

VILLAGE OF ELM GROVE

13600 Juneau Boulevard
Elm Grove, WI 53122

LEGISLATIVE COMMITTEE

Tuesday, January 11, 2022 * 5:30 PM * Parkview Room

AGENDA

1. **Call the Meeting to Order and Roll Call.**

2. **Review and act on meeting minutes dated 10/12/2022**

Documents:

[2021-10-12 LC Minutes DRAFT.pdf](#)

3. **Review and act on Draft Model Floodplain Zoning Ordinance as recommended by the Wisconsin Department of Natural Resources.**

Documents:

[2022 flood plain ordinance 01.11.22 Clean.pdf](#)
[20220111 Meeting Memo.pdf](#)
[2021 GEH version flood plain ordinance 11.08.21 Send to DNR.pdf](#)

4. **Other Business**

5. **Adjournment**

Any person who has a qualifying disability as defined by the Americans with Disabilities Act who requires that the meeting or materials for the meeting has to be in an accessible location or format must contact the Village Clerk, Michelle Luedtke, at 262-782-6700 or 13600 Juneau Boulevard by 3:00 PM Friday prior to the meeting so that any necessary arrangements can be made to accommodate your request.

NOTICE: It is possible that members of, and possibly a quorum of, other governmental bodies of the Village may be in attendance at the above stated meeting to gather information. No action will be taken by any governmental body at the above stated meeting other than the governmental body specifically referred to in the above notice.

Village of Elm Grove Legislative Committee
Minutes

DRAFT

Call to Order

The meeting was called to order by the Chair at 5:32PM.

Roll Call:

Trustee John Domaszek (Chair) - absent
President Neil Palmer
Trustee George Haas
Committee Member Angie Jodie - absent
Committee Member Marlee Jansen
David DeAngelis, Village Manager
Thomas Harrigan, Village Zoning Administrator
Hector De La Mora, Village Attorney
Michelle Luedtke, Village Clerk/Deputy Treasurer

Selection of a Pro Tem Chair: **MOTION BY TRUSTEE HAAS, SECOND BY MEMBER JANSEN, TO APPOINT PRESIDENT PALMER CHAIR PRO TEM. ALL IN FAVOR. MOTION CARRIED.**

Review and act on meeting minutes dated 9/14/2021.

MOTION BY TRUSTEE HAAS, SECOND BY MEMBER JANSEN, TO ACCEPT THE MEETING MINUTES AS PRESENTED.

ALL WERE IN FAVOR. MOTION CARRIED.

Review and possible action on the DNR recommended Floodplain Zoning Ordinance.

President Palmer introduced the item. This draft is a result of the FEMA changes for the classes and floodplain control. We requested the DNR to give us their draft. It will not have any material harm on any building in the village. It is a matter of do we like their words.

Trustee Haas added that residents who do need flood insurance can get it at a reduced rate if we participate in this program.

Manager DeAngelis said we want to keep our 35% reduction in premium for those in the flood plain.

President Palmer indicated we agree we will change the times for the public hearings, etc. if we do not take action on this item tonight. The real issue is the ordinance itself. President Palmer deferred to Trustee Haas for content.

Trustee Haas said we do not need a 33 page ordinance. There are sections in here that they already took items out per our request. No mobile homes or camp grounds. If and when anyone puts in one of those, we can deal with it then.

President Palmer asked for clarification on manufactured homes vs mobile. There is no definition section.

Village of Elm Grove Legislative Committee
Minutes

DRAFT

Attorney De la mora noted pages 36, line 18-13 and 18-18. 18-21. 18-32.

Trustee Haas believes this is poorly drafted. They use the term mobile/manufactured and they don't define items sufficiently.

President Palmer noted their definition for manufactured and mobile are essentially the same. Do we allow any mobile home parks? Or campground?

Manager DeAngelis indicated we do not and that might be an issue. Manager DeAngelis asked if we are being exclusionary. Attorney De La Mora cited Wisconsin State Stat 61.35 that adopts for villages authority.

Trustee Haas doesn't want the village to be obligated to do things or be in jeopardy. We don't put obligations on ourselves where we would be penalized. There are some sections that talk about a community and how they "shall". At a state level, it would say we had to, but at our level we would not say that about ourselves.

President Palmer asked if it isn't it meant to encourage us to keep our rating.

Trustee Haas said his first reaction was the DNR is doing something they cannot do via statute or rule making and they are making us do it. This is not true according to staff. He would like to see this written differently. Our review will be conducted without the "shall" language. This is our process. Trustee Haas does not like the tone of the ordinance. Rather than stating here is our process. If we violate, we will be liable to something. "Here is the review process and the village will follow" or make all permit applications require this. Line 239 the community "shall assure..." We have to assure that? We are being obligated. Is this before we can grant.

President Palmer asked if they are aware we don't have any authority on public utilities and how and where they are installed; gas and electric. We cannot control the electric and gas according to state law. This conflicts.

Attorney De La Mora believes this is in regards to subdivisions.

President Palmer thinks we still don't have authority. Even though this is a flood prone area.

Trustee Haas reiterated that we would never write it this way. We would never assure.

Member Jansen asked if there is there anything else written already that we can comply with?

President Palmer indicated it is different state to state and county to county. We don't go out survey lands for elevations and slope. The applicant provides it to us. Palmer asked Zoning Administrator Harrigan if our current ordinance does a better job and if we can review the actual changes in a red line format. Harrigan and Trustee Haas are to go over the side by side and bring back a shorter, better fit for Elm Grove version at their next meeting.

MOTION BY TRUSTEE HAAS, SECOND BY MEMBER JANSEN, TO SEND ITEM BACK TO STAFF TO COMPARE TO EXISTING AND BRING BACK RED LINE COPY AT NEXT MEETING.

Village of Elm Grove Legislative Committee
Minutes

DRAFT

ALL WERE IN FAVOR. MOTION CARRIED.

Other Business – none.

Adjournment

There was no further business.

MOTION BY MEMBER JANSEN, SECOND BY TRUSTEE HAAS, TO ADJOURN THE MEETING.

ALL WERE IN FAVOR. MOTION CARRIED. MEETING ADJOURNED AT 6:05PM.

Minutes transcribed by: Michelle Luedtke

Minutes Approved on:

FLOODPLAIN ORDINANCE FOR VILLAGE OF ELM GROVE

Effective February , 2022

Yellow highlights are places where the ordinance needs to be filled in with community specific information

Date of Class 2 Notice posting:_____ (Requires a Class 2 Hearing Notice of Posting, Second/last date must be at least 7 days before hearing, see definition, Ch 985 Stats)

Date of Public Hearing: _____

Date of Adoption: _____

Date of Posting of Notice of Enacted Ordinance _____ (Requires posting a Class 1 Notice)

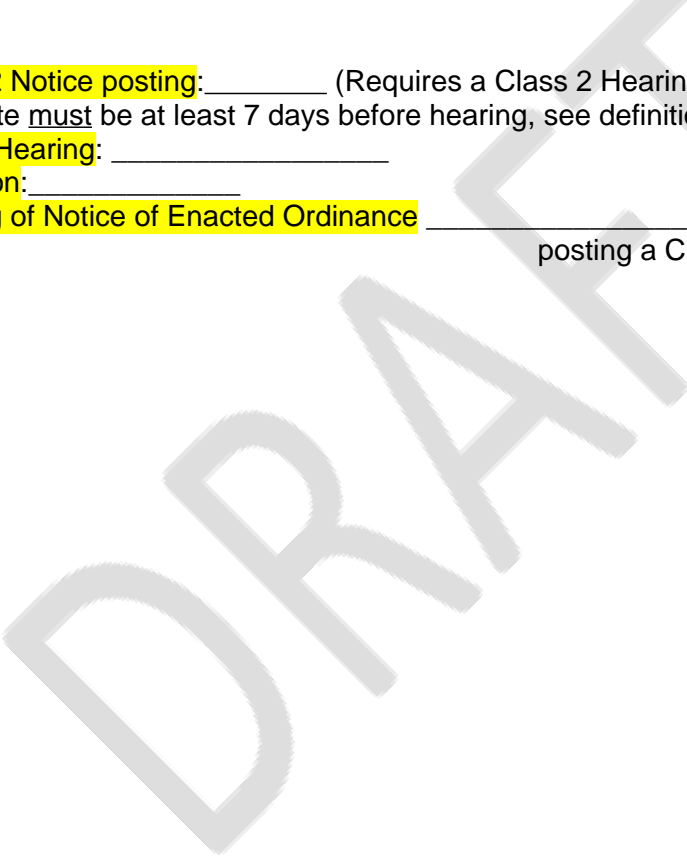


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Article I
General Provisions

1.0 STATUTORY AUTHORIZATION, FINDING OF FACT, STATEMENT OF PURPOSE, TITLE AND GENERAL PROVISIONS

1.1 STATUTORY AUTHORIZATION

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

1.2 FINDING OF FACT

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

1.3 STATEMENT OF PURPOSE

To regulate development in flood hazard areas, the governing body does ordain the purpose of these rules is to:

- (1) Protect life, health and property;
- (2) Minimize expenditures of public funds for flood control projects;
- (3) Minimize rescue and relief efforts undertaken at the expense of the taxpayers;
- (4) Minimize business interruptions and other economic disruptions;
- (5) Minimize damage to public facilities in the floodplain;
- (6) Minimize the occurrence of future flood blight areas in the floodplain;
- (7) Discourage the victimization of unwary land and home buyers;
- (8) Prevent increases in flood heights that could increase flood damage and result in conflicts between property owners; and
- (9) Discourage development in a floodplain if there is any practicable alternative to locate the activity, use or structure outside of the floodplain.

1.4 TITLE

This Chapter shall be known as the "Floodplain Zoning Ordinance for Village of Elm Grove, Wisconsin."

1.5 GENERAL PROVISIONS

(1) AREAS TO BE REGULATED

This Chapter regulates all areas of special flood hazard identified as zones A, AO, AH, A1-30, and AE on the Flood Insurance Rate Map. Additional areas identified on maps approved by the Department of Natural Resources (DNR) and local community may also be regulated under the provisions of this ordinance, where applicable.

(2) OFFICIAL MAPS & REVISIONS

Special Flood Hazard Areas (SFHA) are designated as zones A, A1-30, AE, AH,

52 and AO on the Flood Insurance Rate Maps (FIRMs) based on flood hazard
53 analyses summarized in the Flood Insurance Study (FIS) listed in subd. (a)
54 below. Additional flood hazard areas subject to regulation under this ordinance
55 are identified on maps based on studies approved by the DNR and listed in subd.
56 (b) below. These maps and revisions are on file in the office of the **Zoning and**
57 **Planning Administrator, Village of Elm Grove.**

58
59 (a) OFFICIAL MAPS : Based on Waukesha County Flood Insurance Study (FIS)
60 dated November 5, 2014:

- 61
62 1. Flood Insurance Rate Map (FIRM), panel numbers 55133C0236G and
63 55133C0237G;
64
65 2. Flood Insurance Study (FIS) for Village of Elm Grove, 55133CV001C,
66 55133CV002C, and 55133CV003C.

67
68 Prepared and approved by: The DNR and FEMA

69
70 (b) OFFICIAL MAPS: Based on other studies, any maps referenced in this
71 section must be approved by the DNR and be more restrictive than those
72 based on the FIS at the site of the proposed development.

- 73
74 1. Village of Elm Grove Flood Storage District Map, panel number 4 of 12,
75 dated November 5, 2014, prepared and approved by the DNR.

76
77 (3) ESTABLISHMENT OF FLOODPLAIN ZONING DISTRICTS

78 The flood hazard areas regulated by this ordinance are divided into districts as
79 follows:

80
81 (a) The Floodway District (FW), is the channel of a river or stream and those
82 portions of the floodplain adjoining the channel required to carry the regional
83 floodwaters, within AE Zones as shown on the FIRM, or within A Zones
84 shown on the FIRM when determined according to § 5.1(5).

85
86 (b) The Floodfringe District (FF) is that portion of a riverine special flood hazard
87 area outside the floodway within AE Zones on the FIRM, or, when floodway
88 limits have been determined according to § 5.1(5), within A Zones shown on
89 the FIRM.

90
91 (c) The General Floodplain District (GFP) is those riverine areas that may be
92 covered by floodwater during the regional flood in which a floodway boundary
93 has not been delineated on the FIRM and also includes shallow flooding
94 areas identified as AH and AO zones on the FIRM.

95
96 (d) The Flood Storage District (FSD) is that area of the floodplain where storage
97 of floodwaters is calculated to reduce the regional flood discharge.

98
99 (4) LOCATING FLOODPLAIN BOUNDARIES

100 Discrepancies between the exterior boundaries of zones A1-30, AE, AH, or A on
101 the official floodplain zoning map and actual field conditions may be resolved
102 using the criteria in subd (a) or (b) below. If a significant difference exists, the
103 map shall be amended according to § 8.0 *Amendments*. The Zoning
104 Administrator can rely on a boundary derived from a profile elevation to grant or
105 deny a land use permit, whether or not a map amendment is required. The

106 Zoning Administrator shall be responsible for documenting actual pre-
107 development field conditions and the basis upon which the district boundary was
108 determined. Disputes between the Zoning Administrator and an applicant over
109 the district boundary line shall be settled according to § 7.3(3) and the criteria in
110 (a) and (b) below. Where the flood profiles are based on established base flood
111 elevations from a FIRM, FEMA must approve any map amendment or revision
112 pursuant to § 8.0 *Amendments*.

113
114 (a) If flood profiles exist, the map scale and the profile elevations shall determine
115 the district boundary. The regional or base flood elevations shall govern if
116 there are any discrepancies.

117
118 (b) Where flood profiles do not exist, including any boundary of zone A, and AO
119 the location of the boundary shall be determined by the map scale.

120 (5) REMOVAL OF LANDS FROM FLOODPLAIN

121 (a) Compliance with the provisions of this ordinance shall not be grounds for
122 removing land from the floodplain unless it is filled at least two feet above the
123 regional or base flood elevation, the fill is contiguous to land outside the
124 floodplain, and the map is amended pursuant to § 8.0 *Amendments*.

125
126 (b) The delineation of any of the Floodplain Districts may be revised by the
127 Village where natural or man-made changes have occurred and/or where
128 more detailed studies have been conducted. However, prior to any such
129 change, approval must be obtained from the Wisconsin Department of
130 Natural Resources and Federal Emergency Management Agency. A
131 completed Letter of Map Revision is a record of this approval. The Floodplain
132 Administrator shall not sign a community acknowledgement form unless all
133 criteria set forth in the following paragraphs are met:

- 134
135 1. The land and/or land around the structure must be filled at least two
136 feet above the regional or base flood elevation;
- 137
138 2. The fill must be contiguous to land outside the floodplain; Applicant
139 shall obtain floodplain development permit before applying for a
140 LOMR or LOMR-F;

141
142 (c) Removal of lands from the floodplain may also occur by operation of
143 §87.30(1)(e), Wis. Stat. if a property owner has obtained a letter of map
144 amendment from the Federal Emergency Management Agency under 44
145 C.F.R. § 70.

146
147 (6) COMPLIANCE

148 (a) No structure or use within areas regulated by this ordinance shall hereafter be
149 located, erected, constructed, reconstructed, repaired, extended, converted,
150 enlarged, or altered without full compliance with the terms of these
151 regulations and all other applicable regulations that apply to uses within the
152 jurisdiction of these regulations.

153
154 (b) Failure to obtain a floodplain development permit shall be a violation of these
155 regulations and shall be punishable in accordance with § 9.0.

157 (c) Floodplain development permits issued on the basis of plans and applications
158 approved by the Floodplain Administrator authorize only the use, and
159 arrangement, set forth in such approved plans and applications, or
160 amendments thereto if approved by the Floodplain Administrator. Use,
161 arrangement, or construction contrary to that authorized shall be deemed a
162 violation of these regulations and punishable in accordance with § 9.0.

163
164 (7) MUNICIPALITIES AND STATE AGENCIES REGULATED

165 Unless specifically exempted by law, the Village of Elm Grove is required to
166 comply with this Chapter and obtain all necessary permits. State agencies are
167 required to comply if §§ 13.48(13), Wis. Stats., applies. The construction,
168 reconstruction, maintenance and repair of state highways and bridges by the
169 Wisconsin Department of Transportation is exempt when §§ 30.2022, Wis.
170 Stats., applies. Although exempt from a local zoning permit and permit fees,
171 DOT must provide sufficient project documentation and analysis to ensure that
172 the community is in compliance with Federal, State, and local floodplain
173 standards.

174
175 (8) ABROGATION AND GREATER RESTRICTIONS

176 (a) This ordinance Chapter supersedes all the provisions of any municipal zoning
177 ordinance enacted under §§ 61.35 for villages; or §§ 87.30, Wis. Stats., which
178 relate to floodplains. A more restrictive ordinance shall continue in full force
179 and effect to the extent of the greater restrictions, but not otherwise.

180
181 (a) This Chapter is not intended to repeal, abrogate or impair any existing deed
182 restrictions, covenants or easements. If this chapter imposes greater
183 restrictions, the provisions of this chapter shall prevail.

184
185 (9) INTERPRETATION

186 In their interpretation and application, the provisions of this Chapter are the
187 minimum requirements liberally construed in favor of the governing body and
188 are not a limitation on or repeal of any other powers granted by the Wisconsin
189 Statutes. If a provision of this Chapter, required by Ch. NR 116, Wis. Adm.
190 Code, is unclear, the provision shall be interpreted in light of the standards in
191 effect on the date of the adoption of this Chapter or in effect on the date of the
192 most recent text amendment to this Chapter.

193
194 (10) WARNING AND DISCLAIMER OF LIABILITY

195 The flood protection standards in this Chapter are based on engineering
196 experience and scientific research. Larger floods may occur, or the flood height
197 may be increased by man-made or natural causes. This Chapter does not imply
198 or guarantee that non-floodplain areas or permitted floodplain uses will be free
199 from flooding and flood damages. Nor does this chapter create liability on the
200 part of, or a cause of action against, the municipality or any officer or employee
201 thereof for any flood damage that may result from reliance on this Chapter.

202
203 (11) SEVERABILITY

204 Should any portion of this chapter be declared unconstitutional or invalid by a
205 court of competent jurisdiction, the remainder of this Chapter shall not be
206 affected.

207
208
209 Article II

210 **2.0 GENERAL STANDARDS APPLICABLE TO ALL FLOODPLAIN DISTRICTS**

211 The Village shall review all permit applications to determine whether proposed building
212 sites will be reasonably safe from flooding and assure that all necessary permits have
213 been received from those governmental agencies whose approval is required by federal
214 or state law.

215
216 (1) If a proposed building site is in a flood-prone area, all new construction and
217 substantial improvements shall:

218
219 (a) be designed and anchored to prevent flotation, collapse, or lateral movement of
220 the structure resulting from hydrodynamic and hydrostatic loads, including the
221 effects of buoyancy;

222
223 (b) be constructed with flood-resistant materials;

224
225 (c) be constructed by methods and practices that minimize flood damages; and

226
227 (d) be constructed with electrical, heating, ventilation, plumbing, and air conditioning
228 equipment and other service facilities that are designed and/or located so as to
229 prevent water from entering or accumulating within the components during
230 conditions of flooding.

231
232 (2) If a subdivision or other proposed new development is in a flood-prone area, the
233 community shall assure that:

234
235 (a) such proposed subdivision or other proposed new development is consistent with
236 the need to minimize flood damage within the flood-prone area;

237
238 (b) public utilities and facilities such as sewer, gas, electrical, and water systems are
239 located and constructed to minimize or eliminate flood damage; and

240
241 (c) adequate drainage is provided to reduce exposure to flood hazards.

242
243 All subdivision proposals shall include regional flood elevation and floodway data for any
244 development that meets the subdivision definition of this Chapter and all other
245 requirements in § 7.1(2).

246 247 **2.1 HYDRAULIC AND HYDROLOGIC ANALYSES**

248 (1) No floodplain development shall:

249
250 (a) Obstruct flow, defined as any development which physically blocks the
251 conveyance of floodwaters by itself or in conjunction with other development,
252 causing any increase in the regional flood height; or

253
254 (b) Cause any increase in the regional flood height due to floodplain storage area
255 lost.

256
257 (2) The Zoning Administrator shall deny permits if it is determined the proposed
258 development will obstruct flow or cause any increase in the regional flood height,
259 based on the officially adopted FIRM or other adopted map, unless the provisions of
260 Article 8.0 *Amendments* are met.

261 262 **2.2 WATERCOURSE ALTERATIONS**

263 No land use permit to alter or relocate a watercourse in a mapped floodplain shall be
264 issued until the local official has notified in writing all adjacent municipalities, the
265

266 Department and FEMA regional offices, and required the applicant to secure all
267 necessary state and federal permits. The standards of § 2.1 must be met and the flood
268 carrying capacity of any altered or relocated watercourse shall be maintained.
269

270 As soon as is practicable, but not later than six months after the date of the watercourse
271 alteration or relocation and pursuant to Chapter 8.0 *Amendments*, the Village shall apply
272 for a Letter of Map Revision (LOMR) from FEMA. Any such alterations must be
273 reviewed and approved by FEMA and the DNR through the LOMC process.
274

275 **2.3 CHAPTER 30, 31, WIS. STATS., DEVELOPMENT**

276 Development which requires a permit from the Department, under §§ 30 and 31, Wis.
277 Stats., such as docks, piers, wharves, bridges, culverts, dams and navigational aids,
278 may be allowed if the necessary permits are obtained and amendments to the floodplain
279 zoning ordinance are made according to § 8.0 *Amendments*.
280

281 **2.4 PUBLIC OR PRIVATE CAMPGROUNDS**

282 Public or private campgrounds are prohibited within the Village of Elm Grove.
283

284 Article III

285 **3.0 FLOODWAY DISTRICT (FW)**

286 **3.1 APPLICABILITY**

287 This article applies to all floodway areas on the floodplain zoning maps and those
288 identified pursuant to § 5.1(5).
289

290 **3.2 PERMITTED USES**

291 The following open-space uses are allowed in the Floodway District and the floodway
292 areas of the General Floodplain District, if:
293

- 294 • they are not prohibited by any other ordinance;
- 295 • they meet the standards in §§ 3.3 and 3.4; and
- 296 • all permits or certificates have been issued according to § 7.1.

297
298
299 (1) Nonstructural industrial and commercial uses, such as loading areas, parking areas
300 and airport landing strips.
301

302
303 (2) Nonstructural recreational uses, such as tennis courts, archery ranges, picnic
304 grounds, swimming areas, parks, wildlife and nature preserves, fishing areas and
305 hiking trails, subject to the fill limitations of § 3.3(4).
306

307 (3) Uses or structures accessory to open space uses or classified as historic structures
308 that comply with § 3.3 and 3.4.
309

310
311 (4) Functionally water-dependent uses, such as docks, piers or wharves, dams, flowage
312 areas, culverts, navigational aids and river crossings of transmission lines, and pipelines
313 that comply with §§ 30 and 31, Wis. Stats.
314

315 (5) Public utilities, streets and bridges that comply with § 3.3(3).
316

317 (6) Portable latrines that are removed prior to flooding and systems associated with
318 recreational areas that meet the applicable provisions of local ordinances and Ch.
319 SPS 383, Wis. Adm. Code.

320
321 (7) Public or private wells used to obtain potable water for recreational areas operated
322 by the Village and chs. NR 811 and NR 812, Wis. Adm. Code.
323

324
325 (8) Sanitary sewer or water supply lines to service existing or proposed development
326 located outside the floodway that complies with the regulations for the floodplain
327 area occupied.
328

329 **3.3 STANDARDS FOR DEVELOPMENTS IN THE FLOODWAY**

330 (1) GENERAL

331
332 (a) Any development in the floodway shall comply with § 2.0 and have a low flood
333 damage potential.
334

335 (b) Applicants shall provide an analysis calculating the effects of this proposal on
336 the regional flood height to determine the effects of the proposal according to §§
337 2.1 and 7.1(2)(c). The analysis must be completed by a registered professional
338 engineer in the state of Wisconsin.
339

340 (c) Any encroachment in the regulatory floodway is prohibited unless the data
341 submitted for subd. 3.3(1)(b) above demonstrates that the encroachment will
342 cause no increase in flood elevations in flood events up to the base flood at
343 any location or removes the encroached area from the regulatory floodway as
344 provided in § 1.5(5).
345

346 (2) STRUCTURES

347 Structures accessory to permanent open space uses, including utility and sanitary
348 facilities, classified as historic structures, or functionally dependent on a waterfront
349 location may be allowed by permit if the structures comply with the following criteria:

350 (a) The structures are not designed for human habitation, do not have a high flood
351 damage potential and are constructed to minimize flood damage;

352 (b) The structures shall either have the lowest floor elevated to or above the flood
353 protection elevation or shall meet all the following standards:

354 1. Have the lowest floor elevated to or above the regional flood elevation and
355 be dry floodproofed so that the structure is watertight with walls
356 substantially impermeable to the passage of water and completely dry to
357 the flood protection elevation without human intervention during flooding;
358

359 2. Have structural components capable of meeting all provisions of Section
360 3.3(2)(g) and;
361

362 3. Be certified by a registered professional engineer or architect, through the
363 use of a Federal Emergency Management Agency Floodproofing
364 Certificate, that the design and methods of construction are in accordance
365 with Section 3.3(2)(g).
366

367 (c) Must be anchored to resist flotation, collapse and lateral movement and to
368 prevent restricting bridge openings or other restricted sections of the stream or river;

369 (d) The structures must have all mechanical and utility equipment elevated to or
370 above the flood protection elevation; and

371 (e) Must not obstruct flow of flood waters or cause any increase in flood levels
372 during the occurrence of the regional flood.

