

## Chapter 32 – Floodplain

|   |           |
|---|-----------|
| <b>ARTICLE I. IN GENERAL .....</b>  | <b>3</b>  |
| Sec. 32-1. Statutory authorization. ....  | 3         |
| Sec. 32-2. Findings of fact. ....   | 3         |
| Sec. 32-3. Statement of purpose.....  | 3         |
| Sec. 32-4. Definitions. ....  | 3         |
| Secs. 32-5. to 32-40. Reserved.....   | 11        |
| <b>ARTICLE II. ADMINISTRATION.....</b>  | <b>11</b> |
| Sec. 32-41. Enforcement, Violation and Penalties. ....                          | 11        |
| Sec. 32-42. Administration.....   | 12        |
| Sec. 32-43. Village Board.....  | 15        |
| Sec. 32-44. Board of Appeals. ....  | 15        |
| Sec. 32-45. Amendments. ....  | 18        |
| Secs. 32-46. to 32-80. Reserved.....  | 19        |
| <b>ARTICLE III. DISTRICT REGULATIONS.....</b>                                   | <b>19</b> |
| DIVISION 1. GENERAL PROVISIONS .....  | 19        |
| Sec. 32-81. General provisions.....   | 19        |
| Sec. 32-82. General standards applicable to all floodplain districts. ....      | 22        |
| Sec. 32-83. Floodproofing standards for non-conforming structures or uses.....  | 23        |
| Sec. 32-84. Public or private campgrounds.....                                  | 25        |
| Sec. 32-85. Hydraulic and hydrologic studies to analyze development. ....       | 26        |
| Secs. 32-86. to 32-110. Reserved.....   | 29        |
| DIVISION 2. FLOODWAY DISTRICT (FW).....   | 29        |
| Sec. 32-111. Applicability. ....  | 29        |
| Sec. 32-112. Permitted uses.....  | 29        |
| Sec. 32-113. Standards for developments in floodway district. ....              | 30        |
| Sec. 32-114. Prohibited uses.....   | 32        |
| Secs. 32-115. to 32-140. Reserved.....  | 33        |
| DIVISION 3. FLOODFRINGE DISTRICT (FF) .....                                     | 33        |
| Sec. 32-141. Applicability. ....  | 33        |
| Sec. 32-142. Permitted uses.....  | 33        |
| Sec. 32-143. Standards for development in floodfringe district.....             | 33        |
| Secs. 32-144. to 32-170. Reserved.....  | 35        |
| DIVISION 4. GENERAL FLOODPLAIN DISTRICT (GFP) .....                             | 35        |
| Sec. 32-171. Applicability. ....  | 35        |
| Sec. 32-172. Permitted uses.....  | 35        |
| Sec. 32-173. Standards for development in the general floodplain district. .... | 35        |
| Sec. 32-174. Determining floodway and floodfringe limits. ....                  | 36        |
| Secs. 32-175. to 32-210. Reserved.....  | 36        |
| <b>ARTICLE IV. NONCONFORMING STRUCTURES AND USES .....</b>                      | <b>36</b> |
| Sec. 32-211. General provisions.....  | 36        |
| Sec. 32-212. Floodway districts.....  | 39        |
| Sec. 32-213. Floodfringe districts.....   | 39        |

**Village Board Approval**

On January 18, 2010, the Village Board adopted ordinance number 2010-01, which created the Village's Floodplain Ordinance.

On September 18, 2023, the Village Board adopted ordinance number 2023-XX, which repealed and recreated the Village's Floodplain Ordinance.

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**ARTICLE I. IN GENERAL****Sec. 32-1. Statutory authorization.**

This chapter 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 this village would impair the public health, safety, convenience, general welfare, and tax base.

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

The purpose of this chapter 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.**

- (a) Unless specifically defined below, words and phrases used in this chapter shall have the same meaning as they have at common law and to give this chapter its 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 zone* 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) *AH zone*. See Area of Shallow Flooding.
  - (3) *AO zone*. See Area of Shallow Flooding.

- (4) *Accessory structure or use* means a facility, structure or use which is accessory or incidental to the principal use of a property, structure or building. An accessory structure shall not be used for human habitation.
- (5) *Administrator* means a person designated by the Village Board to administer and enforce the provisions of this chapter.
- (6) *Alteration* means an enhancement, upgrading or substantial change or modification other than an addition or repair to a structure or to electrical, plumbing, heating, ventilating, air conditioning and other systems within a structure.
- (7) *Area of shallow flooding* means a designated AO, AH, AR/AO, AR/AH, or VO zone on a community's Flood Insurance Rate Map (FIRM) with a 1 percent or greater annual chance of flooding to an average depth of 1 to 3 feet where a clearly defined channel does not exist, where the path of flooding is unpredictable, and where a velocity flood may be evident. Such flooding is characterized by ponding or sheet flow.
- (8) *Base Flood* means the flood having a one percent chance of being equaled or exceeded in any given year, as published by FEMA as part of a FIS and depicted on a FIRM.
- (9) *Basement* means any enclosed area of a structure having its floor subgrade, i.e. below ground level, on all sides.
- (10) *Building*. See *Structure*.
- (11) *Bulkhead line* means a geographic line along a reach of navigable water that has been adopted by a village ordinance and approved by the DNR 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 chapter.
- (12) *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.
- (13) *Camping Unit* means any portable device, no more than 400 square feet in area, used as a temporary shelter, including but not limited to a camping trailer, motor home, bus, van, pick-up truck, tent or other mobile recreational vehicle.
- (14) *Certificate of compliance* means a certification issued by the Administrator stating that the construction and the use of land or a structure, the elevation of fill or the lowest floor of a structure is in compliance with all of the provisions of this chapter.
- (15) *Channel* means a natural or artificial watercourse with definite bed and banks to confine and conduct normal flow of water.
- (17) *Crawlways or crawlspace* means an enclosed area below the first usable floor of a structure, generally less than five (5) feet in height, used for limited access to plumbing and electrical utilities.

- (18) *Deck* means an unenclosed exterior structure that has no roof or sides, but has a permeable floor which allows the infiltration of precipitation.
- (19) *Department* means the department designated by the Village Board to administer and enforce the provisions of this chapter.
- (20) *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.
- (21) *DNR* means the Wisconsin Department of Natural Resources.
- (22) *Dry land 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.
- (23) *Encroachment* means any fill, structure, equipment, use or development in the floodway.
- (24) *Federal Emergency Management Agency (FEMA)* means the federal agency that administers the National Flood Insurance Program.
- (25) *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.
- (26) *Flood or 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 sudden increase caused by an unusually highwater 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.
- (27) *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.
- (28) *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.

- (29) *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.
- (30) *Flood insurance study* means a technical engineering examination, evaluation, and determination of the local flood hazard areas. A flood insurance study 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. 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.
- (31) *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.
- (32) *Floodplain island* means a natural geologic land formation within the floodplain that is surrounded, but not covered, by floodwater during the regional flood.
- (33) *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.
- (34) *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.
- (35) *Floodproofing* means any combination of structural provisions, changes or adjustments to properties and structures, water and sanitary facilities and contents of structures subject to flooding, for the purpose of reducing or eliminating flood damage.
- (36) *Flood protection elevation* means an elevation that is two feet of freeboard above the water surface profile elevation designated for the regional flood. See *Freeboard*.
- (37) *Flood storage* means those floodplain areas where storage of flood waters has been taken into account during analysis in reducing the regional flood discharge.
- (38) *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.
- (39) *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 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.

