

# Chapter 9

## Sauk County Floodplain Zoning Ordinance

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## **SUBCHAPTER I: GENERAL PROVISIONS**

**9.000 TITLE.** The title of this ordinance shall be referred to as Chapter 9: Sauk County Floodplain Zoning Ordinance.

### **9.001 STATUTORY AUTHORIZATION, FINDING OF FACT, AND STATEMENT OF PURPOSE.**

- 1) Statutory authorization.** This ordinance is enacted pursuant to the authority granted by the Wisconsin Statutes, including, but not limited to, Wis. Stat. §§ 59.69, 59.692, and 59.694 for counties and the requirements in Wis. Stats. § 87.30.
- 2) Finding of fact.** Uncontrolled development and use of the floodplains and rivers of Sauk County would impair the public health, safety, convenience, general welfare, and tax base.
- 3) Statement of purpose.** This ordinance is intended to regulate floodplain development to:
  - a) Protect life, health, and property.**
  - b) Minimize expenditures of public funds for flood control projects.**
  - c) Minimize rescue and relief efforts undertaken at the expense of the taxpayers.**
  - d) Minimize business interruptions and other economic disruptions.**
  - e) Minimize damage to public facilities in the floodplain.**
  - f) Minimize the occurrence of future flood blight areas in the floodplain.**
  - g) Discourage the victimization of unwary land and homebuyers.**
  - h) Prevent increases in flood heights that could increase flood damage and result in conflicts between property owners.**
  - i) Discourage development in a floodplain if there is any practicable alternative to locate the activity, use, or structure outside of the floodplain.**

**9.002 GENERAL PROVISIONS.** Uncontrolled development and use of the floodplains and rivers of Sauk County would impair public trust.

- 1) Areas to be regulated.** This ordinance regulates all areas of special flood hazard identified as zones A, AO, AH, A1-30, or AE on the Flood Insurance Rate Map. Additional areas identified on maps approved by the Department of Natural Resources (DNR) and local community may also be regulated under the provisions of this ordinance, where applicable.
- 2) Official maps and revisions.** Special Flood Hazard Areas (SFHA) are designated as zones A, A1-30, AE, AH, or AO on the Flood Insurance Rate Maps (FIRMs) based on flood hazard analyses summarized in the Flood Insurance Study (FIS) listed in sub. a) below. Additional flood hazard areas subject to regulation under this ordinance are identified on maps based on studies approved by the DNR and listed in sub. b) below. Flood districts established by this ordinance are shown on the official floodplain zoning map of Sauk County, Wisconsin, which is made part of this ordinance by reference. The official floodplain zoning map of Sauk County is a digital compilation within the county's geographic information system. This system is stored at Sauk County in the Enterprise Database and can be accessed by the public at the Sauk County Zoning iSite. This map will be the official map for the purpose of enforcement of this ordinance and includes FIRMs and additional flood hazard maps based on studies approved by the Wisconsin Department of Natural Resources. Responsibility for the maintenance of this map is vested with the Sauk County Land Resources and Environmental Department by the Zoning Administrator.
  - a) Official maps based on the Flood Insurance Study (FIS):** Flood Insurance Rate Map (FIRM), panel numbers 55111C0025E, 55111C0075E, 55111C0118E, 55111C0119E, 55111C0131E, 55111C0132E, 55111C0135E, 55111C0151E, 55111C0162E, 55111C0164E, 55111C0165E, 55111C0166E, 55111C0167E, 55111C0168E, 55111C0180E, 55111C0184E, 55111C0193E, 55111C0203E, 55111C0210E, 55111C0220E, 55111C0231E, 55111C0232E, 55111C0235E, 55111C0250E, 55111C0251E, 55111C0252E, 55111C0253E, 55111C0254E, 55111C0258E, 55111C0259E, 55111C0262E, 55111C0265E, 55111C0278E, 55111C0310E, 55111C0325, 55111C0329E, 55111C0330E, 55111C0332E, 55111C0333E, 55111C0334E, 55111C0337E, 55111C0340E,

55111C0341E, 55111C0351E, 55111C0353E, 55111C0354E, 55111C0365E, 55111C0367E, 55111C0370E, 55111C0386E, 55111C0411E, 55111C0412E, 55111C0420E, dated December 18, 2009.

**b)** Official maps based on the Flood Insurance Study (FIS): Flood Insurance Rate Map (FIRM), panel numbers 55111C0038F, 55111C0039F, 55111C0043F, 55111C0155F, 55111C0156F, 55111C0157F, 55111C0158F, 55111C0159F, 55111C0178F, 55111C0179F, 55111C0183F, 55111C0187F, 55111C0191F, 55111C0192F, 55111C0194F, 55111C0212F, 55111C0213F, 55111C0214F, 55111C0218F, 55111C0266F, 55111C0267F, 55111C0268F, 55111C0269F, 55111C0286F, 55111C0288F, 55111C0352F, 55111C0356F, 55111C0357F, 55111C0358F, 55111C0359F, 55111C0376F, 55111C0377F, 55111C0378F, 55111C0379F, 55111C0381F, 55111C0382F, 55111C0383F, 55111C0384F, 55111C0402F, 55111C0403F, 55111C0404F, 55111C0406F, 55111C0407F, 55111C0408F, 55111C0409F dated, November 20, 2013.

**c)** Based on the Flood Insurance Study (FIS): Flood Insurance Rate Map (FIRM), panel number 55111C0211F, dated October 02, 2015.

**d)** Flood Insurance Study (FIS) for Sauk County, dated October 02, 2015.

**e)** Letter of Map Revision (Intentionally left blank – Insert: Letter of Map Revision as approved by DNR and FEMA case number and effective date). \*

**f)** Conditional Letter of Map Change (Intentionally left blank – Insert: Conditional Letter of Map Change as approved by DNR and FEMA case number and effective date). \*

\* A letter of map revision and a conditional letter of map change that, once approved by DNR and FEMA, must be adopted and made part of the Sauk County Floodplain Zoning Ordinance following the ordinance amendment process. Until such time that this occurs, sub. e) and f) are placeholders for insertion of the requisite adoption.

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

(1) Honey Creek 2,3,4 Dam Failure analysis approved by the Department of Natural Resources on 06/24/2003 including:

- i. Map dated June 24, 2003, and titled Sauk County Floodplain Ordinance Amendment – Honey Creek Structures No.2, No.3, No.4.
- ii. Floodway data table dated November 23, 2003, and titled “Dam Breach Study Areas – Honey Creek Structures No.2, No.3, No.4.”
- iii. Flood profiles dated November 25, 2003, and titled “Dam Breach Analysis --- Honey Creek Structures NO.2, No.3, No.4.”

(2) Dutch Hollow Lake Dam Failure analysis approved by the Department of Natural Resources on September 01, 2005, including:

- i. Map dated August 24, 2005, and titled “Hydraulic Shadow Dutch Hollow Lake Dam”. Earthen dam failure boundary, shown in blue, between cross-sections XS #1 and XS # 7.
- ii. Flood profiles dated August 24, 2005, and titled “Water Surface Profile – Dutch Hollow Creek” between cross-section XS#1 and point of intersection with the backwater of Baraboo River at elevation 899, just upstream of cross-section 899, just upstream of XS #5.

(3) Lake Redstone Dam Failure analysis approved by the Department of Natural Resources on January 25, 2010, including:

- i. Map dated September 1, 2011, and titled “Lake Redstone Breach Flood Zone.”
- ii. Floodway data table dated September 1, 2011, and titled “The Dam Failing During the 100-Year Storm.” If necessary, indicate what column (table if more than one included) to use and start and end stations of the regulatory profile.

- iii. Flood profiles dated September 1, 2011, and titled “100-Year Flood Profile with the Lake Redstone Dam Failing.”
- (4) Delton Dam Failure analysis approved by the Department of Natural Resources on January 25, 2010, including:
- i. Map dated October 7, 2009, and titled “Hydraulic Shadow. Delton Dam Hazard Assessment. Sauk County, WI.
  - ii. Floodway data table dated October 7, 2009, and titled “Table 4. Hydraulic Shadow Floodway Data.”
  - iii. Flood profiles dated October 7, 2009, and titled “Dam Break Flood Profiles. Delton Dam Hazard Assessment. Dell Creek. Sauk County, WI.”
- (5) Virginia Lake Dam Failure analysis approved by the Department of Natural Resources on August 13, 2013, including:
- i. Map dated August 8, 2013, and titled “Lake Virginia Dam (Field File 56.35) – Dam Failure Analysis Hydraulic Shadow 1% Event (100 Year).”
  - ii. Floodway data table dated August 8, 2013, and titled “Lake Virginia Dam (Field File 56.35) – Dam Failure Analysis Hydraulic Shadow Floodway Data Table.”
  - iii. Flood profiles dated August 8, 2013, and titled “Lake Virginia Dam (Field File 56.35) – Dam Failure Analysis Dam Break Profiles.”
- (6) Huey Duck Lake Dam Failure analysis approved by the Department of Natural Resources on January 7, 2016, including:
- i. Map dated February 11, 2016, and titled “Huey Duck Dam Failure – Hydraulic Shadow Map.”
  - ii. Floodway data table dated February 12, 2016, and titled “Dam Failure Model.”
  - iii. Flood profiles dated February 12, 2016, and titled “Dam Failure Model.”
- (7) Magruder Dam Failure analysis approved by the Department of Natural Resources on January 7, 2019, including:
- i. Map dated October 25, 2018, and titled "Magruder Dam Failure Inundation Map."
  - ii. Floodway data table dated October 25, 2018, and titled "Magruder Dam Hydraulic Shadow Floodway Data."
  - iii. Flood profiles dated October 25, 2018, and titled "Magruder Dam Failure Analysis Hydraulic Shadow Profile."
- (8) Cazenovia Dam Failure analysis approved by the Department of Natural Resources on August 24, 2018, including:
- i. Map dated October 8, 2018, and titled “Hydraulic Shadow Map – Cazenovia Dam Break Analysis”
  - ii. Floodway data table dated October 8, 2018, and titled "Floodway Data Table—Little Baraboo River (Cazenovia Branch)—Floodway for Hydraulic Shadow (Dam Failure)."
  - iii. Flood profiles dated October 8, 2018, and titled "Cazenovia Dam Break Analysis, Plan: Extended—Unsteady—Breach—Mod Sz min."
- (9) Sensnovis Dam Failure analysis approved by the Department of Natural Resources on July 07, 2025, including:
- i. Map dated July 07, 2025, and titled “Hydraulic Shadow Map – Sensnovis Dam.”
  - ii. Floodway data table dated July 07, 2025, and titled “Sensnovis Dam Hydraulic Shadow Floodway Data.”
  - iii. Flood profiles dated July 07, 2025, and titled “Sensnovis Dam Hydraulic Shadow Profile.”

