

**Village of Lake Hallie Floodplain Ordinance – Chapter 32**

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### **Village Board Approval:**

On January 18<sup>th</sup>, 2010, the Village Board adopted ordinance number 2010-01, which created the Village's Floodplain Ordinance. The final ordinance provisions/regulations are presented on the subsequent pages.

**ARTICLE I. IN GENERAL**

**Sec. 32-1. Statutory authorization.**

This ordinance is adopted pursuant to the authorization in Wis. Stats. §§ 61.35, 62.23 and 87.30.

**Sec. 32-2. Findings of fact.**

Uncontrolled development and use of the floodplain and rivers or streams of the Village of Lake Hallie would impair the public health, safety, convenience, general welfare, and tax base.

**Sec. 32-3. Statement of purpose.**

The purpose of this ordinance is to regulate floodplain development to:

- (a). Protect life, health and property;
- (b). Minimize expenditures of public monies for flood control projects;
- (c). Minimize rescue and relief efforts, undertaken at the expense of the tax paying public;
- (d). Minimize business interruptions and other economic disruptions;
- (e). Minimize damage to public facilities in the floodplains;
- (f). Minimize the occurrence of future flood blight areas in floodplains;
- (g). Discourage the victimization of unwary land and home buyers;
- (h). Prevent increases in flood heights that could increase flood damage and result in conflicts between property owners; and
- (i). Discourage development in a floodplain if there is any practicable alternative to locate the activity, use or structure outside the floodplain.

**Sec. 32-4. Definitions.**

Unless specifically defined below, words and phrases used in this ordinance shall have the same meaning as they have at common law and to give this ordinance it's most reasonable application. Words used in the present tense include the future, the singular number includes the plural, and the plural number includes the singular. The word "may" is permissive; "shall" is mandatory and not discretionary.

- (1). *A zones* means those areas shown on the village official floodplain zoning map, which would be inundated by the regional flood. These areas may be numbered or be unnumbered A zones. The A zones may or may not be reflective of flood profiles, depending on the availability of data for a given area.
- (2). *Accessory structure or use* A facility, building, structure or a use which is accessory or incidental to the principal use of a property, structure or building.
- (3). *Administrator* means a person employed by the Village of Lake Hallie officially designated to administer this ordinance or an agent designated by the administrator.
- (4). *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.
- (5). *Basement* means any enclosed area of a building having its floor subgrade, i.e. below ground level, on all sides.
- (6). *Building. See Structure.*
- (7). *Bulkhead line* means a geographic line along a reach of navigable water that has been adopted by a county or village 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 high-water mark, except where such filling is prohibited by the floodway provisions of this ordinance.
- (8). *Campground* means any parcel of land which is designed, maintained, intended, or used for the purpose of providing a site for nonpermanent overnight use by 4 or more camping units, or which is advertised or represented as a camping area.
- (9). *Camping Unit* means any portable device, no more than 450 square feet in area, used as a temporary shelter, including but not limited to a camping trailer, motor home, bus, van, pick-up truck, tent or other mobile recreational vehicle.
- (10). *Certificate of compliance* means a certification issued by the administrator stating 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.

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- (11). *Channel* means a natural or artificial watercourse with definite bed and banks to confine and conduct normal flow of water.
- (12). *Crawlways or crawlspace* means an enclosed area below the first usable floor of a building, generally less than five (5) feet in height, used for limited access to plumbing and electrical utilities.
- (13). *Deck* means an unenclosed exterior structure that has no roof or sides, but has a permeable floor which allows the infiltration of precipitation.
- (14). *Department* means the Wisconsin Department of Natural Resources.
- (15). *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; and 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.
- (16). *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.
- (17). *Encroachment* means any fill, structure, equipment, building, use or development in the floodway.
- (18). *Existing manufactured home park or subdivision* means a parcel, or contiguous parcels, of land divided into two or more manufactured home lots for rent or sale on which the construction of facilities for servicing the lots, including, at a minimum, the installation of utilities, either final site grading or the pouring of concrete pads, and the construction of streets, is completed before the effective date of the ordinance from which this ordinance is derived.
- (19). *Expansion to existing mobile/manufactured home park* 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.
- (20). *Federal Emergency Management Agency (FEMA)* means the federal agency that administers the National Flood Insurance Program.
- (21). *Flood Insurance Rate Map (FIRM)* means a map of a community on which the Federal Insurance Administration has delineated both special flood hazard areas (the floodplain) and the risk premium zones applicable to the community. This map can only be amended by the Federal Emergency Management Agency.
- (22). *Flood* and *Flooding* mean 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 inundation caused by waves or currents of water exceeding anticipated cyclical levels along the shores of Lake Michigan or Lake Superior; or
  - d. 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.
- (23). *Flood frequency* means the probability of a flood occurrence. A flood frequency is generally determined from statistical analyses. The frequency of a particular flood event is usually expressed as occurring, on the average, once in a specified number of years or as a percent chance of occurring in any given year.
- (24). *Floodfringe* means that portion of the floodplain outside of the floodway which is covered by floodwaters during the regional flood and generally associated with standing water rather than flowing water.
- (25). *Flood hazard boundary map* means a map prepared by FEMA designating approximate flood hazard areas. Flood hazard areas are designated as unnumbered A-zones and do not contain floodway lines or regional flood elevations. This map forms the basis for both the regulatory and insurance aspects of the National Flood Insurance Program until superseded by a Flood Insurance Study and a Flood Insurance Rate Map.
- (26). *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.

- (27). *Floodplain* means that land which has been or may be hereafter covered by floodwater during the regional flood. The floodplain includes the floodway and the floodfringe, and may include other designated floodplain areas for regulatory purposes.
- (28). *Floodplain island* means a natural geologic land formation within the floodplain that is surrounded, but not covered, by floodwater during the regional flood.
- (29). *Floodplain management* means the policy and procedures for ensuring wise use of floodplains. It includes mapping and engineering, mitigation, education, and administration and enforcement of floodplain regulations.
- (30). *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.
- (31). *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.
- (32). *Flood protection elevation* means an elevation two feet of freeboard above the water surface profile elevation designated for the regional flood. See *Freeboard*.
- (33). *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.
- (34). *Flood storage* means those floodplain areas where storage of flood waters has been taken into account during analysis in reducing the regional flood discharge.
- (35). *Freeboard* means a safety factor expressed in terms of a specified number of feet above a calculated flood level. Freeboard compensates for the effects of any factors that cause flood heights greater than those calculated including, but are not limited to, 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.
- (36). *Habitable structure* means any structure or portion thereof used or designed for human habitation.
- (37). *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.
- (38). *Hearing notice* means publication or posting meeting the requirements of. Wis. Stat. § 985. Class 1 notice is the minimum required for appeals and must be published once at least one week (seven days) before the hearing. Class 2 notice is the minimum required for all zoning ordinances and amendments, including map amendments, and must be published twice, once each week consecutively, the last publication at least a week (seven days) before the hearing. Local ordinances or bylaws may require additional notice, exceeding these minimums.
- (39). *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 has been approved by the Secretary of the Interior, or
  - 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.
- (40). *Increase in regional flood height* means a calculated upward rise in the regional flood elevation, equal to or greater than 0.01 foot, resulting from comparison of existing conditions and proposed conditions which is directly attributable to development in the floodplain but not attributable to manipulation of mathematical variables, such as roughness factors, expansion and contraction coefficients and discharge.
- (41). *Land use* means any nonstructural use made of unimproved or improved real estate. See *Development*.

