

CHAPTER 31

FLOODPLAIN ZONING

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PART I. GENERAL PROVISIONS.

31.01 Title.

This ordinance may be referred to as the Floodplain Ordinance or the Floodplain Zoning Ordinance.

31.02 Statement of Purpose.

This ordinance is intended to regulate floodplain development to protect life, health, and property; minimize expenditures of public funds for flood control projects; minimize rescue and relief efforts undertaken at the expense of the taxpayers; minimize business interruptions and other economic disruptions; minimize damage to public facilities in the floodplain; minimize the occurrence of future flood blight areas in the floodplain; discourage the victimization of unwary land and home buyers; prevent increases in flood heights that could increase flood damage and result in conflicts between property owners; and discourage development in a floodplain if there is any practicable alternative to locate the activity, use, or structure outside of the floodplain.

31.03 Statutory Authorization.

This ordinance is adopted pursuant to the authorization in Wis. Stat. §§ 61.35 and 62.23 for villages and cities; Wis. Stats. §§ 59.69, 59.692, and 59.694 for counties; and the requirements in Wis. Stat. § 87.30.

31.04 Finding of Fact.

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

31.05 Warning and Disclaimer of Liability.

- (1) The flood protection standards in this ordinance are based on engineering experience and scientific research. Larger floods may occur or the flood height may be increased by man-made or natural causes.
- (2) This ordinance does not imply or guarantee that non-floodplain areas or permitted floodplain uses will be free from flooding and flood damages.
- (3) 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.

PART II. DEFINITIONS.

31.06 Definitions.

“A zone” means an area shown on the Official Floodplain Zoning Map which would be inundated by the regional flood. An A zone may be numbered or unnumbered. Depending on the availability of data for a given area, an A zone may not be reflective of the flood profile.

“Accessory structure or use” means a building, facility, structure, or use that is accessory or incidental to the principal use of a building, property, or structure.

“Accessory use” means a use that is incidental to the principal use of a building, facility, structure, or property.

“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 Flood Insurance Study (FIS) and depicted on a Flood Insurance Rate Map (FIRM).

“Basement” means any enclosed area of a building having its floor sub-grade, i.e., below ground level, on all sides.

“Building” means a structure.

“Bulkhead line” means a geographic line along a reach of navigable water, which has been adopted by a municipal ordinance and approved by the Department pursuant to Wis. Stat. § 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.

“Campground” means a parcel of land that is designed, intended, maintained, or used for the purpose of providing sites for nonpermanent overnight use by 4 or more camping units or that is advertised or represented as a camping area.

“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 bus, camping trailer, motor home, pick-up truck, tent, van, or any other mobile recreational vehicle.

“Certificate of compliance” means a written document certifying that the construction and use of a structure, the use of the property, the elevation of fill, or the elevation of the lowest floor of a structure is in compliance with all of the provisions of this ordinance.

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

“Crawl space” or “crawlway” 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.

“Deck” means an unenclosed exterior structure that has no roof or sides, but has a permeable floor which allows the infiltration of precipitation.

“Department” or “DNR” means the Wisconsin Department of Natural Resources.

“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.

“Dryland access” means a vehicular access route that is above the regional flood elevation and that connects land located in the floodplain to land outside the floodplain, such as a road with its surface above regional flood elevation that is wide enough for wheeled rescue and relief vehicles.

“Encroachment” means any building, development, equipment, fill, structure, or use in the floodway.

“Existing manufactured home park or subdivision” 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 includes the installation of utilities, the construction of streets, and either final site grading or the pouring of concrete pads.

“Expansion to existing mobile/manufactured home park” or “expansion,” when used with reference to an existing mobile or manufactured home park, means the preparation of additional sites by the construction of facilities for servicing the lots on which the mobile or 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.

“Federal Emergency Management Agency” or “FEMA” means the federal agency that administers the National Flood Insurance Program.

“Flood Insurance Rate Map” or “FIRM” means a map on which the Federal Insurance Administration has delineated both special flood hazard areas (the floodplain) and the risk premium zones applicable to the community. A FIRM can only be amended by the Federal Emergency Management Agency.

“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: the overflow or rise of inland waters; the rapid accumulation or runoff of surface waters from any source; the inundation caused by waves or currents of water exceeding anticipated cyclical levels along the shore of Lake Michigan or Lake Superior, or 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.

“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.

“Floodfringe” means that portion of the floodplain outside of the floodway which is covered by flood waters during the regional flood and is associated with standing water rather than flowing water.

“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 National Flood Insurance Program (NFIP) until superseded by a Flood Insurance Study and a Flood Insurance Rate Map.

“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. Flood Insurance Rate Maps that accompany the Flood Insurance Study form the basis for both the regulatory and the insurance aspects of the National Flood Insurance Program.

“Floodplain” means land which has been or may be covered by flood water during the regional flood. It includes the floodway and the floodfringe, and may include other designated floodplain areas for regulatory purposes.

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

“Floodplain management” means the policy and procedures to insure wise use of floodplains, including mapping and engineering, mitigation, education, and administration and enforcement of floodplain regulations.

“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.

“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.

“Flood protection elevation” means an elevation of two feet of freeboard above the water surface profile elevation designated for the regional flood.

“Flood Storage” means those floodplain areas where storage of floodwater has been taken into account during analysis in reducing the regional flood discharge.

“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.

“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, and loss of flood storage areas due to development and aggregation of the river or stream bed.

“Habitable structure” means any structure or portion of a structure designed or used for human habitation.

“Hearing notice” means the publication or posting meeting the requirements of Wis. Stat. ch. 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 one week before the hearing is required. Local ordinances or bylaws may require additional notice exceeding these minimums.

“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.

“Historic structure” means any structure that is listed individually in the National Register of Historic Places or preliminarily determined by the Secretary of the Interior as meeting the requirements for individual listing on the National Register; certified or preliminarily determined by the Secretary of the Interior as contributing to the historical significance of a registered historic district or a district preliminarily determined by the Secretary to qualify as a registered historic district; individually listed on a state inventory of historic places in states with historic preservation programs which have been approved by the Secretary of the Interior; or individually listed on a local inventory of historic places in communities with historic preservation programs that have been certified either by an

approved state program, as determined by the Secretary of the Interior or by the Secretary of the Interior in states without approved programs.

“Increase in regional flood height” means a calculated upward rise in the regional flood elevation equal to or greater than 0.01 foot, based on a comparison of existing conditions and proposed conditions, which is directly attributable to development in the floodplain but not attributable to manipulation of mathematical variables such as roughness factors, expansion and contraction coefficients, and discharge.

“Land use” means any nonstructural use made of unimproved or improved real estate. See also “development.”

“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.”

