treatment and disposal system serving a single structure, with a septic tank and soil absorption field located on the same parcel as the structure. Such term also means an alternative sewage system approved by the 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.

*Public utilities* means the utilities 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.

*Regional flood* means a flood determined to be representative of large floods known to have occurred in the state, or which may be expected to occur on a particular lake, river or stream once every 100 years.

*Structure* means 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, which includes, but is not limited to, such objects as roofed and walled buildings, gas or liquid storage tanks, bridges, dams or culverts.

*Substantial improvement* means any repair, reconstruction or improvement of a structure, the cost of which equals or exceeds 50 percent of the present equalized assessed value of the structure either before the improvement or repair is started or, if the structure has been damaged and is being restored, before the damage occurred. Such term does not, however, include any:

- (1) Project for improvement of a structure to comply with existing state or local health, sanitary or safety code specifications which are solely necessary to assure safe living conditions; or
- (2) Alteration of a structure or site documented as deserving preservation by the state historical society or listed on the National Register of Historic Places.

Ordinary maintenance repairs are not considered as structural repairs, modifications or additions. Such ordinary maintenance repairs include internal and external painting, decorating, paneling and the replacement of doors, windows and other nonstructural components. For the purposes of this definition,

substantial improvement is considered to occur when the first alteration of any wall, ceiling, floor or other structural part of the building commences, whether or not such alteration affects the external dimensions of the structure.

*Unnecessary hardship* means the circumstances which are special conditions affecting a particular property, which are not self-created, and have made strict conformity with restrictions governing areas, setbacks, frontage, height or density unnecessarily burdensome or unreasonable in light of the purpose of this chapter.

*Variance* means authorization granted by the board of appeals to construct, alter or use a structure in a manner which is inconsistent with the dimensional standards contained in this chapter.

*Water surface profile* means a graphic 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 flood plain areas.

*Watershed* means the entire region or area contributing runoff or surface water to a particular watercourse or body of water.

*Well* means an excavation opening in the ground made by digging, boring, drilling, driving or other methods for the purpose of obtaining groundwater, regardless of its intended use.  
(Code 1988, § 10-2-90)

**Cross reference** – Definitions generally, § 1-2.

### **Sec. 14-11. Violations; penalties.**

Any violation of the provisions of this chapter by any person, including a building contractor, or their agent, shall be unlawful and shall be forwarded to the village attorney, who shall expeditiously prosecute all such violators. Upon conviction, a violator shall forfeit to the village not less than \$50.00, nor more than \$200.00, together with a taxable cost of such action. Each day during which such violation exists shall constitute a separate offense. Every violation of this chapter is a public nuisance, and the creation thereof may be enjoined, and the maintenance thereof may be abated by action at suit of the village, the state or any citizen thereof, pursuant to Wis. Stats. § 87.30.  
(Code 1988, § 10-2-80)

### **Secs. 14-12 – 14-40. Reserved.**

## **ARTICLE 11. ADMINISTRATION AND ENFORCEMENT\***

**\*Editor's note** – This article provides for the appointment of appropriate boards and staff and the development of necessary policies and procedures to administer the floodplain zoning ordinance in accordance with this article. Where a zoning administrator, planning agency or board of adjustment/appeals has already been appointed to administer a zoning ordinance adopted under Wis. Stats. § 62.23(7), such officials shall also administer the floodplain zoning ordinance.

**Cross reference** – Administration, ch. 2.

**Sec. 14-41. Zoning administrator.**

The zoning administrator is authorized to administer the provisions of this chapter, and shall have the following duties and powers:

- (1) Advise applicants of the provisions of this chapter, assist them on preparing permit applications and appeals and assure that the regional flood elevation for the proposed development is shown on all permit applications.
- (2) Issue permits and inspect properties for compliance with this chapter and issue certificates of compliance, when appropriate.
- (3) Keep records of all official actions, such as:
  - a. All permits issued.
  - b. Inspections made.
  - c. Work approved.
  - d. Documentation of certified lowers floor and regional flood elevations for floodplain development.
  - e. Records of water surface profiles, floodplain zoning maps and ordinances, nonconforming uses and structures, including changes, appeals, variances and amendments.
- (4) Submit copies of the following to the department district office:
  - a. Decisions of variances, appeals for map or text interpretations and map or text amendments, within ten days of the decision.
  - b. Case-by-case analyses, and any other information required by the department, including an annual summary of the number and types of floodplain zoning actions taken.
- (5) Investigate, prepare reports and report violations of this chapter to the appropriate village committee and municipal attorney for prosecution. Copies of the violation reports shall also be sent to the appropriate district office of the department of national resources.
- (6) Submit copies of map and text amendments and biennial reports to the regional office of FEMA.  
(Code 1988, § 10-2-60)

**Cross reference** – Officers and employees, § 2-101 et seq.

**Sec. 14-42. Administrative procedures.**

(a) *Land use permit.* A land use permit shall be obtained from the zoning administrator before any new development, as defined in section 14-10, or any change in the use of an existing building or structure, including sewage disposal systems and water supply facilities, may be initiated. Application

for a land use permit shall be made to the zoning administrator upon forms furnished, and shall include the following data for the purpose of proper enforcement of this chapter:

- (1) *General information.*
  - a. Name and address of the applicant, property owner and contractor/builder.
  - b. Legal description of the property, type of proposed use and an indication as to whether new construction or a modification to an existing structure is involved.
- (2) *Site development plan.* The site development plan shall be drawn to scale and submitted as part of the permit application form, and shall contain the following information:
  - a. Location, dimensions, areas and elevation of the lot;
  - b. Location of the ordinary high water mark of any abutting navigable waterways;
  - c. Location of any structures, with distances measured from the lot lines and centerlines of all abutting streets or highways;
  - d. Location of any existing or proposed on-site sewage systems or private water supply systems;
  - e. Location and elevation of existing or future access roads;
  - f. Location of floodplain and floodway limits on the property as determined from the official floodplain zoning maps;
  - g. Elevation of the lowest floor of proposed buildings and any fill, using National Geodetic Vertical Datum (NGVD);
  - h. Sufficient data to determine the regional flood elevation at the location of the development and whether or not the requirements of article III, division 2 or 3, of this chapter are met;
  - i. Sufficient data to determine if the proposed development will cause either an obstruction to flow or an increase in regional flood height or discharge in accordance with section 14-83(a), and may include any of the information noted in section 14-103(a).
- (3) *Date requirements to analyze developments.*
  - a. The applicant shall provide all computations and survey data required to show the effects of the project on flood heights, velocities and floodplain storage for all subdivision proposals, as the term “subdivision” is defined in Wis. Stats. § 235.02(IV) and other proposed developments exceeding five acres in area or where the estimated cost exceeds \$125,000.00. The applicant shall provide:

1. An analysis of the effect of the development on the regional flood profile, velocity of flow and floodplain storage capacity.
2. A map showing the location and details of vehicular access to lands outside the floodplain.
3. A surface drainage plan, with adequate details, showing how flood damage will be minimized.

The estimated cost of the proposal shall include all structural development, landscaping improvements, access and road development, electrical and plumbing and similar times reasonably applied to the overall development costs, but need not include land costs.

- b. The department will determine elevations and evaluate the proposal where the applicant is not required to provide computations as set forth in subsection (a)(3)a of this section and inadequate data exists. The municipality may transmit additional information, such as the data in section 14-144(2), where appropriate, to the department with the request for analysis.

- (4) *Expiration.* All permits issued under the authority of this chapter shall expire one year from the date of issuance.

(b) *Certificate of compliance.* No land shall be occupied or used, and no building which is constructed, altered, added to, modified, rebuild or replaced after the effective date of the ordinance from which this chapter is derived shall be occupied, until a certificate of compliance is issued by the zoning administrator, except where no permit is required subject to the following provisions:

- (1) The certificate of compliance shall show that the building or premises, or part thereof, and the proposed use conform to the provisions of this chapter.
  - (2) Application for such certificate shall be concurrent with the application for a permit.
  - (3) The certificate of compliance shall be issued within ten days after notification of completion of the work specified in the permit, provided, the building, premises or proposed use conforms with all the provisions of this chapter.
  - (4) The applicant shall submit a certification signed by a registered professional engineer or land surveyor that the fill and lowest floor elevations are in compliance with the permit issued. Floodproofing measures also require a certificate by a registered architect or professional engineer that floodproofing adequately meets the requirements of section 14-46.
- (c) *Other permits.* It is the responsibility of the applicant to secure all other necessary permits from all appropriate federal, state and local agencies, including permits required by the U.S. Army Corps of Engineers, under section 404 of the Federal Water Pollution Control Act, amendments of 1972, 33 USC 1334.

(Code 1988, § 10-2-61)

**Sec. 14-43. Zoning agency or committee.**

- (a) A zoning agency or committee shall have the following duties and powers:
- (1) Oversee the functions of the office of the zoning administrator;
  - (2) Review and make recommendations to the village board on all proposed amendments to the floodplain zoning ordinance map and text;
  - (3) Maintain a complete public record of all its proceedings.
- (b) The zoning agency shall not grant variances to the terms of this chapter, nor amend the text or zoning maps in place of official action by the board of appeals or village board.  
(Code 1988, § 10-2-62)

**Cross reference** – Boards, commissions and committees, § 2-141 et seq.

**Sec. 14-44. Board of appeals.**

(a) *Statutory authorization.* The appropriate board created by Wis. Stats. § 62.23(7)(e) for cities or villages is authorized to act as the board of appeals for the purposes of this chapter. The board of appeals shall exercise the powers conferred by statute and adopt rules for the conduct of business. The zoning administrator may not be the secretary of the board of appeals .

(b) *Powers and duties.* The board of appeals shall:

- (1) *Appeals.* Hear and decide appeals 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 chapter.
- (2) *District boundary disputes.* Hear and decide disputes concerning the district boundaries shown on the official floodplain zoning map.
- (3) *Variances.* Upon appeal, hear and decide variances from the dimensional standards of this chapter.
- (c) *Appeals.* Appeals to the board of appeals may be taken by any person aggrieved or an officer, department, board or bureau of the municipality affected by any decision of the zoning administrator or other administrative officer. Such appeal shall be taken within 30 days, as provided by the rules of the board of appeals, by filing with the zoning administrator and the board of appeals a notice of appeal specifying the reasons for the appeal. The official whose decision is in question shall transmit all of the papers constituting the record concerning the matter appealed to the board of appeals.