- (40) *Habitable structure* means any structure or portion thereof used or designed for human habitation.
- (41) *Hearing notice* means publication or posting meeting the requirements of Chapter 985 Wis. Stats. A Class 1 notice is the minimum requirement for appeals and must be published once at least one week (seven calendar days) before the hearing. A Class 2 notice is the minimum requirement for all zoning ordinances and amendments, including map amendments, and must be published twice, once each week consecutively, with the last publication at least a week (seven calendar days) before the hearing. Local ordinances or bylaws may require additional notice that exceeds these minimums.
- (42) *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 and its contents.
- (43) *Highest adjacent grade* means the highest natural elevation of the ground surface prior to construction which is located next to the proposed walls of a structure.
- (44) *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.
- (45) *Increase in regional flood height* means a calculated upward rise in the regional flood elevation 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.
- (46) *Land use* means any nonstructural use made of unimproved or improved real estate. See *Development*.
- (47) *Lowest adjacent grade* means the lowest elevation of the ground surface that touches any part of the exterior walls of a structure.
- (48) *Lowest floor* means the lowest floor of the lowest enclosed area (including basement) of a structure.

- (49) *Maintenance* means the act or process of restoring to original soundness, including redecorating, refinishing, non-structural repairs, or the replacement of existing fixtures, systems or equipment with equivalent fixtures, systems or structures.
- (50) *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."
- (51) *Mobile or 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.
- (52) *Mobile or manufactured home park or subdivision, existing* means a parcel of land, divided into two or more manufactured home lots for rent or sale, on which the construction of facilities for servicing the lots is completed before the effective date of this chapter, including the installation of utilities, the construction of streets, and either final site grading or the pouring of concrete pads.
- (53) *Mobile or manufactured home park or subdivision, expansion to existing* means the preparation of additional sites by the construction of facilities for servicing the lots on which the manufactured homes are to be affixed, including the installation of utilities, construction of streets, and either final site grading or the pouring of concrete pads.
- (54) *Mobile Recreational Vehicle* means a vehicle which is built on a single chassis, is 400 square feet or less when measured at the largest horizontal projection, is designed to be self-propelled, is 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."
- (55) *Model, corrected effective* means a hydraulic engineering model that corrects any errors that occur in the Duplicate Effective Model, adds any additional cross sections to the Duplicate Effective Model, or incorporates more detailed topographic information than that used in the current effective model.
- (56) *Model, duplicate effective* means a copy of the hydraulic analysis used in the effective FIS and referred to as the effective model.
- (57) *Model, effective* means a hydraulic engineering model that was used to produce the current effective Flood Insurance Study.
- (58) *Model, existing (pre-project)* means a modification of the Duplicate Effective Model or Corrected Effective Model to reflect any man-made modifications that have occurred within the floodplain since the date of the effective model but prior to the construction of the project for which the revision is being requested. If no modification has occurred since the date of the effective model, then this model would be identical to the Corrected Effective Model or Duplicate Effective Model.



- (59) *Model, revised (post-project)* means a modification of the Existing or Pre-Project Conditions Model, Duplicate Effective Model or Corrected Effective Model to reflect revised or post-project conditions.
- (60) *Municipality or municipal* means the Village of Lake Hallie enacting, administering and enforcing this chapter.
- (61) *NAVD or North American Vertical Datum* means elevations referenced to mean sea level datum, 1988 adjustment.
- (62) *NGVD and National Geodetic Vertical Datum* mean elevations referenced to mean sea level datum, 1929 adjustment.
- (63) *New Construction* means structures for which the start of construction commenced on or after the effective date of 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.
- (64) *Nonconforming structure* means an existing lawful structure which is not in conformity with the dimensional or structural requirements of this chapter 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.)
- (65) *Nonconforming use* means an existing lawful use or accessory use of a structure which is not in conformity with the provisions of this chapter for the area of the floodplain which it occupies. (Such as a residence in the floodway.)
- (66) *Non-flood disaster means a fire or an ice storm, tornado, windstorm, mudslide, or other destructive act of nature, but excludes a flood.*
- ~~(667)~~ *Obstruction to flow* means any development which blocks the conveyance of floodwaters such that the development by itself or in conjunction with any future similar development will cause any increase in regional flood height.
- ~~(6768)~~ *Official floodplain zoning map* means that map, adopted and made part of this chapter, as described in sec. 32-81(b), which has been approved by the DNR and FEMA.
- ~~(6869)~~ *Open space use* means those uses having a relatively low flood damage potential and not involving structures.
- ~~(6970)~~ *Ordinary High-water 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.
- ~~(7071)~~ *Person* means an individual, or group of individuals, corporation, partnership, association, municipality or state agency.

- (~~71~~72) *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 Wisconsin Department of Safety and Professional Services, 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.
- (~~72~~73) *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.
- (~~73~~74) *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 structures.
- (~~74~~75) *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).
- (~~75~~76) *Start of construction* means the date the applicable permits were issued, provided the actual start of construction, repair, reconstruction, rehabilitation, addition, placement, or other improvement was within 180 calendar days of the permit date. The actual start of construction 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, excavation for a basement, footings, piers, or foundations or the erection of temporary forms, or the installation on the property of accessory structures, 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 structure, whether or not that alteration affects the external dimensions of the structure.
- (~~76~~77) *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 structures, gas or liquid storage tanks, bridges, dams and culverts.
- (~~77~~78) *Subdivision* has the meaning given in Wis. Stat. § 236.02(12).
- (~~78~~79) *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.
- (~~79~~80) *Substantial improvement* means any repair, reconstruction, rehabilitation, addition or improvement of a structure, the cost of which equals or exceeds 50 percent of the equalized assessed value of the structure before the improvement or repair is started. If the structure has sustained substantial damage, any repairs are considered substantial improvement regardless of

the work performed. The term substantial improvement does not, however, include any project for the improvement of a structure required to correct existing health, sanitary or safety code violations identified by the building official and that are the minimum necessary to assure safe living conditions. The term substantial improvement also does not include any alteration of a historic structure, provided that the alteration will not preclude the structure's continued designation as a historic structure.

(~~80~~81) *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 chapter.

(~~81~~82) *Variance* means an authorization by the Board of Appeals or appeals for the construction or maintenance of a structure in a manner which is inconsistent with dimensional standards (not uses) contained in this chapter.

(~~82~~83) *Violation* The failure of a structure or other development to be fully compliant with this 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.

(~~83~~84) *Watershed* means the entire region contributing runoff or surface water to a watercourse or body of water.

(~~84~~85) *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.

(~~85~~86) *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. to 32-40. Reserved.**

## **ARTICLE II. ADMINISTRATION**

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

- (a) *Violation.* Any structure erected, moved or structurally altered, or any use established in violation of the provisions of this chapter shall be deemed an unlawful structure or use.
- (b) *Enforcement.* The Administrator shall report all violations of this chapter 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 chapter shall, upon conviction thereof, forfeit to the village ~~not less than \$200.00 nor a~~ **penalty of not** more than \$50050.00 per offense, together with the costs of prosecution and assessment, and in default of payment thereof shall be imprisoned in the county jail for a term of not more than 30 calendar days or until such forfeiture and costs are paid. Every day of violation shall constitute a separate offense in addition to any penalties. Compliance with this chapter is mandatory, and no structure or use 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 chapter pursuant to Wis. Stat. § 87.30

**Sec. 32-42. Administration.**

- (a) *Delegation of Authority.* The Lake Hallie Village Board designates the Chippewa County Department of Planning & Zoning, through an Intergovernmental Agreement, to administer and enforce this chapter.
- (b) *Powers and duties.* In administering and enforcing this chapter, the Administrator shall have the following duties and powers:
  - (1) Advise applicants of the provisions of this chapter; assist them in preparing permit applications and appeals, and ensure 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 chapter 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, inspections made, and work approved;
    - b. Documentation of certified lowest floor and regional flood elevations for floodplain development;
    - c. Floodproofing certificates;
    - d. Water surface profiles, floodplain zoning maps and ordinances, nonconforming uses and structures, including changes, appeal, variances and amendments;
    - e. All substantial damage assessment reports for floodplain structures; and
    - f. A list of non-conforming structures and uses.
  - (5) Submit copies of the following items to the DNR regional office:
    - a. Within ten (10) calendar 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 DNR.
    - c. Copies of substantial damage assessments performed and all related correspondence concerning the assessments.