(10) Flood Storage Maps:

- i. Sauk County Flood Storage District, Panel 1, effective 11.20.2013.
- ii. Sauk County, Village of Lake Delton, City of Wisconsin Dells Flood Storage District, Panel 2, effective 12.18.2009.
- iii. Sauk County City of Reedsburg, Village of Rock Springs Flood Storage District, Panel 3, effective 11.20.2013.
- iv. Sauk County Flood Storage District, Panel 4, effective 12.18.2009.

**3) Establishment of floodplain zoning districts.** The flood hazard areas regulated by this ordinance are divided into districts as follows:

- a) The Floodway District (FW), is the channel of a river or stream and those portions of the floodplain adjoining the channel required to carry the regional floodwaters, within AE Zones as shown on the FIRM, or within A Zones shown on the FIRM when determined according to s. 9.017.
- b) The Flood Fringe District (FF) is that portion of a riverine special flood hazard area outside the floodway within AE Zones on the FIRM, or, when floodway limits have been determined according to s. 9.017, within A Zones shown on the FIRM.
- c) The General Floodplain District (GFP) is those riverine areas that may be covered by floodwater during the regional flood in which a floodway boundary has not been delineated on the FIRM and also includes shallow flooding areas identified as AH and AO zones on the FIRM.
- d) The Flood Storage District (FSD) is that area of the floodplain where storage of floodwaters is calculated to reduce the regional flood discharge.

**4) Locating floodplain boundaries.** Discrepancies between the exterior boundaries of zones A1-30, AE, AH, or A on the official floodplain zoning map and actual field conditions may be resolved using the criteria in sub. a) or b) below. If a significant difference exists, the map shall be amended according to Subchapter X. The Zoning Administrator can rely on a boundary derived from a profile elevation to grant or deny a land use permit, whether or not a map amendment is required. The Zoning Administrator shall be responsible for documenting actual pre-development field conditions and the basis upon which the district boundary was determined. Disputes between the Zoning Administrator and an applicant over the district boundary line shall be settled according to s. 9.026 3) and the criteria in sub. a) and b) below. Where the flood profiles are based on established base flood elevations from a FIRM, FEMA must approve any map amendment or revision pursuant to Subchapter X.

- a) If flood profiles exist, the map scale and the profile elevations shall determine the district boundary. The regional or base flood elevations shall govern if there are any discrepancies.
- b) Where flood profiles do not exist for projects, including any boundary of zone A or AO, the location of the boundary shall be determined by the map scale.

**5) Removal of land from floodplain.**

- a) Compliance with the provisions of this ordinance shall not be grounds for removing land from the floodplain unless it is filled at least two feet above the regional or base flood elevation, the fill is contiguous to land outside the floodplain, and the map is amended pursuant s. 9.031.

- b)** The delineation of any of the Floodplain Districts may be revised by the community where natural or man-made changes have occurred and/or where more detailed studies have been conducted. However, prior to any such change, approval must be obtained from the DNR and Federal Emergency Management Agency. A completed Letter of Map Revision (LOMR) is a record of this approval. The floodplain administrator shall not sign a community acknowledgement form unless all criteria set forth in the following paragraphs are met:
  - (1) The land and/or land around the structure must be filled at least two feet above the regional or base flood elevation;
  - (2) The fill must be contiguous to land outside the floodplain; Applicant shall obtain floodplain development permit before applying for a LOMR or LOMR-F (based on fill);
- c)** Removal of lands from the floodplain may also occur by operation of Wis. Stats. § 87.30(1)(e) if a property owner has obtained a letter of map amendment from the federal emergency management agency under 44 C.F.R. 70.

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

- a)** No structure or use within areas regulated by this ordinance shall hereafter be located, erected, constructed, reconstructed, repaired, extended, converted, enlarged, or altered without full compliance with the terms of these regulations and all other applicable regulations that apply to uses within the jurisdiction of these regulations.
- b)** Failure to obtain a land use permit shall be a violation of these regulations and shall be punishable in accordance with s. 9.034.
- c)** Land use permits issued on the basis of plans and applications approved by the Zoning Administrator authorize only the use, and arrangement set forth in such approved plans and applications, or amendments thereto if approved by the Zoning Administrator. Use, arrangement, or construction contrary to that authorized shall be deemed a violation of these regulations and punishable in accordance with s. 9.034.

**7) Municipalities and state agencies regulated.** Unless specifically exempted by law, all cities, villages, towns, and counties are required to comply with this ordinance and obtain all necessary permits. State agencies are required to comply if Wis. Stats. § 13.48(13) applies. The construction, reconstruction, maintenance and repair of state highways and bridges by the Wisconsin Department of Transportation (WisDOT) is exempt when Wis. Stats. § 30.2022 applies. Although exempt from a local zoning permit and permit fees, WisDOT must provide sufficient project documentation and analysis to ensure that the community is in compliance with federal, state, and local floodplain standards. If a local transportation project is located within a Zone A floodplain and is not a WisDOT project under Wis. Stats. § 30.2022, then the road project design documents (including appropriate detailed plans and profiles) may be sufficient to meet the requirements for issuance of a local floodplain permit if the following apply: The applicant provides documentation to the Zoning Administrator that the proposed project is a culvert replacement or bridge replacement under 20 foot span at the same location, the project is exempt from a DNR permit under Wis. Stats. § 30.123(6)(d), the capacity is not decreased, the top road grade is not raised, and no floodway data is available from a federal, state, or other source. If floodway data is available in the impacted area from a federal, state, or other source then existing data must be utilized by the applicant in the analysis of the project site.

**8) Abrogation and greater restrictions.**

- a) This ordinance supersedes all the provisions of any municipal zoning ordinance enacted under Wis. Stats. §§ 59.69, 59.692 or 59.694 for counties; or Wis. Stats. § 87.30 which relate to floodplains. A more restrictive ordinance shall continue in full force and effect to the extent of the greater restrictions, but not otherwise.
- b) This ordinance is not intended to repeal, abrogate, or impair any existing deed restrictions, covenants, or easements. If this ordinance imposes greater restrictions, the provisions of this ordinance shall prevail.

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

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

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

**12) Annexed areas for cities and villages.** The Sauk County 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. Admin. Code ch. NR 116, e and 44 CFR 59-72, National Flood Insurance Program (NFIP). These annexed lands are described on the municipality's official zoning map. County 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 floodway location.

## **SUBCHAPTER II: DEFINITIONS**

**9.003 PURPOSE.** The purpose of this subchapter is to define words, terms, and phrases contained in this chapter that are essential to the understanding, administration, and enforcement of this chapter.

**9.004 WORD USAGE.** For the purposes of this chapter, certain words and terms are used as follows:

- 1) Words used in one tense include other tenses and derivative forms.
- 2) Words in the singular include the plural and words in the plural include the singular.
- 3) The masculine gender will include the feminine gender and vice versa.
- 4) The words “shall”, “must”, or “will” are mandatory and not permissive.
- 5) The words “may”, “can”, “should”, or “might” are permissive.
- 6) The word “person” includes individuals, firms, corporations, partnerships, associations, trusts, and any other legal entity.
- 7) The words “building” or “structure” include any part thereof.
- 8) Where a regulation involves two or more items, conditions, provisions, or events connected by the conjunction “and”, “or”, or “either/or”, the conjunction shall be interpreted as follows:

- a) “and” indicates that all the connected items, conditions, provisions, or events shall apply.
- b) “or” indicates that the connected items, conditions, provisions, or events shall apply singly or in any combination.
- c) “either/or” indicates that the connected items, conditions, provisions, or events shall apply singly but not in combination.

**9.005 DEFINITIONS.** For the purposes of this chapter, certain words and terms are defined as follows:

- 1) “A zone” means those areas shown on the Official Floodplain Zoning Map that 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) “AE zone” means floodplain or floodway.
- 3) “AH zone” means see “Area of Shallow Flooding.”
- 4) “AO zone” means see “Area of Shallow Flooding.”
- 5) “Accessory structure or use” means a facility, structure, building or use which is accessory or incidental to the principal use of a property, structure or building. An accessory structure shall not be used for human habitation.
- 6) “Alteration” means an enhancement, upgrade or substantial change or modification other than an addition or repair to a dwelling or to electrical, plumbing, heating, ventilating, air conditioning, and other systems within a structure.
- 7) “Area of shallow flooding” means a designated AO, AH, AR/AO, AR/AH, or VO zone on a community’s FIRM with a 1 percent or greater annual chance of flooding to an average depth of 1 to 3 feet where a clearly defined channel does not exist, where the path of flooding is unpredictable, and where velocity flood may be evident. Such flooding is characterized by ponding or sheet flow.
- 8) “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.
- 9) “Basement” means any enclosed area of a building having its floor sub-grade on all sides.
- 10) “Building” means – see “Structure.”
- 11) “Bulkhead line” means a geographic line along a reach of navigable water that has been adopted by a municipal ordinance and approved by the Department pursuant to Wis. Stats. § 30.11, and which allows limited filling between this bulkhead line and the original ordinary highwater mark, except where such filling is prohibited by the floodway provisions of this ordinance.
- 12) “Campground” means any parcel of land which is designed, maintained, intended, or used for the purpose of providing sites for nonpermanent overnight use by 4 or more camping units, or which is advertised or represented as a camping area.
- 13) “Camping unit” means any portable device, no more than 400 square feet in area, used as a temporary shelter, including but not limited to a camping trailer, motor home, bus, van, pick-up truck, or tent that is fully licensed, if required, and ready for highway use.
- 14) “Certificate of compliance” means a certification that the construction and the use of land or a building, the elevation of fill or the lowest floor of a structure is in compliance with all of the provisions of this ordinance.