(d) *Notice and hearing for appeals and variances.*

- (1) *Notice.* The board of appeals shall:

- a. Fix a reasonable time for the hearing;
  - b. Publish an adequate class 1 notice, pursuant to statute, specifying the date, time, place and subject of the hearing;
  - c. Assure that the notice shall be mailed to the parties in interest and the district office of the department at least ten day in advance of the hearing.
- (2) *Hearing.* Any party may appear in person at the hearing or by agent or attorney. The board of appeals shall:
- a. Resolve boundary disputes in accordance with subsection (e) of this section;
  - b. Decide variance applications in accordance with subsection (e) of this section;
  - c. Decide appeals of permit denials in accordance with section 14-45.
- (3) *Decision.* The final decision regarding the appeal or variance application shall:
- a. Be made within reasonable time;
  - b. Be sent to the district office of the department within least ten days of the decision;
  - c. Be a written determination signed by the chairperson or secretary of the board of appeals;
  - d. State the specific facts which are the basis for the board of appeals' decision;
  - e. Either affirm, reverse, vary or modify the order, requirement, decision or determination appealed, in whole or in part, dismiss the appeal for lack of a jurisdiction or grant or deny the application for a variance;
  - f. Include the reasons or justifications for granting an appeal, with a description of the hardship or practical difficulty demonstrated by the applicant on the case of a variance, clearly stated in the recorded minutes of the board of appeals' proceedings.
- (e) *Boundary disputes.* The following procedure shall be used by the board of appeals in hearing disputes concerning the district boundaries shown on the official floodplain zoning map:
- (1) Where a floodplain district boundary is established by approximate or detailed floodplain studies, the regional flood elevations or profiles for the point in question shall be the governing factor in locating the district boundary. If no the regional flood elevations or profiles are available to the board of appeals, other available evidence may be examined.
  - (2) In all cases, the person contesting the location of the district boundary shall be given a reasonable opportunity to present arguments and technical evidence to the board of appeals.
  - (3) Where it is determined that the district boundary is incorrectly mapped, the board of appeals

should inform the zoning committee or the person contesting the location of the boundary to petition the village board for a map amendment in accordance with sections 14-48 and 14-49.

- (f) *Variances.*
- (1) Upon appeal, the board of appeals may grant a variance from the dimensional standards of this chapter where an applicant convincingly demonstrates that:
- a. Literal enforcement of the provisions of this chapter will result in an unnecessary hardship on the applicant.
  - b. The hardship is due to the adoption of the floodplain ordinance from which this chapter is derived and special conditions unique to the property and not common to a group of adjacent lots or premises, in which case, the chapter or map must be amended.
  - c. Such variance is not contrary to the public interest.
  - d. Such variance is consistent with the purpose of this chapter.
- (2) A variance shall not:
- a. Grant, extend or increase any use of property prohibited in the zoning district;
  - b. Be granted for a hardship based solely on an economic gain or loss;
  - c. Be granted for a hardship which is self-created;
  - d. Damage the rights or property values of other persons in the area;
  - e. Permit a lower degree of flood protection in the floodplain than the flood protection elevation;
  - f. Allow any floor, basement or crawlway below the regional flood elevation;
  - g. Allow actions without the required amendment to this chapter or maps described in section 14-48.
- (3) When a variance is granted in a floodplain area, the board of appeals shall notify the applicant in writing that increased flood insurance premiums may result. A copy of such notification shall be maintained with the variance appeal record.

(Code 1988, § 10-2-63)

**Sec. 14-45. Review of appeals of permit denials.**

- (a) The zoning agency or board of appeals shall review all data constituting the basis for the appeal of a permit denial. Where appropriate, such data may include:



- (1) Permit application data listed in section 14-42(a);
  - (2) Floodway/flood fringe determination as set forth in section 14-144;
  - (3) Data listed in section 14-103(a)(2)b, where the applicant has not submitted such information to the zoning administrator;
  - (4) Other data submitted to the zoning administrator with the permit application or submitted to the board of appeals with the appeal;
- (b) For appeals of all denied permits, the board of appeals shall:
- (1) Follow the procedures of section 14-44;
  - (2) Consider zoning agency recommendations;
  - (3) Either uphold the denial or grant the appeal.
- (c) For appeals concerning increases in regional flood elevation, the board of appeals shall:
- (1) Uphold the denial where the board of appeals agrees with the data showing an increase in flood elevation. Increases equal to or greater than 0.01 foot may only be allowed after amending the flood profile and map and any appropriate legal arrangements are made with all adversely affected property owners.
  - (2) Grant the appeal where the board of appeals 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.

(Code 1988, § 10-2-64)

**Sec. 14-46. Floodproofing.**

(a) No permit or variance shall be issued until the applicant submits a plan or document certified by a registered professional engineer or architect that the floodproofing measures are adequately designed to protect the structure or development to the flood protection elevation. Where floodproofing measures, as defined in section 14-10, are required, they shall be designed to:

- (1) Withstand the flood pressures, depths, velocities, uplift and impact forces and other factors associated with the regional flood;
- (2) Assure protection to the flood protection elevation;
- (3) Provide anchorage of structures to foundations to resist flotation and lateral movement;
- (4) Ensure that the structural walls and floors are watertight and then interior remains completely dry during flooding, without human intervention.