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- (42). *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."
- (43). *Mobile Recreational Vehicle* A vehicle which is built on a single chassis, 400 square feet or less when measured at the largest horizontal projection, designed to be self-propelled, carried or permanently towed 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 a 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 vehicle."
- (44). *Municipality* and/or *municipal* mean the Village of Lake Hallie, which is enacting, administering and enforcing this ordinance.
- (45). *NAVD or North American Vertical Datum* means elevations referenced to mean sea level datum, 1988 adjustment.
- (46). *NGVD and National Geodetic Vertical Datum* mean elevations referenced to mean sea level datum, 1929 adjustment.
- (47). *New Construction* for floodplain purposes, "new construction" means structures for which the start of construction commenced on or after the effective date of floodplain zoning regulations adopted by this community and includes any subsequent improvements to such structures. For the purpose of determining flood insurance rates, it includes any structures for which the "start of construction" commenced on or after the effective date of an initial FIRM or after December 31, 1974, whichever is later, and includes any subsequent improvements to such structures.
- (48). *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 floodfringe district is a conforming use. However, if the first floor is lower than the flood protection elevation, the structure is nonconforming.)
- (49). *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.)
- (50). *Obstruction to flow* means any development which blocks the conveyance of floodwaters such that this development by itself or in conjunction with any future similar development will cause an increase in regional flood height.
- (51). *Official floodplain zoning map* means that map, adopted and made part of this ordinance, as described in section 32-81(b), which has been approved by the Department and FEMA.
- (52). *Open space use* means those uses having a relatively low flood damage potential and not involving structures.
- (53). *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.
- (54). *Person* means an individual, or group of individuals, corporation, partnership, association, municipality or state agency.
- (55). *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. This term also means an alternative sewage system approved by the Department of Commerce, including a substitute for the septic tank or soil absorption field, a holding tank, a system serving more than one structure or a system located on a different parcel than the structure.
- (56). *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 sewerage and storm sewer.
- (57). *Reasonably Safe from Flooding* means base flood waters will not inundate the land or damage structures to be removed from the special flood hazard area and that any subsurface waters related to the base flood will not damage existing or proposed buildings.

- (58). *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 (regional flood elevation) is equivalent to the BFE (base flood elevation).
- (59). *Start of construction* means the date the building 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 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 or 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.
- (60). *Structure* means any manmade object with form, shape and utility, either permanently or temporarily attached to, placed upon or set into the ground, streambed or lake bed, which includes, but is not limited to, such objects as roofed and walled buildings, gas or liquid storage tanks, bridges, dams and culverts.
- (61). *Subdivision* has the meaning given in Wis. Stat. § 236.02(12)..
- (62). *Substantial Damage* means the 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.
- (63). *Unnecessary hardship* means that circumstance 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 this ordinance.
- (64). *Variance* means an authorization by the board of adjustment or appeals for the construction or maintenance of a building or structure in a manner which is inconsistent with dimensional standards (not uses) contained in this ordinance.
- (65). *Violation* The failure of a structure or other development to be fully compliant with the floodplain zoning ordinance. A structure or other development without required permits, lowest floor elevation documentation, floodproofing certificates or required floodway encroachment calculations is presumed to be in violation until such time as that documentation is provided.
- (66). *Watershed* means the entire region contributing runoff or surface water to a watercourse or body of water.
- (67). *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.
- (68). *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.

**Secs. 32-5--32-40. Reserved.**

## **ARTICLE II. ADMINISTRATION**

### **Sec. 32-41. Enforcement, Violation and Penalty.**

- (a). *Violation.* Any building, or structure erected, moved or structurally altered, or any use established in violation of the provisions of this ordinance shall be deemed an unlawful building, structure or use.
- (b). *Enforcement.* The Administrator shall report all violations of this ordinance and action thereof to the Village Board. The Administrator may sign a complaint and report same violation to the Village Attorney. It shall be the duty of the Village Attorney to expeditiously prosecute all such violators.
- (c). *Penalties.* Any person who violates, disobeys, omits, neglects or refuses to comply with or resists the enforcement of any of the provisions of this ordinance shall, upon conviction thereof, forfeit to the county a penalty of not less than \$100.00 together with a taxable cost of such action and not more than \$500.00, and in default of payment thereof shall be imprisoned in the county jail for a term of not more than 30 days or until such penalty and costs are paid. Every day of violation shall constitute a separate offense in addition to any penalties. Compliance with this ordinance is

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mandatory, and no building or structure shall be allowed without full compliance. Compliance therewith may also be enforced by injunctive order at the suit of the village, the state, or any citizen against the owner or owners of real estate within the district affected by the regulations of this ordinance pursuant to Wis. Stat. § 87.30.

### Sec. 32-42. Officials.

This ordinance provides for the appointment of appropriate boards and staff, and the development of necessary policies and procedures, to administer this ordinance. Where an administrator, planning agency or a board of appeals has already been appointed to administer a zoning ordinance adopted under Wis. Stats. §§ 61.35 and 62.23, these officials shall also administer this ordinance.