373 (f) For a structure designed to allow the automatic entry of floodwaters below the
374 Regional Flood Elevation, the applicant shall submit a plan that meets§ 3.3(2)(a)
375 through 3.3(2)(e) and meets or exceeds the following standards:

376 1. The lowest floor must be elevated to or above the regional flood
377 elevation;

378 2. a minimum of two openings having a total net area of not less than one
379 square inch for every square foot of enclosed area subject to flooding;

380 3. the bottom of all openings shall be no higher than one foot above the
381 lowest adjacent grade; openings may be equipped with screens, louvers,
382 valves, or other coverings or devices provided that they permit the
383 automatic entry and exit of floodwaters, otherwise must remain open.

384 4. The use must be limited to parking, building access or limited storage.

385 (g) Certification: Whenever floodproofing measures are required, a registered
386 professional engineer or architect shall certify that the following floodproofing
387 measures will be utilized, where appropriate, and are adequate to withstand the
388 flood depths, pressures, velocities, impact and uplift forces and other factors
389 associated with the regional flood:

390 1. Reinforcement of floors and walls to resist rupture, collapse, or lateral
391 movement caused by water pressures or debris buildup;

392 2. Construction of wells, water supply systems and waste treatment systems
393 so as to prevent the entrance of flood waters in such systems and must be
394 in accordance with provisions in Sections 3.4(4) and 3.4(5);

395 3. Subsurface drainage systems to relieve external pressures on foundation
396 walls and basement floors;

397 4. Cutoff valves on sewer lines or the elimination of gravity flow basement
398 drains; and

399 5. Placement of utilities to or above the flood protection elevation.

400 (3) PUBLIC UTILITIES, STREETS AND BRIDGES

401 Public utilities, streets and bridges may be allowed by permit, if:

402

403 (a) Adequate floodproofing measures are provided to the flood protection elevation;
404 and

405
406 (b) Construction meets the development standards of §2.1.
407

408 (4) FILLS OR DEPOSITION OF MATERIALS

409 Fills or deposition of materials may be allowed by permit, if:

410 (a) The requirements of §2.1 are met;

411
412
413 (b) No material is deposited in navigable waters unless a permit is issued by the
414 Department pursuant to §§ 30, Wis. Stats., and a permit pursuant to § 404 of the
415 Federal Water Pollution Control Act, Amendments of 1972, 33 U.S.C. § 1344
416 has been issued, if applicable, and all other requirements of this section have
417 been met;

418
419 (c) The fill or other materials will be protected against erosion by riprap, vegetative
420 cover, sheet piling or bulkheading; and

421
422 (a)The fill is not classified as a solid or hazardous material.
423

424 **3.4 PROHIBITED USES**

425 All uses not listed as permitted uses in § 3.2 are prohibited, including the following uses:

- 426
427 (1) Habitable structures, structures with high flood damage potential, or those not
428 associated with permanent open-space uses;
429
430 (2) Storing materials that are buoyant, flammable, explosive, injurious to property, water
431 quality, or human, animal, plant, fish or other aquatic life;
432
433 (3) Uses not in harmony with or detrimental to uses permitted in the adjoining districts;
434
435 (4) Any private sewage systems, except privately owned laterals connected to a public
436 sewerage system and portable latrines that are removed prior to flooding and
437 systems associated with recreational areas that meet the applicable provisions of
438 local ordinances and Ch. SPS 383, Wis. Adm. Code;
439
440 (5) Any public or private wells which are used to obtain potable water, except those for
441 recreational areas operated by the Village and Chs. NR 811 and NR 812, Wis. Adm.
442 Code;
443
444 (6) Any solid or hazardous waste disposal sites;
445
446 (7) Any wastewater treatment ponds or facilities, except those permitted under § NR
447 110.15(3)(b), Wis. Adm. Code; and
448
449 (8) Any sanitary sewer or water supply lines, except those to service existing or
450 proposed development located outside the floodway which complies with the
451 regulations for the floodplain area occupied.
452

453 Article IV

454 **4.0 FLOOD-FRIDGE DISTRICT (FF)**

455
456 **4.1 APPLICABILITY**

457 This section applies to all flood-fringe areas shown on the floodplain zoning maps and
458 those identified pursuant to § 5.1(5).

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4.2 PERMITTED USES

Any structure, land use, or development is allowed in the Flood-Fringe District if the standards in § 4.3 are met, the use is not prohibited by this or any other ordinance or regulation and all permits or certificates specified in § 7.1 have been issued.

4.3 STANDARDS FOR DEVELOPMENT IN THE FLOODFRINGE

Section 2.0 shall apply in addition to the following requirements according to the use requested. Any existing structure in the floodfringe must meet the requirements of Article VI *Nonconforming Uses*;

(1) **RESIDENTIAL USES**

Any structure, including a manufactured home, which is to be newly constructed or moved into the floodfringe, shall meet or exceed the following standards. Any existing structure in the floodfringe must meet the requirements of Article VI *Nonconforming Uses*;

- (a) All new construction, including placement of manufactured homes, and substantial improvement of residential structures, shall have the lowest floor elevated to or above the flood protection elevation on fill. The fill around the structure shall be one foot or more above the 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 § 1.5(5).
- (b) Notwithstanding § 4.3 (1)(a), a basement or crawlspace floor may be placed at the regional flood elevation if the basement or crawlspace is designed to make all portions of the structure below the flood protection elevation watertight with walls substantially impermeable to the passage of water and with structural components having the capability of resisting hydrostatic and hydrodynamic loads and effects of buoyancy. No floor of any kind is allowed below the regional flood elevation;
- (c) Contiguous dryland access shall be provided from a structure to land outside of the floodplain, except as provided in subd. (d).
- (d) In developments where existing street or sewer line elevations make compliance with subd. (c) impractical, the municipality may permit new development and substantial improvements where roads are below the regional flood elevation, if:
 - 1. The municipality has written assurance from police, fire and emergency services that rescue and relief will be provided to the structure(s) by wheeled vehicles during a regional flood event; or
 - 2. The municipality has a DNR-approved emergency evacuation plan that follows acceptable hazard mitigation planning guidelines.

(2) **ACCESSORY STRUCTURES OR USES**

In addition to § 2.0, new construction and substantial improvements of Accessory structures shall be constructed on fill with the lowest floor at or above the regional flood elevation.

(3) **COMMERCIAL USES**

In addition to § 2.0, any commercial structure which is erected, altered or moved into the floodfringe shall meet the requirements of § 4.3(1). Subject to the requirements

514 of § 4.3(5), storage yards, surface parking lots and other such uses may be placed at
515 lower elevations if an adequate warning system exists to protect life and property.
516

517 (4) MANUFACTURING AND INDUSTRIAL USES

518 In addition to § 2.0, any manufacturing or industrial structure which is erected,
519 altered or moved into the floodfringe shall have the lowest floor elevated to or above
520 the flood protection elevation or meet the floodproofing standards in s 7.5. Subject to
521 the requirements of § 4.3(5), storage yards, surface parking lots and other such uses
522 may be placed at lower elevations if an adequate warning system exists to protect
523 life and property.
524

525 (5) STORAGE OF MATERIALS

526 Materials that are buoyant, flammable, explosive, or injurious to property, water
527 quality or human, animal, plant, fish or aquatic life shall be stored at or above the
528 flood protection elevation or floodproofed in compliance with § 7.5. Adequate
529 measures shall be taken to ensure that such materials will not enter the water body
530 during flooding.
531

532 (6) PUBLIC UTILITIES, STREETS AND BRIDGES

533 All utilities, streets and bridges shall be designed to be compatible with
534 comprehensive floodplain development plans; and
535

536 (a) When failure of public utilities, streets and bridges would endanger public health
537 or safety, or where such facilities are deemed essential, construction or repair of
538 such facilities shall only be permitted if they are designed to comply with § 7.5.
539

540 (b) Minor roads or non-essential utilities may be constructed at lower elevations if
541 they are designed to withstand flood forces to the regional flood elevation.
542

543 (7) SEWAGE SYSTEMS

544 All sewage disposal systems shall be designed to minimize or eliminate infiltration of
545 flood water into the system, pursuant to § 7.5(3), to the flood protection elevation and
546 meet the provisions of all local ordinances and Ch. SPS 383, Wis. Adm. Code.
547

548 (8) WELLS

549 All wells shall be designed to minimize or eliminate infiltration of flood waters into the
550 system, pursuant to § 7.5(3), to the flood protection elevation and shall meet the
551 provisions of chs. NR 811 and NR 812, Wis. Adm. Code.
552

553 (9) SOLID WASTE DISPOSAL SITES

554 Disposal of solid or hazardous waste is prohibited in floodfringe areas.
555

556 (10) DEPOSITION OF MATERIALS

557 Any deposited material must meet all the provisions of this ordinance.
558

559 (11) MANUFACTURED HOMES

560
561 (a) **Manufactured home parks are prohibited within the Village of Elm Grove.**
562

563 (12) MOBILE RECREATIONAL VEHICLES

564 **All mobile recreational vehicles must be compliant with the storage requirements in**
565 **§335-33 of the Village Code of Ordinances, and are not a permitted use within the**
566 **Village of Elm Grove.**
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5.0 OTHER FLOODPLAIN DISTRICTS

5.1 GENERAL FLOODPLAIN DISTRICT (GFP)

(1) APPLICABILITY

The provisions for the General Floodplain District shall apply to development in all floodplains mapped as A, AO, AH, and in AE zones within which a floodway is not delineated on the Flood Insurance Rate Maps identified in § 1.5(2)(a).

(2) FLOODWAY BOUNDARIES

For proposed development in zone A, or in zone AE within which a floodway is not delineated on the Flood Insurance Rate Map identified in § 1.5(2)(a), the boundaries of the regulatory floodway shall be determined pursuant to § 5.1(5). If the development is proposed to encroach upon the regulatory floodway, the development is subject to the standards of § 3.0. If the development is located entirely within the floodfringe, the development is subject to the standards of § 4.0.

(3) PERMITTED USES

Pursuant to § 5.1(5) it shall be determined whether the proposed use is located within the floodway or floodfringe. Those uses permitted in the Floodway (§ 3.2) and Floodfringe (§ 4.2) Districts are allowed within the General Floodplain District, according to the standards of § 5.1(4) provided that all permits or certificates required under §7.1 have been issued.

(4) STANDARDS FOR DEVELOPMENT IN THE GENERAL FLOODPLAIN DISTRICT

Section 3.0 applies to floodway areas, determined to pursuant to § 5.1(5); Article IV applies to floodfringe areas, determined to pursuant to § 5.1(5).

(a) New construction and substantial improvement of structures in zone AO shall have the lowest floor, including basement, elevated:

1. To or above the depth, in feet, as shown on the FIRM above the highest adjacent natural grade; or
2. If the depth is not specified on the FIRM, to or above two (2) feet above the highest adjacent natural grade.

(b) New Construction and substantial improvement of structures in zone AH shall have the lowest floor, including basement, elevated to or above the flood protection elevation.

(c) In AO/AH zones, provide adequate drainage paths to guide floodwaters around structures.

(d) All development in zones AO and zone AH shall meet the requirements of § 4.0 applicable to floodfringe areas.

(5) DETERMINING FLOODWAY AND FLOODFRINGE LIMITS

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

- (a) Require the applicant to submit two copies of an aerial photograph or a plan which

622 shows the proposed development with respect to the general floodplain district limits,
623 stream channel, and existing floodplain developments, along with a legal description of
624 the property, fill limits and elevations, building floor elevations and flood proofing
625 measures; and the flood zone as shown on the FIRM.

626
627 (b) Require the applicant to furnish any of the following information deemed necessary by
628 the Department to evaluate the effects of the proposal upon flood height and flood
629 flows, regional flood elevation and to determine floodway boundaries.

630
631 1. A Hydrologic and Hydraulic Study as specified in § 7.1(2)(c).

632
633 2. Plan (surface view) showing elevations or contours of the ground; pertinent
634 structure, fill or storage elevations; size, location and layout of all proposed and
635 existing structures on the site; location and elevations of streets, water supply, and
636 sanitary facilities; soil types and other pertinent information;

637
638 3. Specifications for building construction and materials, floodproofing, filling,
639 dredging, channel improvement, storage, water supply and sanitary facilities.

640 **5.2 FLOOD STORAGE DISTRICT**

641 The flood storage district delineates that portion of the floodplain where storage of
642 floodwaters has been taken into account and is relied upon to reduce the regional flood
643 discharge. The district protects the flood storage areas and assures that any development
644 in the storage areas will not decrease the effective flood storage capacity which would
645 cause higher flood elevations.
646

647 (1) APPLICABILITY

648 The provisions of this section apply to all areas within the Flood Storage District (FSD),
649 as shown on the official floodplain zoning maps.
650

651 (2) PERMITTED USES

652 Any use or development which occurs in a flood storage district must meet the
653 applicable requirements in § 4.3.
654

655 (3) STANDARDS FOR DEVELOPMENT IN FLOOD STORAGE DISTRICTS

656 (a) Development in a flood storage district shall not cause an increase equal or greater
657 than 0.00 of a foot in the height of the regional flood.
658

659
660 (b) No development shall be allowed which removes flood storage volume unless an
661 equal volume of storage as defined by the pre-development ground surface and
662 the regional flood elevation shall be provided in the immediate area of the
663 proposed development to compensate for the volume of storage which is lost,
664 (compensatory storage). Excavation below the groundwater table is not
665 considered to provide an equal volume of storage.
666

667 (c) If compensatory storage cannot be provided, the area may not be developed unless
668 the entire area zoned as flood storage district – on this waterway – is rezoned to
669 the floodfringe district. This must include a revision to the floodplain study and
670 map done for the waterway to revert to the higher regional flood discharge
671 calculated without floodplain storage, as per Article VIII *Amendments* of this
672 ordinance.
673

674 (d) No area may be removed from the flood storage district unless it can be shown that
675 the area has been filled to the flood protection elevation and is contiguous to other
676

677 lands lying outside of the floodplain.

678
679 **6.0 NONCONFORMING USES**

680
681 Article VI
682 **Nonconforming Uses**

683 **6.1 Applicability and Continuance.**

684 (1) APPLICABILITY

685
686 (a) The standards in this section shall apply to all uses and buildings that do not
687 conform to the provisions contained within a floodplain zoning ordinance or with §
688 87.30, Wis. Stats. and §§ NR 116.12-14, Wis. Adm. Code and 44 C.F.R. 59-72.,
689 these standards shall apply to all modifications or additions to any nonconforming
690 use or structure and to the use of any structure or premises which was lawful
691 before the passage of this ordinance or any amendment thereto. A party asserting
692 existence of a lawfully established nonconforming use or structure has the burden
693 of proving that the use or structure was compliant with the floodplain zoning
694 ordinance in effect at the time the use or structure was created.

695
696 (b) As permit applications are received for additions, modifications, or substantial
697 improvements to nonconforming buildings in the floodplain, municipalities shall
698 develop a list of those nonconforming buildings, their present equalized assessed
699 value and a list of the costs of those activities associated with changes to those
700 buildings.

701
702 (2) The existing lawful use of a structure or its accessory use which is not in conformity
703 with the provisions of this Chapter may continue subject to the following conditions:

704
705 (a) No modifications or additions to a nonconforming use or structure shall be
706 permitted unless they comply with this Chapter and all municipal ordinances. The
707 words "modification" and "addition" include, but are not limited to, any alteration,
708 addition, modification, structural repair, rebuilding or replacement of any such
709 existing use, structure or accessory structure or use. Maintenance is not
710 considered a modification; this includes painting, decorating, paneling and other
711 nonstructural components and the maintenance, repair or replacement of existing
712 private sewage or water supply systems or connections to public utilities. Any
713 costs associated with the repair of a damaged structure are not considered
714 maintenance.

715
716 The construction of a deck that does not exceed 200 square feet and that is
717 adjacent to the exterior wall of a principal structure is not an extension, modification
718 or addition. The roof of the structure may extend over a portion of the deck in
719 order to provide safe ingress and egress to the principal structure.

720
721 (b) If a nonconforming use or the use of a nonconforming structure is discontinued for
722 12 consecutive months, it is no longer permitted and any future use of the property,
723 and any structure or building thereon, shall conform to the applicable requirements
724 of this Chapter and all municipal ordinances;

725
726 (c) The Village shall keep a record which lists all nonconforming uses and
727 nonconforming structures, their present equalized assessed value, the cost of all
728 modifications or additions which have been permitted, and the percentage of the
729 structure's total current value those modifications represent;

- 731 (d) No modification or addition to any nonconforming structure or any structure with a
732 nonconforming use, which over the life of the structure would equal or exceed 50%
733 of its present equalized assessed value, shall be allowed unless the entire
734 structure is permanently changed to a conforming structure with a conforming use
735 in compliance with the applicable requirements of this ordinance. Contiguous dry
736 land access must be provided for residential and commercial uses in compliance
737 with § 4.3(1). The costs of elevating the lowest floor of a nonconforming building or
738 a building with a nonconforming use to the flood protection elevation are excluded
739 from the 50% provisions of this paragraph;
740
- 741 (e) No maintenance on a per event basis to any nonconforming structure or any
742 structure with a nonconforming use, the cost of which would equal or exceed 50%
743 of its present equalized assessed value, shall be allowed unless the entire
744 structure is permanently changed to a conforming structure with a conforming use
745 in compliance with the applicable requirements of this Chapter. Contiguous dry
746 land access must be provided for residential and commercial uses in compliance
747 with § 4.3(1). Maintenance to any nonconforming structure, which does not exceed
748 50% of its present equalized assessed value on a per event basis, does not count
749 against the cumulative calculations over the life of the structure for substantial
750 improvement calculations.
751
- 752 (f) If on a per event basis the total value of the work being done under (d) and (e)
753 equals or exceeds 50% of the present equalized assessed value the work shall not
754 be permitted unless the entire structure is permanently changed to a conforming
755 structure with a conforming use in compliance with the applicable requirements of
756 this ordinance. Contiguous dry land access must be provided for residential and
757 commercial uses in compliance with § 4.3(1).
758
- 759 (g) Except as provided in subd. (h), if any nonconforming structure or any structure
760 with a nonconforming use is destroyed or is substantially damaged, it cannot be
761 replaced, reconstructed or rebuilt unless the use and the structure meet the current
762 ordinance requirements. A structure is considered substantially damaged if the
763 total cost to restore the structure to its pre-damaged condition equals or exceeds
764 50% of the structure's present equalized assessed value.
765
- 766 (h) For nonconforming buildings that are substantially damaged or destroyed by a
767 non-flood disaster, the repair or reconstruction of any such nonconforming building
768 shall be permitted in order to restore it to the size and use in effect prior to the
769 damage event, provided that the following minimum requirements are met and all
770 required permits have been granted prior to the start of construction:
771

772 1. Residential Structures

- 773
- 774 a. Shall have the lowest floor, including basement, elevated to or above the
775 flood protection elevation using fill, pilings, columns, posts or perimeter walls.
776 Perimeter walls must meet the requirements of § 7.5(2).
777
- 778 b. Shall be anchored to prevent flotation, collapse, or lateral movement of the
779 structure resulting from hydrodynamic and hydrostatic loads, including the
780 effects of buoyancy and shall be constructed with methods and materials
781 resistant to flood damage.
782
- 783 c. Shall be constructed with electrical, heating, ventilation, plumbing and air
784 conditioning equipment and other service facilities that are designed and/or
785

786 elevated so as to prevent water from entering or accumulating within the
787 components during conditions of flooding.

788
789 d. In A Zones, obtain, review and utilize any flood data available from a federal,
790 state or other source.

791
792 e. In AO Zones with no elevations specified, shall have the lowest floor,
793 including basement, meet the standards in § 5.1(4).

794
795 f. in AO Zones, shall have adequate drainage paths around structures on slopes
796 to guide floodwaters around and away from the structure.

797
798 2. Nonresidential Structures

799
800 a. Shall meet the requirements of §§ 6.1(2)(h)1a-f.

801
802 b. Shall either have the lowest floor, including basement, elevated to or above
803 the regional flood elevation; or, together with attendant utility and sanitary
804 facilities, shall meet the standards in §§ 7.5 (1) or (2).

805
806 c. In AO Zones with no elevations specified, shall have the lowest floor, including
807 basement, meet the standards in § 5.1(4).

808
809 (3) A nonconforming historic structure may be altered if the alteration will not preclude the
810 structure's continued designation as a historic structure, the alteration will comply with
811 § 3.3 (1), flood resistant materials are used, and construction practices and
812 floodproofing methods that comply with § 7.5 are used. Repair or rehabilitation of
813 historic structures shall be exempt from the development standards of § 6.1 (2)(h)1 if it
814 is determined that the proposed repair or rehabilitation will not preclude the structure's
815 continued designation as a historic structure and is the minimum necessary to
816 preserve the historic character and design of the structure.

817
818 (4) Exceptions related to nonconforming structures within the floodplain.

819
820 Notwithstanding anything in this chapter to the contrary, modifications, additions,
821 maintenance, and repairs to a nonconforming building shall not be prohibited based on
822 cost and the building's nonconforming use shall be permitted to continue if:

823
824 (a) Any living quarters in the nonconforming building are elevated to be at or above
825 the flood protection elevation;

826
827 (b) The lowest floor of the nonconforming building, including the basement, is
828 elevated to or above the regional flood elevation;

829
830 (c) The nonconforming building is permanently changed to conform to the
831 applicable requirements of 2.0; and

832
833 (d) If the nonconforming building is in the floodway, the building is permanently
834 changed to conform to the applicable requirements of 3.3(1), 3.3(2)(b) through
835 (e), 3.3(3), 3.3(4), and 6.2; or

836
837 (a) If the nonconforming building is in the floodfringe, the building is permanently
838 changed to conform to the applicable requirements of 4.3 and 6.3.

839

840 **6.2 FLOODWAY DISTRICT**

841 (1) No modification or addition shall be allowed to any nonconforming structure or any
842 structure with a nonconforming use in the Floodway District, unless such modification or
843 addition:

844
845 (a) Has been granted a permit or variance which meets all ordinance requirements;

846
847 (b) Meets the requirements of § 6.1;

848
849 (c) Shall not increase the obstruction to flood flows or regional flood height;

850
851 (d) Any addition to the existing structure shall be floodproofed, pursuant to § 7.5, by
852 means other than the use of fill, to the flood protection elevation; and

853
854 (e) If any part of the foundation below the flood protection elevation is enclosed, the
855 following standards shall apply:

856
857 1. The enclosed area shall be designed by a registered architect or engineer to
858 allow for the efficient entry and exit of flood waters without human intervention. A
859 minimum of two openings must be provided with a minimum net area of at least
860 one square inch for every one square foot of the enclosed area. The lowest part
861 of the opening can be no more than 12 inches above the adjacent grade;

862
863 2. The parts of the foundation located below the flood protection elevation must be
864 constructed of flood-resistant materials;

865
866 3. Mechanical and utility equipment must be elevated or floodproofed to or above
867 the flood protection elevation; and

868
869 4. The use must be limited to parking, building access or limited storage.

870
871 (2) No new on-site sewage disposal system, or addition to an existing on-site sewage
872 disposal system, except where an addition has been ordered by a government agency
873 to correct a hazard to public health, shall be allowed in the Floodway District. Any
874 replacement, repair or maintenance of an existing on-site sewage disposal system in a
875 floodway area shall meet the applicable requirements of all municipal ordinances, §
876 7.5(3) and Ch. SPS 383, Wis. Adm. Code.

877
878 (3) No new well or modification to an existing well used to obtain potable water shall be
879 allowed in the Floodway District. Any replacement, repair or maintenance of an existing
880 well in the Floodway District shall meet the applicable requirements of all municipal
881 ordinances, § 7.5(3) and Chs. NR 811 and NR 812, Wis. Adm. Code.

882
883 **6.3 FLOODFRINGE DISTRICT**

884 (1) No modification or addition shall be allowed to any nonconforming structure or any
885 structure with a nonconforming use unless such modification or addition has been
886 granted a permit or variance by the municipality and meets the requirements of § 4.3
887 except where § 6.3(2) is applicable.

888
889 (2) Where compliance with the provisions of subd. (1) would result in unnecessary
890 hardship and only where the structure will not be used for human habitation or be
891 associated with a high flood damage potential, the Board of Appeals, using the
892 procedures established in § 7.3, may grant a variance from those provisions of subd.

893 (1) for modifications or additions using the criteria listed below. Modifications or
894 additions which are protected to elevations lower than the flood protection elevation
895 may be permitted if:

- 896 (a) No floor is allowed below the regional flood elevation for residential or
897 commercial structures;
- 898 (b) Human lives are not endangered;
- 899 (c) Public facilities, such as water or sewer, shall not be installed;
- 900 (d) Flood depths shall not exceed two feet;
- 901 (e) Flood velocities shall not exceed two feet per second; and
- 902 (f) The structure shall not be used for storage of materials as described in § 4.3(5).