“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 for use as a temporary living quarters for camping, recreational, seasonal, or travel use rather than for use as a permanent dwelling. 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 a “mobile recreational vehicle.”

“Municipality” or “municipal” means a city, county, or village governmental unit enacting, administering, or enforcing this ordinance.

“National Geodetic Vertical Datum” or “NGVD” means the elevations referenced to mean sea level datum, 1929 adjustment.

“New construction” means, for floodplain management purposes, any structure for which the start of construction commenced on or after the effective date of floodplain zoning regulations adopted by the county and includes any subsequent improvements to the structure. For the purpose of determining flood insurance rates, it includes any structure for which the start of construction commenced on or after the effective date of an initial FIRM or after December 31, 1974, whichever is later, and includes any subsequent improvements to the structure.

“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 that it occupies, e.g., an existing residential structure in the floodfringe district is a conforming use, but the structure is nonconforming if the lowest floor is lower than the flood protection elevation.

“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, e.g., a residence in the floodway.

“North American Vertical Datum” or “NAVD” means the elevations referenced to mean sea level datum, 1988 adjustment.

“Obstruction to flow” or “obstruct flow” means any development that blocks the conveyance of floodwaters such that the development alone or together with any future development will cause an increase in regional flood height.

“Official floodplain zoning map” or “official map” means a map adopted and made part of this ordinance, as described in s. 31.15(2), which has been approved by the Department and FEMA.

“Open space use” means a use having a relatively low flood damage potential and not involving structures.

“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, prevention of terrestrial vegetation, predominance of aquatic vegetation, or any other easily recognized characteristic.

“Person” means any individual or group of individuals, corporation, partnership, association, municipality, or state agency.

“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 Commerce, including a substitute for the septic tank or soil absorption field, a holding tank, a system serving more than one structure, or a system located on a different parcel than the structure.

“Public utility” means a utility 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.

“Reasonably safe from flooding” means that base flood waters will not inundate the land or damage structures to be removed from the special flood hazard area and that any subsurface waters related to the base flood will not damage existing or proposed buildings.

“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 regional flood elevation (RFE) is equivalent to the base flood elevation (BFE).

“Start of construction” means the date a building permit is issued, provided the actual start of construction, repair, reconstruction, rehabilitation, addition, placement, or other improvement commences within 180 days of the permit date. “Actual start” means 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, 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; excavation for a basement, footings, pier, or foundation; the erection of temporary forms; the installation of streets or walkways; or the installation of any accessory building on the property, such as a garage or shed not occupied as a dwelling unit or not part of the main structure. “Actual start” of an alteration means the first alteration of any wall, ceiling, floor, or other structural part of a building, even if the alteration does not affect the external dimensions of the building.

“Structure” means any manmade object with form, shape, and utility, either permanently or temporarily attached to, placed upon, or set into the ground, stream bed, or lake bed, including but not limited to roofed and walled buildings, bridges, culverts, dams, and gas or liquid storage tanks.

“Subdivision” has the meaning given in Wis. Stat. § 236.02(12).

“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.

“Unnecessary hardship” means that there are special conditions affecting a particular property, which were not self-created, that make strict conformity with restrictions governing areas, setbacks, frontage, height, or density unnecessarily burdensome or unreasonable in light of the purposes of this ordinance.

“Variance” means an authorization by the board of adjustment for the construction or maintenance of a building or structure in a manner that is inconsistent with dimensional standards contained in this ordinance. A variance may not be granted for a use that is inconsistent with the standards contained in this ordinance.

“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.

“Watershed” means the entire region contributing runoff or surface water to a watercourse or body of water.

“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.

“Well” means an excavation or opening in the ground made by boring, digging, drilling, driving or other method to obtain groundwater regardless of its intended use.

PART III. APPLICABILITY AND COMPLIANCE.

31.07 Areas To Be Regulated.

- (1) This ordinance regulates all areas that would be covered by the base flood or regional flood.
- (2) Base flood elevations are derived from the flood profiles in the Flood Insurance Study, and areas covered by the base flood are identified as A zones on the Flood Insurance Rate Map.
- (3) Regional flood elevations may be derived from other studies.

31.08 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. Stat. § 13.48(13) applies. The construction, reconstruction, maintenance, and repair of state highways and bridges by the Wisconsin Department of Transportation is exempt when Wis. Stat. § 30.2022 applies.

31.09 Annexed Areas for Cities and Villages.

- (1) For any area that is annexed by a city or village, the floodplain zoning provisions in this ordinance that are 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 and the National Flood Insurance Program (NFIP).
- (2) The annexed lands will be described on the municipality’s official zoning map and all maps or plats of annexation will show the regional flood elevation and the location of the floodway.
- (3) The municipality shall place a copy of this ordinance on file in the office of its municipal zoning administrator and the municipality shall incorporate the provisions of this ordinance by reference for the purpose of administering this section.

31.10 Compliance.

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

31.11 Abrogation and Greater Restrictions.

- (1) This ordinance supersedes all the provisions of any municipal zoning ordinance enacted under Wis. Stat. § 59.69, 59.692 or 59.694 for counties; Wis. Stat. § 62.23 for cities; Wis. Stat. § 61.35 for villages; or Wis. Stat. § 87.30 that relate to floodplains. If another ordinance is more restrictive than this ordinance, that ordinance shall continue in full force and effect to the extent of the greater restrictions, but not otherwise.
- (2) 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.

31.12 Interpretation.

The provisions of this ordinance are minimum requirements and shall be 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 that is required by Wis. Admin. Code ch. NR 116 is unclear, the provision shall be interpreted in light of the standards in effect on the date of the adoption of this ordinance or in effect on the date of the most recent text amendment to this ordinance.

31.13 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.

PART IV. FLOODPLAIN DISTRICTS AND MAPS.

31.14 Establishment of Districts.

- (1) The regional floodplain is divided into the following three districts: floodway, floodfringe, and general floodplain.

- (2) The Floodway District (FW) consists of the channel of a river or stream and that portion of the floodplain adjoining the channel that is required to carry the regional floodwaters.
- (3) The Floodfringe District (FF) consists of that portion of the floodplain between the regional flood limits and the floodway.
- (4) The General Floodplain District (GFP) consists of those areas that have been or may be covered by floodwater during the regional flood.