- 15) “Channel” means a natural or artificial watercourse with definite bed and banks to confine and conduct normal flow of water.
- 16) “Crawlways or crawl space” means 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.
- 17) “Deck” means an unenclosed exterior structure that has no roof or sides and has a permeable floor that allows the infiltration of precipitation.
- 18) “Department” means the Wisconsin Department of Natural Resources (DNR).
- 19) “Development” means 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.
- 20) “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.
- 21) “Encroachment” means any fill, structure, equipment, use or development in the floodway.
- 22) “Federal Emergency Management Agency (FEMA)” means the federal agency that administers the NFIP.
- 23) “Flood Insurance Rate Map (FIRM)” means a map of a community on which the Federal Insurance Administration has delineated both the floodplain and the risk premium zones applicable to the community. This map can only be amended by the FEMA.
- 24) “Flood or flooding” means a general and temporary condition of partial or complete inundation of normally dry land areas caused by one of the following conditions:
  - a) The overflow or rise of inland waters.
  - b) The rapid accumulation or runoff of surface waters from any source.
  - c) 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.
- 25) “Flood Frequency” means 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.
- 26) “Flood Fringe” means 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.
- 27) “Flood Hazard Boundary Map” means 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 NFIP until superseded by FIS and FIRMs.

- 28) “Flood Insurance Study” means 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. FIRMs, that accompany the FIS, form the basis for both the regulatory and the insurance aspects of the NFIP.
- 29) “Floodplain” means land which has been or may be covered by flood water during the regional flood. It includes the floodway and the flood fringe and may include other designated floodplain areas for regulatory purposes.
- 30) “Floodplain Island” means a natural geologic land formation within the floodplain that is surrounded, but not covered, by floodwater during the regional flood.
- 31) “Floodplain management” means policy and procedures to ensure wise use of floodplains, including mapping and engineering, mitigation, education, and administration and enforcement of floodplain regulations.
- 32) “Flood Profile” means 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.
- 33) “Floodproofing” means 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.
- 34) “Flood Protection Elevation” means an elevation of two feet of freeboard above the Regional Flood Elevation (RFE). See also “Freeboard.”
- 35) “Flood Storage” means those floodplain areas where storage of floodwaters has been taken into account during analysis in reducing the regional flood discharge.
- 36) “Floodway” means the channel of a river or stream and those portions of the floodplain adjoining the channel required to carry the regional flood discharge.
- 37) “Freeboard” means 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.
- 38) “Habitable Structure” means any structure or portion thereof used or designed for human habitation.
- 39) “Hearing Notice” means publication or posting meeting the requirements of Wis. Stats. § 985. For appeals, a Class 1 notice, published once at least one week (7 days) before the hearing, is required. For all zoning ordinances and amendments, a Class 2 notice, published twice, once each week consecutively, the last at least a week (7 days) before the hearing. Local ordinances or bylaws may require additional notice, exceeding these minimums.
- 40) “High Flood Damage Potential” means damage that could result from flooding that includes any danger to life or health or any significant economic loss to a structure or building and its contents.
- 41) “Highest Adjacent Grade” means the highest natural elevation of the ground surface prior to construction next to the proposed walls of a structure.

- 42) “Historic Structure” means any structure that is either:
- a) 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.
  - b) 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.
  - c) 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.
  - d) 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; or by the Secretary of the Interior in states without approved programs.
- 43) “Increase in Regional Height” means a calculated upward rise in the RFE greater than 0.00 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.
- 44) “Land Use” means any nonstructural use made of unimproved or improved real estate. See also “Development.”
- 45) “Land Use Permit” means zoning approval of a land use or structure which may be lawfully established subject to specific limitations or conditions of this ordinance. any nonstructural use made of unimproved or improved real estate.
- 46) “Lowest Adjacent Grade” means the elevation of the lowest ground surface that touches any of the exterior walls of a building.
- 47) “Lowest Floor” means the lowest floor of the lowest enclosed area (including basement).
- 48) “Maintenance” means the act or process of ordinary upkeep and repairs, including redecorating, refinishing, nonstructural repairs, or the replacement of existing fixtures, systems or equipment with equivalent fixtures, systems, or structures.
- 49) “Manufactured Home” means 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."
- 50) “Mobile/Manufactured Home Park or Subdivision” means a parcel of land, divided into two or more manufactured home lots for rent or sale.
- 51) “Mobile/Manufactured Home Park or Subdivision, Existing” means 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 ordinance. 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.
- 52) “Mobile/Manufactured Home Park, Expansion to Existing” means 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.

- 53) “**Mobile Recreational Vehicle**” means 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.”
- 54) “**Model, Corrected Effective**” means a hydraulic engineering model that corrects any errors that occur in the Duplicate Effective Model, adds any additional cross sections to the Duplicate Effective Model, or incorporates more detailed topographic information than that used in the current effective model.
- 55) “**Model, Duplicate Effective**” means a copy of the hydraulic analysis used in the effective FIS and referred to as the effective model.
- 56) “**Model, Effective**” means the hydraulic engineering model that was used to produce the current effective FIS.
- 57) “**Model, Existing (Pre-Project)**” means a modification of the Duplicate Effective Model or Corrected Effective Model to reflect any man-made modifications that have occurred within the floodplain since the date of the effective model but prior to the construction of the project for which the revision is being requested. If no modification has occurred since the date of the effective model, then this model would be identical to the Corrected Effective Model or Duplicate Effective Model.
- 58) “**Model, Revised (Post-Project)**” means a modification of the Existing or Pre-Project Conditions Model, Duplicate Effective Model or Corrected Effective Model to reflect revised or post-project conditions.
- 59) “**Municipality or Municipal**” means the county, city or village governmental units enacting, administering, and enforcing this zoning ordinance.
- 60) “**NAVD or North American Vertical Datum**” means elevations referenced to mean sea level datum, 1988 adjustment.
- 61) “**NFIP or National Flood Insurance Program**” means a program created by the Congress of the United States in 1968 through the National Flood Insurance Act of 1968 with the purpose of sharing the risk of flood losses through flood insurance and to reduce flood damages by restricting floodplain development.
- 62) “**NGVD or National Geodetic Vertical Datum**” means elevations referenced to mean sea level datum, 1929 adjustment.
- 63) “**New Construction**” means structures for which the start of construction commenced on or after the effective date of a floodplain zoning regulation adopted by this community and includes any subsequent improvements to such structures.
- 64) “**Non-Flood Disaster**” means a fire or an ice storm, tornado, windstorm, mudslide, or other destructive act of nature, but excludes a flood.
- 65) “**Nonconforming Structure**” means an existing lawful structure or building which is not in conformity with the dimensional or structural requirements of this ordinance for the area of the floodplain which it occupies. (For example, an existing residential structure in the flood fringe district is a conforming use. However, if the lowest floor is lower than the flood protection elevation, the structure is nonconforming.)

- 66) “Nonconforming Use” means an existing lawful use or accessory use of a structure or building which is not in conformity with the provisions of this ordinance for the area of the floodplain which it occupies. (Such as a residence in the floodway.)
- 67) “Obstruction to Flow” means any development that blocks the conveyance of floodwaters such that this development alone or together with any future development will cause an increase in regional flood height.
- 68) “Official Floodplain Zoning Map” means that map, adopted and made part of this ordinance, as described in s. 9.002 2), which has been approved by the Department and FEMA.
- 69) “Open Space Use” means those uses having a relatively low flood damage potential and not involving structures.
- 70) “Ordinary Highwater Mark” means 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.
- 71) “Parcel” means a continuous quantity of land in the possession of a landowner, single or common interest. No road, highway, railroad right-of-way, river, stream, or water body will constitute a break in contiguity unless a road, highway, or railroad right-of-way is subject to fee simple ownership.
- 72) “Person” means an individual, or group of individuals, corporation, partnership, association, municipality, or state agency.
- 73) “Private Sewage System” means 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 Department of Safety and Professional Services (DSPS), 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.
- 74) “Public Utilities” means those 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.
- 75) “Reasonably Safe from Flooding” means base flood waters will not inundate the land or damage structures to be removed from the floodplain, and that any subsurface waters related to the base flood will not damage existing or proposed buildings.
- 76) “Regional Flood” means 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 Base Flood Elevation (BFE).
- 77) “Start of Construction” means the date the land use permit was issued, provided the actual start of construction, repair, reconstruction, rehabilitation, addition, placement, or other improvement was 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.

- 78) **“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 lakebed, including, but not limited to, roofed and walled buildings, gas or liquid storage tanks, bridges, dams, and culverts.
- 79) **“Subdivision”** means the meaning given in Wis Stats. § 236.02(12).
- 80) **“Substantial Damage”** means 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.
- 81) **“Substantial Improvement”** means any repair, reconstruction, rehabilitation, addition, or improvement of a building or structure, the cost of which equals or exceeds 50 percent of the equalized assessed value of the structure before the improvement or repair is started. If the structure has sustained substantial damage, any repairs are considered substantial improvement regardless of the work performed. The term does not include either any project for the improvement of a building required to correct existing health, sanitary, or safety code violations identified by the building official and that are the minimum necessary to assure safe living conditions, or any alteration of a historic structure, provided that the alteration will not preclude the structure’s continued designation as a historic structure.
- 82) **“Unnecessary Hardship”** means 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.
- 83) **“Variance”** means a departure from the terms of this ordinance as applied to a specific building, structure or parcel of land, which the Sauk County Board of Adjustment (BOA) may permit, contrary to the regulations of this ordinance for the district in which such building structure or parcel of land is located, when the BOA finds that literal application of such regulation will effect a limitation on the use of the property which does not generally apply to other properties in the same district, and for which there is no compensating gain to the public health, safety or welfare.
- a) **“Variance, area”** means a modification to a dimensional, physical, or locational requirement, such as the setback, frontage, height, bulk, or density restriction for a structure that is granted by the BOA.
- b) **“Variance, use”** means an authorization by the BOA for the use of land for a purpose that is otherwise not allowed or is prohibited by the applicable zoning ordinance. Variance, use is not permitted under this ordinance.
- 84) **“Violation”** means 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.
- 85) **“Watershed”** means the entire region contributing runoff or surface water to a watercourse or body of water.
- 86) **“Water Surface Profile”** means 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.
- 87) **“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.

