

ARTICLE G

Administration

(NOTE: This Article provides for the appointment of appropriate boards and staff and the development of necessary policies and procedures to administer the floodplain zoning ordinance in accordance with this Article. Where a zoning administrator, planning agency or a board of adjustment/appeals has already been appointed to administer a zoning ordinance adopted under Section 62.23(7), Wis. Stats., these officials shall also administer the floodplain zoning ordinance.)

SEC. 13-3-62 ZONING ADMINISTRATOR.

The City Zoning Administrator is hereby authorized to administer the provisions of this Chapter. The Zoning Administrator shall have the following duties and powers:

- (a) Advise applicants as to the provisions of this Chapter, assist them in preparing permit applications and appeals and assure that the regional flood elevation for the proposed development is shown on all permit applications.
- (b) Issue permits and inspect properties for compliance with this Chapter and issue Certificates of Compliance when appropriate. *Inspect all damaged floodplain structures and perform a substantial damage assessment to determine if substantial damage to the structures has occurred.*
- (c) Keep records of all official actions such as:
 - (1) All permits issued.
 - (2) Inspections made.
 - (3) Work approved.
 - (4) Documentation of certified lowest floor and regional flood elevations for floodplain development.
 - (5) Records of water surface profiles, floodplain zoning maps and ordinances, nonconforming uses and structures including changes, appeals, variances and amendments.
 - (6) *All substantial damage assessment reports for floodplain structures.*
- (d) Submit copies of the following items to the Department district office:
 - (1) Within ten (10) days of the decision, a copy of any decisions on variances, appeals for map or text interpretations, and map or text amendments;
 - (2) Copies of any case-by-case analyses and any other information required by the Department, including an annual summary of the number and types of floodplain zoning actions taken;
 - (3) *Copies of substantial assessments performed and all related correspondence concerning the assessments.*
- (e) Investigate, prepare reports and report violations of this Chapter to the appropriate City committee and to the municipal attorney for prosecution. Copies of the violation reports shall also be sent to the appropriate district office of the Department of Natural Resources.
- (f) Submit copies of map and text amendments and biennial reports to the Regional Office of FEMA.

SEC. 13-3-63 ADMINISTRATIVE PROCEDURES.

- (a) **LAND USE PERMIT.** A land use permit shall be obtained from the Zoning Administrator before any new "development," as defined in Section 13-3-90(a), or any change in the use of an existing building or structure, including sewage disposal systems and water supply facilities, may be initiated. Application for a land use permit shall be made to the Zoning Administrator upon forms furnished and shall include, for the purpose of proper enforcement of these regulations, the following data:

(1) General Information:

- a. Name and address of the applicant, property owner and contractor-builder;
- b. Legal description of the property, type of proposed use and an indication as to whether new construction or a modification to an existing structure is involved;

(2) Site Development Plan: The site development plan shall be drawn to scale and submitted as a part of the permit application form and shall contain the following information:

- a. Location, dimensions, area and elevation of the lot;
- b. Location of the ordinary high-water mark of any abutting navigable waterways;
- c. Location of any structures with distances measured from the lot lines and centerline of all abutting streets or highways;
- d. Location of any existing or proposed on-site sewage systems or private water supply systems;
- e. Location and elevation of existing or future access roads;
- f. Location of floodplain and floodway limits on the property as determined from the official floodplain zoning maps;
- g. The elevation of the lowest floor of proposed buildings and any fill using National Geodetic and Vertical Datum (NGVD);
- h. Data sufficient to determine the regional flood elevation *in NGVD* at the location of the development and to determine whether or not the requirements of Article C or Article D of this Chapter are met.
- i. Data sufficient to determine if the proposed development will cause either an obstruction to flow or an increase in regional flood height or discharge according to Section 13-3-18(a). This may include any of the information noted in Sec. 13-3-22(a).