31.15 Official Maps and Revisions.

- (1) The boundaries of all floodplain districts are designated as A zones or floodplains on the official maps listed in this section and on each revision to the official map that is listed in the Manitowoc County Floodplain Study Appendix attached to this ordinance. The Planning and Zoning Department shall keep a copy of each official map and each revision on file in its office. If information about an area is shown on more than one map or revision, the most restrictive information applies.
- (2) Based on the Flood Insurance Study 5507CV000A dated August 2, 2011, the following Flood Insurance Rate Maps for Manitowoc and Incorporated Areas, issued by the Federal Emergency Management Agency with an effective date of August 2, 2011, are designated as the official maps for purposes of floodplain zoning:

55071C0010D	55071C0083D	55071C0182D	55071C0235D
55071C0020D	55071C0091D	55071C0183D	55071C0245D
55071C0030D	55071C0093D	55071C0184D	55071C0255D
55071C0034D	55071C0094D	55071C0188D	55071C0256D
55071C0037D	55071C0110D	55071C0189D	55071C0257D
55071C0040D	55071C0120D	55071C0191D	55071C0258D
55071C0041D	55071C0130D	55071C0192D	55071C0259D
55071C0042D	55071C0135D	55071C0193D	55071C0265D
55071C0044D	55071C0140D	55071C0201D	55071C0270D
55071C0055D	55071C0145D	55071C0203D	55071C0276D
55071C0059D	55071C0155D	55071C0207D	55071C0277D
55071C0060D	55071C0160D	55071C0208D	55071C0278D
55071C0063D	55071C0165D	55071C0209D	55071C0279D
55071C0064D	55071C0166D	55071C0211D	55071C0281D
55071C0065D	55071C0167D	55071C0212D	55071C0282D
55071C0066D	55071C0169D	55071C0213D	55071C0283D
55071C0067D	55071C0177D	55071C0214D	55071C0284D
55071C0068D	55071C0179D	55071C0216D	55071C0290D
55071C0078D	55071C0180D	55071C0217D	55071C0295D
55071C0080D	55071C0181D	55071C0218D	55071C0301D

55071C0302D	55071C0314D	55071C0387D	55071C0416D
55071C0303D	55071C0316D	55071C0388D	55071C0417D
55071C0304D	55071C0317D	55071C0389D	55071C0420D
55071C0306D	55071C0318D	55071C0395D	55071C0426D
55071C0307D	55071C0326D	55071C0403D	55071C0427D
55071C0308D	55071C0360D	55071C0404D	55071C0428D
55071C0309D	55071C0367D	55071C0410D	55071C0429D
55071C0311D	55071C0370D	55071C0411D	55071C0436D
55071C0312D	55071C0380D	55071C0412D	55071C0438D
55071C0313D	55071C0386D	55071C0415D	

- (3) Any change to the base flood elevations (BFE) in the Flood Insurance Study (FIS) or on the Flood Insurance Rate Map (FIRM) must be reviewed and approved by DNR and FEMA before it is effective.
- (4) Any change to the regional flood elevations (RFE) on non-FEMA maps must be reviewed and approved by DNR before it is effective.

31.16 Locating Floodplain Boundaries.

- (1) Discrepancies between boundaries on the official floodplain zoning map and actual field conditions shall be resolved using the criteria in sub. (2) and (3). If a significant difference exists, the map must be amended according to s. 31.61.
- (2) If flood profiles exist, the map scale and the profile elevations shall determine the district boundary. The regional or base flood elevations govern if there are any discrepancies.
- (3) Where flood profiles do not exist, the location of the boundary shall be determined by the map scale, visual on-site inspection, and any information provided by the Department.
- (4) The code administrator may 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 code administrator shall be responsible for documenting actual pre-development field conditions and the basis upon which the district boundary was determined and for initiating any map amendments required under this section.
- (5) Disputes between the code administrator and an applicant over the district boundary line shall be settled according to s. 31.58 and the criteria in sub. (2) and (3) above.
- (6) Where the flood profiles are based on established base flood elevations from a FIRM, FEMA must also approve any map amendment pursuant to s. 31.61.

31.17 Removal of Land from Floodplain.

- (1) Compliance with the provisions of this ordinance is not grounds for removing land from the floodplain unless the land is filled at least two feet above the regional or base flood elevation, the fill is contiguous to land outside the floodplain, and the map is amended pursuant to s. 31.61.
- (2) Compliance with the procedure provided in this section does not remove the requirement for the mandatory purchase of flood insurance, and the property owner must contact FEMA to request a Letter of Map Change (LOMC).

PART V. GENERAL STANDARDS APPLICABLE TO ALL FLOODPLAIN DISTRICTS.

31.18 General Development Standards.

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

31.19 Hydraulic and Hydrologic Analyses.

- (1) Except as allowed in sub. (3), no floodplain development shall:
 - (a) obstruct flow, defined as development which blocks the conveyance of floodwaters by itself or with other development, increasing regional flood height; or
 - (b) increase regional flood height due to floodplain storage area lost, which equals or exceeds 0.01 foot.

- (2) The code administrator shall deny permits if it is determined the proposed development will obstruct flow or increase regional flood heights 0.01 foot or more based on the officially adopted FIRM or other adopted map, unless the provisions of sub. (3) are met.
- (3) Obstructions or increases equal to or greater than 0.01 foot may be permitted only if amendments are made to this ordinance, the official floodplain zoning maps, floodway lines, and water surface profiles in accordance with s. 31.61.
- (4) This section refers to obstructions or increases in base flood elevations as shown on the officially adopted FIRM or other adopted map. Any such alterations must be reviewed and approved by FEMA and the DNR.

31.20 Watercourse Alterations.

- (1) 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 flood carrying capacity of any altered or relocated watercourse shall be maintained.
- (2) As soon as is practicable, but not later than six months after the date of the watercourse alteration or relocation, the code administrator shall notify FEMA of the changes by submitting appropriate technical or scientific data in accordance with NFIP guidelines that shall be used to revise the FIRM, risk premium rates, and floodplain management regulations as required.

31.21 Development and Wis. Stat. chs. 30 and 31.

Development which requires a permit from the Department under Wis. Stat. chs. 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 floodway lines, water surface profiles, BFE's established in the FIS, or other data from the officially adopted FIRM, other floodplain zoning maps, or the floodplain zoning ordinance are made according to s. 31.61.

31.22 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 Health Services.

- (2) A land use permit for the campground is issued by the code administrator.
- (3) The character of the river system and the elevation of the campground is 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 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 sub. (4), to remain in compliance with all applicable regulations, including those of the Wisconsin Department of Health Services and all other applicable regulations.
- (6) Only camping units are allowed.
- (7) The camping units may not occupy any site in the campground for more than 180 consecutive days, at which time the camping unit must be removed from the floodplain for a minimum of 24 hours.
- (8) 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 for a period not to exceed 180 days and shall ensure compliance with all the provisions of this section.
- (9) The municipality shall monitor the limited authorizations issued by the campground operator to assure compliance with the terms of this section.
- (10) All camping units that remain in place for more than 180 consecutive days must meet the applicable requirements in either Part VI or Part VII for the floodplain district in which the structure is located.
- (11) 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.
- (12) All service facilities, including but not limited to refuse collection, electrical service, natural gas lines, propane tanks, sewage systems, and wells shall be properly anchored and placed at or floodproofed to the flood protection elevation.