903 (3) All new private sewage disposal systems, or addition to, replacement, repair or
904 maintenance of a private sewage disposal system shall meet all the applicable
905 provisions of all local ordinances, § 7.5 (3) and Ch. SPS 383, Wis. Adm. Code.

906 (4) All new wells, or addition to, replacement, repair or maintenance of a well shall meet
907 the applicable provisions of this ordinance, § 7.5 (3) and Chs. NR 811 and NR 812, Wis.
908 Adm. Code.

909 **6.4 FLOOD STORAGE DISTRICT**

910 No modifications or additions shall be allowed to any nonconforming structure in a flood
911 storage area unless the standards outlined in 5.2(3) are met.

912 Article VII 913 Administration

914 **7.0 PURPOSE**

915 Where the Zoning Administrator, plan commission or a board of appeals of the Village has
916 already been appointed to administer a zoning ordinance adopted under §§ 59.69, 59.692
917 or 62.23(7), Wis. Stats., those entities shall also administer this Chapter.

918 **7.1 ZONING ADMINISTRATOR**

919 (1) DUTIES AND POWERS

920 The Zoning Administrator is authorized to administer this Chapter and shall have the
921 following duties and powers:

- 922 (a) Advise applicants of the ordinance provisions, assist in preparing permit
923 applications and appeals, and assure that the regional flood elevation for the
924 proposed development is shown on all permit applications.
- 925 (b) Issue permits and inspect properties for compliance with provisions of this Chapter
926 and issue certificates of compliance where appropriate.
- 927 (c) Inspect and assess all damaged floodplain structures to determine if substantial
928 damage to the structures has occurred.
- 929 (d) Keep records of all official actions such as:
 - 930 1. All permits issued, inspections made, and work approved;

- 947 2. Documentation of certified lowest floor and regional flood elevations;
- 948 3. Floodproofing certificates.
- 949 4. Water surface profiles, floodplain zoning maps and ordinances, nonconforming
- 950 uses and structures including changes, appeals, variances and amendments.
- 951 5. All substantial damage assessment reports for floodplain structures.
- 952 6. List of nonconforming structures and uses.

953
954 (e) Submit copies of the following items to the Department Regional office:

- 955
- 956 1. Within 10 days of the decision, a copy of any decisions on variances, appeals
- 957 for map or text interpretations, and map or text amendments;
- 958
- 959 2. Copies of case-by-case analyses and other required information.
- 960
- 961 3. Copies of substantial damage assessments performed and all related
- 962 correspondence concerning the assessments.
- 963

964 (f) Investigate, prepare reports, and report violations of this Chapter to the Elm Grove

965 Plan Commission and Village Attorney for prosecution. Copies of the reports shall

966 also be sent to the Department Regional office.

967

968 (g) Submit copies of amendments to the FEMA Regional office.

969

970 (2) LAND USE PERMIT

971 A land use permit shall be obtained from the Zoning Administrator before any

972 development; repair, modification or addition to an existing structure; or change in the

973 use of a building or structure, including sewer and water facilities, may be initiated.

974 Application to the Zoning Administrator shall include:

975

976 (a) GENERAL INFORMATION

- 977
- 978 1. Name and address of the applicant, property owner and contractor;
- 979
- 980 2. Legal description, proposed use, and whether it is new construction or a
- 981 modification;
- 982

983 (b) SITE DEVELOPMENT PLAN

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

985 shall contain:

- 986
- 987 1. Location, dimensions, area and elevation of the lot;
- 988
- 989 2. Location of the ordinary highwater mark of any abutting navigable waterways;
- 990
- 991 3. Location of any structures with distances measured from the lot lines and street
- 992 center lines;
- 993
- 994 4. Location of any existing or proposed on-site sewage systems or private water
- 995 supply systems;
- 996
- 997 5. Location and elevation of existing or future access roads;
- 998
- 999 6. Location of floodplain and floodway limits as determined from the official
- 1000 floodplain zoning maps;

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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 §§ 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 § 2.1. This may include any of the information noted in § 3.3(1).

(c) 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 study contractor shall be responsible for the technical adequacy of the study. All studies shall be reviewed and approved by the Department.

1. Zone A floodplains and in AE zones within which a floodway is not delineated:
 - a. Hydrology
 - i. The appropriate method shall be based on the standards in Ch. NR 116.07(3), Wis. Admin. Code, *Hydrologic Analysis: Determination of Regional Flood Discharge*.
 - b. Hydraulic modeling
The regional flood elevation shall be based on the standards in Ch. NR 116.07(4), Wis. Admin. Code, *Hydraulic Analysis: Determination of Regional Flood Elevation* and the following:
 - i. Determination of the required limits of the hydraulic model shall be based on detailed study information for downstream structures (dam, bridge, culvert) to determine adequate starting WSEL for the study.
 - ii. Channel sections must be surveyed.
 - iii. Minimum four-foot contour data in the overbanks shall be used for the development of cross section overbank and floodplain mapping.
 - iv. A maximum distance of 500 feet between cross sections is allowed in developed areas with additional intermediate cross sections required at transitions in channel bottom slope including a survey of the channel at each location.
 - v. The most current version of HEC_RAS shall be used.
 - vi. A survey of bridge and culvert openings and the top of road is required at each structure.
 - vii. Additional cross sections are required at the downstream and upstream limits of the proposed development and any necessary intermediate locations based on the length of the reach if greater than 500 feet.

- 1054 viii. Standard accepted engineering practices shall be used when assigning
1055 parameters for the base model such as flow, Manning's N values,
1056 expansion and contraction coefficients or effective flow limits. The base
1057 model shall be calibrated to past flooding data such as high water marks
1058 to determine the reasonableness of the model results. If no historical
1059 data is available, adequate justification shall be provided for any
1060 parameters outside standard accepted engineering practices.
1061
- 1062 ix. The model must extend past the upstream limit of the difference in the
1063 existing and proposed flood profiles in order to provide a tie-in to existing
1064 studies. The height difference between the proposed flood profile and the
1065 existing study profiles shall be no more than 0.00 feet.
1066
- 1067 c. Mapping
1068 A work map of the reach studied shall be provided, showing all cross-section
1069 locations, floodway/floodplain limits based on best available topographic
1070 data, geographic limits of the proposed development and whether the
1071 proposed development is located in the floodway.
1072
- 1073 i. If the proposed development is located outside of the floodway, then it is
1074 determined to have no impact on the regional flood elevation.
1075
- 1076 ii. If any part of the proposed development is in the floodway, it must be
1077 added to the base model to show the difference between existing and
1078 proposed conditions. The study must ensure that all coefficients remain
1079 the same as in the existing model, unless adequate justification based on
1080 standard accepted engineering practices is provided.
1081
- 1082 2. Zone AE Floodplains
1083 a. Hydrology
1084 If the proposed hydrology will change the existing study, the appropriate
1085 method to be used shall be based on Ch. NR 116.07(3), Wis. Admin. Code,
1086 *Hydrologic Analysis: Determination of Regional Flood Discharge*.
1087
- 1088 b. Hydraulic model
1089 The regional flood elevation shall be based on the standards in Ch. NR
1090 116.07(4), Wis. Admin. Code, *Hydraulic Analysis: Determination of*
1091 *Regional Flood Elevation* and the following:
1092
- 1093 i. Duplicate Effective Model
1094 The effective model shall be reproduced to ensure correct transference of
1095 the model data and to allow integration of the revised data to provide a
1096 continuous FIS model upstream and downstream of the revised reach. If
1097 data from the effective model is available, models shall be generated that
1098 duplicate the FIS profiles and the elevations shown in the Floodway Data
1099 Table in the FIS report to within 0.1 foot.
1100
- 1101 ii. Corrected Effective Model.
1102 The Corrected Effective Model shall not include any man-made physical
1103 changes since the effective model date but shall import the model into the
1104 most current version of HEC-RAS for Department review.
1105
- 1106 iii. Existing (Pre-Project Conditions) Model.
1107 The Existing Model shall be required to support conclusions about the

1108 actual impacts of the project associated with the Revised (Post-Project)
1109 Model or to establish more up-to-date models on which to base the
1110 Revised (Post-Project) Model.
1111
1112 iv. Revised (Post-Project Conditions) Model.
1113 The Revised (Post-Project Conditions) Model shall incorporate the
1114 Existing Model and any proposed changes to the topography caused by
1115 the proposed development. This model shall reflect proposed conditions.
1116
1117 v. All changes to the Duplicate Effective Model and subsequent models
1118 must be supported by certified topographic information, bridge plans,
1119 construction plans and survey notes.
1120
1121 vi. Changes to the hydraulic models shall be limited to the stream reach for
1122 which the revision is being requested. Cross sections upstream and
1123 downstream of the revised reach shall be identical to those in the
1124 effective model and result in water surface elevations and topwidths
1125 computed by the revised models matching those in the effective models
1126 upstream and downstream of the revised reach as required. The
1127 Effective Model shall not be truncated.
1128
1129 c. Mapping
1130 Maps and associated engineering data shall be submitted to the Department
1131 for review which meet the following conditions:
1132
1133 i. Consistency between the revised hydraulic models, the revised floodplain
1134 and floodway delineations, the revised flood profiles, topographic work
1135 map, annotated FIRMs and/or Flood Boundary Floodway Maps (FBFMs),
1136 construction plans, bridge plans.
1137
1138 ii. Certified topographic map of suitable scale, contour interval, and a
1139 planimetric map showing the applicable items. If a digital version of the
1140 map is available, it may be submitted in order that the FIRM may be more
1141 easily revised.
1142
1143 iii. Annotated FIRM panel showing the revised 1% and 0.2% annual chance
1144 floodplains and floodway boundaries.
1145
1146 iv. If an annotated FIRM and/or FBFM and digital mapping data (GIS or
1147 CADD) are used then all supporting documentation or metadata must be
1148 included with the data submission along with the Universal Transverse
1149 Mercator (UTM) projection and State Plane Coordinate System in
1150 accordance with FEMA mapping specifications.
1151
1152 v. The revised floodplain boundaries shall tie into the effective floodplain
1153 boundaries.
1154
1155 vi. All cross sections from the Effective Model shall be labeled in
1156 accordance with the effective map and a cross section lookup table shall
1157 be included to relate to the model input numbering scheme.
1158
1159 vii. Both the current and proposed floodways shall be shown on the map.
1160

viii. The stream centerline, or profile baseline used to measure stream distances in the model shall be visible on the map.

(d) EXPIRATION

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

(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 Chapter;

(b) Application for such certificate shall be concurrent with the application for a permit;

(c) If all Chapter provisions are met, the certificate of compliance shall be issued within 10 days after written notification that the permitted work is completed;

(d) The applicant shall submit a certification signed by a registered professional engineer, architect or land surveyor that the fill, lowest floor and floodproofing elevations are in compliance with the permit issued. Floodproofing measures also require certification by a registered professional engineer or architect that the requirements of § 7.5 are met.

(e) Where applicable pursuant to § 5.1(4), the applicant must submit a certification by a registered professional engineer or surveyor of the elevation of the bottom of the lowest horizontal structural member supporting the lowest floor (excluding pilings or columns), and an indication of whether the structure contains a basement.

(f) Where applicable pursuant to § 5.1(4), 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 § 5.1(4).

(4) OTHER PERMITS

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

7.2 ZONING AGENCY

(1) The Elm Grove Plan 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 Chapter, maps and text.

(c) Publish adequate notice pursuant to Ch. 985, Wis. Stats., specifying the date, time,

1215 place and subject of the public hearing.

1216

1217 (2) The Elm Grove Plan Commission shall not:

1218

1219 (a) Grant variances to the terms of the ordinance in place of action by the Elm Grove
1220 Board of Appeals; or

1221

1222 (b) Amend the text or zoning maps in place of official action by the Village Board.

1223

1224 **7.3 ELM GROVE BOARD OF APPEALS**

1225 The Elm Grove Board of Appeals, created under §§ 62.23(7)(e), Wis. Stats., for villages, is
1226 hereby authorized or shall be appointed to act for the purposes of this ordinance. The
1227 Board of Appeals shall exercise the powers conferred by Wisconsin Statutes and adopt
1228 rules for the conduct of business. The Zoning Administrator shall not be the secretary of the
1229 Board of Appeals.

1230

1231 (1) POWERS AND DUTIES

1232

The Elm Grove Board of Appeals shall:

1233

1234 (a) Appeals - Hear and decide appeals where it is alleged there is an error in any
1235 order, requirement, decision or determination made by an administrative official in
1236 the enforcement or administration of this Chapter;

1237

1238 (b) Boundary Disputes - Hear and decide disputes concerning the district boundaries
1239 shown on the Official Floodplain Zoning Map; and

1240

1241 (c) Variances - Hear and decide, upon appeal, variances from the standards of this
1242 Chapter.

1243

1244 (2) APPEALS TO THE BOARD OF APPEALS

1245

(a) Appeals to the Board of Appeals may be taken by any person aggrieved, or by
1246 any officer or department of the municipality affected by any decision of the
1247 Zoning Administrator or other administrative officer. Such appeal shall be taken
1248 within 30 days unless otherwise provided by the rules of the board, by filing with
1249 the official whose decision is in question, and with the Board of Appeals, a notice
1250 of appeal specifying the reasons for the appeal. The official whose decision is in
1251 question shall transmit to the Board of Appeals all records regarding the matter
1252 appealed.

1253

1254 (b) NOTICE AND HEARING FOR APPEALS INCLUDING VARIANCES

1255

1. Notice - The Board of Appeals shall:

1256

a. Fix a reasonable time for the hearing;

1257

b. Publish adequate notice pursuant to Wisconsin Statutes, specifying the
1258 date, time, place and subject of the hearing; and

1259

c. Assure that notice shall be mailed to the parties in interest and the
1260 Department Regional office at least 10 days in advance of the hearing.

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1262

2. Hearing - Any party may appear in person or by agent. The Board of Appeals
1263 shall:

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a. Resolve boundary disputes according to § 7.3(3);

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b. Decide variance applications according to § 7.3(4); and

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c. Decide appeals of permit denials according to § 7.4.

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(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 of Appeals;
4. State the specific facts which are the basis for the Board of Appeals' 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; and
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 of Appeals proceedings.

(3) BOUNDARY DISPUTES

The following procedure shall be used by the Board of Appeals 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.
- (b) The person contesting the boundary location shall be given a reasonable opportunity to present arguments and technical evidence to the Board of Appeals; and
- (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 § 8.0 *Amendments*.

(4) VARIANCE

- (a) The Board of Appeals may, upon appeal, grant a variance from the standards of this Chapter if an applicant convincingly demonstrates that:
 1. Literal enforcement of the Chapter 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 Chapter in § 1.3.
- (b) In addition to the criteria in subsection (a), to qualify for a variance under FEMA regulations, the Board of Appeals must find that the following criteria have been met:
 1. The variance shall not cause any increase in the regional flood elevation;

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2. The applicant has shown good and sufficient cause for issuance of the variance;
3. Failure to grant the variance would result in exceptional hardship;
4. Granting the variance will not result in additional threats to public safety, extraordinary expense, create a nuisance, cause fraud on or victimization of the public, or conflict with existing local laws or ordinances;
5. The variance granted is the minimum necessary, considering the flood hazard, to afford relief.

(c) A variance shall not:

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 Chapter or map(s) required in § 8.0 *Amendments*; and
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 of Appeals shall notify the applicant in writing that it may increase risks to life and property and flood insurance premiums could increase up to \$25.00 per \$100.00 of coverage. A copy shall be maintained with the variance record.

7.4 TO REVIEW APPEALS OF PERMIT DENIALS

- (1) The Zoning Agency (§ 7.2) or Board of Appeals shall review all data related to the appeal. This data may include (where appropriate):
 - (a) Permit application data listed in §7.1(2);
 - (b) Floodway/floodfringe determination data in §5.1(5);
 - (c) Data listed in §3.3(1)(b) where the applicant has not submitted this information to the Zoning Administrator; and
 - (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 §7.3;
 - (b) Consider zoning agency recommendations; and
 - (c) Either uphold the denial or grant the appeal.

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- (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 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 §8.0 *Amendments*; and
 - (b) Grant the appeal where the Board agrees that the data properly demonstrates that the project does not cause an increase provided no other reasons for denial exist.

7.5 FLOODPROOFING STANDARDS

- (1) No permit or variance shall be issued for a non-residential structure designed to be watertight below the regional flood elevation until the applicant submits a plan certified by a registered professional engineer or architect that the floodproofing measures will protect the structure or development to or above the flood protection elevation and submits a FEMA Floodproofing Certificate. Floodproofing is not an alternative to the development standards in §§ 2.0, 3.0, 4.0, 5.1, or 5.3.
- (2) For a structure designed to allow the entry of floodwaters, no permit or variance shall be issued until the applicant submits a plan either:
 - (a) Certified by a registered professional engineer or architect; or
 - (b) Meeting or exceeding the following standards:
 - 1. A minimum of two openings having a total net area of not less than one square inch for every square foot of enclosed area subject to flooding;
 - 2. The bottom of all openings shall be no higher than one-foot above grade; and
 - 3. Openings may be equipped with screens, louvers, valves, or other coverings or devices provided that they permit the automatic entry and exit of floodwaters.
- (3) Floodproofing measures shall be designed, as appropriate, to:
 - (a) Withstand flood pressures, depths, velocities, uplift and impact forces and other regional flood factors;
 - (b) Protect structures to the flood protection elevation;
 - (c) Anchor structures to foundations to resist flotation and lateral movement;
 - (d) Minimize or eliminate infiltration of flood waters;
 - (e) Minimize or eliminate discharges into flood waters;
 - (f) Placement of essential utilities to or above the flood protection elevation; and
 - (g) If any part of the foundation below the flood protection elevation is enclosed, the following standards shall apply:
 - 1. The enclosed area shall be designed by a registered architect or engineer to allow for the efficient entry and exit of flood waters without human intervention. A minimum of two openings must be provided with a minimum net area of at

1431 least one square inch for every one square foot of the enclosed area. The
1432 lowest part of the opening can be no more than 12 inches above the adjacent
1433 grade;

1434
1435 2. The parts of the foundation located below the flood protection elevation must
1436 be constructed of flood-resistant materials;

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1438 3. Mechanical and utility equipment must be elevated or floodproofed to or above
1439 the flood protection elevation; and

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1441 4. The use of that enclosed area must be limited to parking, building access or
1442 limited storage.

1443
1444 **7.6 PUBLIC INFORMATION**

1445 (1) Place marks on structures to show the depth of inundation during the regional flood.

1446
1447 (2) All maps, engineering data and regulations shall be available and widely distributed.

1448
1449 (3) Real estate transfers should show what floodplain district any real property is in.

1450

1451 Article VIII
1452 Amendments

1453 **8.0 AMENDMENTS**

1454 Obstructions or increases may only be permitted if amendments are made to this Chapter,
1455 the official floodplain zoning maps, floodway lines and water surface profiles, in accordance
1456 with § 8.1.

1457

1458 (1) In AE Zones with a mapped floodway, no obstructions or increases shall be permitted
1459 unless the applicant receives a Conditional Letter of Map Revision from FEMA and
1460 amendments are made to this ordinance, the official floodplain zoning maps, floodway
1461 lines and water surface profiles, in accordance with § 8.1. Any such alterations must be
1462 reviewed and approved by FEMA and the DNR.

1463

1464 (2) In A Zones increases equal to or greater than 1.0 foot may only be permitted if the
1465 applicant receives a Conditional Letter of Map Revision from FEMA and amendments
1466 are made to this ordinance, the official floodplain maps, floodway lines, and water
1467 surface profiles, in accordance with § 8.1.

1468

1469 **8.1 GENERAL**

1470 The Village Board of Trustees shall change or supplement the floodplain zoning district
1471 boundaries and this Chapter in the manner outlined in § 8.2 below. Actions which require
1472 an amendment to the Chapter and/ or submittal of a Letter of Map Change (LOMC)
1473 include, but are not limited to, the following:

1474

1475 (1) Any fill or floodway encroachment that obstructs flow causing any increase in the
1476 regional flood height;

1477

1478 (2) Any change to the floodplain boundaries and/or watercourse alterations on the FIRM;

1479

1480 (3) Any changes to any other officially adopted floodplain maps listed in § 1.5 (2)(b);

1481

1482 (4) Any floodplain fill which raises the elevation of the filled area to a height at or above
1483 the flood protection elevation and is contiguous to land lying outside the floodplain;

1484

- 1485 (5) Correction of discrepancies between the water surface profiles and floodplain maps;
1486
1487 (6) Any upgrade to a floodplain zoning ordinance text required by § NR 116.05, Wis. Adm.
1488 Code, or otherwise required by law, or for changes by the municipality; and
1489
1490 (7) All channel relocations and changes to the maps to alter floodway lines or to remove
1491 an area from the floodway or the floodfringe that is based on a base flood elevation
1492 from a FIRM requires prior approval by FEMA.
1493

1494 **8.2 AMENDMENT PROCEDURES**

1495 Amendments to this Chapter may be made upon petition of any party according to the
1496 provisions of § 62.23, Wis. Stats., for villages. The petitions shall include all data required
1497 by § 5.1(5) and 7.1(2). The Land Use Permit shall not be issued until a Letter of Map
1498 Revision is issued by FEMA for the proposed changes.
1499

- 1500 (1) The proposed amendment shall be referred to the zoning agency for a public hearing
1501 and recommendation to the governing body. The amendment and notice of public
1502 hearing shall be submitted to the Department Regional office for review prior to the
1503 hearing. The amendment procedure shall comply with the provisions of § 62.23, Wis.
1504 Stats., for villages.
1505
1506 (2) No amendments shall become effective until reviewed and approved by the
1507 Department.
1508
1509 (3) All persons petitioning for a map amendment that obstructs flow causing any increase
1510 in the regional flood height, shall obtain flooding easements or other appropriate legal
1511 arrangements from all adversely affected property owners and notify local units of
1512 government before the amendment can be approved by the governing body.
1513

1514 Article IX

1515 **Enforcement and Penalties**

1516 **9.0 ENFORCEMENT AND PENALTIES**

1517 Any violation of the provisions of this Chapter by any person shall be unlawful and shall be
1518 referred to the Municipal Attorney who shall expeditiously prosecute all such violators. A
1519 violator shall, upon conviction, forfeit to the Village of Elm Grove a penalty of not more than
1520 \$50.00 (fifty dollars), together with a taxable cost of such action. Each day of continued
1521 violation shall constitute a separate offense. Every violation of this Chapter is a public
1522 nuisance and the creation may be enjoined and the maintenance may be abated by action
1523 at suit of the municipality, the state, or any citizen thereof pursuant to § 87.30, Wis. Stats.
1524

1525 Article X

1526 **Definitions**

1527 **10.0 DEFINITIONS**

1528 A. Unless specifically defined in the Village of Elm Grove Code of Ordinances, words and
1529 phrases in this Chapter shall have their common-law meaning and shall be applied in
1530 accordance with their common usage. Words used in the present tense include the future,
1531 the singular number includes the plural and the plural number includes the singular. The
1532 word "may" is permissive, "shall" is mandatory and is not discretionary. Definitions
1533 enumerated below in Subsection B shall apply only to such terms used in this Chapter and
1534 shall not apply to any other chapters within the Village of Elm Grove Code of Ordinances.
1535

1536 B. As used in this chapter, the following terms shall have the meanings indicated
1537

- 1538 1. A ZONES – Those areas shown on the Official Floodplain Zoning Map which would be

- 1539 inundated by the regional flood. These areas may be numbered or unnumbered A Zones.
1540 The A Zones may or may not be reflective of flood profiles, depending on the availability of
1541 data for a given area.
1542
- 1543 2. AH ZONE – See “AREA OF SHALLOW FLOODING”.
 - 1544
 - 1545 3. AO ZONE – See “AREA OF SHALLOW FLOODING”.
 - 1546
 - 1547 4. ACCESSORY STRUCTURE OR USE – A facility, structure, building or use which is
1548 accessory or incidental to the principal use of a property, structure or building. An accessory
1549 structure shall not be used for human habitation.
 - 1550
 - 1551 5. ALTERATION – An enhancement, upgrade or substantial change or modification other than
1552 an addition or repair to a dwelling or to electrical, plumbing, heating, ventilating, air
1553 conditioning and other systems within a structure.
 - 1554
 - 1555 6. AREA OF SHALLOW FLOODING – A designated AO, AH, AR/AO, AR/AH, or VO zone on a
1556 community’s Flood Insurance Rate Map (FIRM) with a 1 percent or greater annual chance of
1557 flooding to an average depth of 1 to 3 feet where a clearly defined channel does not exist,
1558 where the path of flooding is unpredictable, and where velocity flood may be evident. Such
1559 flooding is characterized by ponding or sheet flow.
 - 1560
 - 1561 7. BASE FLOOD – Means the flood having a one percent chance of being equaled or
1562 exceeded in any given year, as published by FEMA as part of a FIS and depicted on a
1563 FIRM.
 - 1564
 - 1565 8. BASEMENT – Any enclosed area of a building having its floor sub-grade on all sides.
 - 1566
 - 1567 9. BUILDING – See STRUCTURE.
 - 1568 10. BULKHEAD LINE – A geographic line along a reach of navigable water that has been
1569 adopted by a municipal ordinance and approved by the Department pursuant to s. 30.11,
1570 Stats., and which allows limited filling between this bulkhead line and the original ordinary
1571 highwater mark, except where such filling is prohibited by the floodway provisions of this
1572 ordinance.
 - 1573
 - 1574 11. CAMPGROUND – Any parcel of land which is designed, maintained, intended or used for
1575 the purpose of providing sites for nonpermanent overnight use by 4 or more camping units,
1576 or which is advertised or represented as a camping area.
 - 1577
 - 1578 12. CAMPING UNIT – Any portable device, no more than 400 square feet in area, used as a
1579 temporary shelter, including but not limited to a camping trailer, motor home, bus, van, pick-
1580 up truck, or tent that is fully licensed, if required, and ready for highway use.
 - 1581
 - 1582 13. CERTIFICATE OF COMPLIANCE – A certification that the construction and the use of land
1583 or a building, the elevation of fill or the lowest floor of a structure is in compliance with all of
1584 the provisions of this ordinance.
 - 1585
 - 1586 14. CHANNEL – A natural or artificial watercourse with definite bed and banks to confine and
1587 conduct normal flow of water.
 - 1588
 - 1589
 - 1590 15. CRAWLWAYS or CRAWL SPACE – An enclosed area below the first usable floor of a
1591 building, generally less than five feet in height, used for access to plumbing and electrical
1592 utilities.

