

ARTICLE F

Nonconforming Uses

SEC. 13-3-52 GENERAL.

Insofar as the standards in this Article are not inconsistent with the provisions of Section 62.23(7)(h), Wis. Stats., they shall apply to all nonconforming structures and nonconforming uses. These regulations apply to the modification of, or addition to, any structure and to the use of any structure or premises which was lawful before passage of this Chapter or any amendment thereto. The existing lawful use of a structure or building or its accessory use which is not in conformity with the provisions of this Chapter may be continued subject to the following conditions:

- (a) No modifications or additions to a nonconforming use shall be permitted unless they are made in conformity with the provisions of this Chapter for the area of floodplain occupied. The words "modification" and "addition" shall include, but not be limited to, any alteration, addition, modification, structural repair, rebuilding or replacement of any such existing use, structure or accessory structure or use. Ordinary maintenance repairs are not considered modifications or additions; these include internal and external painting, decorating, paneling and the replacement of doors, windows and other nonstructural components and the maintenance, repair or replacement of existing private sewage or water supply systems or connections to public utilities. *Ordinary maintenance repairs do not include any costs associated with the repair of a damaged structure. The construction of a deck 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 twelve (12) consecutive months, it is no longer permitted and any future use of the property, and any structure or building thereon shall be made to conform to the applicable requirements of this Chapter.
- (c) As requests are received for modifications or additions to nonconforming uses or nonconforming structures in the floodway, a record shall be kept which lists the nonconforming uses and nonconforming structures, their present equalized assessed value and the cost of those additions or modifications which have been permitted.
- (d) No modification or addition to any nonconforming structure or any structure with a nonconforming use, which over the life of the structure would exceed fifty percent (50%) of its present equalized assessed value, shall be allowed unless the entire structure is permanently changed to a conforming structure with a conforming use in compliance with the applicable requirements of this Chapter and contiguous dry land access is provided in compliance with Section 13-3-32(b)(3) or (4). *The costs of elevating a nonconforming building or a building with a nonconforming use to the flood protection elevation are excluded from the 50% provision of this paragraph.*
- (e) If any nonconforming structure or any structure with a nonconforming use is destroyed or is so badly damaged that it cannot be practically restored, it cannot be replaced, reconstructed or rebuilt unless the use and the structure meet the requirements of this Chapter. For the purpose of this Subsection, restoration is deemed impractical where the total cost of such restoration would exceed fifty percent (50%) of the present equalized assessed value of the structure.
- (f) *A nonconforming historic structure may be altered if the alteration will not preclude the*

structures continued designation as a historic structure, the alteration will comply with Section 13-3-2, flood resistant materials are used, and construction practices and floodproofing methods that comply with Section 13-3-65 are used.

SEC. 13-3-53 FLOODWAY AREAS.

- (a) No modifications or additions shall be allowed to any nonconforming structure or any structure with a nonconforming use in a floodway area, unless such modification or addition:
 - (1) Has been granted a permit or variance; *which meets all ordinance requirements*;
 - (2) Meets the requirements of Sec. 13-3-50; and
 - (3) Will not increase the obstruction to flood flows or regional flood height; and
 - (4) Any addition to the existing structure shall be floodproofed, pursuant to Sec. 13-3-65, by means other than the use of fill, to the flood protection elevation.
- (b) No new on-site sewage disposal system, or addition to an existing on-site sewage disposal system, except where an addition has been ordered by a government agency to correct a hazard to public health, shall be allowed in a floodway area. Any replacement, repair or maintenance of an existing on-site sewage disposal system in a floodway area shall meet the applicable provisions of local ordinances and Chapter *COMM* 83, Wis. Adm. Code.
- (c) No new well used to obtain water for ultimate human consumption, or modifications to an existing well, shall be allowed in a floodway area. Any replacement, repair or maintenance of an existing well in a floodway area shall meet the applicable provisions of all municipal ordinances and Chapters *NR 811* and *NR 812*, Wis. Adm. Code.

SEC. 13-3-54 FLOOD FRINGE AREAS.

- (a) No modification or addition shall be allowed to any nonconforming structure or any structure with a nonconforming use in the flood fringe area unless such modification or addition has granted a permit or variance and, in addition, the modification or addition shall be placed on fill or floodproofed to the flood protection elevation in compliance with the applicable regulations for that particular use in Sec. 13-3-32, except where Subsection (b) is applicable.
- (b) Where compliance with the provisions of Subsection (a) above would result in unnecessary hardship and only where the structure will not be either used for human habitation or to be associated with a high flood damage potential, the Board of Appeals, using the procedure in Sec. 13-3-63 may grant a variance from those provisions of Subsection (a) for modifications or additions, using the criteria listed below. Modifications or additions which are protected to elevations lower than the flood protection elevation may be permitted if:
 - (1) No floor is allowed below the regional flood elevation for residential or commercial structures;
 - (2) Human lives are not endangered;
 - (3) Public facilities, such as water or sewer, will not be installed;
 - (4) Flood depths will not exceed two (2) feet;
 - (5) Flood velocities will not exceed two (2) feet per second; and
 - (6) The structure will not be used for storage of materials described in Section 13-3-32(f).
- (c) If neither the provisions of Subsections (a) nor (b) above can be met, an addition to an existing room in a nonconforming building or a building with a nonconforming use may be

allowed in the flood fringe on a one (1) time basis only, if the addition:

- (1) Meets all other regulations and cannot be granted by permit or variance;
 - (2) Does not exceed existing sixty (60) square feet in area;
 - (3) In combination with other previous modifications or additions to the building, does not exceed fifty percent (50%) of the present equalized assessed value of the building.
- (d) All new private sewage disposal systems, or addition to, replacement, repair or maintenance of a private sewage disposal system shall meet all the applicable provisions of all local ordinances of Chapter *COMM* 83, Wis. Adm. Code.
- (e) All new wells, or addition to, replacement, repair or maintenance of a well shall meet the applicable provisions of this Chapter and Ch. NR 811 and NR 812, Wis. Adm. Code.

SEC. 13-3-55 THROUGH SEC. 13-3-61 RESERVED FOR FUTURE USE.