PART VI. FLOODWAY DISTRICT (FW).

31.23 Applicability.

This part applies to all floodway areas on the floodplain zoning maps and those identified pursuant to s. 31.44.

31.24 Permitted Uses.

The following open space uses are allowed in the floodway district and the floodway areas of the general floodplain district, if they are not prohibited by any other ordinance, meet the standards in ss. 31.25 and 31.26, and all necessary permits or certificates must have been issued according to Part XI:

- (1) Agricultural uses, such as: farming, outdoor plant nurseries, horticulture, viticulture, and wild crop harvesting.
- (2) Nonstructural industrial and commercial uses, such as loading areas, parking areas, and airport landing strips.
- (3) Nonstructural recreational uses, such as golf courses, tennis courts, archery ranges, picnic grounds, boat ramps, swimming areas, parks, wildlife and nature preserves, game farms, fish hatcheries, shooting, trap and skeet activities, hunting and fishing areas, and hiking and horseback riding trails, subject to the fill limitations of s. 31.25(6).
- (4) Uses or structures accessory to open space uses, or classified as historic structures that comply with ss. 31.25 and 31.26.
- (5) Extraction of sand, gravel, or other materials that comply with s. 31.25(6).
- (6) Functionally water-dependent uses, such as docks, piers or wharves, dams, flowage areas, culverts, navigational aids and river crossings of transmission lines, and pipelines that comply with Wis. Stat. chs. 30 and 31.
- (7) Public utilities, streets, and bridges that comply with s. 31.25(5).

31.25 Standards for Developments in Floodway Areas.

- (1) Any development in floodway areas shall comply with Part V and have a low flood damage potential.
- (2) Applicants shall provide the following data to determine the effects of the proposal according to s. 31.19:

- (a) A cross-section elevation view of the proposal, perpendicular to the watercourse, showing if the proposed development will obstruct flow; or
 - (b) An analysis calculating the effects of this proposal on regional flood height.
- (3) The code administrator shall deny the permit application if the project will increase flood elevations upstream or downstream 0.01 foot or more, based on the data submitted for par. (2)(b) above.
- (4) Structures. Structures accessory to permanent open space uses or functionally dependent on a waterfront location may be allowed by permit if the structures comply with the following criteria:
- (a) The structure is not designed for human habitation and does not have a high flood damage potential;
 - (b) It must be anchored to resist flotation, collapse, and lateral movement;
 - (c) Mechanical and utility equipment must be elevated or flood proofed to or above the flood protection elevation; and
 - (d) It must not obstruct flow of flood waters or cause any increase in flood levels during the occurrence of the regional flood.
- (5) 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. 31.19.
- (6) Fills or Deposition of Materials. Fills or deposition of materials may be allowed by permit, if:
- (a) The requirements of s. 31.19 are met;
 - (b) No material is deposited in the navigable channel unless a permit is issued by the Department pursuant to Wis. Stat. ch. 30 and a permit pursuant to sec. 404 of the Federal Water Pollution Control Act Amendments of 1972, 33 U.S.C. § 1344, has been issued, if applicable, and the other requirements of this section are met;
 - (c) The fill or other materials will be protected against erosion by rip-rap, vegetative cover, sheet piling, or bulkheading; and

- (d) The fill is not classified as a solid waste or hazardous material.

31.26 Prohibited Uses.

All uses not listed as permitted uses in s. 31.24 are prohibited, including the following uses:

- (1) Habitable structures, structures with high flood damage potential, or structures 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. COMM 83;
- (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 chs. 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 § NR 110.15(3)(b); and
- (8) Any sanitary sewer or water supply lines, except those to service existing or proposed development located outside the floodway which complies with the regulations for the floodplain area occupied.

PART VII. FLOODFRINGE DISTRICT (FF).

31.27 Applicability.

This part applies to all floodfringe areas shown on the floodplain zoning maps and those identified pursuant to s. 31.44.

31.28 Permitted Uses.

Any structure, land use, or development is allowed in the floodfringe district if the standards in s. 31.29 are met, the use is not prohibited by this or any other ordinance or regulation, and all permits or certificates specified in Part XI have been issued.

31.29 Standards for Development in Floodfringe Areas.

- (1) The requirements in s. 31.19 apply to all development in flood fringe areas in addition to the requirements in this Part for the requested use.
- (2) Residential Uses. Any habitable structure, including a manufactured home, which is to be erected, constructed, reconstructed, altered, or moved into the floodfringe area, shall meet or exceed the following standards:
 - (a) The elevation of the lowest floor, excluding the basement or crawlway, shall be at or above the flood protection elevation or fill. The fill shall be one foot or more above the regional flood elevation extending at least 15 feet beyond the limits of the structure. The Department may authorize other floodproofing measures if the elevations of existing streets or sewer lines makes compliance with the fill standards impractical;
 - (b) The basement or crawlway floor may be placed at the regional flood elevation if it is floodproofed to the flood protection elevation. No basement or crawlway floor is allowed below the regional flood elevation;
 - (c) Contiguous dryland access shall be provided from a structure to land outside of the floodplain, except as provided in par. (d); and
 - (d) In developments where existing street or sewer line elevations make compliance with par. (c) impractical, the municipality may permit new development and substantial improvements where access roads are at or below the regional flood elevation, if:
 1. The municipality has written assurance from police, fire, and emergency services that rescue and relief will be provided to the structure(s) by wheeled vehicles during a regional flood event; or
 2. The municipality has a natural disaster plan approved by Wisconsin Emergency Management and the Department.

31.30 Accessory Structures or Uses.

- (1) Except as provided in sub. (2), an accessory structure which is not connected to a principal structure may be constructed with its lowest floor at or above the regional flood elevation.
- (2) An accessory structure which is not connected to the principal structure and which is less than 600 square feet in size and valued at less than \$10,000 may be constructed with its lowest floor no more than two feet below the regional flood elevation if it is subject to flood velocities of no more than two feet per second and it meets all of the provisions of ss. 31.25(4)(a) - (d) and 31.33.

31.31 Commercial Uses.

Any commercial structure which is erected, altered, or moved into the floodfringe area shall meet the requirements of s. 31.29(2). Subject to the requirements of s. 31.33, 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.

31.32 Manufacturing and Industrial Uses.

Any manufacturing or industrial structure which is erected, altered, or moved into the floodfringe area shall be protected to the flood protection elevation using fill, levees, floodwalls, or other flood proofing measures in s. 31.53. Subject to the requirements of s. 31.33, 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.

31.33 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. 31.53. Adequate measures shall be taken to ensure that such materials will not enter the water body during flooding.