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1646
16. DECK – An unenclosed exterior structure that has no roof or sides and has a permeable floor which allows the infiltration of precipitation.
 17. DEPARTMENT – The Wisconsin Department of Natural Resources.
 18. DEVELOPMENT – Any artificial change to improved or unimproved real estate, including, but not limited to, the construction of buildings, structures or accessory structures; the construction of additions or alterations to buildings, structures or accessory structures; the repair of any damaged structure or the improvement or renovation of any structure, regardless of percentage of damage or improvement; the placement of buildings or structures; subdivision layout and site preparation; mining, dredging, filling, grading, paving, excavation or drilling operations; the storage, deposition or extraction of materials or equipment; and the installation, repair or removal of public or private sewage disposal systems or water supply facilities.
 19. DRYLAND ACCESS – 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.
 20. ENCROACHMENT – Any fill, structure, equipment, use or development in the floodway.
 21. FEDERAL EMERGENCY MANAGEMENT AGENCY (FEMA) – The federal agency that administers the National Flood Insurance Program.
 22. FLOOD INSURANCE RATE MAP (FIRM) – A map of a community on which the Federal Insurance Administration has delineated both the floodplain and the risk premium zones applicable to the community. This map can only be amended by the Federal Emergency Management Agency.
 23. FLOOD or FLOODING – A general and temporary condition of partial or complete inundation of normally dry land areas caused by one of the following conditions:
 - The overflow or rise of inland waters;
 - The rapid accumulation or runoff of surface waters from any source;
 - The inundation caused by waves or currents of water exceeding anticipated cyclical levels along the shore of Lake Michigan or Lake Superior; or
 - The sudden increase caused by an unusually high water level in a natural body of water, accompanied by a severe storm, or by an unanticipated force of nature, such as a seiche, or by some similarly unusual event.
 24. FLOOD FREQUENCY – The probability of a flood occurrence which is determined from statistical analyses. The frequency of a particular flood event is usually expressed as occurring, on the average once in a specified number of years or as a percent (%) chance of occurring in any given year.
 25. FLOOD-FRINGE – That portion of the floodplain outside of the floodway which is covered by flood waters during the regional flood and associated with standing water rather than flowing water.
 26. FLOOD HAZARD BOUNDARY MAP – A map designating approximate flood hazard areas. Flood hazard areas are designated as unnumbered A-Zones and do not contain floodway lines or regional flood elevations. This map forms the basis for both the regulatory and insurance aspects of the National Flood Insurance Program (NFIP) until superseded by a

- 1647 Flood Insurance Study and a Flood Insurance Rate Map.
1648
1649 27. FLOOD INSURANCE STUDY – A technical engineering examination, evaluation, and
1650 determination of the local flood hazard areas. It provides maps designating those areas
1651 affected by the regional flood and provides both flood insurance rate zones and base flood
1652 elevations and may provide floodway lines. The flood hazard areas are designated as
1653 numbered and unnumbered A-Zones. Flood Insurance Rate Maps, that accompany the
1654 Flood Insurance Study, form the basis for both the regulatory and the insurance aspects of
1655 the National Flood Insurance Program.
1656
1657 28. FLOODPLAIN – Land which has been or may be covered by flood water during the regional
1658 flood. It includes the floodway and the floodfringe and may include other designated
1659 floodplain areas for regulatory purposes.
1660
1661 29. FLOODPLAIN ISLAND – A natural geologic land formation within the floodplain that is
1662 surrounded, but not covered, by floodwater during the regional flood.
1663
1664 30. FLOODPLAIN MANAGEMENT – Policy and procedures to ensure wise use of floodplains,
1665 including mapping and engineering, mitigation, education, and administration and
1666 enforcement of floodplain regulations.
1667
1668 31. FLOOD PROFILE – A graph or a longitudinal profile line showing the relationship of the
1669 water surface elevation of a flood event to locations of land surface elevations along a
1670 stream or river.
1671
1672 32. FLOODPROOFING – Any combination of structural provisions, changes or adjustments to
1673 properties and structures, water and sanitary facilities and contents of buildings subject to
1674 flooding, for the purpose of reducing or eliminating flood damage.
1675
1676 33. FLOOD PROTECTION ELEVATION – An elevation of two feet of freeboard above the
1677 Regional Flood Elevation. (Also see: FREEBOARD.)
1678
1679 34. FLOOD STORAGE – Those floodplain areas where storage of floodwaters has been taken
1680 into account during analysis in reducing the regional flood discharge.
1681
1682 35. FLOODWAY – The channel of a river or stream and those portions of the floodplain
1683 adjoining the channel required to carry the regional flood discharge.
1684
1685 36. FREEBOARD – A safety factor expressed in terms of a specified number of feet above a
1686 calculated flood level. Freeboard compensates for any factors that cause flood heights
1687 greater than those calculated, including ice jams, debris accumulation, wave action,
1688 obstruction of bridge openings and floodways, the effects of watershed urbanization, loss of
1689 flood storage areas due to development and aggregation of the river or stream bed.
1690
1691 37. HABITABLE STRUCTURE – Any structure or portion thereof used or designed for human
1692 habitation.
1693
1694 38. HEARING NOTICE – Publication or posting meeting the requirements of Ch. 985, Stats.
1695 For appeals, a Class 1 notice, published once at least one week (7 days) before the hearing,
1696 is required. For all zoning ordinances and amendments, a Class 2 notice, published twice,
1697 once each week consecutively, the last at least a week (7 days) before the hearing. Local
1698 ordinances or bylaws may require additional notice, exceeding these minimums.
1699
1700 39. HIGH FLOOD DAMAGE POTENTIAL – Damage that could result from flooding that includes

- 1701 any danger to life or health or any significant economic loss to a structure or building and its
1702 contents.
1703
- 1704 40. HIGHEST ADJACENT GRADE – The highest natural elevation of the ground surface prior to
1705 construction next to the proposed walls of a structure.
1706
- 1707 41. HISTORIC STRUCTURE – Any structure that is either:
1708 • Listed individually in the National Register of Historic Places or preliminarily determined
1709 by the Secretary of the Interior as meeting the requirements for individual listing on the
1710 National Register;
1711 • Certified or preliminarily determined by the Secretary of the Interior as contributing to the
1712 historical significance of a registered historic district or a district preliminarily determined
1713 by the Secretary to qualify as a registered historic district;
1714 • Individually listed on a state inventory of historic places in states with historic
1715 preservation programs which have been approved by the Secretary of the Interior; or
1716 • Individually listed on a local inventory of historic places in communities with historic
1717 preservation programs that have been certified either by an approved state program, as
1718 determined by the Secretary of the Interior; or by the Secretary of the Interior in states
1719 without approved programs.
1720
- 1721 42. INCREASE IN REGIONAL FLOOD HEIGHT – A calculated upward rise in the regional flood
1722 elevation greater than 0.00 foot, based on a comparison of existing conditions and proposed
1723 conditions which is directly attributable to development in the floodplain but not attributable
1724 to manipulation of mathematical variables such as roughness factors, expansion and
1725 contraction coefficients and discharge.
1726
- 1727 43. LAND USE – Any nonstructural use made of unimproved or improved real estate. (Also see
1728 DEVELOPMENT.)
1729
- 1730 44. LOWEST ADJACENT GRADE – Elevation of the lowest ground surface that touches any of
1731 the exterior walls of a building.
1732
- 1733 45. LOWEST FLOOR – The lowest floor of the lowest enclosed area (including basement).
1734
- 1735 46. MAINTENANCE – The act or process of ordinary upkeep and repairs, including
1736 redecorating, refinishing, nonstructural repairs, or the replacement of existing fixtures,
1737 systems or equipment with equivalent fixtures, systems or structures.
1738
- 1739 47. MANUFACTURED HOME – A structure transportable in one or more sections, which is built
1740 on a permanent chassis and is designed to be used with or without a permanent foundation
1741 when connected to required utilities. The term "manufactured home" includes a mobile
1742 home but does not include a "mobile recreational vehicle."
1743
- 1744 48. MOBILE/MANUFACTURED HOME PARK OR SUBDIVISION – A parcel (or contiguous
1745 parcels) of land, divided into two or more manufactured home lots for rent or sale.
1746
- 1747 49. MOBILE/MANUFACTURED HOME PARK OR SUBDIVISION, EXISTING – A parcel of land,
1748 divided into two or more manufactured home lots for rent or sale, on which the construction
1749 of facilities for servicing the lots is completed before the effective date of this ordinance. At
1750 a minimum, this would include the installation of utilities, the construction of streets and
1751 either final site grading or the pouring of concrete pads.
1752
- 1753 50. MOBILE/MANUFACTURED HOME PARK, EXPANSION TO EXISTING – The preparation
1754 of additional sites by the construction of facilities for servicing the lots on which the
1755

- 1756 manufactured homes are to be affixed. This includes installation of utilities, construction of
1757 streets and either final site grading, or the pouring of concrete pads.
1758
- 1759 51. MOBILE RECREATIONAL VEHICLE – A vehicle which is built on a single chassis, 400
1760 square feet or less when measured at the largest horizontal projection, designed to be self-
1761 propelled, carried or permanently towable by a licensed, light-duty vehicle, is licensed for
1762 highway use if registration is required and is designed primarily not for use as a permanent
1763 dwelling, but as temporary living quarters for recreational, camping, travel or seasonal use.
1764 Manufactured homes that are towed or carried onto a parcel of land, but do not remain
1765 capable of being towed or carried, including park model homes, do not fall within the
1766 definition of "mobile recreational vehicles."
1767
- 1768 52. MODEL, CORRECTED EFFECTIVE – A hydraulic engineering model that corrects any
1769 errors that occur in the Duplicate Effective Model, adds any additional cross sections to the
1770 Duplicate Effective Model, or incorporates more detailed topographic information than that
1771 used in the current effective model.
1772
- 1773 53. MODEL, DUPLICATE EFFECTIVE – A copy of the hydraulic analysis used in the effective
1774 FIS and referred to as the effective model.
1775
- 1776 54. MODEL, EFFECTIVE – The hydraulic engineering model that was used to produce the
1777 current effective Flood Insurance Study.
1778
- 1779 55. MODEL, EXISTING (PRE-PROJECT) – A modification of the Duplicate Effective Model or
1780 Corrected Effective Model to reflect any man made modifications that have occurred within
1781 the floodplain since the date of the effective model but prior to the construction of the project
1782 for which the revision is being requested. If no modification has occurred since the date of
1783 the effective model, then this model would be identical to the Corrected Effective Model or
1784 Duplicate Effective Model.
1785
- 1786 56. MODEL, REVISED (POST-PROJECT) – A modification of the Existing or Pre-Project
1787 Conditions Model, Duplicate Effective Model or Corrected Effective Model to reflect revised
1788 or post-project conditions.
1789
- 1790 57. MUNICIPALITY or MUNICIPAL – The county, city or village governmental units enacting,
1791 administering and enforcing this zoning ordinance.
1792
- 1793 58. NAVD or NORTH AMERICAN VERTICAL DATUM – Elevations referenced to mean sea
1794 level datum, 1988 adjustment.
1795
- 1796 59. NGVD or NATIONAL GEODETIC VERTICAL DATUM – Elevations referenced to mean sea
1797 level datum, 1929 adjustment.
1798
- 1799 60. NEW CONSTRUCTION – Structures for which the start of construction commenced on or
1800 after the effective date of a floodplain zoning regulation adopted by this community and
1801 includes any subsequent improvements to such structures.
1802
- 1803 61. NON-FLOOD DISASTER – A fire or an ice storm, tornado, windstorm, mudslide or other
1804 destructive act of nature, but excludes a flood.
1805
- 1806 62. NONCONFORMING STRUCTURE – An existing lawful structure or building which is not in
1807 conformity with the dimensional or structural requirements of this ordinance for the area of
1808 the floodplain which it occupies. (For example, an existing residential structure in the
1809

- 1810 floodfringe district is a conforming use. However, if the lowest floor is lower than the flood
1811 protection elevation, the structure is nonconforming.)
1812
- 1813 63. NONCONFORMING USE – An existing lawful use or accessory use of a structure or
1814 building which is not in conformity with the provisions of this ordinance for the area of the
1815 floodplain which it occupies. (Such as a residence in the floodway.)
1816
- 1817 64. OBSTRUCTION TO FLOW – Any development which blocks the conveyance of floodwaters
1818 such that this development alone or together with any future development will cause an
1819 increase in regional flood height.
1820
- 1821 65. OFFICIAL FLOODPLAIN ZONING MAP – That map, adopted and made part of this
1822 ordinance, as described in § 1.5(2), which has been approved by the Department and
1823 FEMA.
1824
- 1825 66. OPEN SPACE USE – Those uses having a relatively low flood damage potential and not
1826 involving structures.
1827
- 1828 67. ORDINARY HIGHWATER MARK – The point on the bank or shore up to which the
1829 presence and action of surface water is so continuous as to leave a distinctive mark such as
1830 by erosion, destruction or prevention of terrestrial vegetation, predominance of aquatic
1831 vegetation, or other easily recognized characteristic.
1832
- 1833 68. PERSON – An individual, or group of individuals, corporation, partnership, association,
1834 municipality or state agency.
1835
- 1836 69. PRIVATE SEWAGE SYSTEM – A sewage treatment and disposal system serving one
1837 structure with a septic tank and soil absorption field located on the same parcel as the
1838 structure. It also means an alternative sewage system approved by the Department of
1839 Safety and Professional Services, including a substitute for the septic tank or soil absorption
1840 field, a holding tank, a system serving more than one structure or a system located on a
1841 different parcel than the structure.
1842
- 1843 70. PUBLIC UTILITIES – Those utilities using underground or overhead transmission lines such
1844 as electric, telephone and telegraph, and distribution and collection systems such as water,
1845 sanitary sewer and storm sewer.
1846
- 1847 71. REASONABLY SAFE FROM FLOODING – Means base flood waters will not inundate the
1848 land or damage structures to be removed from the floodplain and that any subsurface
1849 waters related to the base flood will not damage existing or proposed buildings.
1850
- 1851 72. REGIONAL FLOOD – A flood determined to be representative of large floods known to have
1852 occurred in Wisconsin. A regional flood is a flood with a one percent chance of being
1853 equaled or exceeded in any given year, and if depicted on the FIRM, the RFE is equivalent
1854 to the BFE.
1855
- 1856 73. START OF CONSTRUCTION – The date the building permit was issued, provided the
1857 actual start of construction, repair, reconstruction, rehabilitation, addition, placement, or
1858 other improvement was within 180 days of the permit date. The actual start means either
1859 the first placement of permanent construction on a site, such as the pouring of slab or
1860 footings, the installation of piles, the construction of columns, or any work beyond initial
1861 excavation, or the placement of a manufactured home on a foundation. Permanent
1862 construction does not include land preparation, such as clearing, grading and filling, nor
1863 does it include the installation of streets and/or walkways, nor does it include excavation for

1864 a basement, footings, piers or foundations or the erection of temporary forms, nor does it
1865 include the installation on the property of accessory buildings, such as garages or sheds not
1866 occupied as dwelling units or not part of the main structure. For an alteration, the actual
1867 start of construction means the first alteration of any wall, ceiling, floor or other structural
1868 part of a building, whether or not that alteration affects the external dimensions of the
1869 building.
1870

1871 74. STRUCTURE – Any manmade object with form, shape and utility, either permanently or
1872 temporarily attached to, placed upon or set into the ground, stream bed or lake bed,
1873 including, but not limited to, roofed and walled buildings, gas or liquid storage tanks, bridges,
1874 dams and culverts.
1875

1876 75. SUBDIVISION – Has the meaning given in § 236.02(12), Wis. Stats.
1877

1878 76. SUBSTANTIAL DAMAGE – Damage of any origin sustained by a structure, whereby the
1879 cost of restoring the structure to its pre-damaged condition would equal or exceed 50
1880 percent of the equalized assessed value of the structure before the damage occurred.
1881

1882 77. SUBSTANTIAL IMPROVEMENT – Any repair, reconstruction, rehabilitation, addition or
1883 improvement of a building or structure, the cost of which equals or exceeds 50 percent of
1884 the equalized assessed value of the structure before the improvement or repair is started. If
1885 the structure has sustained substantial damage, any repairs are considered substantial
1886 improvement regardless of the work performed. The term does not include either any
1887 project for the improvement of a building required to correct existing health, sanitary or
1888 safety code violations identified by the building official and that are the minimum necessary
1889 to assure safe living conditions; or any alteration of a historic structure provided that the
1890 alteration will not preclude the structure's continued designation as a historic structure.
1891

1892 78. UNNECESSARY HARDSHIP – Where special conditions affecting a particular property,
1893 which were not self-created, have made strict conformity with restrictions governing areas,
1894 setbacks, frontage, height or density unnecessarily burdensome or unreasonable in light of
1895 the purposes of the ordinance.
1896

1897 79. VARIANCE – An authorization by the board of adjustment or appeals for the construction or
1898 maintenance of a building or structure in a manner which is inconsistent with dimensional
1899 standards (not uses) contained in the floodplain zoning ordinance.
1900

1901 80. Village means the Village of Elm Grove, Wisconsin.
1902

1903 81. VIOLATION – The failure of a structure or other development to be fully compliant with the
1904 floodplain zoning ordinance. A structure or other development without required permits,
1905 lowest floor elevation documentation, floodproofing certificates or required floodway
1906 encroachment calculations is presumed to be in violation until such time as that
1907 documentation is provided.
1908

1909 82. WATERSHED – The entire region contributing runoff or surface water to a watercourse or
1910 body of water.
1911

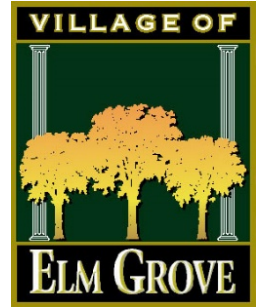
1912 83. WATER SURFACE PROFILE – A graphical representation showing the elevation of the
1913 water surface of a watercourse for each position along a reach of river or stream at a certain
1914 flood flow. A water surface profile of the regional flood is used in regulating floodplain areas.
1915

- 1916 84. WELL – means an excavation opening in the ground made by digging, boring, drilling,
1917 driving or other methods, to obtain groundwater regardless of its intended use.
1918
1919 85. ZONING ADMINISTRATOR means the Zoning and Planning Administrator of the Village of
1920 Elm Grove, Wisconsin.
1921
1922

DRAFT

Memo

To: Legislative Committee
From: Thomas Harrigan, Zoning and Planning Administrator/Assistant Manager
Date: January 7, 2022
Re: Review of Agenda for Tuesday, January 11th, 2022



Item 3. Review and act on Draft Model Floodplain Zoning Ordinance as recommended by the Wisconsin Department of Natural Resources.

This item was last reviewed at the October 12th, 2021 Legislative Committee meeting. After review and discussion, the Committee requested that a redline version of the draft ordinance be provided. Trustee Haas and I met on November 3rd, 2021 to conduct a detailed comparison of the Village's existing Chapter 330 *Flood Plain Ordinance* as it relates to the DNR model ordinance. As shown in the redline version enclosed in your packets, there were many amendments and proposed redactions to the draft model ordinance.

This working draft was sent to the DNR for comment, and the Village received the departments reply on December 21st, 2021. These comments are related to the redlined version of the draft ordinance, and they are as follows:

1. *Keep model language in 1.5(3)*
2. *Restore language for 1.5(8)(a): This ordinance supersedes all the provisions of any municipal zoning ordinance enacted under s. 61.35 for villages; or s. 87.30, Stats., which relate to floodplains. A more restrictive ordinance shall continue in full force and effect to the extent of the greater restrictions, but not otherwise.*
3. *In order to eliminate Section 2.4 (campgrounds), the ordinance will need to explicitly state that campgrounds (or camping activities?) are not allowed within the Village limits. This will also require that there is a definition in Section 10.0 defining what "camping/campgrounds" are so that there is clarification for what type of activity is restricted within the Village limits.*
4. *For Sections 4.3(11) and 4.3(12), same as Item #3 above....stating what is not allowed within the Village and keeping a definition (if relevant) to identify and describe the prohibited use/activity.*
5. *The Act 175 language is an "all or nothing" since this is a federal requirement from FEMA. The optional section can be retained or removed in its entirety.*
6. *Please restore the following definitions that were removed:*
 - a. *Bulkhead line (this is not coastal-specific so should be replaced in the document)*
 - a. *A campground-related definition*
 - b. *Flood frequency*
 - c. *Floodplain island*

- d. *Floodplain mgt*
- e. *hearing notice*
- f. *highest adjacent grade*

A “clean” version of the draft floodplain ordinance is enclosed in your packets, and reflects the required revisions as identified by the DNR. If the Committee finds these changes acceptable, the working draft will be forwarded back to the DNR for one last final review (as requested). The Village Board of Trustees will then be able to repeal Chapter 330 and recreate through the adoption of the proposed draft.

Please let us know if there are any questions prior to the meeting.

REDLINE : DRAFT Floodplain Ord
11.08.21

FLOODPLAIN ORDINANCE FOR VILLAGE OF ELM GROVE

Effective November, 2021

Yellow highlights are places where the ordinance needs to be filled in with community specific information

Date of Class 2 Notice posting: _____ (Requires a Class 2 Hearing Notice of Posting, Second/last date must be at least 7 days before hearing, see definition, Ch 985 Stats)

Date of Public Hearing: _____

Date of Adoption: _____

Date of Posting of Notice of Enacted Ordinance _____ (Requires posting a Class 1 Notice)

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Article I
General Provisions

1.0 STATUTORY AUTHORIZATION, FINDING OF FACT, STATEMENT OF PURPOSE, TITLE AND GENERAL PROVISIONS

1.1 STATUTORY AUTHORIZATION

This ordinance is adopted pursuant to the authorization in ~~s. §§~~ 61.35 and 62.23, for villages ~~and cities~~, and the requirements in ~~s. §~~ 87.30, Wis. Stats.

1.2 FINDING OF FACT

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

1.3 STATEMENT OF PURPOSE

~~This ordinance is intended to regulate floodplain development in flood hazard areas, the governing body does ordain the purpose of these rules is~~ to:

- (1) Protect life, health and property;
- (2) Minimize expenditures of public funds for flood control projects;
- (3) Minimize rescue and relief efforts undertaken at the expense of the taxpayers;
- (4) Minimize business interruptions and other economic disruptions;
- (5) Minimize damage to public facilities in the floodplain;
- (6) Minimize the occurrence of future flood blight areas in the floodplain;
- (7) Discourage the victimization of unwary land and home buyers;
- (8) Prevent increases in flood heights that could increase flood damage and result in conflicts between property owners; and
- (9) Discourage development in a floodplain if there is any practicable alternative to locate the activity, use or structure outside of the floodplain.

1.4 TITLE

This ~~chapter ordinance~~ shall be known as the "Floodplain Zoning Ordinance for Village of Elm Grove, Wisconsin."

1.5 GENERAL PROVISIONS

(1) AREAS TO BE REGULATED

This ~~chapter ordinance~~ regulates all areas of special flood hazard identified as zones A, AO, AH, A1-30, and AE on the Flood Insurance Rate Map. Additional areas identified on maps approved by the Department of Natural Resources (DNR) and local community may also be regulated under the provisions of this ordinance, where applicable.

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50 (2) OFFICIAL MAPS & REVISIONS

51 Special Flood Hazard Areas (SFHA) are designated as zones A, A1-30, AE, AH,
52 and AO on the Flood Insurance Rate Maps (FIRMs) based on flood hazard
53 analyses summarized in the Flood Insurance Study (FIS) listed in subd. (a)
54 below. Additional flood hazard areas subject to regulation under this ordinance
55 are identified on maps based on studies approved by the DNR and listed in
56 subd. (b) below. These maps and revisions are on file in the office of the Zoning
57 and Planning Administrator, Village of Elm Grove.

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Commented [TH1]: This language simplifies what is found within §330-5A and §330-5B (Existing Floodplain Ord).