- (6) Investigate, prepare reports, and report violations of this chapter to the appropriate municipal zoning agency and the corporation counsel for prosecution. Copies of the violation reports shall also be sent to the DNR regional office.
  - (7) Submit copies of text and map amendments to the regional office of FEMA.
- (c) *Public information.*
- (1) Where useful, marks on bridges or structures 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 made available and be widely distributed.
  - (3) All real estate transfers should show what floodplain zoning district any real property is in.
- (d) *Land use permit.* A land use permit shall be required from the Administrator before any development or any repair or change in the use of an existing 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.
    - b. Legal description of the property, proposed use, and whether it is new construction or a modification of an existing structure.
  - (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 structures 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 sec. 32-82(b). This may include any of the information noted in sec. 32-113(a).
- (3) *Hydraulic and Hydrologic studies.* Where required under this chapter, a Hydraulic and Hydrologic study shall be submitted pursuant to sec. 32.85.
- (4) *Expiration.* All permits issued under the authority of this chapter shall expire 180 calendar days from the date of issuance. The permit may be extended for up to a maximum of 180 calendar days for good and sufficient cause. If the permitted work has not started within 180 days of the initial permit issuance date, the development must comply with any regulation, including any revision to the FIRM or FIS, that took effect after the permit issuance date.

(5) Review of Permit Denials.

(a) The Village Board or the Board of Appeals shall review all data related to the appeal of a permit denial. This may include:

- i. Permit application data listed in subs. (d);
- ii. Floodway/floodfringe determination data in sec. 32-174;
- iii. Data listed in sec. 32-113(a)(2) where the applicant has not submitted this information to the Zoning Administrator; and
- iv. Other data submitted 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:

- i. Follow the procedures of sec. 32-44;
- ii. Consider the Village Board's recommendation; and
- iii. Either uphold the denial or grant the permit appeal.

(c) For appeals concerning increases in the regional flood elevation the Board of Appeals shall:

- i. Uphold the permit denial where the Board of Appeals agrees with the data showing an increase in flood elevation. Increases may only be allowed after amending the flood profile and map and all appropriate legal arrangements are made with all adversely affected property owners as per the requirements of sec. 32-45(a); and

ii. Grant the appeal where the Board of Appeals agrees that the data properly demonstrates that the project does not cause an increase provided no other reasons for permit denial exist.

- (e) *Certificate of compliance.* No land shall be occupied or used, and no structure 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 chapter.
  - (2) Application for such certificate shall be concurrent with the application for a permit.
  - (3) The certificate of compliance shall be issued within ten (10) calendar 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 chapter.
  - (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 sec. 32-83.
  - (5) Where applicable pursuant to sec. 32-173, the applicant must submit a certification by a registered professional engineer or surveyor of the elevation of the bottom of the lowest horizontal structural member supporting the lowest floor (excluding pilings or columns), and an indication of whether the structure contains a basement.
  - (6) Where applicable pursuant to sec. 32-173, the applicant must submit certifications by a registered professional engineer or architect that the structural design and methods of construction meet accepted standards of practice as required by sec. 32-173.
- (f) *Other permits.* It is the responsibility of the applicant to secure all other necessary permits from all appropriate federal, state, and local agencies, including but limited to those required by the U.S. Army Corps of Engineers under section 404 of the Federal Water Pollution Control Act amendments of 1972, 33 U.S.C. 1344.

#### **Sec. 32-43. 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 maps and text within this chapter and publish adequate hearing notices pursuant to Wis. Stat. § 985 specifying the date, time, place and subject of the public hearing.
- (b) The Village Board shall not grant variances to the terms of this chapter nor amend the text or zoning maps in place of official action by the Board of Appeals.

#### **Sec. 32-44. Board of Appeals.**

The Board of Appeals, created under Wis. Stat. § 62.23(7)(e), is hereby authorized to hear and decide administrative appeals, boundary disputes and variance requests under this chapter. The Board of Appeals shall exercise the powers conferred by state statutes and adopted rules for the conduct of business. The Administrator may not be the secretary of the Board of Appeals.

- (a) Public hearing notices, hearings and decisions.
- (1) Public hearing notices. The Board of Appeals shall:
- a. fix a reasonable time for the public hearing.
  - b. publish adequate notice pursuant to state statutes, specifying the date, time, place and subject of the hearing.
  - c. ensure that the notice is mailed to the parties in interest and the DNR regional office at least ten (10) calendar days in advance of the hearing.
- (2) Hearing. The Board of Appeals shall:
- a. ~~Review~~Hear and decide on appeals of permits ~~denials~~ pursuant to sec. 32-44(b).
  - b. ~~Consider~~Hear and decide on variance applications pursuant to sec. 32-44(d).
  - c. Resolve boundary disputes pursuant to sec. 32-44(c).
- (3) Final Decisions. The final decision by the Board of Appeals regarding the appeal shall:
- a. Be made within a reasonable time.
  - b. Be sent to the DNR regional office within ten (10) calendar 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 Appeal's decision.
  - e. Either affirm, reverse, vary or modify the order, requirement, decision or determination appealed, in whole or in part, dismiss the appeal for lack of jurisdiction or grant or deny the application for a variance.
  - f. Clearly state the reasons or justifications for the Board of Appeal's decision in the recorded minutes of its proceedings, including a description of the hardship demonstrated by the applicant in the case of a variance.
- (b) *Administrative appeals.* Administrative appeals to the Board of Appeals may be made by any person aggrieved or by any officer, DNR, or the municipality affected by any decision of the Administrator or other administrative officer. Such appeal shall be taken within 30 calendar days, as provided by the rules of the Board of Appeals, by filing with the Administrator and with the Board of Appeals, a notice of appeal specifying the reasons for the appeal. The Administrator shall transmit to the Board of Appeals all the papers constituting the record concerning the matter appealed.



- (c) *Floodplain 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 Appeals.
  - (3) Where it is determined that the district boundary is incorrectly mapped, the Board of Appeals should inform the Village Board or the person contesting the location of the boundary of the Board of Appeal's determination, and a petition the Village Board for a map amendment shall be made according to sec. 32-45.
- (d) *Variance.* The Board of Appeals may, upon appeal, grant a variance from the standards of this chapter where an applicant convincingly demonstrates that:
- (1) Literal enforcement of the provisions of this chapter will result in unnecessary hardship.
  - (2) The hardship is due to adoption of this chapter and special conditions unique to the property, not common to adjacent lots or premises; in such case, the code or map must be amended.
  - (3) The lot is less than one-half acre in size and is contiguous to existing structures constructed below the regional flood elevation.
  - (4) Upon showing good and sufficient cause that the request is the minimum relief necessary.
  - (5) Such variance is not contrary to the public interest.
  - (6) Such variance is consistent with the purpose of this chapter as stated in sec. 32-3.
  - (7) Such variance shall not cause any increase in the regional flood elevation.
  - (8) 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 chapter or map described in sec. 32-45.
  - i. Allow any alteration of an historic structure, including its use, which would preclude its continued designation as an historic structure.
- (8) When a variance is granted in a floodplain area, the board shall notify the applicant in writing that it may increase risks to life and property and flood insurance premiums could increase up to \$25.00 per \$100.00 of coverage. A copy of this notification shall be maintained with the variance record.