- 88) **Zoning Administrator** means the Director of Land Resources and Environment or their authorized designee charged with the administration, enforcement, and interpretation of the Sauk County Floodplain Zoning Ordinance.

### **SUBCHAPTER III: GENERAL STANDARDS APPLICABLE TO ALL FLOODPLAIN DISTRICTS**

**9.006 General standards applicable to all floodplain districts.** The Zoning Administrator shall review all land use permit applications to determine whether proposed building sites will be reasonably safe from flooding and ensure that all necessary permits have been received from those governmental agencies whose approval is required by federal or state law.

- 1) If a proposed building site is in a flood-prone area, all new construction and substantial improvements shall:
  - a) Be designed and anchored to prevent flotation, collapse, or lateral movement of the structure resulting from hydrodynamic and hydrostatic loads, including the effects of buoyancy.
  - b) Be constructed with flood-resistant materials.
  - c) Be constructed by methods and practices that minimize flood damage.
  - d) Mechanical and utility equipment must be elevated to or above the flood protection elevation.
- 2) If a subdivision or other proposed new development is in a flood-prone area, the community shall ensure that:
  - a) Such proposed subdivision or other proposed new development is consistent with the need to minimize flood damage within the flood-prone area.
  - b) Public utilities and facilities such as sewer, gas, electrical, and water systems are located and constructed to minimize or eliminate flood damage.
  - c) Adequate drainage is provided to reduce exposure to flood hazards.

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 ordinance.

#### **9.007 Hydraulic and hydrologic analysis**

- 1) No floodplain development shall:
  - a) Obstruct flow, defined as development which blocks the conveyance of floodwaters by itself or with other development, causing any increase in the regional flood height; or
  - b) Cause any increase in the regional flood height due to floodplain storage area being lost.
- 2) The Zoning Administrator shall deny permits if it is determined that the proposed development will obstruct flow or cause any increase in the regional flood height, based on the officially adopted FIRM or other adopted map, unless the provisions of Subchapter X are met.

#### **9.008 Watercourse alterations.**

No land use permit to alter or relocate a watercourse in a mapped floodplain shall be issued until the local official has notified in writing all adjacent municipalities, the Department and FEMA regional offices, and required the applicant to secure all necessary state and federal permits. The standards of s. 9.007 must be met and 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, and pursuant to 9.031, the community shall apply for a LOMR from FEMA. Any such alterations must be reviewed and approved by FEMA and the DNR through the LOMC process.

### **9.009 Wis. Stats. §§ 30 and 31, development.**

Development which requires a permit from the Department, under Wis. Stats. §§ 30 and 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 floodplain zoning ordinance are made according to s 9.031.

### **9.010 Public or Private Campgrounds**

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

- 1) The campground is approved by the Department of Agriculture, Trade, and Consumer Protection (DATCP).
- 2) A land use permit for the campground is issued by the Zoning Administrator.
- 3) The character of the river system and the campground elevation are such that a 72-hour warning of an impending flood can be given to all campground occupants.
- 4) There is an adequate flood warning procedure for the campground that offers the minimum notice required under this section to all persons in the campground. This procedure shall include a written agreement between the campground owner, the floodplain zoning agency or Zoning Administrator, the municipal emergency government coordinator and the chief law enforcement official which specifies the flood elevation at which evacuation shall occur, personnel responsible for monitoring flood elevations, types of warning systems to be used and the procedures for notifying at-risk parties, and the methods and personnel responsible for conducting the evacuation.
- 5) This agreement shall be for no more than one calendar year, at which time the agreement shall be reviewed and updated by the officials identified in s. 9.010 4) to remain in compliance with all applicable regulations, including those of the DATCP, and all other applicable regulations.
- 6) All mobile recreational vehicles placed on site must meet one of the following:
  - a) Be fully licensed, if required, and ready for highway use.
  - b) Not occupy any site in the campground for more than 180 consecutive days, at which time the recreational vehicle must be removed from the floodplain for a minimum of 24 hours.
  - c) Meet the requirements in Subchapter III, IV, or V for the floodplain district in which the structure is located.

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

- 7) All camping units that remain on site for more than 30 days shall be issued a limited authorization by the campground operator, a written copy of which is kept on file at the campground. Such authorization shall allow placement of a camping unit consistent with s. 9.010 6) and shall ensure compliance with all the provisions of this section.
- 8) The Zoning Administrator shall monitor the limited authorizations issued by the campground operator to ensure compliance with the terms of this section.
- 9) The campground shall have signs clearly posted at all entrances warning of the flood hazard and the procedures for evacuation when a flood warning is issued.
- 10) All service facilities, including but not limited to refuse collection, electrical service, gas lines, propane tanks, sewage systems, and wells, shall be properly anchored and placed at or floodproofed to the flood protection elevation.
- 11) Standards for structures in a campground:
  - a) All structures must comply with s. 9.010 or meet the applicable requirements of Subchapters III, IV, or V for the floodplain district in which the structure is located.
  - b) Deck/landing-a portable landing may be allowed for a camping unit for each entry provided that the landing is not permanently attached to the ground or camping unit, is no more than 200 square feet in size, shall be portable, contain no walls or roof, and can be removed from the campground by a truck

and/or trailer. Sections of such portable landings may be placed together to form a single deck not greater than 200 square feet at one entry point. Provisions for the removal of these temporary landings during flood events must be addressed within the written agreement with the municipality compliant with s. 9.010 4). Any such deck/landing structure may be constructed at elevations lower than the flood protection elevation but must not obstruct flow of flood waters or cause any increase in flood levels during the occurrence of the regional flood.

- c) Decks/patios that are constructed completely at grade may be allowed but must also comply with applicable shoreland zoning standards.
  - d) Camping equipment and appurtenant equipment in the campground may be allowed provided that the equipment is not permanently attached to the ground or camping unit, is not used as a habitable structure, and must not obstruct flow of flood waters or cause any increase in flood levels during the occurrence of the regional flood. Provisions for the removal of this equipment during flooding events shall be addressed within the written agreement with the municipality compliant with s. 9.010 4).
  - e) Once a flood warning in the written agreement has been issued for the campground, the campground owner or the designated operator shall ensure that all persons, camping units, decks, camping equipment, and appurtenant equipment in the campground shall be evacuated within the timelines specified within the written agreement with the Zoning Administrator that is compliant with s. 9.010 4).
- 12) A land use permit shall be obtained as provided under s. 9.027 before any development, repair, modification, or addition to an existing structure, or change in the use of a building or structure, including sewer and water facilities, may be initiated.

#### **SUBCHAPTER IV: FLOODWAY DISTRICT (FW)**

##### **9.011 FLOODWAY DISTRICT**

- 1) Applicability. This section applies to all floodway areas on the floodplain zoning maps and those identified pursuant to s. 9.017.
- 2) Permitted Uses. The following open space uses are allowed in the Floodway District and the floodway areas of the General Floodplain District, if:
  - a) They are not prohibited by any other ordinance.
  - b) They meet the standards in s. 9.012 and 9.013.
  - c) All permits or certificates have been issued according s. 9.024 and 9.027.
- 3) Agricultural uses, such as farming, outdoor plant nurseries, horticulture, viticulture, and wild crop harvesting.
- 4) Nonstructural industrial and commercial uses, such as loading areas, parking areas and airport landing strips.
- 5) 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. 9.012 4).
- 6) Uses or structures accessory to open space uses or classified as historic structures that comply with s. 9.012 and 9.013.
- 7) Extraction of sand, gravel, or other materials that comply with s. 9.012 4).
- 8) 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 Wis. Stats. § 30 and 31.
- 9) Public utilities, streets, and bridges that comply with s. 9.012 3).

- 10) 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. SPS 383.
- 11) Public or private wells used to obtain potable water for recreational areas that meet the requirements of local ordinances and Wis. Admin. Code ch. NR 811 and NR 812.
- 12) Wastewater treatment ponds or facilities permitted under Wis. Admin. Code s. NR 110.15(3)(b).
- 13) Sanitary sewer or water supply lines to service existing or proposed development located outside the floodway that complies with the regulations for the floodplain area occupied.

## 9.012 STANDARDS FOR DEVELOPMENT IN THE FLOODWAY

- 1) General.
  - a) Any development in the floodway shall comply with s. 9.006 and have a low flood damage potential.
  - b) Applicants shall provide an analysis calculating the effects of this proposal on the regional flood height to determine the effects of the proposal according to s. 9.007 and 9.026 3). The analysis must be completed by a registered professional engineer in the state of Wisconsin.
  - c) Any encroachment in the regulatory floodway is prohibited unless the data submitted for s. 9.012 1) b) above demonstrates that the encroachment will cause no increase in flood elevations in flood events up to the base flood at any location or removes the encroached area from the regulatory floodway as provided in s. 9.002 5).
- 2) Structures. Structures accessory to permanent open space uses, including utility and sanitary facilities, or functionally dependent on a waterfront location, may be allowed by permit if the structures comply with the following criteria:
  - a) Not designed for human habitation, does not have a high flood damage potential and is constructed to minimize flood damage.
  - b) Shall either have the lowest floor elevated to or above the flood protection elevation or shall meet all the following standards:
    - (1) Have the lowest floor elevated to or above the regional flood elevation and be dry floodproofed so that the structure is watertight with walls substantially impermeable to the passage of water and completely dry to the flood protection elevation without human intervention during flooding;
    - (2) Have structural components capable of meeting all provisions of s. 9.012 2) g);
    - (3) Be certified by a registered professional engineer or architect, through the use of a FEMA Floodproofing Certificate, that the design and methods of construction are in accordance with s. 9.012 2) g).
  - c) Must be anchored to resist flotation, collapse, and lateral movement.
  - d) Mechanical and utility equipment must be elevated to or above the flood protection elevation.
  - e) It must not obstruct the flow of flood waters or cause any increase in flood levels during the occurrence of the regional flood.
  - f) For a structure designed to allow the automatic entry of floodwaters below the RFE, the applicant shall submit a plan that meets s. 9.012 2) a) through 9.012 2) e) and meets or exceeds the following standards:
    - (1) The lowest floor must be elevated to or above the RFE.
    - (2) A minimum of two openings having a total net area of not less than one square inch for every square foot of enclosed area subject to flooding.
    - (3) The bottom of all openings shall be no higher than one foot above the lowest adjacent grade; openings may be equipped with screens, louvers, valves, or other coverings or devices provided that they permit the automatic entry and exit of floodwaters, otherwise must remain open.
    - (4) The use must be limited to parking, building access or limited storage.