### Sec. 32-43. Administrator.

- (a). *Authority; duties and powers.* The administrator is hereby authorized to administer the provisions of this ordinance and shall have the following duties and powers:
- (1). Advise applicants of the provisions of this ordinance; assist them in preparing permit applications and appeals, and ensure that the regional flood evaluation 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. All permits issued.
    - b. Inspections made.
    - c. Work approved.
    - d. Documentation of certified lowest floor and regional flood elevations for floodplain development.
    - e. Records of water surface profiles, floodplain zoning maps and ordinances, nonconforming uses and structures, including changes, appeal, variances and amendments.
    - f. All substantial damage assessment reports for floodplain structures.
  - (5). Submit copies of the following items to the Department regional office:
    - a. Within ten days of the decision, a copy of any decisions on variances, appeals for map or text interpretations, and map or text amendments;
    - b. Copies of any case-by-case analyses, and any other information required by the Department, including an annual summary of the number and types of floodplain zoning actions taken.
    - c. Copies of substantial damage assessments performed and all related correspondence concerning the assessments.
  - (6). Investigate, prepare reports, and report violations of this ordinance to the appropriate municipal zoning agency and the corporation counsel for prosecution. Copies of the violation reports shall also be sent to the Department regional office.
  - (7). Submit copies of text and map amendments and biennial reports to the regional office of FEMA.
- (b). *Public information.*
- (1). Where useful, marks on bridges or buildings or other markers may be set to show the depth of inundation during the regional flood.
  - (2). All available information in the form of maps, engineering data and regulations shall be available and be widely distributed.
  - (3). All real estate transfers should show what floodplain zoning district any real property is in.
- (c). *Land use permit.* A land use permit shall be obtained from the administrator before any new development, as defined in section 32-4(15), or any repair or change in the use of an existing building or structure, including sewage and water facilities, may be initiated. Application to the administrator shall include:
- (1). *General information.*
    - a. Name and address of the applicant, property owner and contractor-builder.



- b. Legal description of the property, proposed use, and whether it is new construction or a modification.
- (2). *Site development plan.* The site development plan shall be drawn to scale and submitted as a part of the permit application form and shall contain:
  - a. Location, dimensions, area and elevation of the lot.
  - b. Location of the ordinary high-water mark of any abutting navigable waterways.
  - c. Location of any structures with distances measured from the lot lines and street centerlines.
  - d. Location of any existing or proposed on-site sewage systems or private water supply systems.
  - e. Location and elevation of existing or future access roads.
  - f. Location of floodplain and floodway limits on the property as determined from the official floodplain zoning maps.
  - g. The elevation of the lowest floor of proposed buildings and any fill using National Geodetic Vertical Datum (NGVD) or North American Vertical Datum (NAVD).
  - 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 divisions 2 and 3 of article III are met.
  - i. Data to determine if the proposed development will cause an obstruction to flow or an increase in regional flood height or discharge according to section 32-82. This may include any of the information noted in section 32-113(a).
- (3). *Data requirements to analyze developments.*
  - a. The applicant shall provide all computations required to show the effects of the project on flood heights, velocities and floodplain storage, for all subdivision proposals, as the term "subdivision" is defined in Wis. Stat. § 236, and other proposed developments exceeding five (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.
    3. Adequate surface drainage to minimize flood damage.The estimated cost of the proposal shall include all structural development, landscaping, access and road development, electrical and plumbing, and similar items reasonably applied to the overall development costs, but may not include land costs.
- (4). *Expiration.* All permits issued under the authority of this article shall expire one year from the date of issuance.
- (d). *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 administrator subject to the following provisions, except where no building, zoning or land use permit is required:
  - (1). The certificate of compliance shall show that the building or premises or part thereof, and the proposed use, conform to the provisions of this ordinance.
  - (2). Application for such certificate shall be concurrent with the application for a permit.
  - (3). The certificate of compliance shall be issued within ten days after notification of completion of the work specified in the permit, providing the building or premises or proposed use conforms with all the provisions of this ordinance.
  - (4). The applicant shall submit a certification signed by a registered professional engineer, architect or registered land surveyor that the fill and lowest floor elevations are in compliance with the permit issued, including any required floodproofing. Floodproofing measures also require certification by a registered professional engineer or architect that floodproofing measures meet the requirements of section 32-85.
- (e). *Other permits.* It is the responsibility of the applicant to secure all other necessary permits from all appropriate federal, state, and local agencies, including 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.

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### Sec. 32-44. Village Board.

- (a). The Village Board shall oversee the functions of the office of the administrator, review and make recommendations on all proposed amendments to the floodplain zoning ordinance map and text.
- (b). The Village Board shall not grant variances to the terms of this ordinance nor amend the text or zoning maps in place of official action by the board of appeals.

### Sec. 32-45. Board of Appeals.

The Board of Appeals, created under Wis. Stat. § 62.23(7)(e), is hereby authorized or shall be appointed to act for the purposes of this ordinance. The Board of Appeals shall exercise the powers conferred by the Wisconsin State Statutes and adopt rules for the conduct of business. The administrator may not be the secretary of the board.

- (a). *Powers and duties.* The Board of Appeals shall have the following duties:
  - (1). *Administrative Appeals.* Hear and decide appeals where it is alleged there is error in any order, requirement, decision or determination made by an administrative official in the enforcement or administration of this ordinance.
  - (2). *Boundary disputes.* Hear and decide disputes concerning the district boundaries shown on the official floodplain zoning map.
  - (3). *Variances.* Hear and decide, upon appeal, variances from the standards of this ordinance.
- (b). *Appeals.*
  - (1). Appeals to the Board of Appeals may be taken by any person aggrieved or by any officer, department, board or bureau of the village affected by any decision of the administrator. Such appeal shall be taken within 30 days, as provided by the rules and by-laws of the Board of Appeals, by filing with the administrator a notice of appeal specifying the reasons for the appeal. The official whose decision is in question shall transmit to the Board of Appeals all the papers constituting the record concerning the matter appealed.
  - (2). Notice and hearing for appeals, including variances, shall be as follows:
    - a. *Notice.* The Board of Appeals shall:
      1. Fix a reasonable time for the hearing.
      2. Publish adequate notice pursuant to state statutes, specifying the date, time, place and subject of the hearing.
      3. Ensure that notice shall be mailed to the parties in interest and the regional office of the Department at least ten (10) days in advance of the hearing.
    - b. *Hearing.* The Board of Appeals shall:
      1. Resolve boundary disputes according to subsection (c) of this section.
      2. Consider variance applications according to subsection (d) of this section.
      3. Review appeals of permit denials according to section 32-46.
    - c. *Appearance.* At the hearing any party may appear in person or by agent or attorney.
  - (3). *Decision.* The final decision regarding the appeal or variance application shall:
    - a. Be made within a reasonable time.
    - b. Be sent to the regional office of the Department within ten days of the decision.
    - c. Be a written determination signed by the chairman or secretary of the Board of Appeals.
    - d. State the specific facts which are the basis for the Board of Appeals decisions.
    - e. Either affirm, reverse, vary or modify the order, requirement, decision or determination appealed, in whole or in part, dismiss the appeal for lack of jurisdiction or grant or deny the application for a variance.
    - f. Include the reasons or justifications for granting an appeal, with a description of the hardship demonstrated by the applicant in the case of a variance, clearly stated in the recorded minutes of the board proceedings.
- (c). *Boundary disputes.* The following procedure shall be used by the Board of Appeals in hearing disputes concerning the district boundaries shown on the official floodplain zoning map:

- (1). Where a floodplain district boundary is established by approximate or detailed floodplain studies, the flood elevations or profiles shall prevail in locating the boundary. If none exist, evidence may be examined.
  - (2). In all cases, the person contesting the location of the district boundary shall be given a reasonable opportunity to present arguments and technical evidence to the board of adjustment/appeals.
  - (3). Where it is determined that the district boundary is incorrectly mapped, the Board of Appeals should inform the person contesting the location of the boundary to petition the Village Board for a map amendment according to section 32-47.
- (d). *Variance.*
- (1). The Board of Appeals may, upon appeal, grant a variance from the standards of this ordinance where an applicant convincingly demonstrates that:
    - a. Literal enforcement of the provisions of this ordinance will result in unnecessary hardship.
    - b. The hardship is due to adoption of this ordinance and special conditions unique to the property, not common to adjacent lots or premises; in such case, the code or map must be amended.
    - c. The lot is less than one-half acre in size and is contiguous to existing structures constructed below the regional flood elevation.
    - d. Upon showing good and sufficient cause that the request is the minimum relief necessary.
    - e. Such variance is not contrary to the public interest.
    - f. Such variance is consistent with the purpose of this ordinance stated in section 32-3.
  - (2). 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. Cause increased risks to public safety or nuisances.
    - f. Increase costs for rescue and relief efforts.
    - g. Cause any increase in the regional flood elevation.
    - h. Allow actions without the required amendment to this ordinance or map described in section 32-47.
    - i. Allow any alteration of an historic structure, including its use, which would preclude its continued designation as an historic structure.
  - (3). When a variance is granted in a floodplain area, the board shall notify the applicant in writing that it may increase flood insurance premiums and risks to life and property. A copy of this notification shall be maintained with the variance record.

**Sec. 32-46. Review of appeals of permit denials.**

- (a). The Board of Appeals shall review all data relating to the appeal of permit denial. This data includes:
  - (1). Permit application data listed in section 32-43(c).
  - (2). Floodway/floodfringe determination data in section 32-174.
  - (3). Data listed in section 32-113(a).
  - (4). Other data submitted to the administrator with the permit application, or submitted to the Board of Appeals with the appeal.
- (b). For appeals of all denied permits the Board of Appeals shall:
  - (1). Follow the procedures of section 32-45.
  - (2). Consider the administrator recommendations.
  - (3). Either uphold the denial or grant the appeal.
- (c). For appeals concerning increases in regional flood elevation the board shall:

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- (1). 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 any appropriate legal arrangements are made with all adversely affected property owners.
- (2). 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 exists.

### **Sec. 32-47. Amendments.**

- (a). *General.* The Village Board may change or supplement the boundaries of the floodplain zoning districts and the regulations contained in this ordinance in the manner provided by law. Actions which require an amendment include, but are not limited to, the following:
  - (1). Any change to the official floodplain zoning map, including the floodway line or boundary of any floodplain area.
  - (2). Correction of discrepancies between the water surface profiles and floodplain zoning maps.
  - (3). Any fill in the floodplain which raises the elevation of the filled area to a height at or above the flood protection elevation and is contiguous to land lying outside the floodplain.
  - (4). Any fill or encroachment into the floodplain that will obstruct flow causing an increase of 0.01 foot or more in regional flood height.
  - (5). Any upgrading of floodplain zoning ordinances text required by Wis. Admin. Code NR 116.05 or otherwise required by law, or for changes by the Village Board.
  - (6). All channel relocations and changes to the maps to alter floodway lines or to remove an area from the floodway or the floodfringe that is based on a base flood elevation from a FIRM requires prior approval by FEMA.
- (b). *Procedures.* Amendments to this ordinance may be made upon petition of any interested party according to Wis. Stat. § 62.23. Such petitions shall include any necessary data required by sections 32-43(c) and 32-174.
  - (1). Copies of any amendment proposed shall be referred to the Village Board for a public hearing. Copies of the proposed amendment and notice of the public hearing shall be submitted to the appropriate regional office of the Department for review prior to the hearing. The amendment procedure shall comply with the provisions of Wis. Stats. §§ 61.35 and 62.23.
  - (2). No amendment to the maps or text of this ordinance shall become effective until reviewed and approved by the Department.
  - (3). All persons petitioning for a map amendment which involves an obstruction to flow causing an increase of 0.01 foot or more in the height of the regional flood shall obtain flooding easements, or other appropriate legal arrangements, from all adversely affected property owners before the amendment can be approved by the Village Board.
  - (4). For amendments in areas where no water surface profiles exist, the Village Board shall consider data submitted by the Department, the administrator's visual on-site inspections and other available information. (See section 32-81(d)).

### **Secs. 32-48--32-80. Reserved.**

## **ARTICLE III. DISTRICT REGULATIONS**

### **DIVISION 1. GENERALLY**

#### **Sec. 32-81. General provisions.**

General provisions for all districts are as follows:

- (a). *Areas to be regulated.* Areas to be regulated by this ordinance include all areas within the limits of the village that would be covered by the regional flood as defined in section 32-4(58) or base flood as defined in section 32-4(4) and include floodplain islands as defined in section 32-4(28), where emergency rescue and relief routes would be inundated by the regional flood. Note: Base flood elevations are derived from the flood profiles in the Flood Insurance Study. Regional flood elevations may be derived from other studies. Areas covered by the base flood are identified as A-Zones on the Flood Insurance Rate Map.