**Sec. 32-45. Amendments.**

(a) *Amendments.*

- (1) In AE Zones with a mapped floodway, no obstructions to flow or increases in the regional flood elevation shall be permitted unless the applicant received a Conditional Letter of Map Revision (CLOMR) from FEMA and amendments are made to this chapter, the official maps, floodway lines and water surface profiles, in accordance with sub. (b). Any such alterations must be reviewed and approved by FEMA and the DNR.
- (2) In A Zones, increases equal to or greater than 1.0 foot may only be permitted if the applicant receives a Conditional Letter of Map Amendment (CLOMR) from FEMA and amendments are made to this chapter, the official floodplain maps, floodway lines, and water surface profiles, in accordance with sub. (b).

(b) *General.* The Village Board may change or supplement the boundaries of the floodplain zoning districts and the regulations contained in this chapter in the manner provided by law. Actions which require an amendment to this chapter and/or submittal of a Letter of Map Change (LOMC) 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) Any change to other officially adopted floodplain maps listed in sect. 32-81(b).
- (3) Correction of discrepancies between the water surface profiles and floodplain zoning maps.
- (4) 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.
- (5) Any fill or encroachment into the floodplain that will obstruct flow causing any increase in regional flood height.
- (6) Any upgrading of this chapter's text required by Wis. Admin. Code NR 116.05 or otherwise required by law, or for changes by the village.
- (7) 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.

- (c) *Procedures.* Amendments to this chapter may be made upon petition of any interested party according to Wis. Stat. § 62.23. Such petitions shall include any necessary data required by secs. 32-42(c) and 32-85. Any permits for development shall not be issued until a Letter of Map Revision (LOMR) is issued by FEMA for the proposed changes.
- (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 DNR for review prior to the hearing. The amendment procedure shall comply with the provisions of Wis. Stat. § 62.23.
  - (2) No amendment to the maps or text of this chapter shall become effective until reviewed and approved by the DNR.
  - (3) All persons petitioning for a map amendment which involves an obstruction to flow causing any increase in the height of the regional flood shall obtain flooding easements, or other appropriate legal arrangements, from all adversely affected property owners and notify the local units of government before the amendment can be approved by the Village Board.

**Secs. 32-46. to 32-80. Reserved.**

### **ARTICLE III. DISTRICT REGULATIONS**

#### **DIVISION 1. GENERAL PROVISIONS**

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

- (a) *Areas to be regulated.* Areas to be regulated by this chapter include all areas within the limits of the village that would be covered by the regional flood or base flood as shown on the Flood Insurance Rate Maps (FIRM) or other maps approved by the DNR. Base flood elevations are derived from the flood profiles in the Flood Insurance Study (FIS) and are shown as AE, A1-A30, and AH Zones on the FIRM. Other regulatory zones are displayed as A and AO zones on the FIRM. Regional Flood Elevations (RFE) may be derived from other studies. If more than one map or revision is referenced, the most restrictive information shall apply.
- (b) *Official maps, revisions, and amendments.* The boundaries of all floodplain districts are designated as A, AE, AH, AO or A1-A30 on the maps based on the FIS listed below. Any change to the base flood elevations (BFE) or any changes to the boundaries of the floodplain, floodway or flood storage in the FIS or on the FIRM must be reviewed and approved by the DNR and FEMA through the Letter of Map Change (LOMC) process before it is effective. No changes to RFE's on non-FEMA maps shall be effective until approved by the DNR. These maps, revisions, or amendments are on file in the Department. If more than one map, revision, or amendment is referenced, the most restrictive information shall apply.
  - (1) Official Maps Based on the Flood Insurance Study (FIS) for Chippewa County – Volume Number 55017CV000C and effective on October 19, 2023.
    - a. The following Flood Insurance Rate Maps (FIRM) for Lake Hallie (Community Number 550454) effective on March 2<sup>nd</sup>, 2010:  
  
55017C0562E, 55017C0563E, 55017C0564E, 55017C0568E, 55017C0569E, 55017C0586E, 55017C0590E, 55017C0726E, 55017C0750E

- b. The following FIRMs for Lake Hallie (Community Number 550454) effective on October 19, 2023:

55017C0566F, 55017C0567F

- (c) *Establishment of districts.* The regional floodplain areas are hereby divided into the following districts:
- (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.
  - (4) The flood storage district (FS) consists of that area of the floodplain where storage of floodwaters is calculated to reduce the regional flood discharge.
- (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 subs. (1) and (2) below. 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 sec. 32-45. Disputes between the Administrator and an applicant over the location of the district boundary line shall be settled according to sec. 32-44(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, including any boundary of Zone A and AO, the location of the district boundary line shall be determined by the Administrator using the map scale.
- (e) *Removal of lands from floodplain.*
- (1) Compliance with the provisions of this chapter shall not be grounds for removing land from the floodplain, unless it is filled at least two feet above the regional or base flood elevation, the fill is contiguous to land outside the floodplain, and the map is amended pursuant to sec. 32-45.
  - (2) The delineation of any of the Floodplain Districts may be revised by the community where natural or man-made changes have occurred and/or where more detailed studies have been conducted. However, prior to any such change, approval must be obtained from the DNR and FEMA. A completed Letter of Map Revision is a record of this approval. The Administrator shall not sign a community acknowledgement form unless all criteria set forth in the following paragraphs are met:

- a. The land and/or land around the structure must be filled at least two feet above the regional or base flood elevation;
  - b. The fill must be contiguous to land outside the floodplain; Applicant shall obtain a floodplain development permit before applying for a LOMR or LOMR-F
- (3) Removal of lands from the floodplain may also occur by operation of §87.30(1)(e), Wis. Stats. if a property owner has obtained a letter of map amendment from FEMA under 44 C.F.R. 70.
- (f) *Compliance.*
- (1) No structure or use within areas regulated by this chapter shall hereafter be located, erected, constructed, reconstructed, repaired, extended, converted, enlarged, or altered without full compliance with the terms of these regulations and all other applicable regulations that apply to uses within the jurisdiction of these regulations.
  - (2) Failure to obtain the required permit shall be a violation of these regulations and shall be punishable in accordance with sec. 32-41.
  - (3) Floodplain development permits issued on the basis of plans and applications approved by the Administrator authorize only the use, and location as set forth in such approved plans and applications, or any amendments thereto, if approved by the Administrator. Any use, location, or construction contrary to Administrator's approval shall be deemed a violation of these regulations and punishable in accordance with sec. 32-41.
- (g) *Municipalities and state agencies regulated.* Unless specifically exempted by law, all cities, villages, towns, and counties are required to comply with this chapter and obtain all necessary permits. State agencies are required to comply if Wis. Stat. § 13.48(13) applies. The construction, reconstruction, maintenance and repair of state highways and bridges by the Wisconsin Department of Transportation (DOT) are exempt if Wis. Stat. § 30.2022 applies. Although exempt from a local zoning permit and permit fees, DOT must provide sufficient project documentation and analysis to ensure that the community is in compliance with Federal, State, and local floodplain standards. If a local transportation project is located within a Zone A floodplain and is not a WisDOT project under s. 30.2022, then the road project design documents (including appropriate detailed plans and profiles) may be sufficient to meet the requirements for issuance of a local floodplain permit if the following apply: The applicant provides documentation to the Administrator that the proposed project is a culvert replacement or bridge replacement under 20' in length at the same location, the project is exempt from a DNR permit under s. 30.123(6)(d), the capacity is not decreased, the top road grade is not raised, and no floodway data is available from a federal, state, or other source. If floodway data is available in the impacted area from a federal, state, or other source, that existing data must be utilized by the applicant in the analysis of the project site.
- (h) *Abrogation and greater restrictions.*
- (1) This chapter supersedes all the provisions of any village ordinance enacted under Wis. Stats. §§ 61.35 or 87.30 which relate to floodplains, except that where another village ordinance is more restrictive than the provisions contained in this chapter, that village ordinance shall continue in full force and effect to the extent of the greater restrictions, but not otherwise.