31.34 Public Utilities, Streets, and Bridges.

- (1) All utilities, streets, and bridges shall be designed to be compatible with comprehensive floodplain development plans.
- (2) When failure of public utilities, streets, and bridges would endanger public health or safety, or where such facilities are deemed essential, construction of and

substantial improvements to such facilities may only be permitted if they are floodproofed in compliance with s. 31.53 to the flood protection elevation.

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

31.35 Sewage Systems.

All on-site sewage disposal systems shall be floodproofed pursuant to s. 31.53 to the flood protection elevation and shall meet the provisions of all local ordinances and Wis. Admin. Code ch. COMM 83.

31.36 Wells.

All wells shall be floodproofed pursuant to s. 31.53 to the flood protection elevation and shall meet the provisions of Wis. Admin. Code chs. NR 811 and NR 812.

31.37 Solid Waste Disposal Sites.

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

31.38 Deposition of Materials.

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

31.39 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:
 - (a) have the lowest floor elevated to the flood protection elevation; and
 - (b) 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 floodfringe in s. 31.29(2).

31.40 Mobile Recreational Vehicles.

All mobile recreational vehicles that are on site for 180 consecutive days or more or that are not fully licensed and ready for highway use shall meet the elevation and anchoring requirements in s. 31.39(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.

PART VIII. GENERAL FLOODPLAIN DISTRICT (GFP).

31.41 Applicability.

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

31.42 Permitted Uses.

- (1) Pursuant to s. 31.44, it shall be determined whether the proposed use is located within a floodway or floodfringe area.
- (2) Uses that are permitted in floodway and floodfringe districts are allowed within the general floodplain district, according to the standards of s. 31.43, provided that all permits or certificates required under Part XI have been issued.

31.43 Standards for Development in the General Floodplain District.

- (1) Part VI applies to all floodway areas within a general floodplain district.
- (2) Part VII applies to all floodfringe areas within a general floodplain district.

31.44 Determining Floodway and Floodfringe Limits.

- (1) Upon receiving an application for development within the general floodplain district, the code administrator shall 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;

- (2) Upon receiving an application for development within the general floodplain district, the code administrator shall 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, regional flood elevation and to determine floodway boundaries:
 - (a) A typical valley cross-section showing the stream channel, the floodplain adjoining each side of the channel, the cross-sectional area to be occupied by the proposed development, and all historic high water information;
 - (b) Plan (surface view) showing elevations or contours of the ground; pertinent structure, fill or storage elevations; size, location, and layout of all proposed and existing structures on the site; location and elevations of streets, water supply, and sanitary facilities; soil types and other pertinent information;
 - (c) Profile showing the slope of the bottom of the channel or flow line of the stream;
 - (d) Specifications for building construction and materials, floodproofing, filling, dredging, channel improvement, storage, water supply, and sanitary facilities.
- (3) Upon receiving an application for development within the general floodplain district, the code administrator shall transmit one copy of the information described in sub. (1) and (2) to the Department Regional office along with a written request for technical assistance to establish regional flood elevations and, where applicable, floodway data. Where the provisions of s. 31.52(4) apply, the applicant shall provide all required information and computations to delineate floodway boundaries and the effects of the project on flood elevations.

PART IX. NONCONFORMING USES.

31.45 General.

- (1) If these standards conform with Wis. Stat. § 59.69(10) for counties or Wis. Stat. § 62.23(7)(h) for cities and villages, they shall apply to all modifications or additions to any nonconforming use or structure and to the use of any structure or premises which was lawful before the passage of this ordinance or any amendment thereto.

- (2) The existing lawful use of a structure or its accessory use which is not in conformity with the provisions of this ordinance on its effective date may continue subject to the conditions contained in this Part.
- (3) No modification or addition 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 structure, use, or accessory structure or use. Ordinary maintenance repairs are not considered an extension, modification, or addition; these include painting, decorating, paneling and the replacement of doors, windows, and other nonstructural components and the maintenance, repair, or replacement of existing private sewage or water supply systems or connections to public utilities. Ordinary maintenance repairs do not include any costs associated with the repair of a damaged structure. The construction of a deck that does not exceed 200 square feet and that is adjacent to the exterior wall of a principal structure is not an extension, modification, or addition. The roof of the structure may extend over a portion of the deck in order to provide safe ingress and egress to the principal structure.
- (4) 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.
- (5) 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.
- (6) 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 ss. 31.29(2) and 31.31.
- (7) The costs of elevating a nonconforming building or a building with a nonconforming use to the flood protection elevation are excluded from the 50% provisions of this paragraph.
 - (a) Except as provided in par. (b), 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.

- (b) For nonconforming buildings that are damaged or destroyed by a nonflood disaster, the repair or reconstruction of any such nonconforming building may be permitted in order to restore it after the nonflood disaster, provided that the nonconforming building will meet all of the minimum requirements under applicable FEMA regulations (44 C.F.R. Part 60), or the regulations promulgated thereunder.
- (8) 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. 31.25, flood resistant materials are used, and construction practices and floodproofing methods that comply with s. 31.53 are used.

31.46 Floodway Areas.

- (1) No modification or addition shall be allowed to any nonconforming structure or any structure with a nonconforming use in a floodway area, unless such modification or addition:
 - (a) Has been granted a permit or variance which meets all ordinance requirements;
 - (b) Meets the requirements of s. 31.45;
 - (c) Will not increase the obstruction to flood flows or regional flood height;
 - (d) Any addition to the existing structure shall be floodproofed, pursuant to s. 31.53, by means other than the use of fill, to the flood protection elevation;
 - (e) If any part of the foundation below the flood protection elevation is enclosed, the following standards shall apply:
 - 1. The enclosed area shall be designed by a 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; and
 4. The use must be limited to parking 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 a floodway area. 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 and Wis. Admin. Code ch. COMM 83.
 - (3) No new well or modification to an existing well used to obtain potable water shall be allowed in a floodway area. Any replacement, repair, or maintenance of an existing well in a floodway area shall meet the applicable requirements of all municipal ordinances and Wis. Admin. Code chs. NR 811 and NR 812.