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- (b). *Official maps, revisions, and amendments.* The boundaries of all floodplain districts are designated as floodplains or A-Zones on the maps listed below and the revisions in the Village of Lake Hallie Floodplain Appendix. Any change to the base flood elevations (BFE) in the Flood Insurance Study (FIS) or on the Flood Insurance Rate Map (FIRM) must be reviewed and approved by the DNR and FEMA before it is effective. No changes to regional flood elevations (RFE's) on non-FEMA maps shall be effective until approved by the DNR. These maps, revisions, or amendments are on file in the office of the Chippewa County Planning & Zoning Department. If more than one map, revision, or amendment is referenced, the most restrictive information shall apply.
- (1). Flood Insurance Rate Maps – Community Number 555549 effective date March 2, 2010. Approved: DNR & FEMA.
    - a. Panel Numbers:
      1. 55017C0562E
      2. 55017C0563E
      3. 55017C0564E
      4. 55017C0566E
      5. 55017C0567E
      6. 55017C0568E
      7. 55017C0586E
      8. 55017C0590E
      9. 55017C0726E
  - (2). Flood Insurance Study - Number 55017CV000A effective date March 2, 2010. Approved by: DNR & FEMA.
- (c). *Establishment of districts.* The regional floodplain areas are hereby divided into three districts defined in section 32-4(24), (27) and (33) and as follows:
- (1). The floodway district (FW) consists of the channel of a river or stream and those portions of the floodplain adjoining the channel required to carry the regional flood waters.
  - (2). The floodfringe district (FF) consists of that portion of the floodplain between the regional flood limits and the floodway.
  - (3). The general floodplain district (GFP) consists of all areas which have been or may be hereafter covered by flood water during the regional flood.
- (d). *Locating floodplain boundaries.* Where an apparent discrepancy exists between the location of the outermost boundary of the floodfringe district or general floodplain district shown on the official floodplain zoning map and actual field conditions, the location shall be initially determined by the administrator using the criteria in subsections (1) and (2) of this section. Where the administrator finds that there is a significant difference between the map and the actual field conditions, the map shall be amended using the procedures established in section 32-47. Disputes between the administrator and an applicant over the location of the district boundary line shall be settled according to section 32-45(c).
- (1). Where flood profiles exist, the location of the district boundary line shall be determined by the administrator using both the scale appearing on the map and the elevations shown on the water surface profile of the regional flood. The regional and base flood elevations shall govern if there are any discrepancies.
  - (2). Where flood profiles do not exist, the location of the district boundary line shall be determined by the administrator using the scale appearing on the map, visual on-site inspection and any available information provided by the Department. **Note:** Where the flood profiles are based on established base flood elevations from a FIRM, FEMA must also approve any map amendment pursuant to section 32-47(a)(6).
- (e). *Removal of lands from floodplain.* Compliance with the provisions of this ordinance shall not be grounds for removing lands from the floodplain district, unless they are filled to a height of at least two feet above the regional or base flood elevation, the fill is contiguous to land lying outside the floodplain district, and the map is amended pursuant to section 32-47. **Note:** This procedure does not remove the requirements for the mandatory purchase of flood insurance. The property owner must contact FEMA to request a Letter of Map Change (LOMC).
- (f). *Compliance.* Any development, as defined in section 32-4(16) or use within the areas regulated by this ordinance shall be in full compliance with the terms of this ordinance, and other applicable local, state and federal regulations.

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- (g). *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 state Department of Transportation are exempt when Wis. Stat. § 30.2022 applies.
- (h). *Abrogation and greater restrictions.*
- (1). This ordinance supersedes all the provisions of any municipal zoning ordinance enacted under Wis. Stats. §§ 61.35 and 87.30, which relate to floodplains except that where another village zoning ordinance is more restrictive than the provisions contained in 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. However, where this ordinance imposes greater restrictions, the provisions of this ordinance shall prevail.
- (i). *Interpretation.* In their interpretation and application, the provisions of this ordinance shall be consistent with the purpose and intent of this ordinance, and shall not be deemed a limitation on or repeal of any other powers granted by the state statutes. Where a provision of this ordinance is required by a standard in Wis. Admin. Code NR 116 and where the provision of this ordinance is unclear, the provision shall be interpreted in light of the Wis. Admin. Code NR 116 standards in effect on the date of the adoption of the ordinance, this ordinance is derived or in effect on the date of the most recent text amendment to this ordinance.
- (j). *Warning and disclaimer of liability.* The flood protection standards in this ordinance are based on engineering experience and scientific methods of study. Larger floods may occur or the flood height may be increased by manmade or natural causes. Therefore, this ordinance does not imply that areas outside of the delineated floodplain, or permitted land uses within the floodplain, will be free from flooding and flood damages, Nor does this ordinance create liability on the part of, or a cause of action against, the village or any officer or employee thereof for any flood damage that may result from reliance on this ordinance.
- (k). *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.
- (l). *Annexed Areas-to the Village of Lake Hallie.* The Chippewa County floodplain zoning provisions in effect on the date of annexation shall remain in effect and shall be enforced by the village for all annexed areas until the village adopts and enforces an ordinance which meets the requirements of Wis. Admin Code NR 116, and the National Flood Insurance Program (NFIP). These annexed lands are described on the Village'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 administrator. All plats or maps of annexation shall show the regional flood elevation and the location of the floodway.
- (m). *General Development Standards.* The community shall review all permit applications to determine whether proposed building sites will be reasonably safe from flooding. If a proposed building site is in a flood-prone area, all new construction and substantial improvements shall be designed or modified and adequately anchored to prevent flotation, collapse, or lateral movement of the structure resulting from hydrodynamic and hydrostatic loads; be constructed with materials resistant to flood damage; be constructed by methods and practices that minimize flood damages; and be constructed with electrical, heating, ventilation, plumbing, and air conditioning equipment and other service facilities designed and/or located so as to prevent water from entering or accumulating within the components during conditions of flooding. Subdivisions shall be reviewed for compliance with the above standards. All subdivision proposals (including manufactured home parks) shall include regional flood elevation and floodway data for any development that meets the subdivision definition of this ordinance.

### **Sec. 32-82. General standards applicable to all floodplain districts.**

- (a). No development shall be allowed in floodplain areas which will obstruct flow, defined as development which blocks the conveyance of floodwaters by itself or with other development, or increase the height of the regional flood due to storage area lost, equal to or exceeding 0.01 foot, except as provided in subsection (c) of this section.
- (b). The administrator shall deny permits where it is determined the proposed development will cause an obstruction to flow or increase in regional flood height of 0.01 foot or greater, based on the officially adopted FIRM or other adopted map, unless the provisions of subsection (c) of this section are met.
- (c). Obstructions or increases equal to or greater than 0.01 foot may only be permitted if amendments are made to this ordinance and the official floodplain zoning maps, including floodway lines and water surface profiles, in accordance with section 32-47.