59 (a) OFFICIAL MAPS : Based on Waukesha County ~~the~~ Flood Insurance Study
60 (FIS) dated November 5, 2014:

61 1. Flood Insurance Rate Map (FIRM), panel numbers 55133C0236G and
62 55133C0237G, ~~dated 11/05/2014~~;

Commented [TH2]: Existing Ordinance references incorrect FIRM (5133C0236G)

63 2. Flood Insurance Study (FIS) for Village of Elm Grove, 55133CV001C,
64 55133CV002C, and 55133CV003C, ~~dated 11/05/2014~~.

Commented [TH3]: Existing Ordinance references incorrect FIRM (5513C0237G)

65 Prepared and ~~a~~Approved by: The DNR and FEMA

66 (b) OFFICIAL MAPS: Based on other studies, ~~any~~ maps referenced in this
67 section must be approved by the DNR and be more restrictive than those
68 based on the FIS at the site of the proposed development.

69 1. Village of Elm Grove Flood Storage District Map, panel number 4 of 12,
70 dated ~~11/5/2014~~ November 5, 2014, ~~prepared and~~ approved by the DNR.

71 (3) ESTABLISHMENT OF FLOODPLAIN ZONING DISTRICTS

72 The flood hazard areas regulated by this ordinance are divided into districts as
73 follows:

74 (a) The Floodway District (FW), is the channel of a river or stream and those
75 portions of the floodplain adjoining the channel required to carry the regional
76 floodwaters, within AE Zones as shown on the FIRM, or within A Zones
77 shown on the FIRM when determined according to ~~s-~~§ 5.1(5).

78 (b) The Floodfringe District (FF) is that portion of a riverine special flood hazard
79 area outside the floodway within AE Zones on the FIRM, or, when floodway
80 limits have been determined according to ~~s-~~§ 5.1(5), within A Zones shown
81 on the FIRM.

Commented [TH4]: Modified definition of Floodfringe District. Existing Ord states, "The Flood-Fringe District (FF) is that portion of the floodplain between the regional flood limits and the floodway and displayed as AE Zones on the FIRM."

82 (c) The General Floodplain District (GFP) is those riverine areas that may be
83 covered by floodwater during the regional flood in which a floodway boundary
84 has not been delineated on the FIRM and also includes shallow flooding
85 areas identified as AH and AO zones on the FIRM.

86 (d) The Flood Storage District (FSD) is that area of the floodplain where storage
87 of floodwaters is calculated to reduce the regional flood discharge.

88 (4) LOCATING FLOODPLAIN BOUNDARIES

89 Discrepancies between the exterior boundaries of zones A1-30, AE, AH, or A on
90 the official floodplain zoning map and actual field conditions may be resolved
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102 using the criteria in subd (a) or (b) below. If a significant difference exists, the
103 map shall be amended according to ~~s. §~~ 8.0 Amendments. The ~~Z~~ zoning
104 ~~A~~ administrator can rely on a boundary derived from a profile elevation to grant or
105 deny a land use permit, whether or not a map amendment is required. The
106 ~~Z~~ zoning ~~A~~ administrator shall be responsible for documenting actual pre-
107 development field conditions and the basis upon which the district boundary was
108 determined. Disputes between the ~~Z~~ zoning ~~A~~ administrator and an applicant over
109 the district boundary line shall be settled according to ~~s. §~~ 7.3(3) and the criteria
110 in (a) and (b) below. Where the flood profiles are based on established base
111 flood elevations from a FIRM, FEMA must approve any map amendment or
112 revision pursuant to ~~s. §~~ 8.0 Amendments.

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113 (a) If flood profiles exist, the map scale and the profile elevations shall determine
114 the district boundary. The regional or base flood elevations shall govern if
115 there are any discrepancies.

116 (b) Where flood profiles do not exist ~~for projects~~, including any boundary of zone
117 A, and AO the location of the boundary shall be determined by the map
118 scale.

119 (5) **REMOVAL OF LANDS FROM FLOODPLAIN**

120 (a) Compliance with the provisions of this ordinance shall not be grounds for
121 removing land from the floodplain unless it is filled at least two feet above the
122 regional or base flood elevation, the fill is contiguous to land outside the
123 floodplain, and the map is amended pursuant to ~~s. §~~ 8.0 Amendments.

124 (b) The delineation of any of the Floodplain Districts may be revised by the
125 ~~community-Village~~ where natural or man-made changes have occurred
126 and/or where more detailed studies have been conducted. However, prior to
127 any such change, approval must be obtained from the Wisconsin
128 Department of Natural Resources and Federal Emergency Management
129 Agency. A completed Letter of Map Revision is a record of this approval. The
130 ~~floodplain administrator-Floodplain Administrator of the Village~~ shall not sign
131 a community acknowledgement form unless all criteria set forth in the
132 following paragraphs are met:

- 133 1. The land and/or land around the structure must be filled at least two
134 feet above the regional or base flood elevation;
- 135 2. The fill must be contiguous to land outside the floodplain; Applicant
136 shall obtain floodplain development permit before applying for a
137 LOMR or LOMR-F;

138 (c) Removal of lands from the floodplain may also occur by operation of
139 §87.30(1)(e), Wis. Stat. if a property owner has obtained a letter of map
140 amendment from the Federal Emergency Management Agency under 44
141 C.F.R. ~~§ 70.~~

Commented [TH5]: New provisions of the Draft Model Ord.

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(6) COMPLIANCE

- (a) No structure or use within areas regulated by this ordinance shall hereafter be located, erected, constructed, reconstructed, repaired, extended, converted, enlarged, or altered without full compliance with the terms of these regulations and all other applicable regulations that apply to uses within the jurisdiction of these regulations.
- (b) Failure to obtain a floodplain development permit shall be a violation of these regulations and shall be punishable in accordance with ~~s. §~~ 9.0.
- (c) Floodplain development permits issued on the basis of plans and applications approved by the Floodplain Administrator ~~of the Village~~ authorize only the use, and arrangement, set forth in such approved plans and applications, or amendments thereto if approved by the Floodplain Administrator ~~of the Village~~. Use, arrangement, or construction contrary to that authorized shall be deemed a violation of these regulations and punishable in accordance with ~~s. §~~ 9.0.

Commented [TH6]: Existing Ord. states, "Any development, as defined in Article X [Definitions], or use within the areas regulated by this chapter shall be in compliance with the terms of this chapter and other applicable local, Wis. State, and federal regulations."

(7) MUNICIPALITIES AND STATE AGENCIES REGULATED

Unless specifically exempted by law, ~~the Village of Elm Grove, all cities, villages, towns, and counties are~~ is required to comply with this ~~ordinance chapter~~ and obtain all necessary permits. State agencies are required to comply if ~~s. §~~ 13.48(13), Wis. Stats., applies. The construction, reconstruction, maintenance and repair of state highways and bridges by the Wisconsin Department of Transportation is exempt when ~~s. §~~ 30.2022, Wis. Stats., 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.

Commented [TH7]: New Ord. Provision from Draft Model Ord.

(8) ABROGATION AND GREATER RESTRICTIONS

- ~~(a) This ordinance chapter supersedes all the provisions of any municipal zoning ordinance enacted under s. § 61.35 for villages; or s. § 87.30, Wis. State, which relate to floodplains. A more restrictive ordinance shall continue in full force and effect to the extent of the greater restrictions, but not otherwise.~~
- (ba) This ~~chapter ordinance~~ is not intended to repeal, abrogate or impair any existing deed restrictions, covenants or easements. If this ~~chapter ordinance~~ imposes greater restrictions, the provisions of this ~~ordinance chapter~~ shall prevail.

Commented [TH8]: New Provision from Draft Model Ord.

(9) INTERPRETATION

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

198 (10) WARNING AND DISCLAIMER OF LIABILITY
199 The flood protection standards in this ~~ordinance chapter~~ are based on
200 engineering experience and scientific research. Larger floods may occur, or the
201 flood height may be increased by man-made or natural causes. This ~~ordinance~~
202 ~~chapter~~ does not imply or guarantee that non-floodplain areas or permitted
203 floodplain uses will be free from flooding and flood damages. Nor does this
204 ~~chapter. This ordinance does not~~ create liability on the part of, or a cause of action
205 against, the municipality or any officer or employee thereof for any flood damage
206 that may result from reliance on this ~~ordinance chapter~~.

207
208 (11) SEVERABILITY
209 Should any portion of this ~~ordinance chapter~~ be declared unconstitutional or
210 invalid by a court of competent jurisdiction, the remainder of this ~~ordinance~~
211 ~~chapter~~ shall not be affected.

212
213 ~~(12) ANNEXED AREAS FOR CITIES AND VILLAGES~~
214 ~~The Waukesha County floodplain zoning provisions in effect on the date of~~
215 ~~annexation shall remain in effect and shall be enforced by the municipality for all~~
216 ~~annexed areas until the municipality adopts and enforces an ordinance which~~
217 ~~meets the requirements of ch. NR 116, Wis. Adm. Code and 44 CFR C.F.R. 59-~~
218 ~~72, National Flood Insurance Program (NFIP). These annexed lands are~~
219 ~~described on the municipality's official zoning map. County floodplain zoning~~
220 ~~provisions are incorporated by reference for the purpose of administering this~~
221 ~~section and are on file in the office of the municipal Zoning Administrator. All~~
222 ~~plats or maps of annexation shall show the regional flood elevation and the~~
223 ~~floodway location.~~

224
225 Article II

226 **2.0 GENERAL STANDARDS APPLICABLE TO ALL FLOODPLAIN DISTRICTS**

227 The ~~community Village~~ shall review all permit applications to determine whether
228 proposed building sites will be reasonably safe from flooding and assure that all
229 necessary permits have been received from those governmental agencies whose
230 approval is required by federal or state law.

- 231
232 (1) If a proposed building site is in a flood-prone area, all new construction and
233 substantial improvements shall:
- 234 (a) be designed and anchored to prevent flotation, collapse, or lateral movement of
235 the structure resulting from hydrodynamic and hydrostatic loads, including the
236 effects of buoyancy;
 - 237 (b) be constructed with flood-resistant materials;
 - 238 (c) be constructed by methods and practices that minimize flood damages; and
 - 239 (d) be constructed with electrical, heating, ventilation, plumbing, and air conditioning
240 equipment and other service facilities that are designed and/or located so as to
241 prevent water from entering or accumulating within the components during
242 conditions of flooding.

- 243
244 (2) If a subdivision or other proposed new development is in a flood-prone area, the
245 community shall assure that:
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- 250
251 (a) such proposed subdivision or other proposed new development is consistent with
252 the need to minimize flood damage within the flood-prone area;
253
254 (b) public utilities and facilities such as sewer, gas, electrical, and water systems are
255 located and constructed to minimize or eliminate flood damage; and
256
257 (c) adequate drainage is provided to reduce exposure to flood hazards.
258

259 All subdivision proposals ~~(including manufactured home parks)~~ shall include regional
260 flood elevation and floodway data for any development that meets the subdivision
261 definition of this ~~ordinance chapter~~ and all other requirements in ~~s-§~~ 7.1(2).
262

263 **2.1 HYDRAULIC AND HYDROLOGIC ANALYSES**

- 264 (1) No floodplain development shall:
265
266 (a) Obstruct flow, defined as any development which physically blocks the
267 conveyance of floodwaters by itself or in conjunction with other development,
268 causing any increase in the regional flood height; or
269
270 (b) Cause any increase in the regional flood height due to floodplain storage area
271 lost.
272
273 (2) The Zoning Aadministrator shall deny permits if it is determined the proposed
274 development will obstruct flow or cause any increase in the regional flood height,
275 based on the officially adopted FIRM or other adopted map, unless the provisions of
276 ~~Articles~~ 8.0 *Amendments* are met.
277

278 **2.2 WATERCOURSE ALTERATIONS**

279 No land use permit to alter or relocate a watercourse in a mapped floodplain shall be
280 issued until the local official has notified in writing all adjacent municipalities, the
281 Department and FEMA regional offices, and required the applicant to secure all
282 necessary state and federal permits. The standards of ~~s-§~~ 2.1 must be met and the
283 flood carrying capacity of any altered or relocated watercourse shall be maintained.
284

285 As soon as is practicable, but not later than six months after the date of the watercourse
286 alteration or relocation and pursuant to ~~Chapters~~ 8.0 *Amendments*, the community
287 Village shall apply for a Letter of Map Revision (LOMR) from FEMA. Any such
288 alterations must be reviewed and approved by FEMA and the DNR through the LOMC
289 process.
290

291 **2.3 CHAPTER 30, 31, WIS. STATS., DEVELOPMENT**

292 Development which requires a permit from the Department, under ~~chs-§§~~ 30 and 31,
293 Wis. Stats., such as docks, piers, wharves, bridges, culverts, dams and navigational
294 aids, may be allowed if the necessary permits are obtained and amendments to the
295 floodplain zoning ordinance are made according to ~~s-§~~ 8.0 *Amendments*.
296

297 ~~2.4 PUBLIC OR PRIVATE CAMPGROUNDS~~

298 ~~Public or private campgrounds shall have a low flood damage potential and shall meet~~
299 ~~the following provisions:~~
300
301 ~~(1) The campground is approved by the Department of Agriculture, Trade and~~

302 ~~Consumer Protection;~~

303 ~~(2) A land use permit for the campground is issued by the zoning administrator;~~

304 ~~(3) The character of the river system and the campground elevation are such that a 72-~~
305 ~~hour warning of an impending flood can be given to all campground occupants;~~

306 ~~(4) There is an adequate flood warning procedure for the campground that offers the~~
307 ~~minimum notice required under this section to all persons in the campground. This~~
308 ~~procedure shall include a written agreement between the campground owner, the~~
309 ~~municipal emergency government coordinator and the chief law enforcement official~~
310 ~~which specifies the flood elevation at which evacuation shall occur, personnel~~
311 ~~responsible for monitoring flood elevations, types of warning systems to be used~~
312 ~~and the procedures for notifying at-risk parties, and the methods and personnel~~
313 ~~responsible for conducting the evacuation;~~

314 ~~(5) This agreement shall be for no more than one calendar year, at which time the~~
315 ~~agreement shall be reviewed and updated by the officials identified in sub. (4) to~~
316 ~~remain in compliance with all applicable regulations, including those of the state~~
317 ~~Department of Agriculture, Trade and Consumer Protection and all other applicable~~
318 ~~regulations;~~

319 ~~(6) All mobile recreational vehicles placed on the site must meet one of the following:~~

320 ~~(a) Only camping units that are fully licensed, if required, and ready for highway use~~
321 ~~are allowed; or~~

322 ~~(b) The camping units shall not occupy any site in the campground for more than~~
323 ~~180 consecutive days, at which time the camping unit must be removed from~~
324 ~~the floodplain for a minimum of 24 hours;~~

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

328 ~~(7) All camping units that remain on site for more than 30 days shall be issued a~~
329 ~~limited authorization by the campground operator, a written copy of which is kept~~
330 ~~on file at the campground. Such authorization shall allow placement of a camping~~
331 ~~unit for a period not to exceed 180 days and shall ensure compliance with all the~~
332 ~~provisions of this section;~~

333 ~~(8) The municipality shall monitor the limited authorizations issued by the campground~~
334 ~~operator to assure compliance with the terms of this section;~~

335 ~~(9) All camping units that remain in place for more than 180 consecutive days must~~
336 ~~meet the applicable requirements in either s. 3.0, 4.0, 5.1, or 5.3 for the floodplain~~
337 ~~district in which the structure is located;~~

338 ~~(10) The campground shall have signs clearly posted at all entrances warning of the~~
339 ~~flood hazard and the procedures for evacuation when a flood warning is issued; and~~

340 ~~(11) All service facilities, including but not limited to refuse collection, electrical service,~~
341 ~~and water service, shall be provided to all campground occupants.~~

gas lines, propane tanks, sewage systems and wells shall be properly anchored and placed at or floodproofed to the flood protection elevation.

Article III

3.0 FLOODWAY DISTRICT (FW)

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3.1 APPLICABILITY

This section/article applies to all floodway areas on the floodplain zoning maps and those identified pursuant to s. 5.1(5).

3.2 PERMITTED USES

The following open-space uses are allowed in the Floodway District and the floodway areas of the General Floodplain District, if:

- they are not prohibited by any other ordinance;
they meet the standards in s. 3.3 and 3.4; and
all permits or certificates have been issued according to s. 7.1.

Commented [TH12]: Re-Number
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(1) Agricultural uses, such as: farming, outdoor plant nurseries, horticulture, viticulture and wild crop harvesting.

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(12) Nonstructural industrial and commercial uses, such as loading areas, parking areas and airport landing strips.

(23) Nonstructural recreational uses, such as golf courses, tennis courts, archery ranges, picnic grounds, boat ramps, swimming areas, parks, wildlife and nature preserves, game farms, fish hatcheries, shooting, trap and skeet activities, hunting and fishing areas and hiking and horseback riding trails, subject to the fill limitations of s. 3.3(4).

Commented [TH15]: Re-Number

(34) Uses or structures accessory to open space uses or classified as historic structures that comply with s. 3.3 and 3.4.

Commented [TH16]: Re-number

(5) Extraction of sand, gravel or other materials that comply with s. 3.3(4).

Commented [TH17]: Re-Number

(4) Functionally water-dependent uses, such as docks, piers or wharves, dams, flowage areas, culverts, navigational aids and river crossings of transmission lines, and pipelines that comply with chs. 30 and 31, Wis. Stats.

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(57) Public utilities, streets and bridges that comply with s. 3.3(3).

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(68) 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.

(79) Public or private wells used to obtain potable water for recreational areas operated by the Village that meet the requirements of local ordinances and chs. NR 811 and NR 812, Wis. Adm. Code.

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(10) Wastewater treatment ponds or facilities permitted under s. NR 110.15(3)(b), Wis. Adm. Code.

406 (844) Sanitary sewer or water supply lines to service existing or proposed development
407 located outside the floodway that complies with the regulations for the floodplain
408 area occupied.

Commented [TH20]: New Provision of Model Ord

410 3.3 STANDARDS FOR DEVELOPMENTS IN THE FLOODWAY

411 (1) GENERAL

413 (a) Any development in the floodway shall comply with ~~s. §~~ 2.0 and have a low flood
414 damage potential.

Commented [TH21]: Re-Number (Article II)

415
416 (b) Applicants shall provide an analysis calculating the effects of this proposal on
417 the regional flood height to determine the effects of the proposal according to ~~s.~~
418 §§ 2.1 and 7.1(2)(c). The analysis must be completed by a registered
419 professional engineer in the state of Wisconsin.

420
421 (c) Any encroachment in the regulatory floodway is prohibited unless the data
422 submitted for subd. 3.3(1)(b) above demonstrates that the encroachment will
423 cause no increase in flood elevations in flood events up to the base flood at
424 any location or removes the encroached area from the regulatory floodway as
425 provided in ~~s. §~~ 1.5(5).

Commented [TH22]: Modified Provision in Model Ord,
Reflects existing §330, perhaps more restrictive?

427 (2) STRUCTURES

428 Structures accessory to permanent open space uses, including utility and sanitary
429 facilities, classified as historic structures, or functionally dependent on a waterfront
430 location may be allowed by permit if the structures comply with the following criteria:

431 (a) The structures are nNot designed for human habitation, does not have a high
432 flood damage potential and areis constructed to minimize flood damage;

433 (b) The structures sShall either have the lowest floor elevated to or above the flood
434 protection elevation or shall meet all the following standards:

435 1. Have the lowest floor elevated to or above the regional flood elevation and
436 be dry floodproofed so that the structure is watertight with walls
437 substantially impermeable to the passage of water and completely dry to
438 the flood protection elevation without human intervention during flooding;

439
440 2. Have structural components capable of meeting all provisions of Section
441 3.3(2)(g) and;

442
443 3. Be certified by a registered professional engineer or architect, through the
444 use of a Federal Emergency Management Agency Floodproofing
445 Certificate, that the design and methods of construction are in accordance
446 with Section 3.3(2)(g).

Commented [TH23]: New Provisions of Model Ord. (Critical)

448 (c) Must be anchored to resist flotation, collapse, and lateral movement and to
449 prevent restricting bridge openings or other restricted sections of the stream or
450 river;

- 451 (d) ~~The structures must have all m~~Mechanical and utility equipment ~~must be~~
452 elevated to or above the flood protection elevation; and
- 453 (e) Must not obstruct flow of flood waters or cause any increase in flood levels
454 during the occurrence of the regional flood.
- 455 (f) For a structure designed to allow the automatic entry of floodwaters below the
456 Regional Flood Elevation, the applicant shall submit a plan that meets ~~s. 3~~
457 3.3(2)(a) through 3.3(2)(e) and meets or exceeds the following standards:
- 458 1. The lowest floor must be elevated to or above the regional flood
459 elevation;
 - 460 2. a minimum of two openings having a total net area of not less than one
461 square inch for every square foot of enclosed area subject to flooding;
 - 462 3. the bottom of all openings shall be no higher than one foot above the
463 lowest adjacent grade; openings may be equipped with screens, louvers,
464 valves, or other coverings or devices provided that they permit the
465 automatic entry and exit of floodwaters, otherwise must remain open.
 - 466 4. The use must be limited to parking, building access or limited storage.
- 467 (g) Certification: Whenever floodproofing measures are required, a registered
468 professional engineer or architect shall certify that the following floodproofing
469 measures will be utilized, where appropriate, and are adequate to withstand the
470 flood depths, pressures, velocities, impact and uplift forces and other factors
471 associated with the regional flood:
- 472 1. Reinforcement of floors and walls to resist rupture, collapse, or lateral
473 movement caused by water pressures or debris buildup;
 - 474 2. Construction of wells, water supply systems and waste treatment systems
475 so as to prevent the entrance of flood waters in such systems and must be
476 in accordance with provisions in Sections 3.4(4) and 3.4(5);
 - 477 3. Subsurface drainage systems to relieve external pressures on foundation
478 walls and basement floors;
 - 479 4. Cutoff valves on sewer lines or the elimination of gravity flow basement
480 drains; and
 - 481 5. Placement of utilities to or above the flood protection elevation.
- 482 (3) PUBLIC UTILITIES, STREETS AND BRIDGES
483 Public utilities, streets and bridges may be allowed by permit, if:
484
485 (a) Adequate floodproofing measures are provided to the flood protection
486 elevation; and
487
488 (b) Construction meets the development standards of ~~s. 2~~ 2.1.

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(4) FILLS OR DEPOSITION OF MATERIALS

Fills or deposition of materials may be allowed by permit, if:

- (a) The requirements of ~~s.~~ §2.1 are met;
- (b) No material is deposited in navigable waters unless a permit is issued by the Department pursuant to ~~sch.~~ 30, Wis. Stats., and a permit pursuant to ~~§s.~~ 404 of the Federal Water Pollution Control Act, Amendments of 1972, 33 U.S.C. § 1344 has been issued, if applicable, and all other requirements of this section have been met;
- (c) The fill or other materials will be protected against erosion by riprap, vegetative cover, sheet piling or bulkheading; and
 - (a) The fill is not classified as a solid or hazardous material.

3.4 PROHIBITED USES

All uses not listed as permitted uses in ~~s.~~ § 3.2 are prohibited, including the following uses:

- (1) Habitable structures, structures with high flood damage potential, or those not associated with permanent open-space uses;
- (2) Storing materials that are buoyant, flammable, explosive, injurious to property, water quality, or human, animal, plant, fish or other aquatic life;
- (3) Uses not in harmony with or detrimental to uses permitted in the adjoining districts;
- (4) Any private ~~or public~~ sewage systems, except privately owned laterals connected to a public sewerage system and 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 Cch. SPS 383, Wis. Adm. Code;
- (5) Any public or private wells which are used to obtain potable water, except those for recreational areas operated by the Village that meet the requirements of local ordinances and Cchs. NR 811 and NR 812, Wis. Adm. Code;
- (6) Any solid or hazardous waste disposal sites;
- (7) Any wastewater treatment ponds or facilities, except those permitted under ~~§s.~~ NR 110.15(3)(b), Wis. Adm. Code; and
- (8) Any sanitary sewer or water supply lines, except those to service existing or proposed development located outside the floodway which complies with the regulations for the floodplain area occupied.

Article IV,

4.0 FLOOD-FRIDGE DISTRICT (FF)

4.1 APPLICABILITY

This section applies to all floodfringe areas shown on the floodplain zoning maps and

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541 those identified pursuant to ~~s. §~~ 5.1(5).

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542
543 **4.2 PERMITTED USES**

544 Any structure, land use, or development is allowed in the Flood-Fringe District if the
545 standards in ~~s. §~~ 4.3 are met, the use is not prohibited by this or any other ordinance or
546 regulation and all permits or certificates specified in ~~s. §~~ 7.1 have been issued.

547
548 **4.3 STANDARDS FOR DEVELOPMENT IN THE FLOODFRINGE**

549 Section 2.0 shall apply in addition to the following requirements according to the use
550 requested. Any existing structure in the floodfringe must meet the requirements of Article
551 VI ~~s. 6.0~~ Nonconforming Uses;

552
553 (1) **RESIDENTIAL USES**

554 Any structure, including a manufactured home, which is to be newly constructed or
555 moved into the floodfringe, shall meet or exceed the following standards. Any
556 existing structure in the floodfringe must meet the requirements of ~~s. 6.0~~ Article VI
557 Nonconforming Uses;

558 (a) All new construction, including placement of manufactured homes, and
559 substantial improvement of residential structures, shall have the lowest floor
560 elevated to or above the flood protection elevation on fill. The fill around the
561 structure shall be one foot or more above the regional flood elevation extending
562 at least 15 feet beyond the limits of the structure. No area may be removed
563 from the floodfringe district unless it can be shown to meet ~~s. §~~ 1.5(5).