- (2) This chapter is not intended to repeal, abrogate or impair any existing deed restrictions, covenants or easements. However, where this chapter imposes greater restrictions, the provisions of this chapter shall prevail.
- (i) *Interpretation.* In its interpretation and application, the provisions of this chapter shall be consistent with the purpose and intent of this chapter, and shall not be deemed a limitation on or repeal of any other powers granted by the state statutes. Where a provision of this chapter is required by a standard in Wis. Admin. Code NR ch. 116, and where the provision of this chapter is unclear, the provision shall be interpreted in light of the Wis. Admin. Code NR ch. 116 standards in effect on the date of the adoption of this chapter or in effect on the date of the most recent text amendment to this chapter.
- (j) *Warning and disclaimer of liability.* The flood protection standards in this chapter 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 chapter 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 chapter 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 chapter.
- (k) *Severability.* Should any portion of this chapter be declared unconstitutional or invalid by a court of competent jurisdiction, the remainder of this chapter shall not be affected.
- (l) *Annexed Areas for Cities and Villages.* 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 ch. NR 116 and 44 CFR 59-72 of the National Flood Insurance Program (NFIP). These annexed lands are described on the Village's official zoning map. The Chippewa County floodplain zoning provisions are incorporated by reference for the purpose of administering this section and are on file in the office of the Administrator. All plats or maps of annexation shall show the regional flood elevation and the location of the floodway.

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

- (a) *General Development Standards.* The Administrator shall review all permit applications to determine whether proposed building sites will be reasonably safe from flooding and assure that all necessary permits have been received from those governmental agencies whose approval is required by federal or state law.
- (1) If a proposed building site is in a flood-prone area, all new construction and substantial improvements shall:
- a. be designed or modified and adequately anchored to prevent flotation, collapse, or lateral movement of the structure resulting from hydrodynamic and hydrostatic loads, including the effects of buoyancy;
  - b. be constructed with materials resistant to flood damage;
  - c. be constructed by methods and practices that minimize flood damages; and
  - d. have all mechanical and utility equipment elevated to or above the flood protection elevation.

- (2) If a subdivision or other proposed new development is in a flood-prone area, the Administrator shall assure that:
- a. 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 chapter and all other requirements in sec. 32-42(d);
  - b. the proposed subdivision or other proposed new development is consistent with the need to minimize flood damage within the flood-prone area;
  - c. the proposed public utilities and facilities such as sewer, gas, electrical, and water systems are located and constructed to minimize or eliminate flood damage; and
  - d. adequate drainage is provided to reduce exposure to flood hazards.

(b) *Obstruction to flow.*

- (1) No development shall be allowed in floodplain areas which will cause an obstruction to flow or cause any increase in the regional flood height due to floodplain storage area being lost.
- (2) The Administrator shall deny permits when it is determined that the proposed development will cause an obstruction to flow or any increase in regional flood height based on the officially adopted FIRM or other adopted map, unless the provisions of sec. 32-45 are met.

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.

- (c) 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 adjacent municipalities, the appropriate regional office of the DNR and the appropriate office of FEMA and shall require the applicant to secure all necessary state and federal permits. The standards of sec. 32-82(b) shall be met and 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, and pursuant to sec. 32-45, the Administrator shall apply to FEMA for a Letter of Map Revision (LOMR). Any such alterations must be reviewed and approved by FEMA and the DNR through the LOMC process.
- (d) Wisconsin Statutes Chapters 30 and 31 Development. Development which requires a permit from the DNR under Wisconsin Statutes Chapters 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 chapter are made according to sec. 32-45.

**Sec. 32-83. Floodproofing standards for non-conforming structures or uses.**

- (a) Where floodproofing measures 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) minimize or eliminate infiltration of flood waters; and
- (e) minimize or eliminate discharges into flood waters.
- (f) have the placement of essential utilities to or above the flood protection elevation.

(b) If any part of a foundation below the flood protection elevation is enclosed, the following standards shall apply:

1. The enclosed area shall be designed by an architect or engineer licensed in the State of Wisconsin 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, building access or limited storage.

(bc) No permit or variance shall be issued for a non-habitable structure designed to be watertight below the regional flood elevation until the applicant submits to the Department a FEMA Floodproofing Certificate and 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. Floodproofing is not an alternative to the development standards in Article III of this Chapter.

(ed) For a structure to allow the entry of floodwaters, no permit or variance shall be issued until the applicant submits a plan that either:

- (1) is certified by a registered professional engineer or architect; or
- (2) meets or exceeds the following standards:
  - a. A minimum of two openings having a total net area of not less than one square inch for every square foot of enclosed area subject to flooding;
  - b. The bottom of all openings shall be no higher than one foot above grade; and
  - c. Openings may be equipped with screens, louvers, valves, or other coverings or devices provided that they permit the automatic entry and exit of floodwaters.



**Sec. 32-84. 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 Wisconsin Department of Agricultural, Trade and Consumer Protection (DATCP).
- (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 are 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 Village Emergency Management Coordinator and the Village Chief of Police 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) The agreement under sub. (d) shall be for no more than one (1) calendar year, at which time the agreement shall be reviewed and updated by the officials identified in sub. (d) to remain in compliance with all applicable regulations, including those of DATCP and all other applicable regulations.
- (f) Only those camping units that are fully licensed, if required, and ready for highway use, are allowed. "Ready for highway use" means having the wheels of the camping unit are attached and the camping unit is attached to the site only by quick-disconnect utilities, including security devices and has no permanently attached additions.
- (g) A camping unit shall not occupy any site in the campground for more than 180 consecutive calendar days, at which time the camping unit must be removed from the floodplain for a minimum of 24 hours.
- (h) All camping units that remain on-site for more than 30 calendar days shall be issued a limited authorization by the campground operator, a written copy of which shall be kept on file at the campground. Such authorization shall allow placement of a camping unit for a period not to exceed 180 calendar 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 calendar days must meet the applicable requirements in either Division 2 or 3 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.

(m) Standards for structures located within a campground:

- (1) All structures must comply with sec. 32-84 or meet the applicable requirements for the floodplain district in which the structure is located;
  - (2) Deck/landing-a portable landing may be allowed for a camping unit for each entry provided that the landing is not permanently attached to the ground or camping unit, is no more than 200 square feet in size, shall be portable, contain no walls or roof, and can be removed from the campground by a truck and/or trailer. Sections of such portable landings may be placed together to form a single deck not greater than 200 square feet at one entry point. Provisions for the removal of these temporary landings during flood events must be addressed within the written agreement with the municipality compliant with sec. 32-84(d). Any such deck/landing structure may be constructed at elevations lower than the flood protection elevation but must not obstruct flow of flood waters or cause any increase in flood levels during the occurrence of the regional flood.
  - (3) Decks/patios that are constructed completely at grade may be allowed but must also comply with applicable shoreland zoning standards.
  - (4) Camping equipment and appurtenant equipment in the campground may be allowed provided that the equipment is not permanently attached to the ground or camping unit, is not used as a habitable structure, and must not obstruct flow of flood waters or cause any increase in flood levels during the occurrence of the regional flood. Provisions for the removal of this equipment during flooding events shall be addressed within the written agreement with the municipality compliant with sec. 32-84(d).
  - (5) Once a flood warning in the written agreement has been issued for the campground, the campground owner or the designated operator shall ensure that all persons, camping units, decks, camping equipment and appurtenant equipment in the campground shall be evacuated within the timelines specified within the written agreement with the municipality compliant with sec. 32-84(d).
- (n) A land use permit shall be obtained as provided under 32-42(d) before any development; repair, modification, or addition to an existing structure; or change in the use of a building or structure, including sewer and water facilities, may be initiated.