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

**Sec. 32-83. Watercourse alterations.**

Prior to any alteration or relocation of a watercourse, and prior to the issuance of any land use permit which may be required for the alteration or relocation of a watercourse, the administrator shall notify in writing all of the adjacent municipalities, the appropriate regional office of the Department and the appropriate office of FEMA and shall require the applicant to secure all necessary state and federal permits. The flood carrying capacity within the altered or relocated portion of any watercourse shall be maintained. As soon as is practicable, but no later than 6 months after the date of the watercourse alteration or relocation, the administrator shall notify FEMA of the changes by submitting appropriate technical and scientific data in accordance with NFIP guidelines that shall be used to revise the FIRM, risk premium rates and floodplain management regulations as required.

**Sec. 32-84. Wis. Stats. §§ 30 & 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, provided the necessary local permits are obtained and necessary amendments to the official floodway lines, water surface profiles, BFE's established in the FIS, or other data from the officially adopted FIRM, or other floodplain zoning maps or this ordinance are made according to section 32-47.

**Sec. 32-85. Floodproofing.**

- (a). Where floodproofing measures, as defined in section 32-4(31) are required, they shall be designed to:
  - (1). Withstand the flood pressures, depths, velocities, uplift and impact forces, and other factors associated with the regional flood.
  - (2). Ensure protection to the flood protection elevation.
  - (3). Provide anchorage of structures to foundations to resist flotation and lateral movement.
  - (4). Ensure that the structural walls and floors are watertight and completely dry without human intervention during flooding to the flood protection elevation.
- (b). No permit or variance shall be issued 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 the flood protection elevation.
- (c). Floodproofing measures could include:
  - (1). Reinforcement of walls and floors to resist rupture or collapse caused by water pressure or floating debris.
  - (2). Addition of mass or weight to structures to prevent flotation.
  - (3). Placement of essential utilities above the flood protection elevation.
  - (4). Surface or subsurface drainage systems to relieve external foundation wall and basement floor pressures.
  - (5). Construction of water supply wells, and waste treatment systems to prevent the entrance of floodwaters.
  - (6). Cutoff valves on sewer lines or elimination of gravity flow basement drains.

**Sec. 32-86. Public or Private Campgrounds.** Public or private campgrounds shall have a low flood damage potential and shall meet the following provisions:

- (a). The campground is approved by the Department of Health Services.
- (b). A land use permit for the campground is issued by the administrator.
- (c). 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.
- (d). 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.
- (e). 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 subsection. (d) of this section to remain in compliance with all applicable regulations, including those of the state Department of Health Services and all other applicable regulations.

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- (f). Only camping units are allowed.
- (g). The camping units may not occupy any site in the campground for more than 180 consecutive days, at which time the camping units must be removed from the floodplain for a minimum of 24 hours.
- (h). 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.
- (i). The municipality shall monitor the limited authorizations issued by the campground operator to assure compliance with the terms of this section.
- (j). All camping units that remain in place for more than 180 consecutive days must meet the applicable requirements in either Division 2 or 3 of this ordinance for the floodplain district in which the structure is located.
- (k). The campground shall have signs clearly posted on all entrances warning of the flood hazard and the procedures for evacuation when a flood warning is issued.
- (l). 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.

### **Secs. 32-87--32-110. Reserved.**

## **DIVISION 2. FLOODWAY DISTRICT (FW)**

### **Sec. 32-111. Applicability.**

The provisions of this division apply to all areas mapped as floodway on the official floodplain zoning maps and to those portions of the general floodplain district determined to be floodway according to the procedures in section 32-174.

### **Sec. 32-112. Permitted uses.**

The following open space uses are allowed in the floodway district and the floodway portion of the general floodplain district, providing they are not prohibited by any other ordinance, they meet the standards in section 32-113, and all permits or certificates have been issued according to section 32-43.

- (a). Agricultural uses, such as general farming, pasturing, outdoor plant nurseries, horticulture, viticulture, and wild crop harvesting.
- (b). Nonstructural industrial and commercial uses, such as loading areas, parking areas and airport land strips.
- (c). Nonstructural uses, such as golf courses, tennis courts, archery ranges, picnic grounds, boat launching ramps, swimming areas, parks wildlife and nature preserves, game farms, fish hatcheries, shooting preserves, shooting, trap and skeet ranges, hunting and fishing areas, and hiking and horseback riding trails subject to the fill limitations of section 32-113(d).
- (d). Uses or structures accessory to open space uses, or classified as historical structures, that are not in conflict with the provisions in sections 32-113 and 32-114.
- (e). Extraction of sand, gravel or other materials.
- (f). Functionally water-dependent uses, such as docks, piers or wharves, including those used as part of a marina, and other water related uses, such as dams, flowage areas, culverts, navigational aids and river crossings of transmission lines, and pipelines that comply with Wis. Stat. § 30.2022.
- (g). Public utilities, streets and bridges that comply with section 32-113.

### **Sec. 32-113. Standards for developments in floodway areas.**

- (a). *General.* Any development in floodway areas shall:
  - (1). Meet all of the provisions of section 32-82.
  - (2). Have a low flood damage potential.
  - (3). Not obstruct flood flows, causing an increase in the height of the regional flood; accordingly the administrator shall:
    - a. Require a cross section elevation view of the proposal, perpendicular to the watercourse, indicating whether the proposed development will obstruct flow;
    - b. An analysis calculating the effects of this proposal on regional flood height;



- c. Deny the permit application where it is determined the project will increase flood elevations upstream or downstream .01 foot or more; based on the data submitted.
- (b). *Structures.* Only structures which are accessory to permitted open space uses, classified as historical structures, or are functionally dependent on a waterfront location may be allowed by permit, providing the structures meet all of the following criteria:
  - (1). The structures are not designed for human habitation and do not have a high flood damage potential;
  - (2). The structures are constructed and placed on the building site so as to cause an increase less than 0.01 foot in flood height and offer minimum obstruction to the flow of flood waters. Structures shall be constructed with the longitudinal axis parallel to the flow of flood waters, and approximately on the same line as those of adjoining structures;
  - (3). The structures are properly anchored to prevent them from floating away and restricting bridge openings or other restricted section of the stream or river; and
  - (4). The structures have all service facilities, such as electrical and heating equipment, at or above the flood protection elevation.
- (c). Public utilities, streets and bridges may be allowed by permit, provided that:
  - (1). Adequate flood proofing measures are provided to the flood protection elevation.
  - (2). Construction meets the development standards of section 32-82.
- (d). Fills or deposition of materials may be allowed by permit, provided that:
  - (1). The requirements of section 32-82 are met;
  - (2). The fill or deposition of materials does not encroach on the channel area between the ordinary high-water mark on each bank of the stream unless a permit has been granted by the Department pursuant to Wis. Stat. § 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 the other requirements of this section are met;
  - (3). The fill or other materials will be protected against erosion by riprap, vegetative cover, sheet piling or bulkheading; and
  - (4). Such fills are not classified as solid waste or hazardous material.