(3) Data Requirements to Analyze Developments:

- a. The applicant shall provide all computations and survey data required to show the effects of the project on flood heights, velocities and floodplain storage for all subdivision proposals, as "subdivision" is defined in Sec. 236.02(3), Wis. Stats., and other proposed developments exceeding five (5) acres in area or where the estimated cost exceeds One Hundred Twenty-Five Thousand Dollars (\$125,000). The applicant shall provide:
 1. An analysis of the effect of the development on the regional flood profile, velocity of flow and floodplain storage capacity.
 2. A map showing location and details of vehicular access to lands outside the floodplain.
 3. A surface drainage plan with adequate details showing how flood damage will be minimized.

The estimated cost of the proposal shall include all structural development, landscaping improvements, access and road

development, electrical and plumbing and similar items reasonably applied to the overall development costs, but need not include land costs.

- (4) Expiration: All permits issued under the authority of this Chapter shall expire one (1) year from the date of issuance.
- (b) **CERTIFICATE OF COMPLIANCE.** No land shall be occupied or used, and no building which is hereafter constructed, altered, added to, modified, 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:
 - (1) The certificate of compliance shall show that the building or premises or part thereof and the proposed use conform to the provisions of this Chapter.
 - (2) Application of such certificate shall be concurrent with the application for a permit.
 - (3) The certificate of compliance shall be issued within ten (10) days after notification of completion of the work specified in the permit, providing the building or premises or proposed use conforms with all the provisions of this Chapter.
 - (4) The applicant shall submit a certification signed by a registered professional engineer or registered land surveyor that the fill and lowest floor elevations are in compliance with the permit issued. Floodproofing measures also require certificate by a registered architect or professional engineer that floodproofing adequacy meets the requirements of Sec. 13-3-65.
- (c) **OTHER PERMITS.** It is the responsibility of the applicant to secure all other necessary permits from all appropriate Federal, State and local agencies, including those required by the U.S. Army Corps of Engineers under Section 404 of the Federal Water Pollution Control Act amendments of 1972, 33 U.S.C. 1344.

SEC. 13-3-64 ZONING AGENCY.

- (a) A zoning agency or committee shall have the following duties and powers to:
 - (1) Oversee the functions of the office of the Zoning Administrator;
 - (2) Review and make recommendations to the Common Council on all proposed amendments to the floodplain zoning ordinance map and text;
 - (3) Maintain a complete public record of all its proceedings.
- (b) The zoning agency shall not grant variances to the terms of this Chapter nor amend the text or zoning maps in place of official action by the Board of Appeals or Common Council.

SEC. 13-3-65 BOARD OF APPEALS.

- (a) **STATUTORY AUTHORIZATION.** The appropriate board created by Chapter 62.23(7)(e), Wis. Stats., for cities or villages is hereby authorized to act as Board of Appeals for the purposes of this Chapter. The Board of Appeals shall exercise the powers conferred by Wisconsin Statutes and adopt rules for the conduct of business. The Zoning Administrator may not be the Secretary of the Board.
- (b) **POWERS AND DUTIES.** The Board of Appeals shall:
 - (1) Appeals. Hear and decide appeals where it is alleged there is error in any order, requirement, decision or determination made by an administrative official in the enforcement or administration of this Chapter.