564
565 (b) Notwithstanding ~~s. §~~ 4.3 (1)(a), a basement or crawlspace floor may be placed at
566 the regional flood elevation if the basement or crawlspace is designed to make
567 all portions of the structure below the flood protection elevation watertight with
568 walls substantially impermeable to the passage of water and with structural
569 components having the capability of resisting hydrostatic and hydrodynamic
570 loads and effects of buoyancy. No floor of any kind is allowed below the regional
571 flood elevation;

572
573 (c) Contiguous dryland access shall be provided from a structure to land outside of
574 the floodplain, except as provided in subd. (d).

575
576 (d) In developments where existing street or sewer line elevations make compliance
577 with subd. (c) impractical, the municipality may permit new development and
578 substantial improvements where roads are below the regional flood elevation, if:

579
580 1. The municipality has written assurance from police, fire and emergency
581 services that rescue and relief will be provided to the structure(s) by wheeled
582 vehicles during a regional flood event; or

583
584 2. The municipality has a DNR-approved emergency evacuation plan that
585 follows acceptable hazard mitigation planning guidelines.

586
587 (2) **ACCESSORY STRUCTURES OR USES**

588
589 In addition to ~~s. §~~ 2.0, new construction and substantial improvements of Accessory
590 structures shall be constructed on fill with the lowest floor at or above the regional
591 flood elevation.

- 593 (3) COMMERCIAL USES
594 In addition to ~~s-§~~ 2.0, any commercial structure which is erected, altered or moved
595 into the floodfringe shall meet the requirements of ~~s-§~~ 4.3(1). Subject to the
596 requirements of ~~s-§~~ 4.3(5), storage yards, surface parking lots and other such uses
597 may be placed at lower elevations if an adequate warning system exists to protect
598 life and property.
599
- 600 (4) MANUFACTURING AND INDUSTRIAL USES
601 In addition to ~~s-§~~ 2.0, any manufacturing or industrial structure which is erected,
602 altered or moved into the floodfringe shall have the lowest floor elevated to or above
603 the flood protection elevation or meet the floodproofing standards in s 7.5. Subject
604 to the requirements of ~~s-§~~ 4.3(5), storage yards, surface parking lots and other such
605 uses may be placed at lower elevations if an adequate warning system exists to
606 protect life and property.
607
- 608 (5) STORAGE OF MATERIALS
609 Materials that are buoyant, flammable, explosive, or injurious to property, water
610 quality or human, animal, plant, fish or aquatic life shall be stored at or above the
611 flood protection elevation or floodproofed in compliance with ~~s-§~~ 7.5. Adequate
612 measures shall be taken to ensure that such materials will not enter the water body
613 during flooding.
614
- 615 (6) PUBLIC UTILITIES, STREETS AND BRIDGES
616 All utilities, streets and bridges shall be designed to be compatible with
617 comprehensive floodplain development plans; and
618
619 (a) When failure of public utilities, streets and bridges would endanger public health
620 or safety, or where such facilities are deemed essential, construction or repair of
621 such facilities shall only be permitted if they are designed to comply with ~~s-§~~ 7.5.
622
623 (b) Minor roads or non-essential utilities may be constructed at lower elevations if
624 they are designed to withstand flood forces to the regional flood elevation.
625
- 626 (7) SEWAGE SYSTEMS
627 All sewage disposal systems shall be designed to minimize or eliminate infiltration of
628 flood water into the system, pursuant to ~~s-§~~ 7.5(3), to the flood protection elevation
629 and meet the provisions of all local ordinances and Cch. SPS 383, Wis. Adm. Code.
630
- 631 (8) WELLS
632 All wells shall be designed to minimize or eliminate infiltration of flood waters into the
633 system, pursuant to ~~s-§~~ 7.5(3), to the flood protection elevation and shall meet the
634 provisions of chs. NR 811 and NR 812, Wis. Adm. Code.
635
- 636 (9) SOLID WASTE DISPOSAL SITES
637 Disposal of solid or hazardous waste is prohibited in floodfringe areas.
638
- 639 (10) DEPOSITION OF MATERIALS
640 Any deposited material must meet all the provisions of this ordinance.
641

642 ~~(11) MANUFACTURED HOMES~~

643 ~~(a) Owners or operators of all manufactured home parks and subdivisions shall~~
644 ~~provide adequate surface drainage to minimize flood damage, and prepare,~~
645 ~~secure approval and file an evacuation plan, indicating vehicular access and~~
646 ~~escape routes, with local emergency management authorities.~~

647
648 ~~(b) In existing manufactured home parks, all new homes, replacement homes on~~
649 ~~existing pads, and substantially improved homes shall:~~

- 650
651 ~~1. have the lowest floor elevated to the flood protection elevation; and~~
652
653 ~~2. be anchored so they do not float, collapse or move laterally during a flood~~

654
655
656 ~~(c) Outside of existing manufactured home parks, including new manufactured home~~
657 ~~parks and all single units outside of existing parks, all new, replacement and~~
658 ~~substantially improved manufactured homes shall meet the residential~~
659 ~~development standards for the floodfringe in s. § 4.3(1).~~

660
661 ~~(12) MOBILE RECREATIONAL VEHICLES~~

662 ~~All mobile recreational vehicles must be on site for less than 180 consecutive days~~
663 ~~and be either:~~

- 664
665 ~~(a) fully licensed and ready for highway use; or~~
666
667 ~~(b) shall meet the elevation and anchoring requirements in s. §§ 4.3 (11)(b) and~~
668 ~~(c).~~

669
670 ~~A mobile recreational vehicle is ready for highway use if it is on its wheels or jacking~~
671 ~~system, is attached to the site only by quick disconnect utilities and security devices~~
672 ~~and has no permanently attached additions.~~

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673
674 Article V

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675 **5.0 OTHER FLOODPLAIN DISTRICTS**

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676
677 **5.1 GENERAL FLOODPLAIN DISTRICT (GFP)**

678
679 (1) **APPLICABILITY**

680 The provisions for the General Floodplain District shall apply to development in all
681 floodplains mapped as A, AO, AH, and in AE zones within which a floodway is not
682 delineated on the Flood Insurance Rate Maps identified in ~~s. § 1.5(2)(a)~~.

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683
684 (2) **FLOODWAY BOUNDARIES**

685 For proposed development in zone A, or in zone AE within which a floodway is not
686 delineated on the Flood Insurance Rate Map identified in ~~s. § 1.5(2)(a)~~, the boundaries of
687 the regulatory floodway shall be determined pursuant to ~~s. § 5.1(5)~~. If the development is
688 proposed to encroach upon the regulatory floodway, the development is subject to the
689 standards of ~~s. § 3.0~~. If the development is located entirely within the floodfringe, the
690 development is subject to the standards of ~~s. § 4.0~~.

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691
692 (3) **PERMITTED USES**

693 Pursuant to ~~s. § 5.1(5)~~ it shall be determined whether the proposed use is located within

694 the floodway or floodfringe. Those uses permitted in the Floodway (~~§~~ 3.2) and
695 Floodfringe (~~§~~ 4.2) Districts are allowed within the General Floodplain District,
696 according to the standards of ~~§~~ 5.1(4) provided that all permits or certificates required
697 under ~~§~~ 7.1 have been issued.

698 (4) STANDARDS FOR DEVELOPMENT IN THE GENERAL FLOODPLAIN DISTRICT

699 Section 3.0 applies to floodway areas, determined pursuant to ~~§~~ 5.1(5); ~~Section~~
700 ~~4.0 Article IV~~ applies to floodfringe areas, determined pursuant to ~~§~~ 5.1(5).
701

702
703 (a) New construction and substantial improvement of structures in zone AO shall have
704 the lowest floor, including basement, elevated:

705
706 1. To or above the depth, in feet, as shown on the FIRM above the highest adjacent
707 natural grade; or

708
709 2. If the depth is not specified on the FIRM, to or above two (2) feet above the
710 highest adjacent natural grade.

711
712 (b) New Construction and substantial improvement of structures in zone AH shall have the
713 lowest floor, including basement, elevated to or above the flood protection elevation.

714
715 (c) In AO/AH zones, provide adequate drainage paths to guide floodwaters around
716 structures.

717
718 (d) All development in zones AO and zone AH shall meet the requirements of ~~§~~ 4.0
719 applicable to flood-fringe areas.

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720
721 (5) DETERMINING FLOODWAY AND FLOODFRINGE LIMITS

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

725
726 (a) Require the applicant to submit two copies of an aerial photograph or a plan which
727 shows the proposed development with respect to the general floodplain district limits,
728 stream channel, and existing floodplain developments, along with a legal description of
729 the property, fill limits and elevations, building floor elevations and flood proofing
730 measures; and the flood zone as shown on the FIRM.

731
732 (b) Require the applicant to furnish any of the following information deemed necessary by
733 the Department to evaluate the effects of the proposal upon flood height and flood
734 flows, regional flood elevation and to determine floodway boundaries.

735
736 1. A Hydrologic and Hydraulic Study as specified in ~~§~~ 7.1(2)(c).

737
738 2. Plan (surface view) showing elevations or contours of the ground; pertinent
739 structure, fill or storage elevations; size, location and layout of all proposed and
740 existing structures on the site; location and elevations of streets, water supply, and
741 sanitary facilities; soil types and other pertinent information;

742
743 3. Specifications for building construction and materials, floodproofing, filling,
744 dredging, channel improvement, storage, water supply and sanitary facilities.
745

746 **5.2 FLOOD STORAGE DISTRICT**

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

752 (1) APPLICABILITY

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

755 (2) PERMITTED USES

756 Any use or development which occurs in a flood storage district must meet the
757 applicable requirements in ~~s-~~§ 4.3.

758 (3) STANDARDS FOR DEVELOPMENT IN FLOOD STORAGE DISTRICTS

759 (a) Development in a flood storage district shall not cause an increase equal or greater
760 than 0.00 of a foot in the height of the regional flood.

761 (b) No development shall be allowed which removes flood storage volume unless an
762 equal volume of storage as defined by the pre-development ground surface and
763 the regional flood elevation shall be provided in the immediate area of the
764 proposed development to compensate for the volume of storage which is lost,
765 (compensatory storage). Excavation below the groundwater table is not
766 considered to provide an equal volume of storage.

767 (c) If compensatory storage cannot be provided, the area may not be developed
768 unless the entire area zoned as flood storage district – on this waterway – is
769 rezoned to the floodfringe district. This must include a revision to the floodplain
770 study and map done for the waterway to revert to the higher regional flood
771 discharge calculated without floodplain storage, as per ~~s-~~8.9 Article VIII
772 Amendments of this ordinance.

773 (d) No area may be removed from the flood storage district unless it can be shown that
774 the area has been filled to the flood protection elevation and is contiguous to other
775 lands lying outside of the floodplain.

776 **6.0 NONCONFORMING USES**

777 Article VI
778 Nonconforming Uses

779 **6.1 Applicability and Continuance.GENERAL**

780 (1) APPLICABILITY

781 (a) The standards in this section shall apply to all uses and buildings that do not
782 conform to the provisions contained within a floodplain zoning ordinance or with
783 ~~§s-~~ 87.30, Wis. Stats. and §§ NR 116.12-14, Wis. Adm. Code and 44 CFR-C.F.R.
784 59-72., these standards shall apply to all modifications or additions to any
785 nonconforming use or structure and to the use of any structure or premises which
786 was lawful before the passage of this ordinance or any amendment thereto. A
787 party asserting existence of a lawfully established nonconforming use or structure
788 has the burden of proving that the use or structure was compliant with the

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floodplain zoning ordinance in effect at the time the use or structure was created.

- (b) As permit applications are received for additions, modifications, or substantial improvements to nonconforming buildings in the floodplain, municipalities shall develop a list of those nonconforming buildings, their present equalized assessed value and a list of the costs of those activities associated with changes to those buildings.

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- (2) The existing lawful use of a structure or its accessory use which is not in conformity with the provisions of this ~~ordinance~~ chapter may continue subject to the following conditions:

- (a) No modifications or additions to a nonconforming use or structure shall be permitted unless they comply with this ~~chapter and all municipal ordinances~~ ordinance. The words "modification" and "addition" include, but are not limited to, any alteration, addition, modification, structural repair, rebuilding or replacement of any such existing use, structure or accessory structure or use. Maintenance is not considered a modification; this includes painting, decorating, paneling and other nonstructural components and the maintenance, repair or replacement of existing private ~~disposal~~ sewage or water supply systems or connections to public utilities. Any costs associated with the repair of a damaged structure are not considered maintenance.

The construction of a deck that does not exceed 200 square feet and that is adjacent to the exterior wall of a principal structure is not an extension, modification or addition. The roof of the structure may extend over a portion of the deck in order to provide safe ingress and egress to the principal structure.

- (b) If a nonconforming use or the use of a nonconforming structure is discontinued for 12 consecutive months, it is no longer permitted and any future use of the property, and any structure or building thereon, shall conform to the applicable requirements of this ~~chapter and all municipal ordinances~~ ordinance;

- (c) The ~~municipality~~ Village shall keep a record which lists all nonconforming uses and nonconforming structures, their present equalized assessed value, the cost of all modifications or additions which have been permitted, and the percentage of the structure's total current value those modifications represent;

- (d) No modification or addition to any nonconforming structure or any structure with a nonconforming use, which over the life of the structure would equal or exceed 50% of its present equalized assessed value, shall be allowed unless the entire structure is permanently changed to a conforming structure with a conforming use in compliance with the applicable requirements of this ordinance. Contiguous dry land access must be provided for residential and commercial uses in compliance with ~~e.~~ § 4.3(1). The costs of elevating the lowest floor of a nonconforming building or a building with a nonconforming use to the flood protection elevation are excluded from the 50% provisions of this paragraph;

- (e) No maintenance ~~on a per event basis to any nonconforming structure or any structure with a nonconforming use, the cost of which would equal or exceed 50% of its present equalized assessed value,~~ shall be allowed unless the entire structure is permanently changed to a conforming structure with a conforming use

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850 in compliance with the applicable requirements of this ~~ordinance~~ chapter.
851 Contiguous dry land access must be provided for residential and commercial uses
852 in compliance with ~~s. 4.3(1)~~. Maintenance to any nonconforming structure, which
853 does not exceed 50% of its present equalized assessed value on a per event
854 basis, does not count against the cumulative calculations over the life of the
855 structure for substantial improvement calculations.

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857 (f) If on a per event basis the total value of the work being done under (d) and (e)
858 equals or exceeds 50% of the present equalized assessed value the work shall not
859 be permitted unless the entire structure is permanently changed to a conforming
860 structure with a conforming use in compliance with the applicable requirements of
861 this ordinance. Contiguous dry land access must be provided for residential and
862 commercial uses in compliance with ~~s. 4.3(1)~~.

864 (g) Except as provided in subd. (h), if any nonconforming structure or any structure
865 with a nonconforming use is destroyed or is substantially damaged, it cannot be
866 replaced, reconstructed or rebuilt unless the use and the structure meet the
867 current ordinance requirements. A structure is considered substantially damaged
868 if the total cost to restore the structure to its pre-damaged condition equals or
869 exceeds 50% of the structure's present equalized assessed value.

871 (h) For nonconforming buildings that are substantially damaged or destroyed by a
872 non-flood disaster, the repair or reconstruction of any such nonconforming building
873 shall be permitted in order to restore it to the size and use in effect prior to the
874 damage event, provided that the following minimum requirements are met and all
875 required permits have been granted prior to the start of construction:

876 1. Residential Structures

879 a. Shall have the lowest floor, including basement, elevated to or above the
880 flood protection elevation using fill, pilings, columns, posts or perimeter walls.
881 Perimeter walls must meet the requirements of ~~s. 7.5(2)~~.

883 b. Shall be anchored to prevent flotation, collapse, or lateral movement of the
884 structure resulting from hydrodynamic and hydrostatic loads, including the
885 effects of buoyancy and shall be constructed with methods and materials
886 resistant to flood damage.

888 c. Shall be constructed with electrical, heating, ventilation, plumbing and air
889 conditioning equipment and other service facilities that are designed and/or
890 elevated so as to prevent water from entering or accumulating within the
891 components during conditions of flooding.

893 d. In A Zones, obtain, review and utilize any flood data available from a federal,
894 state or other source.

896 e. In AO Zones with no elevations specified, shall have the lowest floor,
897 including basement, meet the standards in ~~s. 5.1(4)~~.

898 f. in AO Zones, shall have adequate drainage paths around structures on slopes
899 to guide floodwaters around and away from the structure.
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2. Nonresidential Structures

- a. Shall meet the requirements of ~~§§~~ 6.1(2)(h)1a-f.
- b. Shall either have the lowest floor, including basement, elevated to or above the regional flood elevation; or, together with attendant utility and sanitary facilities, shall meet the standards in ~~§§~~ 7.5 (1) or (2).

c. In AO Zones with no elevations specified, shall have the lowest floor, including basement, meet the standards in ~~§~~ 5.1(4).

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(3) A nonconforming historic structure may be altered if the alteration will not preclude the structure's continued designation as a historic structure, the alteration will comply with ~~§~~ 3.3 (1), flood resistant materials are used, and construction practices and floodproofing methods that comply with ~~§~~ 7.5 are used. Repair or rehabilitation of historic structures shall be exempt from the development standards of ~~§§~~ 6.1 (2)(h)1 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.

~~(4) Exceptions related to nonconforming structures within the floodplain. [Reserve for Communities who want to implement Act 175]~~

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Notwithstanding anything in this chapter to the contrary, modifications, additions, maintenance, and repairs to a nonconforming building shall not be prohibited based on cost and the building's nonconforming use shall be permitted to continue if:

- (a) Any living quarters in the nonconforming building are elevated to be at or above the flood protection elevation;
- (b) The lowest floor of the nonconforming building, including the basement, is elevated to or above the regional flood elevation;
- (c) The nonconforming building is permanently changed to conform to the applicable requirements of 2.0; and
- (d) If the nonconforming building is in the floodway, the building is permanently changed to conform to the applicable requirements of 3.3(1), 3.3(2)(b) through (e), 3.3(3), 3.3(4), and 6.2; or
- (a) If the nonconforming building is in the floodfringe, the building is permanently changed to conform to the applicable requirements of 4.3 and 6.3.

6.2 FLOODWAY DISTRICT

(1) No modification or addition shall be allowed to any nonconforming structure or any structure with a nonconforming use in the Floodway District, unless such modification or addition:

- (a) Has been granted a permit or variance which meets all ordinance requirements;
- (b) Meets the requirements of ~~§~~ 6.1;

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- 954 (c) Shall not increase the obstruction to flood flows or regional flood height;
 955
 956 (d) Any addition to the existing structure shall be floodproofed, pursuant to ~~s. 7.5~~, by
 957 means other than the use of fill, to the flood protection elevation; and
 958
 959 (e) If any part of the foundation below the flood protection elevation is enclosed, the
 960 following standards shall apply:
 961
 962 1. The enclosed area shall be designed by a registered architect or engineer to
 963 allow for the efficient entry and exit of flood waters without human intervention.
 964 A minimum of two openings must be provided with a minimum net area of at
 965 least one square inch for every one square foot of the enclosed area. The
 966 lowest part of the opening can be no more than 12 inches above the adjacent
 967 grade;
 968
 969 2. The parts of the foundation located below the flood protection elevation must be
 970 constructed of flood-resistant materials;
 971
 972 3. Mechanical and utility equipment must be elevated or floodproofed to or above
 973 the flood protection elevation; and
 974
 975 4. The use must be limited to parking, building access or limited storage.
 976
 977 (2) No new on-site sewage disposal system, or addition to an existing on-site sewage
 978 disposal system, except where an addition has been ordered by a government agency
 979 to correct a hazard to public health, shall be allowed in the Floodway District. Any
 980 replacement, repair or maintenance of an existing on-site sewage disposal system in a
 981 floodway area shall meet the applicable requirements of all municipal ordinances, ~~s. 7.5~~
 982 7.5(3) and Ceh. SPS 383, Wis. Adm. Code.
 983
 984 (3) No new well or modification to an existing well used to obtain potable water shall be
 985 allowed in the Floodway District. Any replacement, repair or maintenance of an
 986 existing well in the Floodway District shall meet the applicable requirements of all
 987 municipal ordinances, ~~s. 7.5~~ 7.5(3) and Cehs. NR 811 and NR 812, Wis. Adm. Code.
 988

989 **6.3 FLOODFRINGE DISTRICT**

- 990 (1) No modification or addition shall be allowed to any nonconforming structure or any
 991 structure with a nonconforming use unless such modification or addition has been
 992 granted a permit or variance by the municipality and meets the requirements of ~~s. 4.3~~
 993 except where ~~s. 6.3~~ 6.3(2) is applicable.
 994
 995 (2) Where compliance with the provisions of subd. (1) would result in unnecessary
 996 hardship and only where the structure will not be used for human habitation or be
 997 associated with a high flood damage potential, the Board of ~~Adjustment~~/Appeals, using
 998 the procedures established in ~~s. 7.3~~, may grant a variance from those provisions of
 999 subd. (1) for modifications or additions using the criteria listed below. Modifications or
 1000 additions which are protected to elevations lower than the flood protection elevation
 1001 may be permitted if:
 1002
 1003 (a) No floor is allowed below the regional flood elevation for residential or
 1004 commercial structures;
 1005

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- 1006 (b) Human lives are not endangered;
- 1007
- 1008 (c) Public facilities, such as water or sewer, shall not be installed;
- 1009
- 1010 (d) Flood depths shall not exceed two feet;
- 1011
- 1012 (e) Flood velocities shall not exceed two feet per second; and
- 1013
- 1014 (f) The structure shall not be used for storage of materials as described in ~~§~~ 4.3(5).
- 1015
- 1016
- 1017 (3) All new private sewage disposal systems, or addition to, replacement, repair or
- 1018 maintenance of a private sewage disposal system shall meet all the applicable
- 1019 provisions of all local ordinances, ~~§~~ 7.5 (3) and ~~Ceh~~. SPS 383, Wis. Adm. Code.
- 1020
- 1021 (4) All new wells, or addition to, replacement, repair or maintenance of a well shall meet
- 1022 the applicable provisions of this ordinance, ~~§~~ 7.5 (3) and ~~Ceh~~s. NR 811 and NR 812,
- 1023 Wis. Adm. Code.
- 1024

1025 **6.4 FLOOD STORAGE DISTRICT**

1026 No modifications or additions shall be allowed to any nonconforming structure in a flood
 1027 storage area unless the standards outlined in 5.2(3) are met.

1029 Article VII
 1030 Administration

1031 **7.0 ADMINISTRATIONPURPOSE**

1032 Where ~~a zoning administrator, planning agency~~the Zoning Administrator, plan commission
 1033 or a board of appeals ~~of the Village~~ has already been appointed to administer a zoning
 1034 ordinance adopted under ~~§§~~ 59.69, 59.692 or 62.23(7), Wis. Stats., ~~these officials-those~~
 1035 entities shall also administer this ~~ordinance~~chapter.

1037 **7.1 ZONING ADMINISTRATOR**

1038 (1) DUTIES AND POWERS

1039 The ~~Z~~oning ~~A~~administrator is authorized to administer this ~~ordinance~~chapter and
 1040 shall have the following duties and powers:

- 1041
- 1042 (a) Advise applicants of the ordinance provisions, assist in preparing permit
- 1043 applications and appeals, and assure that the regional flood elevation for the
- 1044 proposed development is shown on all permit applications.
- 1045
- 1046 (b) Issue permits and inspect properties for compliance with provisions of this
- 1047 ~~ordinance~~chapter and issue certificates of compliance where appropriate.
- 1048
- 1049 (c) Inspect and assess all damaged floodplain structures to determine if substantial
- 1050 damage to the structures has occurred.
- 1051
- 1052 (d) Keep records of all official actions such as:
- 1053
- 1054 1. All permits issued, inspections made, and work approved;

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- 1055 2. Documentation of certified lowest floor and regional flood elevations;
1056 3. Floodproofing certificates.
1057 4. Water surface profiles, floodplain zoning maps and ordinances, nonconforming
1058 uses and structures including changes, appeals, variances and amendments.
1059 5. All substantial damage assessment reports for floodplain structures.
1060 6. List of nonconforming structures and uses.

1061
1062 (e) Submit copies of the following items to the Department Regional office:

- 1063
1064 1. Within 10 days of the decision, a copy of any decisions on variances, appeals
1065 for map or text interpretations, and map or text amendments;
1066
1067 2. Copies of case-by-case analyses and other required information.
1068
1069 3. Copies of substantial damage assessments performed and all related
1070 correspondence concerning the assessments.