**Sec. 32-85. Hydraulic and hydrologic studies to analyze development.**

All hydraulic and hydrologic studies shall be completed under the direct supervision of a professional engineer registered in the State of Wisconsin. The contractor shall be responsible for the technical adequacy of the study. All studies shall be reviewed and approved by the DNR.

- (a) *Zone A and AE floodplains within which a floodway is not delineated.*
  - (1) *Hydrology.* The appropriate method shall be based on the standards in Wis. Admin. Code ch. NR 116.07(3), Hydrologic Analysis: Determination of Regional Flood Discharge.
  - (2) *Hydraulic Model.* The RFE shall be based on the standards in Wis. Admin. Code ch. NR 116-07(4), Hydraulic Analysis: Determination of Regional Flood Elevation and the following:

- a. Determination of the required limits of the hydraulic model shall be based on detailed study information for downstream structures (dam, bridge, culvert) to determine adequate starting WSEL for the study.
  - b. Channel sections must be surveyed.
  - c. Contour Data in a minimum increment of four (4) feet in the overbanks shall be used for the development of cross section overbank and floodplain mapping.
  - d. A maximum distance of 500 feet between cross sections is allowed in developed areas, if required, additional intermediate cross sections at transitions within the channel bottom slope. This includes a survey by a licensed surveyor of the channel bottom at each cross section.
  - e. The most current version of Hydrologic Engineering Centers River Analysis System (HEC-RAS) shall be used.
  - f. A survey of all bridge and culvert openings, including the top of the road over the bridge and culvert openings is required.
  - g. Additional cross sections are required at the downstream and upstream limits of the proposed development and any necessary intermediate location based on the length of the reach if greater than 500 feet.
  - h. Standard accepted engineering practices such as flow, Manning's N values, expansion and contraction coefficients or effective flow limits shall be used when assigning parameters for the base model. The base model shall be calibrated to past flooding data such as high-water marks to determine the reasonableness of the model results. If no historical data is available, adequate justification shall be provided for any parameters outside standard accepted engineering practices.
  - i. The model must extend past the upstream limit of the difference in the existing and proposed flood profiles in order to provide a tie-in to existing studies. The height difference between the proposed flood profile and the existing study profiles shall be no more than 0.00 feet.
- (3) *Mapping.* A work map of the reach studied shall be provided, showing all cross-section locations, floodway/floodplain limits based on best available topographic data, geographic limits of the proposed development and whether the proposed development is located in the floodway.
- a. If the proposed development is located outside of the floodway, then it is determined to have no impact on the regional flood elevation.
  - b. If any part of the proposed development is in the floodway, it must be added to the base model to show the difference between existing and proposed conditions. The study must ensure that all coefficients remain the same as in the existing model, unless adequate justification based on standard accepted engineering practices is provided.

(b) *Zone AE Floodplains.*

- (1) *Hydrology.* If the proposed hydrology will change the existing study, the appropriate method to be used shall be based on Wis. Admin. Code ch. NR 116.07(3), Hydrologic Analysis: Determination of Regional Flood Discharge.
- (2) *Hydraulic Model.* The regional flood elevation shall be based on the standards in Wis. Admin. Code ch. NR 116.07(4), Hydraulic Analysis: Determination of Regional Flood Elevation and the following:
  - a. *Duplicate Effective Model.* The effective model shall be reproduced to ensure correct transference of the model data and to allow integration of the revised data to provide a continuous FIS model upstream and downstream of the revised reach. If data from the effective model is available, models shall be generated that duplicate the FIS profiles and the elevations shown in the Floodway Data Table in the FIS report to within 0.1 foot.
  - b. *Corrected Effective Model.* The Corrected Effective Model shall not include any man-made physical changes since the effective model date, but shall import the model into the most current version of HEC-RAS for Department review.
  - c. *Existing (Pre-Project Conditions) Model.* The Existing Model shall be required to support conclusions about the actual impacts of the project associated with the Revised (Post-Project) Model or to establish more up-to-date models on which to base the Revised (Post-Project) Model.
  - d. *Revised (Post-Project Conditions) Model.* The Revised (Post-Project Conditions) Model shall incorporate the Existing Model and any proposed changes to the topography caused by the proposed development. The Revised Model shall reflect proposed conditions.
  - e. All changes to the Duplicate Effective Model and subsequent models must be supported by certified topographic information, bridge plans, construction plans and survey notes.
  - f. Changes to the hydraulic models shall be limited to the stream reach for which the revision is being requested. Cross sections upstream and downstream of the revised reach shall be identical to those in the effective model and result in water surface elevations and top-widths computed by the revised models matching those in the effective models upstream and downstream of the revised reach as required. The Effective Model shall not be truncated.
- (3) *Mapping.* Maps and associated engineering data shall be submitted to the DNR for review, and shall meet the following conditions:
  - a. Consistency between the revised hydraulic models, the revised floodplain and floodway delineations, the revised flood profiles, topographic work map, annotated FIRMs and/or Flood Boundary Floodway Maps (FBFMs), construction plans, bridge plans.
  - b. Certified topographic map of suitable scale, contour interval, and a plan in metric map showing the applicable items. If a digital version of the map is available, it may be submitted in order that the FIRM may be more easily revised.

- c. Annotated FIRM panel showing the revised 1% and 0.2% annual chance floodplains and floodway boundaries.
- d. If an annotated FIRM and/or FBFM and digital mapping data (GIS or CADD) are used, then all supporting documentation or metadata must be included with the data submission along with the Universal Transverse Mercator (UTM) projection and State Plane Coordinate System in accordance with FEMA mapping specifications.
- e. The revised floodplain boundaries shall tie into the effective floodplain boundaries.
- f. All cross sections from the effective model shall be labeled in accordance with the effective map and a cross section lookup table shall be included to relate to the model input numbering scheme.
- g. Both the current and proposed floodways shall be shown on the map.
- h. The stream centerline, or profile baseline used to measure stream distances in the model shall be visible on the map.

**Secs. 32-86. to 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 sec. 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 secs. 32-113 and 32-114, and all permits or certificates have been issued according to sec. 32-42.

- (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 recreational 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 sec. 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 secs. 32-113 and 32-114.
- (e) Extraction of sand, gravel or other materials that comply with sec. 32-113(d).

- (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 Wisconsin Statutes Chapters 30 and 31.
- (g) Public utilities, streets and bridges that comply with sec. 32-113(c).
- (h) 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 Ch. SPS 383, Wis. Adm. Code.
- (i) Public or private wells used to obtain potable water for recreational areas that meet the requirements of local ordinances and chs. NR 811 and NR 812, Wis. Adm. Code.
- (j) Wastewater treatment ponds or facilities permitted under s. NR 110.15(3)(b), Wis. Adm. Code.
- (k) Sanitary sewer or water supply lines to service existing or proposed development located outside the floodway that complies with the regulations for the floodplain area occupied.