- g) Whenever floodproofing measures are required, a registered professional engineer or architect shall certify that the following floodproofing measures will be utilized, where appropriate, and are adequate to withstand the flood depths, pressures, velocities, impact, and uplift forces and other factors associated with the regional flood:
  - (1) Reinforcement of floors and walls to resist rupture, collapse, or lateral movement caused by water pressures or debris buildup.
  - (2) Construction of wells, water supply systems, and waste treatment systems to prevent the entrance of flood waters in such systems and must be in accordance with provisions in s. 9.013 4) and 5).
  - (3) Subsurface drainage systems to relieve external pressures on foundation walls and basement floors.
  - (4) Cutoff valves on sewer lines or the elimination of gravity flow basement drains.
  - (5) Placement of utilities to or above the flood protection elevation.
- 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. 9.007.
- 4) Fills of Deposition of Materials. Fills or deposition of materials may be allowed by permit if:
  - a) The requirements s. 9.007 are met.
  - b) No material is deposited in navigable waters unless a permit is issued by the Department pursuant Wis Stats. § 30, and a permit pursuant to section 404 of the Federal Water Pollution Control Act, Amendments of 1972, 33 U.S.C. 1344 has been issued, if applicable, and all other requirements have been met.
  - c) The fill or other materials will be protected against erosion by riprap, vegetative cover, sheet piling or bulkheading.
  - d) The fill is not classified as a solid or hazardous material.

### **9.013 PROHIBITED USES**

All uses not listed as permitted uses in s. 9.011 2) 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 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. SPS 383.
- 5) Any public or private wells which are used to obtain potable water, except those for recreational areas that meet the requirements of local ordinances and Wis. Admin. Code ch. NR 811 and NR 812.
- 6) Any solid or hazardous waste disposal sites.
- 7) Any wastewater treatment ponds or facilities, except those permitted under Wis. Admin. Code ch. 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 comply with the regulations for the floodplain area occupied.

## **SUBCHAPTER V: FLOOD FRINGE DISTRICT (FF)**

### **9.014 FLOOD FRINGE DISTRICT**

- 1) **Applicability.** This section applies to all flood fringe areas shown on the floodplain zoning maps and those identified pursuant to s. 9.017.
- 2) **Permitted Uses.** Any structure, land use, or development is allowed in the Flood Fringe District if the standards in s. 9.014 3) are met, the use is not prohibited by this, or any other ordinance or regulation, and all permits or certificates specified in s. 9.024 and 9.027 have been issued.
- 3) **Standards for development in the flood fringe.** Section 9.007 shall apply in addition to the following requirements according to the use requested. Any existing structure in the flood fringe must meet the requirements in Subchapter VIII.
  - a) **Residential Uses.** Any structure, including a manufactured home, which is to be newly constructed or moved into the flood fringe, shall meet or exceed the following standards:
    - (1) All new construction, including placement of manufactured homes, and substantial improvement of residential structures, shall have the lowest floor elevated to or above the flood protection elevation on fill. The fill around the structure shall be one foot or more above the RFE, extending at least 15 feet beyond the limits of the structure. No area may be removed from the flood fringe district unless it can be shown to meet s. 9.002 2) e).
    - (2) Notwithstanding s. 9.014 3) a) (1), a basement or crawlspace floor may be placed at the RFE if the basement or crawlspace is designed to make all portions of the structure below the flood protection elevation watertight with walls substantially impermeable to the passage of water and with structural components having the capability of resisting hydrostatic and hydrodynamic loads and effects of buoyancy. No floor of any kind is allowed below the RFE.
    - (3) Contiguous dryland access shall be provided from a structure to land outside of the floodplain, except as provided s. 9.014 3) a) (4).
    - (4) In developments where existing street or sewer line elevations make compliance with s. 9.014 3) a) 4 impractical, county may permit new development and substantial improvements where roads are below the RFE, if:
      - i. The county 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
      - ii. The county has a DNR-approved emergency evacuation plan that follows acceptable hazard mitigation planning guidelines.
  - b) **Accessory Structures or Uses.** In addition to s. 9.006, new construction and substantial improvements of accessory structures shall be constructed on fill with the lowest floor at or above the RFE.
  - c) **Commercial Uses.** In addition s. 9.006, any commercial structure which is erected, altered, or moved into the flood fringe shall meet the requirements of s. 9.014 3) a) (1)-(4). Subject to the requirements of s. 9.014 3) e), 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.
  - d) **Manufacturing and Industrial Uses.** In addition to s. 9.006, any manufacturing or industrial structure which is erected, altered, or moved into the flood fringe shall have the lowest floor elevated to or above the flood protection elevation or meet the floodproofing standards in s. 9.029. Subject to the requirements of s. 9.014 3) e), 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.
  - e) **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. 9.029. Adequate measures shall be taken to ensure that such materials will not enter the water body during flooding.
  - f) **Public Utilities, Streets, and Bridges.** All utilities, streets, and bridges shall be designed to be compatible with comprehensive floodplain development plans.

- (1) When failure of public utilities, streets, and bridges would endanger public health or safety, or where such facilities are deemed essential, construction or repair of such facilities shall only be permitted if they are designed to comply s. 9.029.
- (2) Minor roads or non-essential utilities may be constructed at lower elevations if they are designed to withstand flood forces to the RFE.
- g) Sewage Systems.** All sewage disposal systems shall be designed to minimize or eliminate infiltration of flood water into the system, pursuant to s. 9.029 3), to the flood protection elevation and meet the provisions of all local ordinances and Wis. Admin. Code ch. SPS 383.
- h) Wells.** All wells shall be designed to minimize or eliminate infiltration of flood waters into the system, pursuant to s. 9.029 3), to the flood protection elevation and shall meet the provisions of Wis. Admin. Code ch. NR 811 and NR 812.
- i) Solid Waste Disposal Sites.** Disposal of solid or hazardous waste is prohibited in flood fringe areas.
- j) Deposition of Materials.** Any deposited material must meet all the provisions of this ordinance.
- k) Manufactured Homes.**
  - (1) Owners or operators of all manufactured home parks and subdivisions shall provide adequate surface drainage to minimize flood damage, and prepare, secure approval, and file an evacuation plan, indicating vehicular access and escape routes, with local emergency management authorities.
  - (2) In existing manufactured home parks, all new homes, replacement homes on existing pads, and substantially improved homes shall:
    - (1) Have the lowest floor elevated to the flood protection elevation.
    - (2) Be anchored so they do not float, collapse, or move laterally during a flood.
  - (3) Outside of existing manufactured home parks, including new manufactured home parks and all single units outside of existing parks, all new, replacement, and substantially improved manufactured homes shall meet the residential development standards for the flood fringe in s. 9.014 3) a).
- l) Mobile Recreational Vehicles.** All mobile recreational vehicles must be on site for less than 180 consecutive days and be either:
  - (1) Fully licensed and ready for highway use.
  - (2) Shall meet the elevation and anchoring requirements in s. 9.014 3) k) (2) and (3).

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

## **SUBCHAPTER VI: GENERAL FLOODPLAIN DISTRICT**

### **9.015 OTHER FLOODPLAIN DISTRICT**

Other floodplain districts may be established under this ordinance and reflected on the floodplain zoning map. These districts may include general floodplain and flood storage districts.

### **9.016 GENERAL FLOODPLAIN DISTRICT**

- 1) Applicability.** The provisions for the General Floodplain District shall apply to development in all floodplains mapped as A, AO, AH, and in AE zones within which a floodway is not delineated on the FIRMs identified in s. 9.002 2) a).
- 2) Floodway Boundaries.** For proposed development in zone A, or in zone AE within which a floodway is not delineated on the FIRM identified in s. 9.002 2) a), the boundaries of the regulatory floodway shall be

determined pursuant to s. 9.017. If the development is proposed to encroach upon the regulatory floodway, the development is subject to the standards of Subchapter IV. If the development is located entirely within the flood fringe, the development is subject to the standards of Subchapter V.

- 3) Permitted Uses. Pursuant to s. 9.017 it shall be determined whether the proposed use is located within the floodway or flood fringe. Those uses permitted in the floodway s. 9.011 2) and flood fringe s. 9.014 2) Districts are allowed within the general floodplain district, according to the standards of s. 9.016 3) provided that all permits or certificates required under s. 9.024 and 9.027 have been issued.
- 4) Standards for development in the general floodplain district. s. 9.011 applies to floodway areas determined to pursuant to s. 9.017; s. 9.014 applies to flood fringe areas determined to pursuant to s. 9.017.
- 5) New Construction and Substantial Improvement of Structures.
  - a) New construction and substantial improvement of structures in zone AO shall have the lowest floor, including basement, elevated:
    - (1) To or above the depth, in feet, as shown on the FIRM above the highest adjacent natural grade; or
    - (2) If the depth is not specified on the FIRM, two feet (2) above the highest adjacent natural grade or higher.
  - b) New Construction and substantial improvement of structures in zone AH shall have the lowest floor, including basement, elevated to or above the flood protection elevation.
  - c) In AO/AH zones, provide adequate drainage paths to guide floodwaters around structures.
  - d) All development in zones AO and zone AH shall meet the requirements of s. 9.014 to flood fringe areas.