**Sec. 32-114. Prohibited uses.**

All uses not listed as permitted uses in section 32-112 are prohibited, including the following uses:

- (a). Habitable structures, structures with high flood damage potential, or those not associated with permanent open-space uses.
- (b). The storage of any materials that are buoyant, flammable, explosive, or injurious to property, water quality, or human, animal, plant, fish or other aquatic life.
- (c). Any uses which are not in harmony with, or which may be detrimental to, the uses permitted in the adjoining districts.
- (d). All private or public on-site 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 Wis. Admin. Code COMM 83.
- (e). All 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 NR 811 and NR 812.
- (f). All solid and hazardous waste disposal sites, whether public or private.
- (g). All wastewater treatment ponds or facilities except those permitted under Wis. Admin. Code. NR 110.15(3)(b).
- (h). All sanitary sewer or water lines except those to service existing or proposed development outside the floodway which complies with the regulations for the floodplain area occupied.

**Secs. 32-115--32-140. Reserved.**

**DIVISION 3. FLOODFRINGE DISTRICT (FF)**

**Sec. 32-141. Purpose.**

The removal of large tracts of land needed for flood storage could increase flood elevations downstream. The filling in of all floodfringe areas within a watershed will cause a significant increase in flood levels and flood damages downstream. However, for the purpose of minimum floodplain zoning standards in Wis. Admin. Code NR 116, it was assumed that not enough fringe areas will be filled to cause a significant increase. Wis. Stat. § 87.30 and Wis. Admin. Code NR 116 allows municipalities to develop more restrictive floodplain zoning ordinances keeping the entire floodplain district in open space use.

**Sec. 32-142. Applicability.**

The provisions of this division apply to all areas within the flood fringe district, as shown on the official floodplain zoning maps, and to those portions of the general floodplain district that are determined to be in the floodfringe area pursuant to section 32-174.

**Sec. 32-143. Permitted uses.**

Any structure, land use, or development, is allowed within the floodfringe district and floodfringe portions of the general floodplain district, provided that the standards contained in section 32-144 are met, that the use is not prohibited by this ordinance or any other ordinance or any other local, state or federal regulation and that all permits or certificates specified in section 32-43 have been issued.

**Sec. 32-144. Standards for development in floodfringe areas.**

All of the provisions of section 32-82 shall apply in addition to the following requirements according to the use requested:

- (a). *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:
  - (1). The lowest floor, excluding the basement or crawlway, shall be placed on fill at or above the flood protection elevation. The fill elevation 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 where existing streets or sewer lines are at elevations which make compliance impractical,.
  - (2). The basement or crawlway floor may be placed at the regional flood elevation, providing it is floodproofed to the flood protection elevation.
  - (3). Contiguous dryland access as defined in section 32-4(16) shall be provided from a structure to land which is outside of the floodplain, except as provided in subsection (a)(4) of this section.
  - (4). In existing developments as defined in section 32-4(15) where existing streets or sewer lines are at elevations which make compliance with subsection (a)(3) of this section impractical, the village may permit new development and substantial improvements where access roads are at or below the regional flood elevation, provided:
    - a. The village has written assurance from the police, fire and emergency services that rescue and relief can be provided to the structures by wheeled vehicles, during a regional flood event; or
    - b. The village has an adequate natural disaster plan approved by Wisconsin Emergency Management and the Department.
- (b). *Accessory structures or uses.*
  - (1). Except as in section (2) below, an accessory structure or use 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 sections 32-113 (b) and 32-144 (c) below
- (c). *Commercial uses.* In commercial areas, any structure or building which is to be erected, altered or moved into the floodfringe area shall meet the requirements of section (a). Storage yards, surface parking lots and other such uses may

be at lower elevations, provided an adequate warning system exists to protect life and property and they are in compliance with section (e) below.

- (d). *Manufacturing and industrial uses.* Any manufacturing, industrial structure or building which is to be erected, altered or moved into the floodfringe area shall be protected to the flood protection elevation utilizing fill, levees, floodwalls, adequate flood proofing measures in accordance with section 32-85, or any combination thereof. Subject to the requirements of section 32-144 (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.* The storage of materials that are buoyant, flammable, explosive, or which in times of flooding, could be injurious to property, water quality or human, animal, plant, fish or aquatic life, shall be at or above the flood protection elevation or floodproofed in compliance with section 32-85. Adequate measures shall be taken to ensure that said materials will not enter the water body during flooding.
- (f). *Public utilities, streets and bridges.* Public utilities, streets, and bridges should be designed to be compatible with the local comprehensive floodplain development plans.
  - (1). When failure or interruption of public utilities, streets and bridges would result in danger to the public health or safety or where such facilities are deemed essential, construction of and substantial improvements to such facilities may only be permitted if they are floodproofed, in compliance with section 32-85, to the flood protection elevation.
  - (2). Minor roads or nonessential utilities may be constructed at lower elevations, providing they withstand flood forces to the regional flood elevation.
- (g). *Sewage systems.* All on-site sewage disposal systems shall be floodproofed to the flood protection elevation and shall meet the applicable provisions of this Code, other village ordinances and Wis. Admin. Code COMM 83.
- (h). *Wells.* All wells shall be floodproofed to the flood protection elevation, pursuant to section 32-85 and shall meet the applicable provisions of Wis. Admin. Code, NR 811 and NR 812.
- (i). *Solid waste disposal sites.* Solid or hazardous waste disposal sites are prohibited in floodfringe areas.
- (j). *Deposition of materials.* Deposition of materials for any purpose may only be allowed if all the provisions of this ordinance are met.
- (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:
    - 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 of the floodfringe in section (a).
- (l). *Mobile Recreational Vehicles.* All mobile recreational vehicles that are on-site for 180 consecutive days or more or are not fully licensed and ready for highway use shall meet the elevation and anchoring requirements of section (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.

**Secs. 32-145--32-170. Reserved.**

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

##### **Sec. 32-171. 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. As adequate regional flood data becomes available and floodways are delineated for portions of this district, such portions shall be designated in the floodfringe district or floodway district, as appropriate.

**Sec. 32-172. Permitted uses.**

The general floodplain district encompasses both floodway and floodfringe areas. Therefore, a determination shall be made pursuant to section 32-174 to determine whether the proposed use is located within a floodway or floodfringe area. Those uses permitted in floodways (section 32-112) and floodfringe areas (section 32-143) are allowed within the general floodplain district, according to the standards of section 32-173 and provided that all permits or certificates required under section 32-43 have been issued.