**Sec. 32-113. Standards for developments in floodway district.**

- (a) *General.* Any development in floodway areas shall:
  - (1) Meet all of the provisions of sec. 32-82 and have a low flood damage potential.
  - (2) Applicants shall provide an analysis calculating the effects of a development proposal on the regional flood height to determine the effects of the development proposal according to sec. 32-82(b) and sec. 32-85. The analysis must be completed by a professional engineer registered in the state of Wisconsin.
  - (3) Any encroachment in the regulatory floodway is prohibited unless the data submitted for sec. (a)(2) above demonstrates that the encroachment will cause no increase in flood elevations in flood events up to the base flood at any location or removes the encroached area from the regulatory floodway as provided in sec. 32-81(e).
- (b) *Structures.* Only a structure which is accessory to permanent open space uses, including utility and sanitary facilities, or is functionally dependent on a waterfront location may be allowed by permit, provided the structure meets all of the following criteria:
  - (1) The structure is not designed for human habitation, does not have a high flood damage potential and is constructed to minimize flood damage;
  - (2) The structure shall either have the lowest floor elevated to or above the flood protection elevation or shall meet all the following standards:
    - a. Have the lowest floor elevated to or above the regional flood elevation and be dry flood-proofed so that the structure is watertight with walls substantially impermeable to the passage of water and completely dry to the flood protection elevation without human intervention during flooding;
    - b. Have structural components capable of meeting all provisions of sec. (b)(7) below; and

- c. Be certified by a registered professional engineer or architect, through the use of a FEMA Floodproofing Certificate, that the design and methods of construction are in accordance with sec. (b)(7) below.
  - (3) The structure is properly anchored to the land to resist flotation, collapse, and lateral movement; and
  - (4) The structure shall have all mechanical and utility facilities, such as electrical and heating equipment, elevated or flood proofed to or above the flood protection elevation.
  - (5) The structure shall not obstruct flow of flood waters or cause any increase in flood levels during the occurrence of the regional flood.
  - (6) For a structure designed to allow the automatic entry of floodwaters below the Regional Flood Elevation, the applicant shall submit a plan that meets secs. (b)(1) through (b)(5) above, and meets or exceeds the following standards:
    - a. The lowest floor must be elevated to or above the regional flood elevation;
    - b. a minimum of two openings having a total net area of not less than one square inch for every square foot of enclosed area subject to flooding;
    - c. the bottom of all openings shall be no higher than one foot above the lowest adjacent grade; openings may be equipped with screens, louvers, valves, or other coverings or devices provided that they permit the automatic entry and exit of floodwaters, otherwise must remain open.
    - d. The use must be limited to parking, building access or limited storage.
  - (7) *Certification.* Whenever floodproofing measures are required, a registered professional engineer or architect shall certify that the following floodproofing measures will be utilized, where appropriate, and are adequate to withstand the flood depths, pressures, velocities, impact and uplift forces and other factors associated with the regional flood:
    - a. Reinforcement of floors and walls to resist rupture, collapse, or lateral movement caused by water pressures or debris buildup;
    - b. Construction of wells, water supply systems and waste treatment systems so as to prevent the entrance of flood waters in such systems and must be in accordance with provisions in secs. 32-114(d) and (e);
    - c. Subsurface drainage systems to relieve external pressures on foundation walls and basement floors;
    - d. Cutoff valves on sewer lines or the elimination of gravity flow basement drains; and
    - e. Placement of utilities to 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 sec. 32-82.
- (d) Fills or deposition of materials may be allowed by permit, provided that:
- (1) The requirements of sec. 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 DNR pursuant to Wisconsin Statutes Chapter 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 sec. 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 DNR-approved campgrounds that meet the applicable provisions of Wis. Admin. Code ch. SPS 383.
- (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 chs. 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 ch. NR 110.15(3)(b).
- (h) All sanitary sewer or water lines, except those that service existing or proposed development outside the floodway and comply with the regulations for the floodplain area occupied.



**Secs. 32-115. to 32-140. Reserved.****DIVISION 3. FLOODFRINGE DISTRICT (FF)****Sec. 32-141. 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 sec. 32-174.

**Sec. 32-142. 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 sec. 32-144 are met, that the use is not prohibited by this chapter or any other ordinance or any other local, state or federal regulation, and that all permits or certificates specified in sec. 32-42 have been issued.

**Sec. 32-143. Standards for development in floodfringe district.**

Any existing structure in the floodfringe must meet the requirements of Article IV. All of the provisions of sec. 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. No area may be removed from the floodfringe district, unless it can be shown to meet sec. 32-81(e).
  - (2) The basement or crawlway floor may be placed at the regional flood elevation, provided it is floodproofed to the flood protection elevation. No basement or crawlway floor shall be permitted to be placed below the regional flood elevation.
  - (3) Contiguous dry land access shall be provided from a structure to land which is outside of the floodplain, except as provided in sub. (a)(4).
  - (4) In existing developments where existing streets or sewer lines are at elevations which make compliance with sub. (a)(3) impractical, the Administrator may permit new development and substantial improvements where access roads are at or below the regional flood elevation, provided that:
    - a. The Administrator has written assurance from the appropriate local units of police, fire and emergency services that rescue and relief will be provided to the structures by wheeled vehicles, during a regional flood event; or
    - b. The Village has an emergency evacuation plan approved by the DNR.

- (b) *Accessory structures or uses.* An accessory structure or use which is not connected to a principal structure shall be constructed with its lowest floor elevated or constructed to a level at or above the regional flood elevation.
- (c) *Commercial uses.* Any commercial structure which is to be erected, altered or moved into the floodfringe area shall meet the requirements of sub. (a). Storage yards, surface parking lots and other such uses may be at lower elevations, provided that an adequate warning system exists to protect life and property and such uses are also in compliance with sub. (e).
- (d) *Manufacturing and industrial uses.* Any manufacturing or industrial structure which is to be erected, altered or moved into the floodfringe area shall have the lowest floor elevated or constructed to a level at or above the flood protection elevation, or meet the floodproofing standards in sec. 32-83. 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, and such uses are also in compliance with sub. (e).
- (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 sec. 32-83. 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 sec. 32-83, to the flood protection elevation.
- (2) Minor roads or nonessential utilities may be constructed at lower elevations, provided that they withstand flood forces to the regional flood elevation.
- (g) *Private sewage systems.* All on-site sewage disposal systems shall be floodproofed, in compliance with sec. 32-83, to the flood protection elevation and shall meet the applicable provisions of this chapter, local ordinances and Wis. Admin. Code ch. SPS 383.
- (h) *Wells.* All wells shall be floodproofed to the flood protection elevation, pursuant to sec. 32-83 and shall meet the applicable provisions of Wis. Admin. Code chs. 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 chapter 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 of, and file an evacuation plan, indicating vehicular access and escape routes, with local emergency management authorities.

- (2) In existing manufactured home parks, all new manufactured homes, replacement manufactured homes on existing pads, and substantially improved manufactured homes shall:
- a. have the lowest floor elevated or constructed to a level at or above 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 manufactured homes outside of existing parks, all new, replacement and substantially improved manufactured homes shall meet the residential development standards of the floodfringe in sub. (a).
- (l) *Mobile Recreational Vehicles.* All mobile recreational vehicles that are on-site for 180 consecutive calendar days or more or that are not fully licensed and ready for highway use shall meet the elevation and anchoring requirements of subs. (k)(2) and (k)(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. 32-144. to 32-170. Reserved.**

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

##### **Sec. 32-171. Applicability.**

The provisions for the GFP district shall apply to all floodplains mapped as A, AO, AH, and AE zones for which flood profiles are not available or where flood profiles are available but floodways have not been delineated on the FIRMs identified in sec. 32-81(b)(1).

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

The GFP district encompasses both floodway and floodfringe areas. Therefore, for proposed development in zone A or AE, a determination shall be made pursuant to sec. 32-174 as to whether a proposed use is located within a floodway or floodfringe area. Those uses permitted in floodways (sec. 32-112) and floodfringe areas (sec. 32-142) are allowed within the general floodplain district, provided that the standards of sec. 32-173 are met and all permits or certificates required under sec. 32-42 have been issued.