#### **9.017 DETERMINING FLOODWAY AND FLOOD FRINGE LIMITS**

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

- 1) Require the applicant to submit two copies of an aerial photograph or a plan which 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 and the flood zone as shown on the FIRM.
- 2) Require the applicant to furnish any of the following information deemed necessary by the Department to evaluate the effects of the proposal upon flood height and flood flows, RFE, and to determine floodway boundaries.
  - a) A Hydrologic and Hydraulic Study as specified in s. 9.027 2).
  - 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) Specifications for building construction and materials, floodproofing, filling, dredging, channel improvement, storage, water supply, and sanitary facilities.

### **SUBCHAPTER VII: FLOOD STORAGE DISTRICT**

#### **9.018 FLOOD STORAGE DISTRICT**

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

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

- 2) Permitted Uses. Any use or development which occurs in a flood storage district must meet the applicable requirements in s. 9.014 3).
- 3) Standards for development in the flood storage districts.
  - a) Development in a flood storage district shall not cause an increase equal or greater than 0.00 of a foot in the height of the RFE.
  - b) No development shall be allowed which removes flood storage volume unless an equal volume of storage as defined by the pre-development ground surface and the regional flood elevation shall be provided in the immediate area of the proposed development to compensate for the volume of storage, which is lost, (compensatory storage). Excavation below the groundwater table is not considered to provide an equal volume of storage.
  - c) If compensatory storage cannot be provided, the area may not be developed unless the entire area zoned as flood storage district – on this waterway – is rezoned to the flood fringe district. This must include a revision to the floodplain study and map done for the waterway to revert to the higher regional flood discharge calculated without floodplain storage, as per s. 9.031 of this ordinance.
  - d) No area may be removed from the flood storage district unless it can be shown that the area has been filled to the flood protection elevation and is contiguous to other lands lying outside of the floodplain.

## **SUBCHAPTER VIII: NONCONFORMING USES**

### **9.019 NONCONFORMING USES**

- 1) Applicability. The standards in this section shall apply to all uses and buildings that do not conform to the provisions contained within a floodplain zoning ordinance or with Wis. Stats. § 87.30 and Wis. Admin. Code ch. NR 116.12-14, and 44 CFR 59-72. These standards 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 ordinance or any amendment thereto. A party asserting the existence of a lawfully established nonconforming use or structure has the burden of proving that the use or structure was compliant with the floodplain zoning ordinance in effect at the time the use or structure was created.
- 2) Permit application. As land use permit applications are received for additions, modifications, or substantial improvements to nonconforming buildings in the floodplain, municipalities shall develop a list of those nonconforming buildings, their present equalized assessed value, and a list of the costs of those activities associated with changes to those buildings.
- 3) Existing use. The existing lawful use of a structure or its accessory use, which is not in conformity with the provisions of this ordinance, 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 ordinance. The words "modification" and "addition" include, but are not limited to, any alteration, addition, modification, structural repair, rebuilding or replacement of any such existing use, structure or accessory structure or use. Maintenance is not considered a modification; this includes painting, decorating, paneling and other nonstructural components and the maintenance, repair or replacement of existing private sewage or water supply systems or connections to public utilities. Any costs associated with the repair of a damaged structure are not considered maintenance. The construction of a deck that does not exceed 200 square feet and that is adjacent to the exterior wall of a principal structure is not an extension, modification, or addition. The roof of the structure may extend over a portion of the deck in order to provide safe ingress and egress to the principal structure.
  - b) If a nonconforming use or the use of a nonconforming structure is discontinued for 12 consecutive months, it is no longer permitted and any future use of the property, and any structure or building thereon, shall conform to the applicable requirements of this ordinance.
  - 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 equal or exceed 50% of its present equalized assessed value,

shall be allowed unless the entire structure is permanently changed to a conforming structure with a conforming use in compliance with the applicable requirements of this ordinance. Contiguous dry land access must be provided for residential and commercial uses in compliance with s. 9.014 3). The costs of elevating the lowest floor of a nonconforming building or a building with a nonconforming use to the flood protection elevation are excluded from the 50% provisions of this paragraph.

- e) No maintenance on a per-event basis to any nonconforming structure or any structure with a nonconforming use, the cost of which would equal or exceed 50% of its present equalized assessed value, shall be allowed unless the entire structure is permanently changed to a conforming structure with a conforming use in compliance with the applicable requirements of this ordinance. Contiguous dry land access must be provided for residential and commercial uses in compliance with s. 9.014 3). Maintenance to any nonconforming structure, which does not exceed 50% of its present equalized assessed value on a per event basis, does not count against the cumulative calculations over the life of the structure for substantial improvement calculations.
- f) If on a per event basis the total value of the work being done under s. 9.019 3) d) and e) equals or exceeds 50% of the present equalized assessed value, the work shall not be permitted unless the entire structure is permanently changed to a conforming structure with a conforming use in compliance with the applicable requirements of this ordinance. Contiguous dry land access must be provided for residential and commercial uses in compliance with s. 9.014 3).
- g) Except as provided in s. 9.019 3) h), if any nonconforming structure or any structure with a nonconforming use is destroyed or is substantially damaged, it cannot be replaced, reconstructed, or rebuilt unless the use and the structure meet the current ordinance requirements. A structure is considered substantially damaged if the total cost to restore the structure to its pre-damaged condition equals or exceeds 50% of the structure's present equalized assessed value.
- h) For nonconforming buildings that are substantially damaged or destroyed by a nonflood disaster, the repair or reconstruction of any such nonconforming building shall be permitted in order to restore it to the size and use in effect prior to the damage event, provided that the following minimum requirements are met, and all required permits have been granted prior to the start of construction:

(1) Residential Structures

- i. Shall have the lowest floor, including basement, elevated to or above the BFE using fill, pilings, columns, posts, or perimeter walls. Perimeter walls must meet the requirements of s. 9.029 2).
- ii. Shall be anchored to prevent flotation, collapse, or lateral movement of the structure resulting from hydrodynamic and hydrostatic loads, including the effects of buoyancy, and shall be constructed with methods and materials resistant to flood damage.
- iii. Shall be constructed with electrical, heating, ventilation, plumbing, and air conditioning equipment and other service facilities that are designed and/or elevated so as to prevent water from entering or accumulating within the components during conditions of flooding.
- iv. In A Zones, obtain, review, and utilize any flood data available from a federal, state or other source.
- v. In AO Zones with no elevations specified, shall have the lowest floor, including basement, meet the standards in s. 9.016 3) a).
- vi. In AO Zones, shall have adequate drainage paths around structures on slopes to guide floodwaters around and away from the structure.

(2) Nonresidential Structures

- i. Shall meet the requirements of s. 9.019 3) h) (1) i-vi.
- ii. Shall either have the lowest floor, including basement, elevated to or above the RFE; or, together with attendant utility and sanitary facilities, shall meet the standards in s. 9.029 1) or 2).
- iii. In AO Zones with no elevations specified, shall have the lowest floor, including basement, meet the standards in s. 9.018 3).

- (3) Historic Structures. 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. 9.012 1), flood resistant materials are used, and construction practices and floodproofing methods that comply with s. 9.029 are used. Repair or rehabilitation of historic structures shall be exempt from the development standards of s. 9.019 3) h) (3) if it is determined that the proposed repair or rehabilitation will not preclude the structure's continued designation as a historic structure and is the minimum necessary to preserve the historic character and design of the structure.

#### **9.020 FLOODWAY DISTRICT**

- 1) No modification or addition shall be allowed to any nonconforming structure or any structure with a nonconforming use in the Floodway District, unless such modification or addition:
  - a) Has been granted a permit or variance that meets all ordinance requirements.
  - b) Meets the requirements of s. 9.019.
  - c) Shall not increase the obstruction to flood flows or regional flood height.
  - d) Any addition to the existing structure shall be floodproofed, pursuant to s. 9.029, by means other than the use of fill, to the flood protection elevation; and,
  - 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 registered architect or engineer to allow for the efficient entry and exit of flood waters without human intervention. A minimum of two openings must be provided with a minimum net area of at least one square inch for every one square foot of the enclosed area. The lowest part of the opening can be no more than 12 inches above the adjacent grade.
    - (2) The parts of the foundation located below the flood protection elevation must be constructed of flood-resistant materials.
    - (3) Mechanical and utility equipment must be elevated or floodproofed to or above the flood protection elevation.
    - (4) The use must be limited to parking, building access or limited storage.
- 2) No new on-site sewage disposal system, or addition to an existing on-site sewage disposal system, except where an addition has been ordered by a government agency to correct a hazard to public health, shall be allowed in the Floodway District. Any replacement, repair or maintenance of an existing on-site sewage disposal system in a floodway area shall meet the applicable requirements of all municipal ordinances, s. 9.029 3) and Wis. Admin. Code ch. SPS 383.
- 3) No new well or modification to an existing well used to obtain potable water shall be allowed in the Floodway District. Any replacement, repair, or maintenance of an existing well in the Floodway District shall meet the applicable requirements of all this ordinance, s. 9.029 3) and Wis. Admin. Code ch. NR 811 and NR 812.

#### **9.021 FLOOD FRINGE DISTRICT**

- 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 by the municipality and meets the requirements of s. 9.014 3) except where s. 9.021 2) is applicable.
- 2) Where compliance with the provisions of s. 9.021 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 BOA, using the procedures established in s. 9.026, may grant a variance from those provisions of s. 9.021 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, shall not be installed.
  - d) Flood depths shall not exceed two feet.
  - e) Flood velocities shall not exceed two feet per second.
  - f) The structure shall not be used for storage of materials as described in s 9.014 3) e).
- 3) All new private sewage disposal systems, or addition to, replacement, repair or maintenance of a private sewage disposal system shall meet all the applicable provisions of all local ordinances, s. 9.029 3) and Wis. Admin. Code ch. SPS 383, Wis. Adm.
- 4) All new wells, or addition to, replacement, repair, or maintenance of a well shall meet the applicable provisions of this ordinance, s. 9.029 3) and Wis. Admin. Code ch. NR 811 and NR 812.

## **9.022 FLOOD STORAGE DISTRICT**

No modifications or additions shall be allowed to any nonconforming structure in a flood storage area unless the standards outlined in s. 9.018 3) are met.