- (b) Flood measures may include:
- (1) Reinforcement of walls and floors to resist rupture or collapse caused by water pressure or floating debris;
  - (2) Addition of mass or weight to structures to prevent floatation;
  - (3) Placement of essential utilities above the flood protection elevation;
  - (4) Surface or subsurface drainage systems, including pumping facilities, to relieve external foundation wall and basement floor pressures;
  - (5) Construction of water supply wells and waste treatment systems to prevent the entrance of floodwaters into the systems;
  - (6) Cutoff valves on sewer lines or elimination of gravity flow basement drains.
- (Code 1988, § 10-2-65)

**Sec. 14-47. Public information.**

- (a) Where useful, marks on bridges or buildings or other markers may be set to show the depth of inundation during the regional flood at appropriate locations within the floodplain.
- (b) All available information, in the form of maps, engineered data and regulations, shall be readily available and should be widely distributed.
- (c) All legal descriptions of property in the floodplain should include information relative to the floodplain zoning classification when such property is transferred.
- (Code 1988, § 10-2-66)

**Sec. 14-48. Amendments.**

The village board may supplement or change the boundaries of the floodplain zoning districts and the regulations contained in this chapter 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 significant 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 encroachment into the floodplain that will obstruct flow causing an increase of 0.01 foot or more in regional flood height;

- (5) Any upgrade of floodplain zoning ordinances required by Wis. Admin. Code § NR 116.05(4), or otherwise required by law.  
(Code 1988, § 10-2-70)

**Sec. 14-49. Amendment procedures.**

(a) Amendments to this chapter may be made upon petition of any interested party in accordance with the provisions of Wis. Stats. § 62.23. Such petitions shall include any necessary data required by sections 14-42(a) and 14-144.

(b) Copies of any amendment proposed to the village board shall be referred to the zoning agency, described in section 14-43, for a public hearing and recommendation to the village board. Prior to the meeting, copies of the proposed amendment and notice of the public hearing shall be submitted to the appropriate district office of the department of natural resources for review. The amendment procedure shall comply with the provisions of Wis. Stats. § 62.23.

(c) No amendment to the maps or text of this chapter shall become effective until such amendment is reviewed and approved by the department of natural resources.

(d) All persons petitioning for a map amendment which involves an obstruction to flow causing an increase of 0.01 foot or more in the height of the regional flood shall obtain flooding easements, or other appropriate legal arrangements, from all adversely affected property owners and local units of government before the amendment can be approved by a governing body.

(e) The zoning agency shall consider data submitted by the department, the zoning administrator's visual on-site inspections and other available information when considering amendments to the official floodplain zoning map in areas where no water surface profile exists.  
(Code 1988, § 10-2-71)

**Secs. 14-50 – 14-80. Reserved.**

**ARTICLE III. FLOOD DAMAGE PREVENTION**

**DIVISION 1. GENERALLY**

**Sec. 14-81. District boundaries.**

(a) *Official map.* The boundaries of the floodplain districts, including the floodway and flood fringe districts, shall be the areas designated as floodplains or A zones on the flood insurance survey maps and corresponding survey maps and corresponding profiles contained in the flood insurance study. The map is the official floodplain zoning map for the village and has been approved by the department of natural resources and the Federal Emergency Management Agency (FEMA) and is on file in the office of the village administrator. If more than one map is referenced, the regional flood profiles govern boundary discrepancies in accordance with section 14-82.

(b) *Established.* The regional floodplain areas within the jurisdiction of this chapter are divided into

the following three districts:

- (1) *Floodway district (FW)*. The floodway district consists of the channel of a river or stream and the portions of the floodplain adjoining the channel that are required to carry and discharge the regional floodwaters.
  - (2) *Flood fringe district (FF)*. The flood fringe district (FF) consists of the portion of the floodplain between the regional flood limits and the floodway.
  - (3) *General floodplain district (GFP)*. The general floodplain district consists of all areas which have been or may be covered by floodwater during the regional flood. Such district encompasses both the floodway and flood fringe districts.
- (Code 1988, § 10-2-11)

#### **Sec. 14-82. Locating floodplain boundaries.**

(a) Where an apparent discrepancy exists between the location of the outermost boundary of the flood fringe district or general floodplain district shown on the official floodplain zoning map and actual field conditions, the location of the district boundary line shall be initially determined by the zoning administrator, using the criteria set forth in subsections (b) or (c) of this section. Where the zoning administrator finds that there is a significant difference between the district boundary shown on the map and the actual field conditions, the map shall be amended using the procedures established in section 14-49. Disputes between the zoning administrator and an applicant on the location of the district boundary line shall be settled in accordance with section 14-44.

(b) Where flood profiles exist, the location of the district boundary line shall be determined by the zoning administrator, using both the scale appearing on the map and the elevations shown on the water surface profile of the regional flood. Where a discrepancy exists between the map and the location indicated by the regional flood elevations and actual field conditions, the regional flood elevations shall govern. A map amendment is required where there is a significant discrepancy between the map and actual field conditions. The zoning administrator shall have the authority to immediately grant or deny a land use permit on the basis of a district boundary derived from the elevations shown on the water surface profile of the regional flood, whether or not a map amendment is required. The National Flood Insurance Program shall be responsible for initiating any map amendments required under this section within a reasonable period of time.

(c) Where flood profiles do not exist, the location of the district boundary line shall be determined by the zoning administrator, using the scale appearing on the map, visual on-site inspection and any available information provided by the department. Where there is a significant difference between the district boundary line shown on the map and actual field conditions, the map shall be amended. The zoning administrator shall have the authority to grant or deny a land use permit where a map amendment has been approved by both the village board and the department.

