

## 7.0 ADMINISTRATION

Where a zoning administrator, planning agency or a board of adjustment/appeals has already been appointed to administer a zoning ordinance adopted under ss. 59.69, 59.692 or 62.23(7), Stats., these officials shall also administer this ordinance.

## 7.1 ZONING ADMINISTRATOR

- (1) The zoning administrator is authorized to administer this ordinance and shall have the following duties and powers:
  - (a) Advise applicants of the ordinance provisions, assist in preparing permit applications and appeals, and assure that the regional flood elevation for the proposed development is shown on all permit applications.
  - (b) Issue permits and inspect properties for compliance with provisions of this ordinance, and issue certificates of compliance where appropriate.
  - (bm) Inspect all damaged floodplain structures and perform a substantial damage assessment to determine if substantial damage to the structures has occurred.
  - (c) Keep records of all official actions such as:
    1. All permits issued, inspections made, and work approved;
    2. Documentation of certified lowest floor and regional flood elevations for floodplain development;
    3. Records of water surface profiles, floodplain zoning maps and ordinances, nonconforming uses and structures including changes, appeals, variances and amendments.
    4. All substantial damage assessment reports for floodplain structures.
  - (d) Submit copies of the following items to the Department Regional office:
    1. Within 10 days of the decision, a copy of any decisions on variances, appeals for map or text interpretations, and map or text amendments;
    2. Copies of any case-by-case analyses, and any other information required by the Department including an annual summary of the number and types of floodplain zoning actions taken.
    3. Copies of substantial damage assessments performed and all related correspondence concerning the assessments.

**Note: Information on conducting substantial damage assessments is available on the DNR website – <http://dnr.wi.gov/org/water/wm/dsfm/flood/title.htm>**
  - (e) Investigate, prepare reports, and report violations of this ordinance to the municipal zoning agency and attorney for prosecution. Copies of the reports shall also be sent to the Department Regional office.
  - (f) Submit copies of text and map amendments and biennial reports to the FEMA

Regional office.

(2) LAND USE PERMIT

A land use permit shall be obtained before any new development or any structural repair or change in the use of a building or structure, including sewer and water facilities, may be initiated. Application to the zoning administrator shall include:

(a) GENERAL INFORMATION

1. Name and address of the applicant, property owner and contractor;
2. Legal description, proposed use, and whether it is new construction or a modification;

(b) SITE DEVELOPMENT PLAN

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

1. Location, dimensions, area and elevation of the lot;
2. Location of the ordinary highwater mark of any abutting navigable waterways;
3. Location of any structures with distances measured from the lot lines and street center lines;
4. Location of any existing or proposed on-site sewage systems or private water supply systems;
5. Location and elevation of existing or future access roads;
6. Location of floodplain and floodway limits as determined from the official floodplain zoning maps;
7. The elevation of the lowest floor of proposed buildings and any fill using the vertical datum from the adopted study – either National Geodetic Vertical Datum (NGVD) or North American Vertical Datum (NAVD);
8. Data sufficient to determine the regional flood elevation in NGVD or NAVD at the location of the development and to determine whether or not the requirements of s. 3.0 or 4.0 are met; and
9. Data to determine if the proposed development will cause an obstruction to flow or an increase in regional flood height or discharge according to s. 2.1. This may include any of the information noted in s. 3.3(1).

(c) DATA REQUIREMENTS TO ANALYZE DEVELOPMENTS

1. The applicant shall provide all survey data and computations required to show the effects of the project on flood heights, velocities and floodplain storage, for all subdivision proposals, as "subdivision" is defined in s. 236, Stats., and other proposed developments exceeding 5 acres in area or where the estimated cost exceeds \$125,000. The applicant shall provide:

- a. An analysis of the effect of the development on the regional flood profile, velocity of flow and floodplain storage capacity;
- b. A map showing location and details of vehicular access to lands outside the floodplain; and
- c. A surface drainage plan showing how flood damage will be minimized.