## **SUBCHAPTER VIII: ADMINISTRATION**

### **9.023 ADMINISTRATION**

Where a Zoning Administrator, planning agency or a BOA has already been appointed to administer a zoning ordinance adopted under Wis. Stats. §§ 59.69, 59.692 or 62.23(7), these officials shall also administer this ordinance.

### **9.024 ZONING ADMINISTRATOR**

- 1) The Zoning Administrator is authorized to administer this ordinance and shall have the following duties and powers:
- a) Advise applicants of the ordinance provisions, assist in preparing permit applications and appeals, and assure that the regional flood elevation for the proposed development is shown on all permit applications.
  - b) Issue permits and inspect properties for compliance with provisions of this ordinance and issue certificates of compliance where appropriate.
  - c) Inspect and assess all damaged floodplain structures to determine if substantial damage to the structures has occurred.

- d) Keep records of all official actions such as:
  - (1) All permits issued, inspections made, and work approved.
  - (2) Documentation of certified lowest floor and regional flood elevations.
  - (3) Floodproofing certificates.
  - (4) Water surface profiles, floodplain zoning maps and ordinances, nonconforming uses and structures including changes, appeals, variances and amendments.
  - (5) All substantial damage assessment reports for floodplain structures.
  - (6) List of nonconforming structures and uses.
- e) Submit copies of the following items to the 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 case-by-case analyses and other required information.
  - (3) Copies of substantial damage assessments performed and all related correspondence concerning the assessments.
- f) Investigate, prepare reports, and report violations of this ordinance to the municipal zoning agency and attorney for prosecution. Copies of the reports shall also be sent to the Department Regional office.
- g) Submit copies of amendments to the FEMA regional office.

#### **9.025 ZONING AGENCY**

- 1) Powers and Duties. The Zoning Agency shall:
  - a) Oversee the functions of the Zoning Administrator.
  - b) Review and advise the governing body on all proposed amendments to this ordinance, maps, and text.
  - c) Publish adequate notice pursuant to Wis. Stats. § 985, specifying the date, time, place, and subject of the public hearing.

The Zoning Agency shall not:

- d) Grant variances to the terms of the ordinance in place of action by the BOA.
- e) Amend the text or zoning maps in place of official action by the governing body.

#### **9.026 BOARD OF ADJUSTMENT**

The BOA created under Wis Stats. § 59.694, for counties is hereby authorized or shall be appointed to act for the purposes of this ordinance. The BOA shall exercise the powers conferred by Wisconsin Statutes and adopt rules for the conduct of business. The Zoning Administrator shall not be the secretary of the Board.

- 1) Powers and Duties.

The BOA shall:

- a) Appeals. Hear and decide appeals where it is alleged there is an error in any order, requirement, decision, or determination made by the Zoning Administrator in the enforcement or administration of this ordinance.
- b) Boundary Disputes. Hear and decide disputes concerning the district boundaries shown on the official floodplain zoning map.
- c) Variances. Hear and decide, upon appeal, variances from the ordinance standards.

- 2) Appeals to the BOA.

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

b) Notice and hearing of appeals, including variances.

(1) Notice. The BOA shall:

- i. Fix a reasonable time for the hearing.
- ii. Publish adequate notice pursuant to Wisconsin Statutes, specifying the date, time, place, and subject of the hearing.
- iii. Assure that notice shall be mailed to the parties in interest and the Department Regional office at least 10 days in advance of the hearing.

(2) Hearing. Any party may appear in person or by agent. The BOA shall:

- i. Resolve boundary disputes according to s. 9.026 3).
- ii. Decide variance applications according to s. 9.026 4).
- iii. Decide appeals of permit denials according to s. 9.028.

(3) Decision. The final decision regarding the appeal or variance application shall:

- i. Be made within a reasonable time.
- ii. Be sent to the Department Regional office within 10 days of the decision.
- iii. Be a written determination signed by the chairman or secretary of the BOA.
- iv. State the specific facts which are the basis for the BOA's decision.
- v. Either affirm, reverse, vary or modify the order, requirement, decision, or determination appealed, in whole or in part, dismiss the appeal for lack of jurisdiction or grant or deny the variance application.
- vi. 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 BOA proceedings.

3) Boundary Disputes

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

- (1) If a floodplain district boundary is established by approximate or detailed floodplain studies, the flood elevations or profiles shall prevail in locating the boundary.
- (2) The person contesting the boundary location shall be given a reasonable opportunity to present arguments and technical evidence to the BOA.
- (3) If the boundary is incorrectly mapped, the BOA should inform the zoning committee or the person contesting the boundary location to petition the governing body for a map amendment according to s. 9.031.

4) Variance

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

- (1) Literal enforcement of the ordinance will cause unnecessary hardship.
- (2) The hardship is due to adoption of the floodplain ordinance and unique property conditions, not common to adjacent lots or premises. In such case the ordinance or map must be amended.
- (3) The variance is not contrary to the public interest.

- (4) The variance is consistent with the purpose of this ordinance in s. 9.001 3).
- b) In addition to the criteria in s. 9.026 4), to qualify for a variance under FEMA regulations, the BOA must find that the following criteria have been met:
- (1) The variance shall not cause any increase in the RFE.
  - (2) The applicant has shown good and sufficient cause for issuance of the variance.
  - (3) Failure to grant the variance would result in exceptional hardship.
  - (4) Granting the variance will not result in additional threats to public safety, extraordinary expense, create a nuisance, cause fraud on or victimization of the public, or conflict with existing local laws or ordinances.
  - (5) The variance granted is the minimum necessary, considering the flood hazard, to afford relief.
- c) A variance shall not:
- a) Grant, extend or increase any use 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) Allow actions without the amendments to this ordinance or map(s) required s. 9.031.
  - f) 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 BOA shall notify the applicant in writing that it may increase risks to life and property and flood insurance premiums could increase up to \$25.00 per \$100.00 of coverage. A copy shall be maintained with the variance record.

## **9.027 LAND USE PERMIT**

- 1) A land use permit shall be obtained before any development; repair, modification, or addition to an existing structure; or change in the use of a building or structure, including sewer and water facilities, may be initiated. Application to the Zoning Administrator shall include:
- a) General Information
    - (1) Name and address of the applicant, property owner, and contractor.
    - (2) Legal description, proposed use, and whether it is new construction or a modification.
  - b) Site Development Plan

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

    - (1) Location, dimensions, area, and elevation of the lot.
    - (2) Location of the ordinary highwater mark of any abutting navigable waterways.
    - (3) Location of any structures with distances measured from the lot lines and street center lines.
    - (4) Location of any existing or proposed private on-site wastewater treatment systems or private water supply systems.
    - (5) Location and elevation of existing or future access roads.
    - (6) Location of floodplain and floodway limits as determined from the official floodplain zoning maps.
    - (7) The elevation of the lowest floor of proposed buildings and any fill using the vertical datum from the adopted study – either NGVD or NAVD.
    - (8) Data sufficient to determine the regional flood elevation in NGVD or NAVD at the location of the development and to determine whether or not the requirements of Subchapter IV and V are met.
    - (9) Data to determine if the proposed development will cause an obstruction to flow or an increase in regional flood height or discharge according to s. 9.007. This may include any of the information noted in s. 9.012 1).

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

a) Zone A floodplains and in AE zones within which a floodway is not delineated:

(1) Hydrology

- i. The appropriate method shall be based on the standards in Wis. Admin. Code ch. NR 116.07(3), *Hydrologic Analysis: Determination of Regional Flood Discharge*.

(2) Hydraulic modeling

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

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

(3) Mapping

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

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

**b) Zone AE Floodplains**

**(1) Hydrology**

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

**(2) Hydraulic model**

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

- i. Duplicate Effective Model  
The effective model shall be reproduced to ensure correct transference of the model data and to allow integration of the revised data to provide a continuous FIS model upstream and downstream of the revised reach. If data from the effective model is available, models shall be generated that duplicate the FIS profiles and the elevations shown in the Floodway Data Table in the FIS report to within 0.1 foot.
- ii. Corrected Effective Model.  
The Corrected Effective Model shall not include any man-made physical changes since the effective model date but shall import the model into the most current version of HEC-RAS for Department review.
- iii. Existing (Pre-Project Conditions) Model.  
The Existing Model shall be required to support conclusions about the actual impacts of the project associated with the Revised (Post-Project) Model or to establish more up-to-date models on which to base the Revised (Post-Project) Model.
- iv. Revised (Post-Project Conditions) Model.  
The Revised (Post-Project Conditions) Model shall incorporate the Existing Model and any proposed changes to the topography caused by the proposed development. This model shall reflect proposed conditions.
- v. All changes to the Duplicate Effective Model and subsequent models must be supported by certified topographic information, bridge plans, construction plans and survey notes.
- vi. Changes to the hydraulic models shall be limited to the stream reach for which the revision is being requested. Cross sections upstream and downstream of the revised reach shall be identical to those in the effective model and result in water surface elevations and top widths computed by the revised models matching those in the effective models upstream and downstream of the revised reach as required. The Effective Model shall not be truncated.

**(3) Mapping**

Maps and associated engineering data shall be submitted to the Department for review, which meet the following conditions:

- i. Consistency between the revised hydraulic models, the revised floodplain and floodway delineations, the revised flood profiles, topographic work map, annotated FIRMs and/or Flood Boundary Floodway Maps (FBFMs), construction plans, bridge plans.
- ii. Certified topographic map of suitable scale, contour interval, and a planimetric map showing the applicable items. If a digital version of the map is available, it may be submitted in order that the FIRM may be more easily revised.
- iii. Annotated FIRM panel showing the revised 1% and 0.2% annual chance floodplains and floodway boundaries.

- iv. If an annotated FIRM and/or FBFM and digital mapping data (GIS or CADD) are used, then all supporting documentation or metadata must be included with the data submission along with the Universal Transverse Mercator (UTM) projection and State Plane Coordinate System in accordance with FEMA mapping specifications.
- v. The revised floodplain boundaries shall tie into the effective floodplain boundaries.
- vi. All cross sections from the effective model shall be labeled in accordance with the effective map, and a cross section lookup table shall be included to relate to the model input numbering scheme.
- vii. Both the current and proposed floodways shall be shown on the map.
- viii. The stream centerline, or profile baseline used to measure stream distances in the model, shall be visible on the map.