**Sec. 32-173. Standards for development in the general floodplain district.**

Once it is determined according to section 32-174 that a proposed use is located within a floodway, the provisions of division 2 of this article shall apply. Once determined that the proposed use is located within the floodfringe, the provisions of division 3 of this article shall apply. All provisions of the remainder of this ordinance shall apply to either district.

**Sec. 32-174. Determining floodway and floodfringe limits.**

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

- (a). Require the applicant to submit, at the time of application, two copies of an aerial photograph, or a plan which accurately locates the proposed development with respect to the general floodplain district limits, channel of stream and existing floodplain developments, together with all pertinent information, such as the nature of the proposal, legal description of the property, fill limits and elevations, building floor elevations and floodproofing measures.
- (b). Require the applicant to furnish any of the following additional information as is deemed necessary by the Department for evaluation of the effects of the proposal upon flood height and flood flows, the regional flood elevation and, where applicable, to determine the boundaries of the floodway:
  - (1). A typical valley cross section showing the channel of the stream, the floodplain adjoining each side of the channel, the cross sectional area to be occupied by the proposed development, and all historic highwater information.
  - (2). Plan (surface view) showing elevations or contours of the grounds; pertinent structure, fill or storage elevations; size, location and spatial arrangement of all proposed and existing structures on the site; location and elevations of streets, water supply and sanitary facilities; soil types and other pertinent information.
  - (3). Profile showing the slope of the bottom of the channel or flow line of the stream.
  - (4). Specifications for building construction and materials, floodproofing, filling, dredging, channel improvement, storage, water supply and sanitary facilities.
- (c). Transmit one copy of the information described in subsections (a) and (b) of this section 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 section 32-43(c)(3) apply, the applicant shall provide all required information and computations, to delineate floodway boundaries and the effects of the project on flood elevations.

**Secs. 32-175--32-210. Reserved.**

**ARTICLE IV. NONCONFORMING USES**

**Sec. 32-211. General provisions.**

Insofar as the standards in this ordinance are not inconsistent with the provisions of Wis. Stat. § 62.23(7)(h), they shall apply to all nonconforming uses and nonconforming structures. These regulations apply to the modification of, or addition to, any structure and to the use of any structure or premises which was lawful before the passage of the ordinance from which this ordinance is derived or any amendment thereto. The existing lawful use of a structure or building 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 a nonconforming structure shall be permitted unless they are made in conformity with the provisions of this ordinance for the area of the floodplain occupied. The terms "modification" and "addition" include, but are not limited to, any alteration, addition, modification, structural repair, rebuilding or replacement of any such existing use, structure or accessory structure or use. Ordinary maintenance repairs are not considered an extension, modifications or additions; these include internal and external 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 which does not exceed 200 square feet and 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). As requests are received for modifications or additions to nonconforming uses or nonconforming structures, a record shall be kept which lists the nonconforming uses and nonconforming structures, their present equalized assessed value, and the cost of those additions or modifications 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 percent 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 and contiguous dry land access is provided in compliance with section 32-144. Contiguous dryland access must be provided for residential and commercial uses in compliance with section 32-144(a). The cost of elevating a nonconforming building or a building with a nonconforming use to the flood protection elevation are excluded from the 50% provisions of this paragraph.
- (e). If any nonconforming structure or any structure with a nonconforming use is destroyed or is substantially damaged that it cannot be replaced, reconstructed or rebuilt unless the use and the structure meet the requirements of this ordinance. For the purpose of this subsection, a structure is considered substantially damaged if the total cost to restore the structure to its predamaged condition would equal or exceed 50 percent of the present equalized assessed value of the structure.
  - (1). 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 CFR Part 60), or the regulations promulgated there under.
- (f). A nonconforming historic building may be altered if the alterations will not preclude the structure continued designation as a historic structure, the alterations will comply with section 32-113(a), flood resistant materials are used, and construction practices and floodproofing methods that comply with section 32-85 are used.

**Sec. 32-212. Floodway areas.**

- (a). No modification or addition shall be allowed to any nonconforming structure or any structure with a nonconforming use in a floodway area, unless such modification or addition has been granted a permit or variance and meets the requirements of section 32-211 and all of the following criteria:
  - (1). The modification or addition to the existing structure will not increase the obstruction to flood flows or height of the regional flood.
  - (2). Any addition to the existing structure shall be floodproofed, pursuant to section 32-85, by means other than the use of fill, to the flood protection elevation.
  - (3). If any part of the foundation below the flood protection elevation is enclosed, the following standards shall apply:
    - a. 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.
    - b. The parts of the foundation located below the flood protection elevation must be constructed of flood-resistant materials.
    - c. Mechanical and utility equipment must be elevated or floodproofed to or above the flood protection elevation.
    - d. The use must be limited to parking or limited storage.
- (b). 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 governmental 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 application requirements of all municipal ordinances and Wis. Admin. Code COMM 83.

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- (c). No new well or modification to an existing well, used to obtain water for ultimate human consumption, 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. NR 811 and NR 812.

### **Sec. 32-213. Floodfringe areas.**

- (a). 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. In addition, 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 section 32-144, except where subsection (b) of this section is applicable.
- (b). Where compliance with the provisions of section (a) of this section 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/appeals, using the procedures established in section 32-45, may grant a variance from those provisions of section (a) of this section 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, and:
  - (1). No floor is allowed below the regional flood elevation for residential or commercial structures;
  - (2). Human lives are not endangered;
  - (3). Public facilities, such as water or sewer, will not be installed;
  - (4). Flood depths will not exceed two feet;
  - (5). Flood velocities will not exceed two feet per second; and
  - (6). The structure will not be used for storage of materials described in section 32-144(e).
- (c). If neither the provisions of section (a) or (b) of this section can be met, one addition to an existing room in a nonconforming building or a building with the nonconforming use may be allowed in the floodfringe, if the addition:
  - (1). Meets all other regulations and will be granted by permit or variance;
  - (2). Does not exceed 60 square feet in area; and
  - (3). In combination with other previous modifications or additions to the building, does not equal or exceed 50 percent of the present equalized assessed value of the building.
- (d). All new private sewage disposal systems or addition to, replacement, repair or maintenance of a private sewage disposal system shall meet all the applicable provisions of all local ordinances and Wis. Adm. Code COMM 83.
- (e). All new wells or addition to, replacement, repair or maintenance of a well shall meet the applicable provisions of this ordinance and Wis. Adm. Code NR 811 and NR 812.