The estimated cost of the proposal shall include all structural development, landscaping, access and road development, utilities, and other pertinent items, but need not include land costs.

(d) **EXPIRATION**

All permits issued under the authority of this ordinance shall expire 365 days after issuance.

(3) **CERTIFICATE OF COMPLIANCE**

No land shall be occupied or used, and no building which is hereafter constructed, altered, added to, modified, repaired, rebuilt or replaced shall be occupied until a certificate of compliance is issued by the zoning administrator, except where no permit is required, subject to the following provisions:

- (a) The certificate of compliance shall show that the building or premises or part thereof, and the proposed use, conform to the provisions of this ordinance;
- (b) Application for such certificate shall be concurrent with the application for a permit;
- (c) If all ordinance provisions are met, the certificate of compliance shall be issued within 10 days after written notification that the permitted work is completed;
- (d) The applicant shall submit a certification signed by a registered professional engineer, architect or land surveyor that the fill, lowest floor and floodproofing elevations are in compliance with the permit issued. Floodproofing measures also require certification by a registered professional engineer or architect that floodproofing measures meet the requirements of s. 7.5.

(4) **OTHER PERMITS**

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

**7.2 ZONING AGENCY**

- (1) The Planning Commission shall:
  - (a) oversee the functions of the office of the zoning administrator; and
  - (b) review and advise the Governing body on all proposed amendments to this ordinance, maps and text.
- (2) This zoning agency shall not

- (a) grant variances to the terms of the ordinance in place of action by the Board of Adjustment/Appeals; or
- (b) amend the text or zoning maps in place of official action by the Governing body.

### **7.3 BOARD OF ADJUSTMENT/APPEALS**

The Board of Adjustment/Appeals, created under s. 59.694, Stats., for counties or s. 62.23(7)(e), Stats., for cities or villages, is hereby authorized or shall be appointed to act for the purposes of this ordinance. The Board shall exercise the powers conferred by Wisconsin Statutes and adopt rules for the conduct of business. The zoning administrator may not be the secretary of the Board.

#### **(1) POWERS AND DUTIES**

The Board of Adjustment/Appeals shall:

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

#### **(2) APPEALS TO THE BOARD**

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

#### **(b) NOTICE AND HEARING FOR APPEALS INCLUDING VARIANCES**

1. Notice - The board shall:
  - a. Fix a reasonable time for the hearing;
  - b. Publish adequate notice pursuant to Wisconsin Statutes, specifying the date, time, place and subject of the hearing;
  - c. Assure that notice shall be mailed to the parties in interest and the Department Regional office at least 10 days in advance of the hearing.
2. Hearing - Any party may appear in person or by agent. The board shall:
  - a. Resolve boundary disputes according to s. 7.3(3).
  - b. Decide variance applications according to s. 7.3(4).
  - c. Decide appeals of permit denials according to s. 7.4.

- (c) **DECISION:** The final decision regarding the appeal or variance application shall:
1. Be made within a reasonable time;
  2. Be sent to the Department Regional office within 10 days of the decision;
  3. Be a written determination signed by the chairman or secretary of the Board;
  4. State the specific facts which are the basis for the Board's decision;
  5. Either affirm, reverse, vary or modify the order, requirement, decision or determination appealed, in whole or in part, dismiss the appeal for lack of jurisdiction or grant or deny the variance application;
  6. Include the reasons for granting an appeal, describing the hardship demonstrated by the applicant in the case of a variance, clearly stated in the recorded minutes of the Board proceedings.

(3) **BOUNDARY DISPUTES**

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

- (a) If a floodplain district boundary is established by approximate or detailed floodplain studies, the flood elevations or profiles shall prevail in locating the boundary. If none exist, other evidence may be examined.
- (b) In all cases, the person contesting the boundary location shall be given a reasonable opportunity to present arguments and technical evidence to the Board.
- (c) If the boundary is incorrectly mapped, the Board should inform the zoning committee or the person contesting the boundary location to petition the governing body for a map amendment according to s. 8.0.