31.47 Floodfringe Areas.

- (1) No modification or addition shall be allowed to any nonconforming structure or any structure with a nonconforming use unless such modification or addition has been granted a permit or variance by the municipality, and the modification or addition shall be placed on fill or floodproofed to the flood protection elevation in compliance with the standards for that particular use in s. 31.29, except where s. 31.47(2) is applicable.
- (2) Where compliance with the provisions of sub. (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 Board of Adjustment using the procedures established in s. 31.51, may grant a variance from those provisions of sub. (1) for modifications or additions, using the criteria listed below. Modifications or additions which are protected to elevations lower than the flood protection elevation may be permitted if:
 - (a) No floor is allowed below the regional flood elevation for residential or commercial structures;
 - (b) Human lives are not endangered;
 - (c) Public facilities, such as water or sewer, will not be installed;
 - (d) Flood depths will not exceed two feet;
 - (e) Flood velocities will not exceed two feet per second; and

- (f) The structure will not be used for storage of materials as described in s. 31.33.
- (3) If neither the provisions of par. (1) or (2) above can be met, one addition to an existing room in a nonconforming building or a building with a nonconforming use may be allowed in the floodfringe, if the addition:
 - (a) Meets all other regulations and will be granted by permit or variance;
 - (b) Does not exceed 60 square feet in area; and
 - (c) In combination with other previous modifications or additions to the building, does not equal or exceed 50% of the present equalized assessed value of the building.
- (4) 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 and ch. COMM 83, Wis. Adm. Code.
- (5) All new wells, or addition to, replacement, repair, or maintenance of a well shall meet the applicable provisions of this ordinance and ch. NR 811 and NR 812, Wis. Adm. Code.

PART X. ADMINISTRATION.

31.48 Administration.

This ordinance will be administered by the code administrator, Planning and Park Commission, and Board of Adjustment, which have been appointed to administer the zoning ordinances adopted under Wis. Stat. §§ 59.69 and 59.692.

31.49 Code Administrator.

The code administrator has the following powers and shall:

- (1) 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.
- (2) Issue permits and inspect properties for compliance with provisions of this ordinance, and issue certificates of compliance where appropriate.
- (3) Inspect all damaged floodplain structures and perform a substantial damage assessment to determine if substantial damage to the structures has occurred.

- (4) Keep records of all official actions, such as:
 - (a) Permits issued, inspections made, and work approved;
 - (b) Documentation of certified lowest floor and regional flood elevations for floodplain development;
 - (c) Records of floodplain zoning maps and ordinances, nonconforming uses and structures, and water surface profiles, including amendments, appeals, changes, and variances; and
 - (d) All substantial damage assessment reports for floodplain structures.
- (5) Submit copies of the following items to the Department's regional office:
 - (a) A copy of any decisions on variances, appeals for map or text interpretations, and map or text amendments, within 10 days of the decision;
 - (b) A copy of any case-by-case analysis and any other information required by the Department, including an annual summary of the number and types of floodplain zoning actions taken; and
 - (c) A copy of each substantial damage assessment performed and all related correspondence concerning the assessment.
- (6) Investigate, prepare reports, and report ordinance violations to the Planning and Park Commission and to the corporation counsel for prosecution. Copies of the reports shall also be sent to the Department Regional office.
- (7) Submit copies of text and map amendments and biennial reports to the FEMA Regional office.

31.50 Planning and Park Commission.

- (1) The Planning and Park Commission shall:
 - (a) oversee the functions of the office of the code administrator; and
 - (b) review and advise the county board on all proposed amendments to this ordinance, maps, and text.
- (2) The Planning and Park Commission may not:

- (a) grant variances to the terms of this ordinance in place of action by the Board of Adjustment; or
- (b) amend the text or zoning maps in place of official action by the county board.

31.51 Board of Adjustment.

- (1) The Board of Adjustment created pursuant to Wis. Stat. § 59.694 shall exercise the powers conferred by the Wisconsin Statutes to hear and decide appeals, boundary disputes, and variance requests for the purposes of this ordinance.
- (2) The Board of Adjustment may adopt rules for the conduct of business. The code administrator may not be the secretary of the Board of Adjustment.

PART XI. PROCEDURE.

31.52 Land Use Permit.

- (1) A person shall apply to the code administrator for and shall obtain a land use permit before any new development, structural repair, or change in the use of a building or structure, including sewer and water facilities, may be initiated.
- (2) The land use permit application shall include the following general information:
 - (a) Name and address of the applicant, property owner, and contractor; and
 - (b) Legal description of the property, proposed use, and whether it is new construction or a modification.
- (3) The land use permit application shall include a site development plan, drawn to scale, with the following information:
 - (a) Location, dimensions, area, and elevation of the lot;
 - (b) Location of the ordinary highwater mark of any abutting navigable waterways;
 - (c) Location of any structures, with distances measured from the lot lines and street center lines;
 - (d) Location of any existing or proposed on-site sewage systems or private water supply systems;

- (e) Location and elevation of existing or future access roads;
 - (f) Location of floodplain and floodway limits as determined from the official floodplain zoning maps;
 - (g) The elevation of the lowest floor of proposed buildings and any fill using either the National Geodetic Vertical Datum (NGVD) or North American Vertical Datum (NAVD) from the adopted study;
 - (h) 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 Part VI or Part VII are met; and
 - (i) Data to determine if the proposed development will obstruct flow or cause an increase in regional flood height or discharge according to s. 31.19. This may include any of the information noted in s. 31.25.
- (4) Data Requirements to Analyze Developments.
- (a) The applicant must provide all survey data and computations required to show the effects of the project on flood heights, velocities, and floodplain storage for all subdivision proposals as defined in Wis. Stat. ch. 236, for other proposed developments exceeding 5 acres in area, or where the estimated cost exceeds \$125,000. The applicant shall provide:
 1. An analysis of the effect of the development on the regional flood profile, velocity of flow, and floodplain storage capacity;
 2. A map showing location and details of vehicular access to lands outside the floodplain; and
 3. A surface drainage plan showing how flood damage will be minimized.
 - (b) The estimated cost of the proposal shall include all structural development, landscaping, access and road development, utilities, and other pertinent items, but need not include land costs.
- (5) Expiration. A permit issued under the authority of this ordinance expires one year from the date it is issued.

31.53 Floodproofing Requirements.

- (1) No permit or variance may be issued until the applicant submits a plan certified by a registered professional engineer or architect showing the floodproofing

measures that will protect the structure or development to the flood protection elevation.

- (2) Floodproofing measures shall be designed to:
 - (a) Withstand flood pressures, depths, velocities, uplift and impact forces, and other regional flood factors;
 - (b) Protect structures to the flood protection elevation;
 - (c) Anchor structures to foundations to resist flotation and lateral movement; and
 - (d) Insure that structural walls and floors are watertight to the flood protection elevation, and the interior remains completely dry during flooding without human intervention.

- (3) Floodproofing measures may include:
 - (a) Reinforcing walls and floors to resist rupture or collapse caused by water pressure;
 - (b) Adding mass or weight to prevent flotation;
 - (c) Placing essential utilities above the flood protection elevation;
 - (d) Installing surface or subsurface drainage systems to relieve foundation wall and basement floor pressures;
 - (e) Constructing water supply wells and waste treatment systems to prevent the entry of flood waters; and
 - (f) Putting cutoff valves on sewer lines or eliminating gravity flow basement drains.