(Code 1988, § 10-2-12)

#### **Sec. 14-83. Standards for floodplain districts.**

- (a) *Generally.*

- (1) Except as provided in subsection (a)(2) of this section, no development shall be allowed in floodplain areas which will:
    - a. Cause an obstruction to flow, as defined in section 14-10 as any development which physically blocks the conveyance of floodwaters by itself or in conjunction with future similar development causing an increase in regional flood height; or
    - b. Cause an increase in regional flood height due to floodplain storage area lost, which is equal to or exceeds 0.01 foot.
  - (2) Obstructions or increases equal to or greater than 0.01 foot may only be permitted if amendments are made to this chapter, the official floodplain zoning maps, including floodway lines and water surface profiles, in accordance with section 14-49, and only if the total cumulative effect of the proposed development will not increase the height of the regional flood more than 1.0 foot for the affected hydraulic reach of the stream.
  - (3) The zoning administrator shall deny permits where it is determined the proposed development will cause an obstruction to flow or increase in regional flood height of 0.01 foot or greater.
- (b) *Mobile homes and manufactured homes.*
- (1) Owners or operators of all manufactured or mobile home parks and subdivisions located in the regional floodplain shall provide for adequate surface drainage to minimize flood damage.
  - (2) All new, replacement and substantially improved manufactured or mobile homes to be placed or improved on a site located in the regional floodplain shall:
    - a. Be elevated to the flood protection elevation;
    - b. Meet the residential development standards for the flood fringe as set forth in section 14-123(b); and
    - c. Be anchored so they do not float, collapse or move laterally during a flood.
- (c) *Watercourse alterations.* Prior to any alteration or relocation of a watercourse and the issuance of any land use permit which may be required for the alteration or relocation of a watercourse, the zoning administrator shall notify, in writing, adjacent municipalities, the appropriate district office of the department of natural resources and the appropriate office of FEMA, and shall require the applicant to secure all necessary state and federal permits. The flood-carrying capacity with the altered or relocated portion of any watercourse shall be maintained.
- (d) *Development under Wis. Stats. chs. 30 and 31.* Development which requires a permit from the department of natural resources under Wis. Stats. chs. 30 and 31, such as docks, piers, wharves, bridges, culverts, dams and navigational aids, may be allowed, provided, the necessary local permits are obtained and necessary amendments to the official floodway lines, water surface profiles, floodplain zoning maps or floodplain zoning ordinances are made in accordance with section 14-49.  
(Code 1988, § 10-2-18)

**Secs. 14-84 – 14-100. Reserved.**

## DIVISION 2. FLOODWAY DISTRICT (FW)

**Sec. 14-101. Applicability.**

The provisions of this division shall apply to all areas within the floodway district (FW), as shown on the official floodplain zoning maps, and the floodway portion of the general floodplain district, as determined pursuant to section 14-144.

(Code 1988, § 10-2-20)

**Sec. 14-102. Permitted uses.**

The following open space uses are permitted within the floodway district and the floodway portion of the general floodplain district, provided that they are not prohibited by any other ordinance and, provided, further, that they meet all of the standards contained in section 14-103 and all permits or certificates have been issued in accordance with section 14-42:

- (1) Agricultural uses such as general farming, pasturing, outdoor plant nurseries, horticulture, viticulture, truck farming, forestry, sod farming and wild crop harvesting.
  - (2) Nonstructural industrial and commercial uses such as loading areas, parking areas and airport landing strips.
  - (3) Private and public recreational uses, such as golf courses, tennis courts, driving ranges, archery ranges, picnic grounds, boat landing ramps, swimming areas, parks, wildlife and nature preserves, game farms, fish hatcheries, shooting preserves, target ranges, trap and skeet ranges, hunting and fishing areas, and hiking and horseback riding trails.
  - (4) Uses or structures accessory to open space uses, or essential for historical areas, provided they are not in conflict with the provisions of sections 14-103 and 14-104.
  - (5) Extraction of sand, gravel or other materials, pursuant to section 14-103(c).
  - (6) Docks, piers or wharves, including docks, piers or wharves used as part of a marina, and other water-related uses, such as dams, flowage areas, culverts, navigational aids and river crossings of transmission lines and pipelines, in accordance with Wis. Stats. chs. 30 and 31.
  - (7) Public utilities, streets and bridges, in accordance with section 14-103(c).
- (Code 1988, § 10-2-21)

**Sec. 14-103. Development standards.**

- (a) *General requirements.*
  - (1) Any development in floodway areas shall:

- a. Meet all of the provisions of sections 14-83; and
  - b. Have a low flood damage potential.
- (2) Applicants shall provide the following data for the zoning administrator to determine the effects of the development proposal in accordance with section 14-83(a):
- a. A cross section elevation view of the proposal, perpendicular to the watercourse, indicating whether the proposed development will obstruct flow; or
  - b. An analysis calculating the effects of the proposal on regional flood height.
- (3) The zoning administrator shall deny the permit application where it is determined the project will increase flood elevations 0.01 foot or more, upstream or downstream, based on the data submitted in accordance with subsection (a)(2) of this section.
- (b) *Structures.* Only structures which are accessory to permitted open space uses, are essential for historical areas or are functionally dependant on a waterfront location may be allowed by permit, provided the structures:
- (1) Are not designed for human habitation;
  - (2) Are designed and placed on the building site to cause an increase of less than 0.01 foot in flood height, and offer minimum obstruction to the flow of floodwaters. Structures shall be constructed with the longitudinal axis parallel to the direction of flow of floodwaters and approximately on the same line as those of adjoining structures;
  - (3) Are firmly anchored to prevent them from floating away and restricting bridge openings or other restricted sections of the stream or river; and
  - (4) Have all service facilities, such as electrical and heating equipment, at or above the flood protection elevation for that particular area.
- (c) *Utilities.* Public utilities, streets and bridges may be allowed, provided that:
- (1) Adequate floodproofing measures are provided to the flood protection elevation;
  - (2) Construction does not cause an increase in the regional flood height, in accordance with section 14-83(a), except where the water surface profiles, floodplain zoning maps and this chapter are amended, as needed, to reflect any changes resulted from such construction.
- (d) *Fills or deposition of materials.* Fills or deposition of materials may be permitted provided that the:
- (1) Requirements of section 14-83(a) are met;
  - (2) Fills or deposition of materials do not encroach on the channel area between the ordinary high

water mark on each bank of the stream, unless a permit has been granted by the department of natural resources pursuant to Wis. Stats. ch. 30, and a permit pursuant to section 404 of the Federal Water Pollution Control Act, amendments of 1972, 33 USC 1334, has been issued, if applicable, and the other requirements of this article are met;

- (3) Fills or other materials will be protected against erosion by riprap, vegetative cover, sheet piling and/or bulkheading, sufficient to prevent erosion; and
- (4) Fills are not associated with private or public solid waste disposal.  
(Code 1988, § 10-2-22)

**Sec. 14-104. Prohibited uses.**

All uses not listed as permitted uses in section 14-102 are prohibited within the floodway district and the floodway portion of the general floodplain district, including the following uses, which are always prohibited in the floodway:

- (1) Structures designed for human habitation, associated with high flood damage potential or not associated with permanent open space uses;
- (2) Storage of any materials that are capable of floating or are flammable, explosive or injurious to property, water quality or human, animal, plant, fish or other aquatic life;
- (3) Any uses which are not in harmony with, or which may be detrimental to, the uses permitted in the adjoining districts;
- (4) All private or public sewage systems, 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. Admin. Code ch. Comm 83;
- (5) All public or private wells which are used to obtain water for ultimate human consumption, except wells for recreational areas that meet the requirements of local ordinances and Wis. Admin. Code chs. NR 811 and NR 812;
- (6) All solid and hazardous waste disposal sites, whether public or private;
- (7) All wastewater treatment ponds or facilities, except as permitted under Wis. Admin. Code § NR 110.15(3)(b);
- (8) All sanitary sewer or water lines, except such lines to service existing or proposed development outside the floodway, which comply with the regulations for the floodplain area occupied.

(Code 1988, § 10-2-23)

**Secs. 14-105 – 14-120. Reserved.**



## DIVISION 3. FLOOD FRINGE DISTRICT (FF)

**Sec. 14-121. Applicability.**

The provisions of this division shall apply to all areas within the flood fringe district (FF), as shown on the official floodplain zoning maps, and the portions of the general floodplain district that are determined to be in the flood fringe area pursuant to section 14-45.

(Code 1988, § 10-2-30)

**Sec. 14-122. Permitted uses.**

Any structures, land uses or development, including accessory structures and uses, are allowed within the flood fringe district and flood fringe portions of the general floodplain district, provided that the standards contained in section 14-123 are met, the use is not prohibited by this chapter, any other ordinance or any other local, state or federal regulation, and all permits or certificates required by article II of this chapter have been issued.

(Code 1988, § 10-2-31)

**Sec. 14-123. Development standards.**

(a) *General requirements.* All of the provisions of section 14-83 shall apply to the flood fringe district.

(b) *Residential uses.* Any structure or building used for human habitation which is to be erected, constructed, reconstructed, altered or moved into the flood fringe area shall meet or exceed the following standards:

- (1) The elevation of the lowest floor, excluding the basement or crawlway, shall be at or above the flood protection elevation (which is a point two feet above the regional flood elevation), except where subsection (b)(2) of this section is applicable. The fill elevation shall be one foot or more above the regional flood elevation, and shall extend at least 15 feet beyond the limits of the structure. The department may authorize other floodproofing measures where existing streets or sewer lines are at elevations which make compliance impractical, provided the board of appeals grants a variance due to dimensional restrictions.
- (2) The basement or crawlway floor may be placed at the regional flood elevation, provided it is floodproofed to the flood protection elevation. No permit or variance shall allow any floor, basement or crawlway below the regional flood elevation.
- (3) Contiguous dryland access, defined in section 14-10, as a vehicle access route above regional flood elevation shall be provided from a structure or building to land which is outside the floodplain, except as provided in subsection (b)(4) of this section.
- (4) In development existing on the effective date of the ordinance from which this article is derived, where existing streets or sewer lines are at elevations which make compliance with subsection (b)(3) of this section impractical, the village may permit new development and substantial improvements where access roads are at or below the regional flood elevation, provided, the

village has:

- a. Written assurance from the appropriate local units of police, fire and emergency services that rescue and relief will be provided to the structure by wheeled vehicles, considering the anticipated depth, duration and velocity of the regional flood event; or
- b. An adequate natural disaster plan concurred with the division of emergency government and approved by the department.