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

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

- (a) In the AO Zone, the new construction of a structure or the substantial improvement of an existing structure shall have the lowest floor, including the basement, elevated:
- (1) to or above the depth, in feet, as shown on the FIRM above the highest adjacent grade; or
  - (2) two (2) feet above the highest adjacent grade if the depth is not specified on the FIRM.

- (b) In the AH Zone, the new construction of a structure or the substantial improvement of an existing structure shall have the lowest floor, including the basement, elevated to or above the flood protection elevation.
- (c) In AO/AH zones, the applicant shall provide plans showing adequate drainage paths on the property to guide floodwaters around the structure(s).
- (d) All development in zones AO and zone AH shall meet the requirements of division 3 applicable to flood fringe areas.

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

Upon receiving an application for development within zone A or AE where a floodway has not been delineated on the FIRM, 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, and the flood zone as shown on the FIRM.
- (b) Require the applicant to furnish any of the following additional information as is deemed necessary by the DNR 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 hydrologic and hydraulic study as specified in sec. 32-85.
  - (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) Specifications for building construction and materials, floodproofing, filling, dredging, channel improvement, storage, water supply and sanitary facilities.

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

**ARTICLE IV. NONCONFORMING STRUCTURES AND USES**

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

To the extent that the provisions in article IV are not inconsistent with the provisions of Wis. Stats. §87.30 and Wisconsin Administrative Code NR 116.12-15 and 44 CFR 59-72, these standards shall apply to all nonconforming uses and nonconforming structures. The provisions in article IV 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 this chapter or any amendment thereto. A party asserting existence of a lawfully established nonconforming use or structure has the burden of proving that the use or structure was compliant with the floodplain zoning ordinance in effect at the time the use or structure was created. The existing lawful use of any structure or its accessory use which is not in conformity with the provisions of this chapter may continue subject to the following conditions:

- (a) No modifications or additions to a nonconforming use or a nonconforming structure shall be permitted unless such modifications or additions are made in conformity with the provisions of this chapter 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 a modification; this includes painting, decorating, paneling and other nonstructural components and the maintenance, repair or replacement of existing private sewage or water supply systems or connections to public utilities. Any costs associated with the repair of a damaged structure are not considered as maintenance.

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 thereon, shall conform to the applicable requirements of this chapter.
- (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, 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 chapter and contiguous dry land access is provided in compliance with sec. 32-143(a)(3). Contiguous dryland access must be provided for residential and commercial uses in compliance with sec. 32-143(a)(3). 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 section.
- (e) No maintenance to any nonconforming structure or any structure with a nonconforming use, the cost of which would equal or exceed 50% of its present equalized assessed value, shall be allowed unless the entire structure is permanently changed to a conforming structure with a conforming use in compliance with the applicable requirements of this chapter. Contiguous dry land access must be provided for residential and commercial uses in compliance with sec. 32-143(a)(3).
- (f). On a per event basis, if the total value of the work being done under subs. (d) and (e) equals or exceeds 50% of the present equalized assessed value the work shall not be permitted unless the entire structure is permanently changed to a conforming structure with a conforming use in compliance with the applicable requirements of this chapter. Contiguous dry land access must be provided for residential and commercial uses in compliance with sec. 32-143(a)(3).
- (g) Except as provided in sub. (h), if a nonconforming structure or any structure with a nonconforming use is destroyed or is substantially damaged that it cannot be replaced, reconstructed or rebuilt, such structure may not be replaced, reconstructed or rebuilt unless the use and the structure meet the requirements of this chapter. For the purpose of this subsection, a structure is considered substantially damaged if the total cost to restore the structure to its pre-damaged condition would equal or exceed 50 percent of the present equalized assessed value of the structure.

- (h) *Non-Flood Disaster.* For a nonconforming structure that are substantially damaged or destroyed by a non-flood disaster, the repair or reconstruction of any such nonconforming structure may be permitted in order to restore the nonconforming structure to its pre-damaged condition and use after the non-flood disaster, provided that the nonconforming structure will meet all of the minimum federal code requirements listed below and all required permits have been granted prior to the start of construction.
- (1) Residential Structures shall:
- a. have the lowest floor, including basement, elevated to a level at or above the base flood elevation using fill, pilings, columns, posts or perimeter walls. Perimeter walls must meet the requirements of sec. 32-83(c)(2).
  - b. be anchored to prevent flotation, collapse, or lateral movement of the structure resulting from hydrodynamic and hydrostatic loads, including the effects of buoyancy and shall be constructed with methods and materials resistant to flood damage.
  - c. be constructed with electrical, heating, ventilation, plumbing and air conditioning equipment and other service facilities that are designed and/or elevated so as to prevent water from entering or accumulating within the components during conditions of flooding.
  - d. in A Zones, obtain, review and utilize any flood data available from federal, state or other sources.
  - e. in AO Zones with no elevations specified, have the lowest floor, including basement, meet the standards in sec. 32-143(a)(1).
  - f. in AO Zones, have adequate drainage paths around structures on slopes to guide floodwaters around and away from the structure.
- (2). Non-Residential Structures shall:
- a. meet the requirements of sec. 32-211(h)(1)a-f.
  - b. either have the lowest floor, including basement, elevated to a level at or above the regional flood elevation; or, together with attendant utility and sanitary facilities, meet the standards in sec. 32-83(c)(1) and (2).
  - c. In AO Zones with no elevations specified, have the lowest floor, including basement, meet the standards in sec. 32-143(a)(1).
- (i) A nonconforming historic building may be altered if the alterations will not preclude the structure's continued designation as a historic structure, the alterations will comply with sec. 32-113(a), flood resistant materials are used, and construction practices and floodproofing methods that comply with sec. 32-83 are used. Repair or rehabilitation of historic structures shall be exempt from the development standards of sec. 32-211(h) if it is determined that the proposed repair or rehabilitation will not preclude the structure's continued designation as a historic structure and is the minimum necessary to preserve the historic character and design of the structure.

**Sec. 32-212. Floodway districts.**

- (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 meets the following criteria:
- (1) A land use permit or variance, which meets requirements of this chapter, has been issued for the modification or addition.
  - (2) Meets the requirements of sec. 32-211.
  - (3) The modification or addition to the existing structure will not increase the obstruction to flood flows or height of the regional flood.
  - (4) Any addition to the existing structure shall be floodproofed, pursuant to sec. 32-83, by means other than the use of fill, to a level at or above the flood protection elevation.
  - (5) 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, building access or limited storage.
- (b) No new private sewage disposal system, or addition to an existing private 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 private sewage disposal system in a floodway area shall meet the application requirements of all local ordinances and Wis. Admin. Code ch. SPS 383.
- (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 chs. NR 811 and NR 812.

**Sec. 32-213. Floodfringe districts.**

- (a) No modification or addition shall be allowed to any nonconforming structure or any structure with a nonconforming use unless a land use permit or variance, which meets all ordinance requirements, has been issued for the modification or addition. 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 sec. 32-143, except where sub. (b) is applicable.

- (b) Where compliance with the provisions of sub. (a) 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 Appeals, using the procedures established in sec. 32-44, may grant a variance from those provisions of sub. (a) 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:
- (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 sec. 32-143(e).
- (c) All new private sewage disposal systems or any addition to, replacement, repair or maintenance of a private sewage disposal system shall meet all the applicable provisions of all local ordinances and Wis. Admin. Code ch. SPS 383.
- (d) All new wells or any addition to, replacement, repair or maintenance of a well shall meet the applicable provisions of this chapter and Wis. Admin. Code chs. NR 811 and NR 812.