1071
1072 (f) Investigate, prepare reports, and report violations of this ~~ordinance-chapter~~ to the
1073 ~~municipal zoning agency~~ Elm Grove Plan Commission and Village Attorney for
1074 prosecution. Copies of the reports shall also be sent to the Department Regional
1075 office.
1076

1077 (g) Submit copies of amendments to the FEMA Regional office.
1078

1079 (2) LAND USE PERMIT

1080 A land use permit shall be obtained from the Zoning Administrator before any
1081 development; repair, modification or addition to an existing structure; or change in the
1082 use of a building or structure, including sewer and water facilities, may be initiated.
1083 Application to the Zoning Administrator shall include:
1084

1085 (a) GENERAL INFORMATION

- 1086
1087 1. Name and address of the applicant, property owner and contractor;
1088
1089 2. Legal description, proposed use, and whether it is new construction or a
1090 modification;
1091

1092 (b) SITE DEVELOPMENT PLAN

1093 A site plan drawn to scale shall be submitted with the permit application form and
1094 shall contain:

- 1095
1096 1. Location, dimensions, area and elevation of the lot;
1097
1098 2. Location of the ordinary highwater mark of any abutting navigable waterways;
1099
1100 3. Location of any structures with distances measured from the lot lines and street
1101 center lines;
1102
1103 4. Location of any existing or proposed on-site sewage systems or private water
1104 supply systems;
1105
1106 5. Location and elevation of existing or future access roads;

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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) 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 study contractor shall be responsible for the technical adequacy of the study. All studies shall be reviewed and approved by the Department.

1. Zone A floodplains and in ~~AE zones within which a floodway is not delineated~~:
 - a. Hydrology
 - i. The appropriate method shall be based on the standards in ~~C~~ch. NR 116.07(3), Wis. Admin. Code, *Hydrologic Analysis: Determination of Regional Flood Discharge*.
 - b. Hydraulic modeling

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

 - i. ~~D~~etermination of the required limits of the hydraulic model shall be based on detailed study information for downstream structures (dam, bridge, culvert) to determine adequate starting WSEL for the study.
 - ii. ~~C~~hannel sections must be surveyed.
 - iii. ~~M~~inimum four-foot contour data in the overbanks shall be used for the development of cross section overbank and floodplain mapping.
 - iv. ~~A~~a maximum distance of 500 feet between cross sections is allowed in developed areas with additional intermediate cross sections required at transitions in channel bottom slope including a survey of the channel at each location.
 - v. ~~T~~he most current version of HEC_RAS shall be used.
 - vi. ~~A~~a survey of bridge and culvert openings and the top of road is required at each structure.

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1159 vii. **A**dditional cross sections are required at the downstream and
1160 upstream limits of the proposed development and any necessary
1161 intermediate locations based on the length of the reach if greater than
1162 500 feet.
1163

1164 viii. **S**tandard accepted engineering practices shall be used when assigning
1165 parameters for the base model such as flow, Manning's N values,
1166 expansion and contraction coefficients or effective flow limits. The base
1167 model shall be calibrated to past flooding data such as high water marks
1168 to determine the reasonableness of the model results. If no historical
1169 data is available, adequate justification shall be provided for any
1170 parameters outside standard accepted engineering practices.
1171

1172 ix. **T**he model must extend past the upstream limit of the difference in the
1173 existing and proposed flood profiles in order to provide a tie-in to existing
1174 studies. The height difference between the proposed flood profile and
1175 the existing study profiles shall be no more than 0.00 feet.
1176

1177 c. Mapping
1178 A work map of the reach studied shall be provided, showing all cross-
1179 section locations, floodway/floodplain limits based on best available
1180 topographic data, geographic limits of the proposed development and
1181 whether the proposed development is located in the floodway.
1182

1183 i. If the proposed development is located outside of the floodway, then it is
1184 determined to have no impact on the regional flood elevation.
1185

1186 ii. If any part of the proposed development is in the floodway, it must be
1187 added to the base model to show the difference between existing and
1188 proposed conditions. The study must ensure that all coefficients remain
1189 the same as in the existing model, unless adequate justification based on
1190 standard accepted engineering practices is provided.
1191

1192 2. Zone AE Floodplains
1193 a. Hydrology
1194 If the proposed hydrology will change the existing study, the appropriate
1195 method to be used shall be based on **C**eh. NR 116.07(3), Wis. Admin.
1196 Code, *Hydrologic Analysis: Determination of Regional Flood Discharge*.
1197

1198 b. Hydraulic model
1199 The regional flood elevation shall be based on the standards in **C**eh. NR
1200 116.07(4), Wis. Admin. Code, *Hydraulic Analysis: Determination of*
1201 *Regional Flood Elevation* and the following:
1202

1203 i. Duplicate Effective Model
1204 The effective model shall be reproduced to ensure correct transference of
1205 the model data and to allow integration of the revised data to provide a
1206 continuous FIS model upstream and downstream of the revised reach. If
1207 data from the effective model is available, models shall be generated that
1208 duplicate the FIS profiles and the elevations shown in the Floodway Data
1209 Table in the FIS report to within 0.1 foot.
1210

- 1211 ii. Corrected Effective Model.
1212 The Corrected Effective Model shall not include any man-made physical
1213 changes since the effective model date but shall import the model into
1214 the most current version of HEC-RAS for Department review.
1215
- 1216 iii. Existing (Pre-Project Conditions) Model.
1217 The Existing Model shall be required to support conclusions about the
1218 actual impacts of the project associated with the Revised (Post-Project)
1219 Model or to establish more up-to-date models on which to base the
1220 Revised (Post-Project) Model.
1221
- 1222 iv. Revised (Post-Project Conditions) Model.
1223 The Revised (Post-Project Conditions) Model shall incorporate the
1224 Existing Model and any proposed changes to the topography caused by
1225 the proposed development. This model shall reflect proposed conditions.
1226
- 1227 v. All changes to the Duplicate Effective Model and subsequent models
1228 must be supported by certified topographic information, bridge plans,
1229 construction plans and survey notes.
1230
- 1231 vi. Changes to the hydraulic models shall be limited to the stream reach for
1232 which the revision is being requested. Cross sections upstream and
1233 downstream of the revised reach shall be identical to those in the
1234 effective model and result in water surface elevations and topwidths
1235 computed by the revised models matching those in the effective models
1236 upstream and downstream of the revised reach as required. The
1237 Effective Model shall not be truncated.
1238
- 1239 c. Mapping
1240 Maps and associated engineering data shall be submitted to the Department
1241 for review which meet the following conditions:
1242
- 1243 i. Consistency between the revised hydraulic models, the revised floodplain
1244 and floodway delineations, the revised flood profiles, topographic work
1245 map, annotated FIRMs and/or Flood Boundary Floodway Maps (FBFMs),
1246 construction plans, bridge plans.
1247
- 1248 ii. Certified topographic map of suitable scale, contour interval, and a
1249 planimetric map showing the applicable items. If a digital version of the
1250 map is available, it may be submitted in order that the FIRM may be more
1251 easily revised.
1252
- 1253 iii. Annotated FIRM panel showing the revised 1% and 0.2% annual chance
1254 floodplains and floodway boundaries.
1255
- 1256 iv. If an annotated FIRM and/or FBFM and digital mapping data (GIS or
1257 CADD) are used then all supporting documentation or metadata must be
1258 included with the data submission along with the Universal Transverse
1259 Mercator (UTM) projection and State Plane Coordinate System in
1260 accordance with FEMA mapping specifications.
1261
- 1262 v. The revised floodplain boundaries shall tie into the effective floodplain

- 1263 boundaries.
- 1264
- 1265 vi. All cross sections from the ~~E~~ffective ~~M~~odel shall be labeled in
- 1266 accordance with the effective map and a cross section lookup table shall
- 1267 be included to relate to the model input numbering scheme.
- 1268
- 1269 vii. Both the current and proposed floodways shall be shown on the map.
- 1270
- 1271 viii. The stream centerline, or profile baseline used to measure stream
- 1272 distances in the model shall be visible on the map.
- 1273

1274 (d) EXPIRATION

1275 All permits issued under the authority of this ~~ordinance-chapter~~ shall expire no

1276 more than 180 days after issuance. The permit may be extended for a maximum

1277 of 180 days for good and sufficient cause. If the permitted work has not started

1278 within 180 days of the permit date, the development must comply with any

1279 regulation, including any revision to the FIRM or FIS, that took effect after the

1280 permit date.

1281

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1282 (3) CERTIFICATE OF COMPLIANCE

1283 No land shall be occupied or used, and no building which is hereafter constructed,

1284 altered, added to, modified, repaired, rebuilt or replaced shall be occupied until a

1285 certificate of compliance is issued by the ~~Z~~oning ~~A~~administrator, except where no

1286 permit is required, subject to the following provisions:

1287

- 1288 (a) The certificate of compliance shall show that the building or premises or part
- 1289 thereof, and the proposed use, conform to the provisions of this ~~ordinancechapter~~;
- 1290
- 1291 (b) Application for such certificate shall be concurrent with the application for a permit;
- 1292
- 1293 (c) If all ~~ordinance-chapter~~ provisions are met, the certificate of compliance shall be
- 1294 issued within 10 days after written notification that the permitted work is
- 1295 completed;
- 1296
- 1297 (d) The applicant shall submit a certification signed by a registered professional
- 1298 engineer, architect or land surveyor that the fill, lowest floor and floodproofing
- 1299 elevations are in compliance with the permit issued. Floodproofing measures also
- 1300 require certification by a registered professional engineer or architect that the
- 1301 requirements of ~~s-§~~ 7.5 are met.
- 1302
- 1303 (e) Where applicable pursuant to ~~s-§~~ 5.1(4), the applicant must submit a certification
- 1304 by a registered professional engineer or surveyor of the elevation of the bottom of
- 1305 the lowest horizontal structural member supporting the lowest floor (excluding
- 1306 pilings or columns), and an indication of whether the structure contains a
- 1307 basement.
- 1308
- 1309 (f) Where applicable pursuant to ~~s-§~~ 5.1(4), the applicant must submit certifications by
- 1310 a registered professional engineer or architect that the structural design and
- 1311 methods of construction meet accepted standards of practice as required by ~~s-§~~
- 1312 5.1(4).
- 1313

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1314 (4) OTHER PERMITS

1315 Prior to obtaining a floodplain development permit the applicant must secure all
1316 necessary permits from federal, state, and local agencies, including but not limited to
1317 those required by the U.S. Army Corps of Engineers under ~~s-§~~ 404 of the Federal
1318 Water Pollution Control Act, Amendments of 1972, 33 U.S.C. 1344.

1320 7.2 ZONING AGENCY

1321 (1) The Elm Grove Plan Commission ~~(community provide agency/committee name)~~ shall:

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- 1322 (a) ~~O~~oversee the functions of the office of the ~~Z~~zoning ~~A~~administrator; and
1323
1324 (b) ~~R~~review and ~~A~~advise the governing body on all proposed amendments to this
1325 ~~ordinance~~chapter, maps and text.
1326
1327 (c) ~~P~~ublish adequate notice pursuant to Ch. 985, Wis. Stats., specifying the date,
1328 time, place and subject of the public hearing.
1329

1330
1331 (2) The ~~(Elm Grove~~ Plan Commission) ~~(community provide agency/committee name)~~ shall
1332 not:

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- 1333
1334 (a) ~~G~~rant variances to the terms of the ordinance in place of action by the Elm Grove
1335 Board of ~~Adjustment~~/Appeals; or
1336
1337 (b) ~~A~~amend the text or zoning maps in place of official action by the Village Board.
1338 ~~governing body~~.

1339 7.3 ELM GROVE BOARD OF APPEALS

1340 The Elm Grove Board of Appeals, created under ~~§§s-~~ 62.23(7)(e), Wis. Stats., for ~~cities or~~ ←
1341 villages, is hereby authorized or shall be appointed to act for the purposes of this ordinance.

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1342 The Board ~~of Appeals~~ shall exercise the powers conferred by Wisconsin Statutes and
1343 adopt rules for the conduct of business. The ~~Z~~zoning ~~A~~administrator shall not be the
1344 secretary of the Board ~~of Appeals~~.

1345 (1) POWERS AND DUTIES

1346 The Elm Grove Board of Appeals shall:

- 1347
1348 (a) Appeals - Hear and decide appeals where it is alleged there is an error in any
1349 order, requirement, decision or determination made by an administrative official in
1350 the enforcement or administration of this ~~ordinance~~chapter;
1351
1352 (b) Boundary Disputes - Hear and decide disputes concerning the district boundaries
1353 shown on the ~~O~~official ~~F~~floodplain ~~Z~~zoning ~~M~~map; and
1354
1355 (c) Variances - Hear and decide, upon appeal, variances from the ~~ordinance~~
1356 standards ~~of this chapter~~.

1357 (2) APPEALS TO THE BOARD OF APPEALS

- 1358
1359 (a) Appeals to the Board of Appeals ~~board~~ may be taken by any person aggrieved,
1360 or by any officer or department of the municipality affected by any decision of the
1361 ~~Z~~zoning ~~A~~administrator or other administrative officer. Such appeal shall be
1362 taken within 30 days unless otherwise provided by the rules of the board, by filing
1363 with the official whose decision is in question, and with the Board of Appeals, a
1364 notice of appeal specifying the reasons for the appeal. The official whose
1365
1366

1367 decision is in question shall transmit to the Bboard of Appeals all records
1368 regarding the matter appealed.

1369 (b) NOTICE AND HEARING FOR APPEALS INCLUDING VARIANCES
1370

- 1371
- 1372 1. Notice - The Bboard of Appeals shall:
- 1373 a. Fix a reasonable time for the hearing;
 - 1374 b. Publish adequate notice pursuant to Wisconsin Statutes, specifying the
1375 date, time, place and subject of the hearing; and
 - 1376 c. Assure that notice shall be mailed to the parties in interest and the
1377 Department Regional office at least 10 days in advance of the hearing.
- 1378
- 1379 2. Hearing - Any party may appear in person or by agent. The Bboard of
1380 Appeals shall:
- 1381
 - 1382 a. Resolve boundary disputes according to ~~s.~~§ 7.3(3);
 - 1383 b. Decide variance applications according to ~~s.~~§ 7.3(4); and
 - 1384 c. Decide appeals of permit denials according to ~~s.~~§ 7.4.
- 1385

1386 (c) DECISION: The final decision regarding the appeal or variance application shall:
1387

- 1388 1. Be made within a reasonable time;
 - 1389
 - 1390 2. Be sent to the Department Regional office within 10 days of the decision;
 - 1391
 - 1392 3. Be a written determination signed by the Cehairman or Ssecretary of the
1393 Board of Appeals;
 - 1394
 - 1395 4. State the specific facts which are the basis for the Board of Appeals's
1396 decision;
 - 1397
 - 1398 5. Either affirm, reverse, vary or modify the order, requirement, decision or
1399 determination appealed, in whole or in part, dismiss the appeal for lack of
1400 jurisdiction or grant or deny the variance application; and
 - 1401
 - 1402 6. Include the reasons for granting an appeal, describing the hardship
1403 demonstrated by the applicant in the case of a variance, clearly stated in the
1404 recorded minutes of the Board of Appeals proceedings.
- 1405

1406 (3) BOUNDARY DISPUTES

1407 The following procedure shall be used by the Board of Appeals in hearing disputes
1408 concerning floodplain district boundaries:

- 1409
- 1410 (a) If a floodplain district boundary is established by approximate or detailed floodplain
1411 studies, the flood elevations or profiles shall prevail in locating the boundary.
- 1412
- 1413 (b) The person contesting the boundary location shall be given a reasonable
1414 opportunity to present arguments and technical evidence to the Board of Appeals;
1415 and
- 1416
- 1417 (c) If the boundary is incorrectly mapped, the Board should inform the Zzoning
1418 Ccommittee or the person contesting the boundary location to petition the

governing body for a map amendment according to ~~s-§~~ 8.0 *Amendments*.

(4) VARIANCE

(a) The Board of Appeals may, upon appeal, grant a variance from the standards of this ~~ordinance chapter~~ if an applicant convincingly demonstrates that:

1. Literal enforcement of the ~~ordinance chapter~~ 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 chapter~~ in ~~s-§~~ 1.3.

(b) In addition to the criteria in ~~subd. subsection~~ (a), to qualify for a variance under FEMA regulations, the Board of Appeals must find that the following criteria have been met:

1. The variance shall not cause any increase in the regional flood elevation;
2. The applicant has shown good and sufficient cause for issuance of the variance;
3. Failure to grant the variance would result in exceptional hardship;
4. Granting the variance will not result in additional threats to public safety, extraordinary expense, create a nuisance, cause fraud on or victimization of the public, or conflict with existing local laws or ordinances;
5. The variance granted is the minimum necessary, considering the flood hazard, to afford relief.

(c) A variance shall not:

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 chapter~~ or map(s) required in ~~s-§~~ 8.0 *Amendments*; and
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 of Appeals shall notify the applicant in writing that it may increase risks to life and property and flood

1471 insurance premiums could increase up to \$25.00 per \$100.00 of coverage. A copy
1472 shall be maintained with the variance record.

1473
1474 **7.4 TO REVIEW APPEALS OF PERMIT DENIALS**

1475 (1) The Zoning Agency (~~s-~~§ 7.2) or Board of Appeals shall review all data related to the
1476 appeal. This data may include (where appropriate):

- 1477 (a) Permit application data listed in ~~s-~~§ 7.1(2);
1478
1479 (b) Floodway/floodfringe determination data in ~~s-~~§ 5.1(5);
1480
1481 (c) Data listed in ~~s-~~§ 3.3(1)(b) where the applicant has not submitted this information to
1482 the Zoning Aadministrator; and
1483
1484 (d) Other data submitted with the application or submitted to the Board with the appeal.
1485

1486
1487 (2) For appeals of all denied permits the Board shall:

- 1488 (a) Follow the procedures of ~~s-~~§ 7.3;
1489
1490 (b) Consider zoning agency recommendations; and
1491
1492 (c) Either uphold the denial or grant the appeal.
1493

1494
1495 (3) For appeals concerning increases in regional flood elevation the Board shall:

- 1496 (a) Uphold the denial where the Board agrees with the data showing an increase in
1497 flood elevation. Increases may only be allowed after amending the flood profile
1498 and map and all appropriate legal arrangements are made with all adversely
1499 affected property owners as per the requirements of ~~s-~~§ 8.0 Amendments; and
1500
1501 (b) Grant the appeal where the Board agrees that the data properly demonstrates that
1502 the project does not cause an increase provided no other reasons for denial exist.
1503

1504
1505 **7.5 FLOODPROOFING STANDARDS**

1506 (1) No permit or variance shall be issued for a non-residential structure designed to be
1507 watertight below the regional flood elevation until the applicant submits a plan certified
1508 by a registered professional engineer or architect that the floodproofing measures will
1509 protect the structure or development to or above the flood protection elevation and
1510 submits a FEMA Floodproofing Certificate. Floodproofing is not an alternative to the
1511 development standards in ~~s-~~§§ 2.0, 3.0, 4.0, 5.1, or 5.3.

1512
1513 (2) For a structure designed to allow the entry of floodwaters, no permit or variance shall
1514 be issued until the applicant submits a plan either:

- 1515 (a) Certified by a registered professional engineer or architect; or
1516
1517 (b) Meeting or exceeding the following standards:
1518
1519 1. Aa minimum of two openings having a total net area of not less than one square
1520 inch for every square foot of enclosed area subject to flooding;
1521
1522

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- 1523 2. ~~T~~he bottom of all openings shall be no higher than one-foot above grade; and
1524
1525 3. ~~O~~penings may be equipped with screens, louvers, valves, or other coverings
1526 or devices provided that they permit the automatic entry and exit of floodwaters.
1527

1528 (3) Floodproofing measures shall be designed, as appropriate, to:

- 1529 (a) Withstand flood pressures, depths, velocities, uplift and impact forces and other
1530 regional flood factors;
1531
1532 (b) Protect structures to the flood protection elevation;
1533
1534 (c) Anchor structures to foundations to resist flotation and lateral movement;
1535
1536 (d) Minimize or eliminate infiltration of flood waters;
1537
1538 (e) Minimize or eliminate discharges into flood waters;
1539 (f) Placement of essential utilities to or above the flood protection elevation; and
1540
1541 (g) ~~If any part of the foundation below the flood protection elevation is enclosed, the~~
1542 ~~following standards shall apply:~~
1543

1544 1. ~~The enclosed area shall be designed by a registered architect or engineer to~~
1545 ~~allow for the efficient entry and exit of flood waters without human intervention.~~
1546 ~~A minimum of two openings must be provided with a minimum net area of at~~
1547 ~~least one square inch for every one square foot of the enclosed area. The~~
1548 ~~lowest part of the opening can be no more than 12 inches above the adjacent~~
1549 ~~grade;~~
1550

1551 2. ~~The parts of the foundation located below the flood protection elevation must~~
1552 ~~be constructed of flood-resistant materials;~~
1553

1554 3. ~~Mechanical and utility equipment must be elevated or floodproofed to or above~~
1555 ~~the flood protection elevation; and~~
1556

1557 4. ~~The use of that enclosed area must be limited to parking, building access or~~
1558 ~~limited storage.~~
1559

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1560 7.6 PUBLIC INFORMATION

- 1561 (1) Place marks on structures to show the depth of inundation during the regional flood.
1562
1563 (2) All maps, engineering data and regulations shall be available and widely distributed.
1564
1565 (3) Real estate transfers should show what floodplain district any real property is in.
1566

1567 Article VIII

1568 Amendments

1569 8.0 AMENDMENTS

1570 Obstructions or increases may only be permitted if amendments are made to this
1571 ~~ordinance chapter~~, the official floodplain zoning maps, floodway lines and water surface
1572 profiles, in accordance with ~~s. §~~ 8.1.
1573
1574

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- 1575 (1) In AE Zones with a mapped floodway, no obstructions or increases shall be permitted
 1576 unless the applicant receives a Conditional Letter of Map Revision from FEMA and
 1577 amendments are made to this ordinance, the official floodplain zoning maps, floodway
 1578 lines and water surface profiles, in accordance with ~~s-§~~ 8.1. Any such alterations must
 1579 be reviewed and approved by FEMA and the DNR.
- 1580 (2) In A Zones increases equal to or greater than 1.0 foot may only be permitted if the
 1581 applicant receives a Conditional Letter of Map Revision from FEMA and amendments
 1582 are made to this ordinance, the official floodplain maps, floodway lines, and water
 1583 surface profiles, in accordance with ~~s-§~~ 8.1.
 1584
 1585

1586 **8.1 GENERAL**

1587 The ~~governing body~~Village Board of Trustees shall change or supplement the floodplain
 1588 zoning district boundaries and this ~~ordinance chapter~~ in the manner outlined in ~~s-§~~ 8.2
 1589 below. Actions which require an amendment to the ~~ordinance chapter~~ and/ or submittal
 1590 of a Letter of Map Change (LOMC) include, but are not limited to, the following:

- 1591 (1) Any fill or floodway encroachment that obstructs flow causing any increase in the
 1592 regional flood height;
- 1593 (2) Any change to the floodplain boundaries and/or watercourse alterations on the FIRM;
- 1594 (3) Any changes to any other officially adopted floodplain maps listed in ~~s-§~~ 1.5 (2)(b);
- 1595 (4) Any floodplain fill which raises the elevation of the filled area to a height at or above
 1596 the flood protection elevation and is contiguous to land lying outside the floodplain;
- 1597 (5) Correction of discrepancies between the water surface profiles and floodplain maps;
- 1598 (6) Any upgrade to a floodplain zoning ordinance text required by ~~§~~ NR 116.05, Wis.
 1599 Adm. Code, or otherwise required by law, or for changes by the municipality; and
- 1600 (7) All channel relocations and changes to the maps to alter floodway lines or to remove
 1601 an area from the floodway or the floodfringe that is based on a base flood elevation
 1602 from a FIRM requires prior approval by FEMA.
 1603

1604 **8.2 AMENDMENT PROCEDURES**

1605 ~~Ordinance A~~amendments to this chapter may be made upon petition of any party
 1606 according to the provisions of ~~§~~ 62.23, Wis. Stats., for ~~cities and~~villages. The petitions
 1607 shall include all data required by ~~s-§~~ 5.1(5) and 7.1(2). The Land Use Permit shall not be
 1608 issued until a Letter of Map Revision is issued by FEMA for the proposed changes.
 1609

- 1610 (1) The proposed amendment shall be referred to the zoning agency for a public hearing
 1611 and recommendation to the governing body. The amendment and notice of public
 1612 hearing shall be submitted to the Department Regional office for review prior to the
 1613 hearing. The amendment procedure shall comply with the provisions of ~~s-§~~ 62.23, Wis.
 1614 Stats., for ~~cities and~~villages.
 1615
- 1616 (2) No amendments shall become effective until reviewed and approved by the
 1617 Department.
 1618
- 1619 (3) All persons petitioning for a map amendment that obstructs flow causing any increase
 1620
 1621
 1622
 1623
 1624
 1625
 1626

1627 in the regional flood height, shall obtain flooding easements or other appropriate legal
1628 arrangements from all adversely affected property owners and notify local units of
1629 government before the amendment can be approved by the governing body.