(c) *Accessory structures or uses.* Any accessory structure or use, not connected to a principal structure, including nonresidential agricultural structures, shall meet all of the applicable provisions of section 14-123(a), (b) and (d) and 14-104. A lesser degree of protection, compatible with the criteria of this subsection and subsection (d) of this section, may be permissible for an accessory structure or use, provided that the site is not inundated to a depth greater than two feet or subjected to flood velocities greater than two feet per second upon the occurrence of the regional flood.

(d) *Commercial uses.* Any commercial structure or building which is to be erected, constructed, reconstructed, altered or moved into the flood fringe area shall meet the requirements of subsection (b) of this section. Storage yards, parking lots and other accessory land uses may be at lower elevations, subject to the requirements of subsection (f) of this section. However, no such area in general use by the public shall be inundated to a depth greater than two feet or subjected to flood velocities greater than two feet per second upon the occurrence of the regional flood. Inundation of such yards or parking areas exceeding two feet may be allowed, provided an adequate warning system exists to protect life and property.

(e) *Manufacturing, agricultural and industrial uses.* Any manufacturing, agricultural or industrial structure or building which is to be erected, constructed, reconstructed, altered or moved into the flood fringe area shall be protected to the flood protection elevation utilizing fill, levees, floodwalls, adequate floodproofing measures in accordance with section 14-46, or any combination thereof. On streams or rivers having prolonged flood durations, greater protection may be required to minimize interference with normal plant operations. A lesser degree of protection, compatible with the criteria in subsections (d) and (f) of this section, may be permissible for storage yards, parking lots and accessory structures or uses.

(f) *Storage or processing of materials.* The storage or processing of materials that are buoyant, flammable, explosive or, in times of flooding, could be injurious to property, water quality or human, animal, plant, fish or other aquatic life, shall be at or above the flood protection elevation for that particular area, or floodproofed in compliance with section 14-46. Adequate measures shall be taken to assure that such materials will not enter the river or stream during flooding.

(g) *Public utilities, streets and bridges.* All utilities, streets and bridges should be designed to be compatible with the local comprehensive floodplain development plans and:

- (1) When failure or interruption of public utilities, streets and bridges would result in danger to the public health or safety, or where such facilities are essential to the orderly functioning of the area, construction of and substantial improvements to such facilities may only be permitted if they are floodproofed in compliance with section 14-46 to the flood protection elevation;

- (2) Minor or auxiliary roads or nonessential utilities may be constructed at lower elevations, provided they withstand flood forces to the regional flood elevation.
- (h) *Sewage systems.* All on-site sewage disposal systems shall be floodproofed to the flood protection elevation and shall meet the applicable provisions of all local ordinances and Wis. Admin. Code ch. Comm. 83.
- (i) *Wells.* All wells, whether public or private, shall be floodproofed to the flood protection elevation, pursuant to section 14-46, and shall meet the applicable provisions of all local ordinances and Wis. Admin. Code chs. NR 811 and NR 812.
- (j) *Solid or hazardous waste disposal sites.* All solid or hazardous waste disposal sites, whether public or private, are prohibited in flood fringe areas.
- (k) *Disposal of materials.* All materials deposited for any purpose may only be allowed if all of the provisions of this chapter are met.  
(Code 1988, § 10-2-32)

**Secs. 14-124 – 14-140. Reserved.**

#### DIVISION 4. GENERAL FLOODPLAIN DISTRICT (GFP)

##### **Sec. 14-141. Applicability.**

The provisions of this division shall apply to all floodplains in the village for which regional flood data, as defined in section 14-10, is not available, or where regional flood data is available, but floodways have not been delineated. As adequate regional flood data becomes available and floodways are delineated for portions of the general floodplain district, such portions shall be placed in the flood fringe or floodway district, as appropriate.  
(Code 1988, § 10-2-40)

##### **Sec. 14-142. Permitted uses.**

The general floodplain district encompasses both floodway and flood fringe areas; therefore, a determination shall be made pursuant to section 14-144 to determine whether the proposed use is located within a floodway or flood fringe area. The uses permitted in floodway and flood fringe areas are allowed within the general floodplain district according to the standards of section 14-143 and provided that all permits or certificates required under section 14-42 have been issued.  
(Code 1988, § 10-2-41)

##### **Sec. 14-143. Development standards.**

Once it is determined, in accordance with section 14-144, that a proposed use is located within a floodway, the provisions of division 2 of this article shall apply. Once it is determined that the proposed use is located within the flood fringe, the provisions of division 3 of this article shall apply. All provisions of the remainder of this article apply to either district.  
(Code 1988, § 10-2-42)

**Sec. 14-144. Determining floodway and flood fringe limits.**

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

(1) Require the applicant to submit, at the time of the application, two copies of an aerial photograph or a plan which accurately locates the proposed development with respect to the general floodplain district limits, channel of stream, existing floodplain developments, together with all pertinent information, such as the nature of the proposal, legal description of the property, fill limits and elevations, building floor elevations and floodproofing measures.

(2) Require the applicant to furnish any of the following additional information, as deemed necessary by the department, for evaluation of the effects of the proposal upon flood height and flood flows, the regional flood elevations, and where applicable, to determine the boundaries of the floodway:

- a. A typical valley cross section showing the channel of the stream, 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 elevation or contours of the ground; pertinent structure, fill or storage elevations; size, location and arrangement 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 of materials, water supply and sanitary facilities.