31.54 Certificate of Compliance.

- (1) A person shall apply for a certificate of compliance concurrently with the application for a permit.

- (2) No land may be occupied or used, and no building that is constructed, altered, added to, modified, repaired, rebuilt, or replaced after the effective date of this ordinance may be occupied until a certificate of compliance is issued by the code administrator, except where no permit is required.

- (3) 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 floodproofing measures meet the requirements of s. 31.53.
- (4) If all ordinance provisions are met, the code administrator shall issue the certificate of compliance within 10 days after written notification that the permitted work is completed.
- (5) The certificate of compliance will show that the building or premises, or part thereof, and the proposed use, conform to the provisions of this ordinance.

31.55 Other Permits.

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

31.56 Appeals.

- (1) Appeals. The Board of Adjustment shall hear and decide appeals where it is alleged there is an error in any decision, determination, order, or requirement made by the code administrator.
- (2) Notice of Appeal. Any person affected or aggrieved by a decision of the code administrator may appeal the decision to the Board of Adjustment by filing a written notice with the code administrator and the Board of Adjustment within 30 days of the decision. The notice must specify the reason for the appeal. The code administrator shall transmit all records regarding the matter to the Board of Adjustment within 30 days of receipt of the notice.
- (3) Hearing Notice. Upon receipt of notice of appeal, the Board of Adjustment shall:
 - (a) Fix a reasonable time for the hearing;
 - (b) Publish adequate notice, as required by the Wisconsin Statutes, specifying the date, time, place, and subject of the hearing; and
 - (c) Assure that the hearing notice is mailed to the parties in interest and the Department's regional office at least 10 days in advance of the hearing.
- (4) Hearing Procedure. Any party may appear at the hearing in person or by an agent.

- (5) Decision. The Board of Adjustment shall issue a final decision regarding the appeal, and the decision shall:
 - (a) Be made within a reasonable time;
 - (b) Be sent to the Department's regional office within 10 days of the decision;
 - (c) Be a written determination signed by the chairman or secretary of the Board;
 - (d) State the specific facts and reasons that are the basis for the Board's decision; and
 - (e) Affirm, reverse, vary, or modify the order, requirement, decision, or determination appealed, in whole or in part, or dismiss the appeal for lack of jurisdiction.

31.57 Appeal of Permit Denials.

- (1) The Board of Adjustment shall review all data related to the appeal. This may include:
 - (a) Permit application data listed in s. 31.52.
 - (b) Floodway/floodfringe determination data in s. 31.44.
 - (c) Data listed in s. 31.25(2) where the applicant has not submitted this information to the code administrator.
 - (d) Other data submitted with the application or submitted to the Board with the appeal.
- (2) For appeals of all denied permits the Board shall:
 - (a) Follow the procedures of s. 31.51;
 - (b) Consider Planning and Park Commission recommendations; and
 - (c) Either uphold the denial or grant the appeal.
- (3) For appeals concerning increases in regional flood elevation the Board shall:
 - (a) Uphold the denial where the Board agrees with the data showing an increase in flood elevation. Increases equal to or greater than 0.01 foot may only be allowed after amending the flood profile and map and all

appropriate legal arrangements are made with all adversely affected property owners.

- (b) Grant the appeal where the Board agrees that the data properly demonstrates that the project does not cause an increase equal to or greater than 0.01 foot provided no other reasons for denial exist.

31.58 Boundary Disputes.

- (1) The Board of Adjustment shall hear and decide disputes concerning the district boundaries shown on the official floodplain zoning map.
- (2) Notice of Dispute. Any person may file a written notice of a boundary dispute with the code administrator and the Board of Adjustment. The notice must specify the reason for the dispute. The code administrator shall transmit all records regarding the matter to the Board of Adjustment within 30 days of receipt of the notice.
- (3) Hearing Notice. Upon receipt of notice of a boundary dispute, the Board of Adjustment shall:
 - (a) Fix a reasonable time for the hearing;
 - (b) Publish adequate notice, as required by the Wisconsin Statutes, specifying the date, time, place, and subject of the hearing; and
 - (c) Assure that hearing notice is mailed to the parties in interest and the Department's regional office at least 10 days in advance of the hearing.
- (4) Hearing Procedure.
 - (a) Any party may appear at the hearing in person or by an agent. The person contesting the boundary location will be given a reasonable opportunity to present arguments and technical evidence to the Board.
 - (b) If a floodplain district boundary is established by approximate or detailed floodplain studies, the flood elevations or profiles shall prevail in locating the boundary. If none exist, other evidence may be examined.
 - (c) If the boundary is incorrectly mapped, the Board shall inform the Planning and Park Commission or the person contesting the boundary location of the need to petition the county board for a map amendment according to s. 31.61.

- (5) Decision. The Board of Adjustment shall issue a final decision regarding the appeal, and the decision shall:
 - (a) Be made within a reasonable time;
 - (b) Be sent to the Department's regional office within 10 days of the decision;
 - (c) Be a written determination signed by the chairman or secretary of the Board; and
 - (d) State the specific facts and reasons that are the basis for the Board's decision.

31.59 Variances.

- (1) The Board of Adjustment shall hear and decide appeals or requests for variances from the standards of this ordinance.
- (2) Variance Request. Any person may file a written request for a variance with the code administrator and the Board of Adjustment. The notice must specify the reason for the request. The code administrator shall transmit all records regarding the matter to the Board of Adjustment within 30 days of receipt of the notice.
- (3) Hearing Notice. Upon receipt of a variance request, the Board of Adjustment shall:
 - (a) Fix a reasonable time for the hearing;
 - (b) Publish adequate notice, as required by the Wisconsin Statutes, specifying the date, time, place, and subject of the hearing; and
 - (c) Assure that hearing notice is mailed to the parties in interest and the Department's regional office at least 10 days in advance of the hearing.
- (4) Hearing Procedure.
 - (a) Any party may appear at the hearing in person or by an agent.
 - (b) The person making the request will be given a reasonable opportunity to present arguments and technical evidence to the Board.
- (5) Decision. The Board of Adjustment shall issue a final decision regarding the appeal, and the decision shall:
 - (a) Be made within a reasonable time;