(4) **VARIANCE**

- (a) The Board may, upon appeal, grant a variance from the standards of this ordinance if an applicant convincingly demonstrates that:
  1. Literal enforcement of the ordinance provisions will cause unnecessary hardship;
  2. The hardship is due to adoption of the floodplain ordinance and unique property conditions, not common to adjacent lots or premises. In such case the ordinance or map must be amended;
  3. The variance is not contrary to the public interest; and
  4. The variance is consistent with the purpose of this ordinance in s. 1.3.
- (b) In addition to the criteria in par. (a), to qualify for a variance under FEMA regulations, the following criteria must be met:
  1. The variance may not cause any increase in the regional flood elevation;

2. Variances can only be granted for lots that are less than one-half acre and are contiguous to existing structures constructed below the RFE;
  3. Variances shall only be granted upon a showing of good and sufficient cause, shall be the minimum relief necessary, shall not cause increased risks to public safety or nuisances, shall not increase costs for rescue and relief efforts and shall not be contrary to the purpose of the ordinance.
- (c) A variance shall not:
1. Grant, extend or increase any use prohibited in the zoning district.
  2. Be granted for a hardship based solely on an economic gain or loss.
  3. Be granted for a hardship which is self-created.
  4. Damage the rights or property values of other persons in the area.
  5. Allow actions without the amendments to this ordinance or map(s) required in s. 8.1.
  6. Allow any alteration of an historic structure, including its use, which would preclude its continued designation as an historic structure.
- (d) When a floodplain variance is granted the Board shall notify the applicant in writing that it may increase flood insurance premiums and risks to life and property. A copy shall be maintained with the variance record.

#### **7.4 TO REVIEW APPEALS OF PERMIT DENIALS**

- (1) The Zoning Agency (s. 7.2) or Board shall review all data related to the appeal. This may include:
  - (a) Permit application data listed in s. 7.1(2).
  - (b) Floodway/floodfringe determination data in s. 5.4.
  - (c) Data listed in s. 3.3(1)(b) where the applicant has not submitted this information to the zoning administrator.
  - (d) Other data submitted with the application, or submitted to the Board with the appeal.
- (2) For appeals of all denied permits the Board shall:
  - (a) Follow the procedures of s. 7.3;
  - (b) Consider zoning agency recommendations; and
  - (c) Either uphold the denial or grant the appeal.
- (3) For appeals concerning increases in regional flood elevation the Board shall:

- (a) Uphold the denial where the Board agrees with the data showing an increase in flood elevation. Increases equal to or greater than 0.01 foot may only be allowed after amending the flood profile and map and all appropriate legal arrangements are made with all adversely affected property owners.
- (b) Grant the appeal where the Board agrees that the data properly demonstrates that the project does not cause an increase equal to or greater than 0.01 foot provided no other reasons for denial exist.

## **7.5 FLOODPROOFING**

- (1) No permit or variance shall be issued until the applicant submits a plan certified by a registered professional engineer or architect that the floodproofing measures will protect the structure or development to the flood protection elevation.
- (2) Floodproofing measures shall be designed to:
  - (a) Withstand flood pressures, depths, velocities, uplift and impact forces and other regional flood factors;
  - (b) Protect structures to the flood protection elevation;
  - (c) Anchor structures to foundations to resist flotation and lateral movement; and
  - (d) Insure that structural walls and floors are watertight to the flood protection elevation, and the interior remains completely dry during flooding without human intervention.
- (2) Floodproofing measures could include:
  - (a) Reinforcing walls and floors to resist rupture or collapse caused by water pressure or
  - (b) Adding mass or weight to prevent flotation.
  - (c) Placing essential utilities above the flood protection elevation.
  - (d) Installing surface or subsurface drainage systems to relieve foundation wall and basement floor pressures.
  - (e) Constructing water supply wells and waste treatment systems to prevent the entry of flood waters.
  - (f) Putting cutoff valves on sewer lines or eliminating gravity flow basement drains.

## **7.6 PUBLIC INFORMATION**

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