(3) Transmit one copy of the information described in subsections (1) and (2) of this section to the department district office, along with a written request for technical assistance to establish regional flood elevation and, where applicable, floodway data. Where the provisions of section 14-42(a)(3) apply, the applicant shall provide all required information and computations to delineate floodway boundaries and the effects of the project on flood elevations.

(Code 1988, § 10-2-43)

**Secs. 14-145 – 14-170. Reserved.**

**DIVISION 5. NONCONFORMING USES****Sec. 14-171. Generally.**

Insofar as the standards of this division are not inconsistent with the provisions of Wis. Stats. § 62.23(7)(h), they shall apply to all nonconforming structures and uses. The regulations set forth in this division apply to the modification of or addition to any structure and the use of any structure or premises which was lawful before the passage of the ordinance from which this chapter is derived, or any amendment thereto. The lawful use of a structure or building, or its accessory use, on the effective date

of the ordinance from which this chapter is derived, which is not in conformity with the provisions of this chapter, may be continued, subject to the following conditions:

- (1) No modification or addition to a nonconforming use shall be permitted, unless it is made in conformity with the provisions of this chapter for the area of the floodplain occupied. The terms “modification” and “addition” include, but shall not be 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, including internal and external painting, decorating, paneling and 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, are not considered as modifications or additions.
- (2) 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 on such property, shall be made to conform to the applicable requirements of this article.
- (3) As requests are received for modifications or additions to nonconforming uses or structures in the floodway, a record shall be kept which lists the nonconforming uses and structures, their present equalized assessed value and the cost of the additions or modifications which have been permitted.
- (4) No modification or addition to any nonconforming structure or any structure with a nonconforming use which, over the life of the structure, would exceed 60 percent of its present equalized assessed value shall be allowed, unless the entire structure is permanently changed to a conforming structure with the applicable requirements of this chapter and contiguous dry land access is provided in compliance with section 14-123(b)(3) or (4).
- (5) If any nonconforming structure or any structure with a nonconforming use is destroyed or so badly damaged that it cannot be replaced, reconstructed or rebuilt, unless the use and the structure meet the requirements of this chapter. For the purpose of this subsection, restoration is deemed to be impractical where the total cost of such restoration would exceed 50 percent of the present equalized assessed value of the structure.

(Code 1988, § 10-2-50)

**Sec. 14-172. Floodway areas.**

(a) 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:

- (1) Has been granted a permit or variance;
- (2) Meets the requirements of section 14-171;
- (3) Will not increase the obstruction to flood flows or regional flood height; and

(4) Any addition to the existing structure shall be floodproofed pursuant to section 14-46, by a means other than the use of fill, to the flood protection elevation.

(b) Except where an addition has been ordered by a government agency to correct a hazard to public health, no new on-site sewage disposal systems, or addition to an existing on-site sewage disposal system, shall be allowed in a floodway area. Any replacement, repair or maintenance of an existing on-site sewage disposal system in a floodway area shall meet the applicable provisions of local ordinances and Wis. Admin. Code ch. Comm 83.

(c) No new well used to obtain water for ultimate human consumption, or modifications to an existing well, shall be allowed in a floodway area. Any replacement, repair or maintenance of a well existing in a floodway area on the effective date of the ordinance from which this chapter is derived shall meet the applicable provisions of all municipal ordinances and Wis. Admin. Code chs. NR811 and NR 812.

(Code 1988, § 10-2-51)

### **Sec. 14-173. Flood fringe areas.**

(a) No modification or addition shall be allowed to any nonconforming structure or any structure with a nonconforming use in the flood fringe area, unless such modification or addition has been granted a permit or variance and, in addition, the modification or addition shall be placed on fill or floodproofed to the flood protection elevation in compliance with the applicable regulations for the particular use as set forth in subsection 14-123, except where subsection (b) of this section is applicable.

(b) Where compliance with the provisions of subsection (a) of this section would result in an unnecessary hardship, and only when the structure will not be used for human habitation or be associated with a high flood damage potential, the board of appeals, using the procedure in section 14-44, may grant a variance from the provisions of subsection (a) of this section for modifications or additions, using the following criteria. Modifications or additions which are protected to elevations lower than the flood protection elevation may be permitted if:

- (1) No floor is allowed below the regional flood elevation for a residential or commercial structure;
- (2) Human lives are not endangered;
- (3) Public facilities, such as water or sewer, will not be installed;
- (4) Flood depths will not exceed two feet;
- (5) Flood velocities will not exceed two feet per second; and
- (6) The structure will not be used for storage of materials described in section 14-123(f).

(c) If neither the provisions of subsection (a) nor (b) of this section can be met, an addition to an existing room in a nonconforming building or a building with a nonconforming use may be allowed in the flood fringe area on a one-time basis only, if the addition:

- (1) Meets all other regulations and will not be granted by permit or variance;
  - (2) Does not exceed 60 square feet in area; and
  - (3) In combination with other previous modifications or additions to the building, does not exceed 50 percent of the present equalized assessed value of the building.
- (d) All new private sewage disposal systems or addition to, replacement, repair or maintenance of a private sewage disposal system shall meet all of the applicable provisions of local ordinances and Wis. Admin. Code ch. Comm 83.
- (e) All new wells, or addition to, replacement, repair or maintenance of a well, shall meet the applicable provisions of this chapter and Wis. Admin. Code chs. NR811 and NR 812.  
(Code 1988, § 10-2-52)