631 Article IX
632 Enforcement and Penalties

633 **9.0 ENFORCEMENT AND PENALTIES**

634 Any violation of the provisions of this ~~ordinance-chapter~~ by any person shall be unlawful
635 and shall be referred to the ~~Municipal A~~ttorney who shall expeditiously prosecute all
636 such violators. A violator shall, upon conviction, forfeit to the ~~municipality-Village of Elm~~
637 ~~Grove~~ a penalty of not more than \$50.00 (fifty dollars), together with a taxable cost of such
638 action. Each day of continued violation shall constitute a separate offense. Every violation
639 of this ~~ordinance-chapter~~ is a public nuisance and the creation may be enjoined and the
640 maintenance may be abated by action at suit of the municipality, the state, or any citizen
641 thereof pursuant to ~~e-§~~ 87.30, Wis. Stats.

643 Article X
644 Definitions

645 **10.0 DEFINITIONS**

646 A. Unless specifically defined in the Village of Elm Grove Code of Ordinances, words and
647 phrases in this ~~ordinance-eChapter~~ shall have their common-law meaning and shall be
648 applied in accordance with their common usage. Words used in the present tense include
649 the future, the singular number includes the plural and the plural number includes the
650 singular. The word "may" is permissive, "shall" is mandatory and is not discretionary.
651 Definitions enumerated below in Subsection B shall apply only to such terms used in this
652 eChapter and shall not apply to any other chapters-reference within the Village of Elm
653 Grove Code of Ordinances.

654
655 B. As used in this chapter, the following terms shall have the meanings indicated

- 1657 1. A ZONES – Those areas shown on the Official Floodplain Zoning Map which would be
1658 inundated by the regional flood. These areas may be numbered or unnumbered A Zones.
1659 The A Zones may or may not be reflective of flood profiles, depending on the availability of
1660 data for a given area.
- 1661 2. AH ZONE – See "AREA OF SHALLOW FLOODING".
- 1662 3. AO ZONE – See "AREA OF SHALLOW FLOODING".
- 1663 4. ACCESSORY STRUCTURE OR USE – A facility, structure, building or use which is
1664 accessory or incidental to the principal use of a property, structure or building. An
1665 accessory structure shall not be used for human habitation.
- 1666 5. ALTERATION – An enhancement, upgrade or substantial change or modification other than
1667 an addition or repair to a dwelling or to electrical, plumbing, heating, ventilating, air
1668 conditioning and other systems within a structure.
- 1669 6. AREA OF SHALLOW FLOODING – A designated AO, AH, AR/AO, AR/AH, or VO zone on
1670 a community's Flood Insurance Rate Map (FIRM) with a 1 percent or greater annual chance
1671 of flooding to an average depth of 1 to 3 feet where a clearly defined channel does not exist,
1672 where the path of flooding is unpredictable, and where velocity flood may be evident. Such
1673 flooding is characterized by ponding or sheet flow.

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7. 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.
 8. BASEMENT – Any enclosed area of a building having its floor sub-grade on all sides.
 9. ~~BREAKAWAY WALL—A wall that is not part of the structural support of the building and is intended through its design and construction to collapse under specific lateral loading forces, without causing damage to the elevated portion of the building or supporting foundation system.~~
 10. BUILDING – See STRUCTURE.
 11. ~~BULKHEAD LINE—A geographic line along a reach of navigable water that has been adopted by a municipal ordinance and approved by the Department pursuant to s. 30.11, Stats., and which allows limited filling between this bulkhead line and the original ordinary highwater mark, except where such filling is prohibited by the floodway provisions of this ordinance.~~
 - ~~12. CAMPGROUND—Any parcel of land which is designed, maintained, intended or used for the purpose of providing sites for nonpermanent overnight use by 4 or more camping units, or which is advertised or represented as a camping area.~~
 - ~~13. CAMPING UNIT—Any portable device, no more than 400 square feet in area, used as a temporary shelter, including but not limited to a camping trailer, motor home, bus, van, pick-up truck, or tent that is fully licensed, if required, and ready for highway use.~~
 - ~~14.12. CERTIFICATE OF COMPLIANCE – A certification that the construction and the use of land or a building, the elevation of fill or the lowest floor of a structure is in compliance with all of the provisions of this ordinance.~~
 - ~~15.13. CHANNEL – A natural or artificial watercourse with definite bed and banks to confine and conduct normal flow of water.~~
 - ~~16. COASTAL FLOODPLAIN—An area along the coast of Lake Michigan or Lake Superior which is inundated by the regional flood and which is also subject to additional hazard due to wave runup.~~
 - ~~17.14. COASTAL HIGH HAZARD AREA—An area of special flood hazard extending from offshore to the inland limit of a primary frontal dune along an open coast, and any other area subject to high velocity wave action from storms.~~
 - ~~18.15. CRAWLWAYS or CRAWL SPACE – An enclosed area below the first usable floor of a building, generally less than five feet in height, used for access to plumbing and electrical utilities.~~
 - ~~19.16. DECK – An unenclosed exterior structure that has no roof or sides and has a permeable floor which allows the infiltration of precipitation.~~
 - ~~20.17. DEPARTMENT – The Wisconsin Department of Natural Resources.~~

1731 ~~21-18~~. DEVELOPMENT – Any artificial change to improved or unimproved real estate, including,
1732 but not limited to, the construction of buildings, structures or accessory structures; the
1733 construction of additions or alterations to buildings, structures or accessory structures; the
1734 repair of any damaged structure or the improvement or renovation of any structure,
1735 regardless of percentage of damage or improvement; the placement of buildings or
1736 structures; subdivision layout and site preparation; mining, dredging, filling, grading, paving,
1737 excavation or drilling operations; the storage, deposition or extraction of materials or
1738 equipment; and the installation, repair or removal of public or private sewage disposal
1739 systems or water supply facilities.
1740
1741 ~~22-19~~. DRYLAND ACCESS – A vehicular access route which is above the regional flood
1742 elevation and which connects land located in the floodplain to land outside the floodplain,
1743 such as a road with its surface above regional flood elevation and wide enough for wheeled
1744 rescue and relief vehicles.
1745
1746 ~~23-20~~. ENCROACHMENT – Any fill, structure, equipment, use or development in the floodway.
1747
1748 ~~24-21~~. FEDERAL EMERGENCY MANAGEMENT AGENCY (FEMA) – The federal agency that
1749 administers the National Flood Insurance Program.
1750
1751 ~~25-22~~. FLOOD INSURANCE RATE MAP (FIRM) – A map of a community on which the Federal
1752 Insurance Administration has delineated both the floodplain and the risk premium zones
1753 applicable to the community. This map can only be amended by the Federal Emergency
1754 Management Agency.
1755
1756 ~~26-23~~. FLOOD or FLOODING – A general and temporary condition of partial or complete
1757 inundation of normally dry land areas caused by one of the following conditions:
1758

- The overflow or rise of inland waters;
- The rapid accumulation or runoff of surface waters from any source;
- The inundation caused by waves or currents of water exceeding anticipated cyclical
1760 levels along the shore of Lake Michigan or Lake Superior; or
- The sudden increase caused by an unusually high water level in a natural body of
1762 water, accompanied by a severe storm, or by an unanticipated force of nature, such
1763 as a seiche, or by some similarly unusual event.

1764
1765
1766 ~~27~~. FLOOD FREQUENCY – The probability of a flood occurrence which is determined from
1767 statistical analyses. The frequency of a particular flood event is usually expressed as
1768 occurring, on the average once in a specified number of years or as a percent (%) chance
1769 of occurring in any given year.
1770
1771 ~~28-24~~. FLOOD-FRINGE – That portion of the floodplain outside of the floodway which is covered
1772 by flood waters during the regional flood and associated with standing water rather than
1773 flowing water.
1774
1775 ~~29-25~~. FLOOD HAZARD BOUNDARY MAP – A map designating approximate flood hazard
1776 areas. Flood hazard areas are designated as unnumbered A-Zones and do not contain
1777 floodway lines or regional flood elevations. This map forms the basis for both the regulatory
1778 and insurance aspects of the National Flood Insurance Program (NFIP) until superseded by
1779 a Flood Insurance Study and a Flood Insurance Rate Map.
1780
1781 ~~30-26~~. FLOOD INSURANCE STUDY – A technical engineering examination, evaluation, and
1782 determination of the local flood hazard areas. It provides maps designating those areas

1783 affected by the regional flood and provides both flood insurance rate zones and base flood
1784 elevations and may provide floodway lines. The flood hazard areas are designated as
1785 numbered and unnumbered A-Zones. Flood Insurance Rate Maps, that accompany the
1786 Flood Insurance Study, form the basis for both the regulatory and the insurance aspects of
1787 the National Flood Insurance Program.

1788
1789 ~~34-27.~~ FLOODPLAIN – Land which has been or may be covered by flood water during the
1790 regional flood. It includes the floodway and the floodfringe and may include other
1791 designated floodplain areas for regulatory purposes.

1792
1793 ~~32. FLOODPLAIN ISLAND—A natural geologic land formation within the floodplain that is~~
1794 ~~surrounded, but not covered, by floodwater during the regional flood.~~

1795
1796 ~~33. FLOODPLAIN MANAGEMENT—Policy and procedures to ensure wise use of floodplains,~~
1797 ~~including mapping and engineering, mitigation, education, and administration and~~
1798 ~~enforcement of floodplain regulations.~~

1799
1800 ~~34-28.~~ FLOOD PROFILE – A graph or a longitudinal profile line showing the relationship of the
1801 water surface elevation of a flood event to locations of land surface elevations along a
1802 stream or river.

1803
1804 ~~35-29.~~ FLOODPROOFING – Any combination of structural provisions, changes or adjustments
1805 to properties and structures, water and sanitary facilities and contents of buildings subject to
1806 flooding, for the purpose of reducing or eliminating flood damage.

1807
1808 ~~36-30.~~ FLOOD PROTECTION ELEVATION – An elevation of two feet of freeboard above the
1809 Regional Flood Elevation. (Also see: FREEBOARD.)

1810
1811 ~~37-31.~~ FLOOD STORAGE – Those floodplain areas where storage of floodwaters has been
1812 taken into account during analysis in reducing the regional flood discharge.

1813
1814 ~~38-32.~~ FLOODWAY – The channel of a river or stream and those portions of the floodplain
1815 adjoining the channel required to carry the regional flood discharge.

1816
1817 ~~39-33.~~ FREEBOARD – A safety factor expressed in terms of a specified number of feet above a
1818 calculated flood level. Freeboard compensates for any factors that cause flood heights
1819 greater than those calculated, including ice jams, debris accumulation, wave action,
1820 obstruction of bridge openings and floodways, the effects of watershed urbanization, loss of
1821 flood storage areas due to development and aggregation of the river or stream bed.

1822
1823 ~~40-34.~~ HABITABLE STRUCTURE – Any structure or portion thereof used or designed for
1824 human habitation.

1825
1826 ~~41-35.~~ HEARING NOTICE— ~~Publication or posting meeting the requirements of Ch. 985, Stats.~~
1827 ~~For appeals, a Class 1 notice, published once at least one week (7 days) before the~~
1828 ~~hearing, is required. For all zoning ordinances and amendments, a Class 2 notice,~~
1829 ~~published twice, once each week consecutively, the last at least a week (7 days) before the~~
1830 ~~hearing. Local ordinances or bylaws may require additional notice, exceeding these~~
1831 ~~minimums.~~

1832
1833 ~~42-36.~~ HIGH FLOOD DAMAGE POTENTIAL – Damage that could result from flooding that
1834 includes any danger to life or health or any significant economic loss to a structure or

1835 building and its contents.

1836

1837 ~~43. HIGHEST ADJACENT GRADE – The highest natural elevation of the ground surface prior~~
1838 ~~to construction next to the proposed walls of a structure.~~

1839

1840 ~~44-37.~~ HISTORIC STRUCTURE – Any structure that is either:

- 1841 • Listed individually in the National Register of Historic Places or preliminarily determined
- 1842 by the Secretary of the Interior as meeting the requirements for individual listing on the
- 1843 National Register;
- 1844 • Certified or preliminarily determined by the Secretary of the Interior as contributing to the
- 1845 historical significance of a registered historic district or a district preliminarily determined
- 1846 by the Secretary to qualify as a registered historic district;
- 1847 • Individually listed on a state inventory of historic places in states with historic
- 1848 preservation programs which have been approved by the Secretary of the Interior; or
- 1849 • Individually listed on a local inventory of historic places in communities with historic
- 1850 preservation programs that have been certified either by an approved state program, as
- 1851 determined by the Secretary of the Interior; or by the Secretary of the Interior in states
- 1852 without approved programs.

1853

1854 ~~45-38.~~ INCREASE IN REGIONAL FLOOD HEIGHT – A calculated upward rise in the regional
1855 flood elevation greater than 0.00 foot, based on a comparison of existing conditions and
1856 proposed conditions which is directly attributable to development in the floodplain but not
1857 attributable to manipulation of mathematical variables such as roughness factors, expansion
1858 and contraction coefficients and discharge.

1859

1860 ~~46-39.~~ LAND USE – Any nonstructural use made of unimproved or improved real estate. (Also
1861 see DEVELOPMENT.)

1862

1863 ~~47-40.~~ LOWEST ADJACENT GRADE – Elevation of the lowest ground surface that touches any
1864 of the exterior walls of a building.

1865

1866 ~~48-41.~~ LOWEST FLOOR – The lowest floor of the lowest enclosed area (including basement).

1867

1868 ~~49-42.~~ MAINTENANCE – The act or process of ordinary upkeep and repairs, including
1869 redecorating, refinishing, nonstructural repairs, or the replacement of existing fixtures,
1870 systems or equipment with equivalent fixtures, systems or structures.

1871

1872 ~~50-43.~~ MANUFACTURED HOME – A structure transportable in one or more sections, which is
1873 built on a permanent chassis and is designed to be used with or without a permanent
1874 foundation when connected to required utilities. The term "manufactured home" includes a
1875 mobile home but does not include a "mobile recreational vehicle."

1876

1877 ~~51-44.~~ MOBILE/MANUFACTURED HOME PARK OR SUBDIVISION – A parcel (or contiguous
1878 parcels) of land, divided into two or more manufactured home lots for rent or sale.

1879

1880 ~~52-45.~~ MOBILE/MANUFACTURED HOME PARK OR SUBDIVISION, EXISTING – A parcel of
1881 land, divided into two or more manufactured home lots for rent or sale, on which the
1882 construction of facilities for servicing the lots is completed before the effective date of this
1883 ordinance. At a minimum, this would include the installation of utilities, the construction of
1884 streets and either final site grading or the pouring of concrete pads.

1885

1886 ~~53-46.~~ MOBILE/MANUFACTURED HOME PARK, EXPANSION TO EXISTING – The

1887 preparation of additional sites by the construction of facilities for servicing the lots on which
1888 the manufactured homes are to be affixed. This includes installation of utilities, construction
1889 of streets and either final site grading, or the pouring of concrete pads.

1890
1891 **54-47. MOBILE RECREATIONAL VEHICLE** – A vehicle which is built on a single chassis, 400
1892 square feet or less when measured at the largest horizontal projection, designed to be self-
1893 propelled, carried or permanently towable by a licensed, light-duty vehicle, is licensed for
1894 highway use if registration is required and is designed primarily not for use as a permanent
1895 dwelling, but as temporary living quarters for recreational, camping, travel or seasonal use.
1896 Manufactured homes that are towed or carried onto a parcel of land, but do not remain
1897 capable of being towed or carried, including park model homes, do not fall within the
1898 definition of "mobile recreational vehicles."

1899
1900 **55-48. MODEL, CORRECTED EFFECTIVE** – A hydraulic engineering model that corrects any
1901 errors that occur in the Duplicate Effective Model, adds any additional cross sections to the
1902 Duplicate Effective Model, or incorporates more detailed topographic information than that
1903 used in the current effective model.

1904
1905 **56-49. MODEL, DUPLICATE EFFECTIVE** – A copy of the hydraulic analysis used in the
1906 effective FIS and referred to as the effective model.

1907
1908 **57-50. MODEL, EFFECTIVE** – The hydraulic engineering model that was used to produce the
1909 current effective Flood Insurance Study.

1910
1911 **58-51. MODEL, EXISTING (PRE-PROJECT)** – A modification of the Duplicate Effective Model
1912 or Corrected Effective Model to reflect any man made modifications that have occurred
1913 within the floodplain since the date of the effective model but prior to the construction of the
1914 project for which the revision is being requested. If no modification has occurred since the
1915 date of the effective model, then this model would be identical to the Corrected Effective
1916 Model or Duplicate Effective Model.

1917
1918 **59-52. MODEL, REVISED (POST-PROJECT)** – A modification of the Existing or Pre-Project
1919 Conditions Model, Duplicate Effective Model or Corrected Effective Model to reflect revised
1920 or post-project conditions.

1921
1922 ~~**60- MODERATE WAVE ACTION AREA (MoWA)** – A special flood hazard area subject to the
1923 potential for breaking wave heights of greater than or equal to 1.5 feet, but less than 3 feet,
1924 where the primary source of flooding is astronomical tides, storm surges, seiches, and/or
1925 tsunamis. A MoWA is an area within zone AE on a FIRM that is between the inland limit of
1926 zone VE and a Limit of Moderate Wave Action, where identified. (Also known as "coastal A
1927 zone")~~

1928
1929 **61-53. MUNICIPALITY or MUNICIPAL** – The county, city or village governmental units enacting,
1930 administering and enforcing this zoning ordinance.

1931
1932 **62-54. NAVD or NORTH AMERICAN VERTICAL DATUM** – Elevations referenced to mean sea
1933 level datum, 1988 adjustment.

1934
1935 **63-55. NGVD or NATIONAL GEODETIC VERTICAL DATUM** – Elevations referenced to mean
1936 sea level datum, 1929 adjustment.

1937
1938 **64-56. NEW CONSTRUCTION** – Structures for which the start of construction commenced on

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1939 or after the effective date of a floodplain zoning regulation adopted by this community and
1940 includes any subsequent improvements to such structures.
1941
1942 ~~65-57~~.NON-FLOOD DISASTER – A fire or an ice storm, tornado, windstorm, mudslide or other
1943 destructive act of nature, but excludes a flood.
1944
1945 ~~66-58~~.NONCONFORMING STRUCTURE – An existing lawful structure or building which is not
1946 in conformity with the dimensional or structural requirements of this ordinance for the area
1947 of the floodplain which it occupies. (For example, an existing residential structure in the
1948 floodfringe district is a conforming use. However, if the lowest floor is lower than the flood
1949 protection elevation, the structure is nonconforming.)
1950
1951 ~~67-59~~.NONCONFORMING USE – An existing lawful use or accessory use of a structure or
1952 building which is not in conformity with the provisions of this ordinance for the area of the
1953 floodplain which it occupies. (Such as a residence in the floodway.)
1954
1955 ~~68-60~~.OBSTRUCTION TO FLOW – Any development which blocks the conveyance of
1956 floodwaters such that this development alone or together with any future development will
1957 cause an increase in regional flood height.
1958
1959 ~~69-61~~.OFFICIAL FLOODPLAIN ZONING MAP – That map, adopted and made part of this
1960 ordinance, as described in ~~s-~~§ 1.5(2), which has been approved by the Department and
1961 FEMA.
1962
1963 ~~70-62~~.OPEN SPACE USE – Those uses having a relatively low flood damage potential and not
1964 involving structures.
1965
1966 ~~71-63~~.ORDINARY HIGHWATER MARK – The point on the bank or shore up to which the
1967 presence and action of surface water is so continuous as to leave a distinctive mark such as
1968 by erosion, destruction or prevention of terrestrial vegetation, predominance of aquatic
1969 vegetation, or other easily recognized characteristic.
1970
1971 ~~72-64~~.PERSON – An individual, or group of individuals, corporation, partnership, association,
1972 municipality or state agency.
1973
1974 ~~73- PRIMARY FRONTAL DUNE – A continuous or nearly continuous mound or ridge of sand~~
1975 ~~with relatively steep seaward and landward slopes immediately landward and adjacent to~~
1976 ~~the beach and subject to erosion and overtopping from high tides and waves during major~~
1977 ~~coastal storms. The inland limit of the primary frontal dune occurs at the point where there~~
1978 ~~is a distinct change from a relatively steep slope to a relatively mild slope.~~
1979 ~~65-~~
1980 ~~74-66~~.PRIVATE SEWAGE ~~-DISPOSAL~~ SYSTEM – A sewage treatment and disposal system
1981 serving one structure with a septic tank and soil absorption field located on the same parcel
1982 as the structure. It also means an alternative sewage system approved by the Department
1983 of Safety and Professional Services, including a substitute for the septic tank or soil
1984 absorption field, a holding tank, a system serving more than one structure or a system
1985 located on a different parcel than the structure.
1986
1987 ~~75-67~~.PUBLIC UTILITIES – Those utilities using underground or overhead transmission lines
1988 such as electric, telephone and telegraph, and distribution and collection systems such as
1989 water, sanitary sewer and storm sewer.
1990

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1991 ~~76-68~~. REASONABLY SAFE FROM FLOODING – Means base flood waters will not inundate
1992 the land or damage structures to be removed from the floodplain and that any subsurface
1993 waters related to the base flood will not damage existing or proposed buildings.
1994

1995 ~~77-69~~. REGIONAL FLOOD – A flood determined to be representative of large floods known to
1996 have occurred in Wisconsin. A regional flood is a flood with a one percent chance of being
1997 equaled or exceeded in any given year, and if depicted on the FIRM, the RFE is equivalent
1998 to the BFE.
1999

2000 ~~78- SAND DUNES – Naturally occurring accumulations of sand in ridges or mounds landward of
2001 the beach.~~
2002

2003 ~~79-70~~. START OF CONSTRUCTION – The date the building permit was issued, provided the
2004 actual start of construction, repair, reconstruction, rehabilitation, addition, placement, or
2005 other improvement was within 180 days of the permit date. The actual start means either
2006 the first placement of permanent construction on a site, such as the pouring of slab or
2007 footings, the installation of piles, the construction of columns, or any work beyond initial
2008 excavation, or the placement of a manufactured home on a foundation. Permanent
2009 construction does not include land preparation, such as clearing, grading and filling, nor
2010 does it include the installation of streets and/or walkways, nor does it include excavation for
2011 a basement, footings, piers or foundations or the erection of temporary forms, nor does it
2012 include the installation on the property of accessory buildings, such as garages or sheds not
2013 occupied as dwelling units or not part of the main structure. For an alteration, the actual
2014 start of construction means the first alteration of any wall, ceiling, floor or other structural
2015 part of a building, whether or not that alteration affects the external dimensions of the
2016 building.
2017

2018 ~~80-71~~. STRUCTURE – Any manmade object with form, shape and utility, either permanently or
2019 temporarily attached to, placed upon or set into the ground, stream bed or lake bed,
2020 including, but not limited to, roofed and walled buildings, gas or liquid storage tanks,
2021 bridges, dams and culverts.
2022

2023 ~~81-72~~. SUBDIVISION – Has the meaning given in ~~s. §~~ 236.02(12), Wis. Stats.
2024

2025 ~~82-73~~. SUBSTANTIAL DAMAGE – Damage of any origin sustained by a structure, whereby the
2026 cost of restoring the structure to its pre-damaged condition would equal or exceed 50
2027 percent of the equalized assessed value of the structure before the damage occurred.
2028

2029 ~~83-74~~. SUBSTANTIAL IMPROVEMENT – Any repair, reconstruction, rehabilitation, addition or
2030 improvement of a building or structure, the cost of which equals or exceeds 50 percent of
2031 the equalized assessed value of the structure before the improvement or repair is started. If
2032 the structure has sustained substantial damage, any repairs are considered substantial
2033 improvement regardless of the work performed. The term does not include either any
2034 project for the improvement of a building required to correct existing health, sanitary or
2035 safety code violations identified by the building official and that are the minimum necessary
2036 to assure safe living conditions; or any alteration of a historic structure provided that the
2037 alteration will not preclude the structure's continued designation as a historic structure.
2038

2039 ~~84-75~~. UNNECESSARY HARDSHIP – Where special conditions affecting a particular property,
2040 which were not self-created, have made strict conformity with restrictions governing areas,
2041 setbacks, frontage, height or density unnecessarily burdensome or unreasonable in light of
2042 the purposes of the ordinance.

2043
2044 76. VARIANCE – An authorization by the board of adjustment or appeals for the construction or
2045 maintenance of a building or structure in a manner which is inconsistent with dimensional
2046 standards (not uses) contained in the floodplain zoning ordinance.
2047
2048 85-77. Village means the Village of Elm Grove, Wisconsin.
2049
2050 86-78. VIOLATION – The failure of a structure or other development to be fully compliant with
2051 the floodplain zoning ordinance. A structure or other development without required permits,
2052 lowest floor elevation documentation, floodproofing certificates or required floodway
2053 encroachment calculations is presumed to be in violation until such time as that
2054 documentation is provided.
2055
2056 87-79. WATERSHED – The entire region contributing runoff or surface water to a watercourse
2057 or body of water.
2058
2059 88-80. WATER SURFACE PROFILE – A graphical representation showing the elevation of the
2060 water surface of a watercourse for each position along a reach of river or stream at a
2061 certain flood flow. A water surface profile of the regional flood is used in regulating
2062 floodplain areas.
2063
2064 81. WELL – means an excavation opening in the ground made by digging, boring, drilling,
2065 driving or other methods, to obtain groundwater regardless of its intended use.
2066
2067 82. ZONING ADMINISTRATOR means the Zoning and Planning Administrator of the Village of
2068 Elm Grove, Wisconsin.
2069
2070

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