### 3) Expiration

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

### 4) Certificate of Compliance

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 a certificate of compliance is issued by the Zoning Administrator, except where no permit is required, subject to the following provisions:

- a) The certificate of compliance shall show that the building or premises or part thereof, and the proposed use, conform to the provisions of this ordinance.
- b) Application for such certificate shall be concurrent with the application for a permit.
- c) If all ordinance provisions are met, the certificate of compliance shall be issued within 10 days after written notification that the permitted work is completed.
- d) The applicant shall submit a certification signed by a 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 registered professional engineer or architect that the requirements of s. 9.029 are met.
- e) Where applicable pursuant to s. 9.016 4) and 5), the applicant must submit a certification by a registered professional engineer or surveyor of the elevation of the bottom of the lowest horizontal structural member supporting the lowest floor (excluding pilings or columns), and an indication of whether the structure contains a basement.
- f) Where applicable pursuant to s. 9.016 4) and 5), the applicant must submit certifications by a registered professional engineer or architect that the structural design and methods of construction meet accepted standards of practice as required by s. 9.016 4) and 5).

### 5) Other Permits

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

## 9.028 Review Appeals of Permit Denials

- 1) The Agency or BOA shall review all data related to the appeal. This may include:
  - a) Permit application data listed in s. 9.027.
  - b) Floodway/flood fringe determination data in s. 9.017.
  - c) Data listed in s. 9.012 1) b) where the applicant has not submitted this information to the Zoning Administrator.
  - d) Other data submitted with the application or submitted to the BOA with the appeal.

- 2) For appeals of all denied permits the BOA shall:
  - a) Follow the procedures of s. 9.026.
  - b) Consider zoning agency recommendations.
  - c) Either uphold the denial or grant the appeal.
  
- 3) For appeals concerning increases in RFE, the BOA shall:
  - a) Uphold the denial where the BOA agrees with the data showing an increase in flood elevation. Increases may only be allowed after amending the flood profile and map, and all appropriate legal arrangements are made with all adversely affected property owners as per the requirements of s. 9.031.
  - b) Grant the appeal where the BOA agrees that the data properly demonstrates that the project does not cause an increase, provided no other reasons for denial exist.

### **9.029 Floodproofing Standards**

- 1) No permit or variance shall be issued for a non-residential structure designed to be watertight below the RFE until the applicant submits a plan certified by a registered professional engineer or architect that the floodproofing measures will protect the structure or development to or above the flood protection elevation and submits a FEMA Floodproofing Certificate. Floodproofing is not an alternative to the development standards in Subchapters III, IV, V or s. 9.015.
  
- 2) For a structure designed to allow the entry of floodwaters, no permit or variance shall be issued until the applicant submits a plan either:
  - a) Certified by a registered professional engineer or architect; or
  - b) Meeting or exceeding the following standards:
    - (1) A minimum of two openings having a total net area of not less than one square inch for every square foot of enclosed area subject to flooding.
    - (2) The bottom of all openings shall be no higher than one foot above grade.
    - (3) Openings may be equipped with screens, louvers, valves, or other coverings or devices provided that they permit the automatic entry and exit of floodwaters.
  
- 3) Floodproofing measures shall be designed, as appropriate, 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.
  - d) Minimize or eliminate infiltration of flood waters.
  - e) Minimize or eliminate discharges into flood waters.
  - f) Placement of essential utilities to or above the flood protection elevation.
  - g) If any part of the foundation below the flood protection elevation is enclosed, the following standards shall apply:
    - (1) The enclosed area shall be designed by a registered architect or engineer to allow for the efficient entry and exit of flood waters without human intervention. A minimum of two openings must be provided with a minimum net area of at least one square inch for every one square foot of the enclosed area. The lowest part of the opening can be no more than 12 inches above the adjacent grade.
    - (2) The parts of the foundation located below the flood protection elevation must be constructed of flood-resistant materials.
    - (3) Mechanical and utility equipment must be elevated or floodproofed to or above the flood protection elevation.
    - (4) The use must be limited to parking, building access, or limited storage.

### 9.030 Public Information.

Information to the public should be provided as follows:

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

## **SUBCHAPTER X: AMENDMENTS**

**9.031 Amendments.** Obstructions or increases may only be permitted if amendments are made to this ordinance, the official floodplain zoning maps, floodway lines, and water surface profiles, in accordance with s. 9.032.

- 1) In AE Zones with a mapped floodway, no obstructions or increases shall be permitted unless the applicant receives a Conditional LOMR from FEMA and amendments are made to this ordinance, the official floodplain zoning maps, floodway lines and water surface profiles, in accordance with s. 9.032. Any such alterations must be reviewed and approved by FEMA and the DNR.
- 2) In A Zones increases equal to or greater than 1.0 foot may only be permitted if the applicant receives a Conditional LOMR from FEMA and amendments are made to this ordinance, the official floodplain maps, floodway lines, and water surface profiles, in accordance with s. 9.032.

### 9.032 General.

The governing body shall change or supplement the floodplain zoning district boundaries and this ordinance in the manner outlined in s. 9.033. Actions which require an amendment to the ordinance and/or submittal of a Letter of Map Change (LOMC) include, but are not limited to, the following:

- 1) Any fill or floodway encroachment that obstructs flow causing any increase in the regional flood height.
- 2) Any change to the floodplain boundaries and/or watercourse alterations on the FIRM.
- 3) Any changes to any other officially adopted floodplain maps listed in s. 9.002.
- 4) Any floodplain fill 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.
- 5) Correction of discrepancies between the water surface profiles and floodplain maps.
- 6) Any upgrade to a floodplain zoning ordinance text required by Wis. Admin. Code ch. NR 116.05 or otherwise required by law, or for changes by the municipality.
- 7) All channel relocations and changes to the maps to alter floodway lines or to remove an area from the floodway or the flood fringe that is based on a base flood elevation from a FIRM requires prior approval by FEMA.

**9.033 Procedures.** Ordinance amendments may be made upon petition of any party according to the provisions of Wis. Stats. § 59.69, for counties. The petitions shall include all data required by s. 9.017 and 9.027. The Land Use Permit shall not be issued until a LOMR is issued by FEMA for the proposed changes.

- 1) The proposed amendment shall be referred to the zoning agency for a public hearing and recommendation to the governing body. The amendment and notice of public hearing shall be submitted to the Department Regional office for review prior to the hearing. The amendment procedure shall comply with the provisions of Wis. Stats. § 59.69, for counties.
- 2) No amendments shall become effective until reviewed and approved by the Department.
- 3) All persons petitioning for a map amendment that obstructs flow, causing any increase in the regional flood height, 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 governing body.

### 9.034 Enforcement and Penalties.

The provisions of this ordinance shall be enforced as follows:

- 1) Investigation and notice of violation. The Zoning Administrator is responsible for conducting the necessary inspection and investigation to ensure compliance with this ordinance and documenting the presence of violations.
  - a) Any land disturbing activity, development, redevelopment, building, or structure constructed, moved, or structurally altered, or any use established after the effective date of this ordinance in violation of the provisions of this ordinance; by any person, firm, association, corporation; including building contractors or their agents; shall be deemed a violation.
- 2) Enforcement and violations.
  - a) Violations of a permit or other approval issued under this ordinance, or any condition or approved plan associated with such permit or other approval, will be deemed a violation of this ordinance and will constitute grounds for revocation of the permit as well as fines, forfeitures, and any other available remedies. A permit or other approval may be revoked only by action of the body that initially granted the permit or other approval, following procedures required for its initial issuance to the extent practical. The decision of the appropriate body will be furnished to the permit holder in writing, stating the reasons thereof. A permit may be revoked by the Zoning Administrator if any of the below has occurred.
    - (1) The permit or other approval legally issued under this ordinance has been issued three separate notices of violation in writing within 365 days, or five notices of violations for the duration of the permit.
    - (2) The same violation has occurred for a consecutive six months.
    - (3) The permit or approval legally issued under this ordinance was not developed in accordance with the approved plans.
  - b) Whenever the Zoning Administrator, or designee, finds that any development activity does not comply with the provisions of this ordinance or Chapters 8, 9, 25, or 51 of the Sauk Co. Code, the Zoning Administrator or designee shall post a stop work order in a conspicuous place on the premises. Once a stop work order is issued, all development activities on the premises must cease until all activities comply.
    - (1) The stop work order card must provide the following information: date of issuance, reason for posting, and the signature of the inspector posting the card.
    - (2) It will be a violation of this ordinance for anyone to remove a stop work-order card from the premises without specific authorization from the Zoning Administrator or designee.
      - i. A permit or other approval issued in violation of this ordinance, other ordinances of the Sauk Co. Code of Ordinances, Wisconsin Administrative Code, or Wisconsin Statutes, gives the permit holder no vested right to continue the activity authorized by the permit, and the permit is considered voidable.
      - ii. The Sauk County corporation counsel may bring an action to enforce this ordinance and seek any remedy, legal or equitable, subject to prosecutorial discretion. The corporation counsel may seek an order to enjoin, remove, or vacate any violation of this ordinance; or any use, erection, moving or structural alteration of any building, or use in violation of this ordinance and seek fines as provided herein.
- 3) The provisions of this ordinance will be enforced under the direction of the Sauk County Board of Supervisors, through the Agency, the Zoning Administrator, law enforcement officers, and the corporation counsel. Any person, firm, company, or corporation who violates, disobeys, omits, neglects, or refuses to comply with; or who resists the enforcement of any of the provisions of this ordinance; will be subject to a fine of not less than \$50 or more than \$200 (exclusive of court costs) per offense if the violation exists; together with the costs of action. Each section of the ordinance that is in violation and each day that the violation exists shall constitute a separate offense. This ordinance may be enforced by any remedy, legal or

equitable. Actions may be brought by the corporation counsel or by the owner of land within the zoning district affected by the regulations of this ordinance. Every violation of this ordinance is a public nuisance, and the creation of a public nuisance may be enjoined, and the maintenance of a public nuisance may be abated pursuant to Wis. Stats. § 59.69(11).

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