- (b) Be sent to the Department's regional office within 10 days of the decision;
 - (c) Be a written determination signed by the chairman or secretary of the Board; and
 - (d) State the specific facts and reasons that are the basis for the Board's decision. If the request is granted, the determination must describe the hardship demonstrated by the applicant, which must also be clearly stated in the recorded minutes of the Board's proceedings.
- (6) The Board may grant a variance from the standards of this ordinance if an applicant convincingly demonstrates that:
- (a) Literal enforcement of the ordinance provisions will cause unnecessary hardship;
 - (b) The hardship is due to adoption of the floodplain ordinance and unique property conditions, not common to adjacent lots or premises, in which case the ordinance or map must be amended;
 - (c) The variance is not contrary to the public interest; and
 - (d) The variance is consistent with the purpose of this ordinance in s. 31.02.
- (7) In addition to the criteria in sub. (2), a variance may be granted only if the following FEMA criteria are met:
- (a) The variance may not cause any increase in the regional flood elevation; and
 - (b) The lot for which the variance is requested is less than one-half acre and is contiguous to existing structures constructed below the regional flood elevation.
- (8) Variances shall only be granted upon a showing of good and sufficient cause, shall be the minimum relief necessary, shall not cause increased risks to public safety or nuisances, shall not increase costs for rescue and relief efforts and shall not be contrary to the purpose of the ordinance.
- (9) A variance may 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 that is self-created;

- (d) Damage the rights or property values of other persons in the area;
 - (e) Allow any action without an amendment to this ordinance or the official map if an amendment is required by s. 31.61; or
 - (f) Allow any alteration of an historic structure, including its use, which would preclude its continued designation as an historic structure;
- (10) When a floodplain variance is granted, the Board shall provide written notification to the property owner that the requested variance may increase flood insurance premiums and risks to life and property. A copy of the notice will be maintained with the variance record.

31.60 Public Information.

- (1) The code administrator may cause or require an applicant to 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) Every real estate transfer should show the floodplain zoning district in which the real property is located.

31.61 Amendments.

- (1) The county board may change or supplement the floodplain zoning district boundaries and this ordinance in the manner provided by law.
- (2) The actions that require an amendment include, but are not limited to, the following:
 - (a) Any change to the official floodplain zoning map, including the floodway line or boundary of any floodplain area.
 - (b) Correction of discrepancies between the water surface profiles and floodplain zoning maps.
 - (c) Any fill in the floodplain which raises the elevation of the filled area to a height at or above the flood protection elevation and is contiguous to land lying outside the floodplain.
 - (d) Any fill or floodplain encroachment that obstructs flow, increasing regional flood height 0.01 foot or more.

- (e) Any changes to a floodplain zoning ordinance text required by Wis. Admin. Code § NR 116.05, otherwise required by law, or by a municipality.
 - (f) All channel relocations and changes to the maps to alter floodway lines or to remove an area from the floodway or the floodfringe that is based on a base flood elevation from a FIRM requires prior approval by FEMA.
- (3) Ordinance amendments may be made upon petition of any interested party according to the provisions of Wis. Stat. § 59.69. Petitions must include all necessary data required by ss. 31.44 and 31.52.
 - (4) A person petitioning for a map amendment that obstructs flow, increasing regional flood height 0.01 foot or more, must obtain flooding easements from, or make other appropriate legal arrangements with, all adversely affected property owners and notify local units of government before the amendment may be approved by the county board.
 - (5) If there is no water surface profile for the area affected by a proposed amendment, the Planning and Park Commission shall consider data submitted by the Department, the code administrator's visual on-site inspections, and any other available information. See s. 31.16.
 - (6) The proposed amendment will be referred to the Planning and Park Commission for a public hearing and recommendation to the county board. The amendment and notice of public hearing must be submitted to the Department's regional office for review prior to the hearing.
 - (7) No amendment will become effective unless it has been reviewed and approved by the Department.
 - (8) Consult the FEMA web site at www.fema.gov for the map change fee schedule.

PART XII. VIOLATIONS AND ENFORCEMENT.

31.62 Violations.

- (1) It is unlawful for any person to violate any provision of this ordinance or any condition contained in a permit issued pursuant to this ordinance.
- (2) It is unlawful for any person to knowingly provide false information, make a false statement, or fail to provide or misrepresent any material fact to a county agent, board, commission, committee, department, employee, officer, or official acting in an official capacity under this ordinance.

- (3) It is unlawful for a person to disobey; fail, neglect, or refuse to comply with; or otherwise resist an order issued pursuant to this ordinance.
- (4) A separate offense is deemed committed on each day that a violation occurs or continues.

31.63 Enforcement.

- (1) The code administrator may enter any property for which a permit has been issued under this ordinance to conduct an inspection to determine whether there is any violation of this ordinance or whether the conditions stated in the permit have been met.
- (2) The code administrator may issue an order to abate any violation of this ordinance.
- (3) The code administrator may issue a citation for any violation of this ordinance.
- (4) The code administrator may refer a violation of this ordinance to Corporation Counsel for legal action.
- (5) Every violation of this ordinance is a public nuisance, the creation of which may be enjoined and the maintenance of which may be abated by action at suit of the county, the State, or any citizen thereof pursuant to Wis. Stat. § 87.30.
- (6) Nothing in this section may be construed to prevent the county from using any other lawful means to enforce this ordinance.

31.64 Penalties.

- (1) A person will, upon conviction for a violation of this ordinance, forfeit not less than \$25 nor more than \$50 for each offense, together with any applicable assessments, costs, surcharges, and the costs of prosecution for each violation, and may be ordered to take such action as is necessary to abate the offense within a specified time.
- (2) A person who has the ability to pay a forfeiture entered pursuant to this ordinance, but who fails or refuses to do so may be confined in the county jail until the forfeiture and costs are paid, but the period of confinement may not exceed 30 days for each offense. In determining whether a person has the ability to pay, all items of income and all assets may be considered regardless of whether the income and assets are subject to garnishment, lien, or attachment by creditors.

- (3) In the event an offense is not abated as ordered, Manitowoc County may take such action as is necessary to abate the offense and the cost of such abatement will become a lien upon the person's property and may be collected in the same manner as other taxes.
- (4) The failure of any employee, official, or officer of the County to perform any official duty imposed by this code will not subject the employee, official, or officer to the penalty imposed for violation of this code unless a penalty is specifically provided.

31.65 Effective Date.

This ordinance is effective August 1, 2011.

HISTORY

07/19/2011: Chapter 31 created by Ord. No. 2011/2012-39 to replace portions of Ch. 9 effective August 1, 2011.

04/24/2012: Appendix A created by Ord. No. 2012/2013-8 effective April 30, 2012.

07/15/2014: Appendix A amended by Ord. No. 2014/2015-28 effective July 26, 2014.

CHAPTER 31

APPENDIX A

**Manitowoc County
Floodplain Study Appendix**

Flood Study Name	Town	Case #	Location	Effective Date
Cedar Creek at Route 151	Eaton	FEMA 11-05-7812P	SE, SE, Sec. 18, T18N-R21E	04/30/2012
Hydraulic/Dam Failure Analysis Millhome Dam	Schleswig	WDNR Field File 36.04 Sequence #268	Sec. 34, T17N-R21E	07/26/2014