- (2) Boundary Disputes. Hear and decide disputes concerning the district boundaries shown on the official floodplain zoning map.
- (3) Variances. Hear and decide, upon appeal, variances from the dimensional standards of this Chapter.
- (c) **APPEALS TO THE BOARD.** Appeals to the Board of Appeals may be taken by any person aggrieved or by an officer, department, board or bureau of the municipality affected by any decision of the Zoning Administrator or other administrative officer. Such appeal shall be taken within thirty (30) days, as provided by the rules of the Board, by filing with the Zoning Administrator and with the Board of Appeals a notice of appeal specifying the reasons for appeal. The official whose decision is in question shall transmit to the Board all the papers constituting the record concerning the matter appealed.
- (d) **NOTICE AND HEARING FOR APPEALS INCLUDING VARIANCES.**
 - (1) Notice. The Board shall:
 - a. Fix a reasonable time for the hearing;
 - b. Publish adequate Class 1 notice pursuant to the Wisconsin Statutes, specifying the date, time, place and subject of the hearing;
 - c. Assure that notice shall be mailed to the parties in interest and the district office of the Department at least ten (10) days in advance of the hearing.
 - (2) Hearing. Any party may appear in person or by an agent or attorney. The Board shall:
 - a. Resolve boundary disputes according to Subsection (d);
 - b. Decide variance applications according to Subsection (e);
 - c. Decide appeals of permit denials according to Sec. 13-3-64.
 - (3) Decision. The final decision regarding the appeal or variance application shall:
 - a. Be made within a reasonable time;
 - b. Be sent to the district office of the Department within ten (10) days of the decision;
 - c. Be a written determination signed by the chairperson or secretary of the board;
 - d. State the specific facts which are the basis for the Board's decision;
 - e. Either affirm, reverse, vary or modify the order, requirement, decision or determination appealed, in whole or in part, dismiss the appeal for lack of jurisdiction or grant or deny the application for a variance;
 - f. Include the reasons for justifications for granting an appeal, with a description of the hardship or practical difficulty demonstrated by the applicant in the case of a variance, clearly stated in the recorded minutes of the board proceedings.
- (e) **BOUNDARY DISPUTES.** The following procedure shall be used by the Board of Appeals in hearing disputes concerning the district boundaries shown on the official floodplain zoning map:
 - (1) Where a floodplain district boundary is established by approximate or detailed floodplain studies the regional flood elevations or profiles for the point in question shall be the governing factor in locating the district boundary. If no regional flood elevations or profiles are available to the board, other available evidence may be examined.
 - (2) In all cases, the person contesting the location of the district boundary shall be given a reasonable opportunity to present arguments and technical evidence to the Board of Appeals.
 - (3) Where it is determined that the district boundary is incorrectly mapped, the Board

should inform the zoning committee or the person contesting the location of the boundary to petition the governing body for a map amendment according to Article H.

(f) **VARIANCE.**

- (1) The Board of Appeals may, upon appeal, grant a variance from the dimensional standards of this Chapter where an applicant convincingly demonstrates that:
 - a. Literal enforcement of the provisions of the Chapter will result in unnecessary hardship on the applicant.
 - b. The hardship is due to adoption of the floodplain ordinance and special conditions unique to the property, not common to a group of adjacent lots or premises (in such case the Chapter or map must be amended);
 - c. Such variance is not contrary to the public interest;
 - d. Such variance is consistent with the purpose of this Chapter.
 - (2) *In addition to the criteria in subsection (1), to qualify for a variance under FEMA regulations, the following criteria must be met:*
 - a. *The variance may not cause any increase in the regional flood elevation;*
 - b. *Variations can only be granted for lots that are less than one-half acre and are contiguous to existing structures constructed below the RFE;*
 - c. *Variations shall only be granted upon a showing of good and sufficient cause, shall be the minimum relief necessary, shall not cause increased risks to public safety or nuisances, shall not increase costs for rescue and relief efforts and shall not be contrary to the purpose of the ordinance.*
 - (3) A variance shall not:
 - a. Grant, extend or increase any use of property prohibited in the zoning district;
 - b. Be granted for a hardship based solely on an economic gain or loss;
 - c. Be granted for a hardship which is self-created;
 - d. Damage the rights or property values of other persons in the area;
 - e. *Allow any alteration for historic structure including its use which would preclude its continued designation as a historic structure;*
 - f. Allow actions without the required amendment to this Chapter or map(s) described in Sec. 13-3-70.
- (g) When a variance is granted in a floodplain area, the Board shall notify the applicant in writing that increased flood insurance premiums may result. A copy of this notification shall be maintained with the variance appeal record.

SEC. 13-3-66 REVIEW APPEALS OF PERMIT DENIALS.

- (a) The Zoning Agency or Board of Appeals shall review all data constituting the basis for the appeal of permit denial. This data may include (where appropriate):
 - (1) Permit application data listed in Sec. 13-3-61(a);
 - (2) Floodway/flood fringe determination data in Sec. 13-3-43;
 - (3) Data listed in Sec. 13-3-22(a)(2)b where the applicant has not submitted this information to the Zoning Administrator;
 - (4) Other data submitted to the Zoning Administrator with the permit application or submitted to the Board with the appeal.
- (b) For appeals of all denied permits, the Board shall:
 - (1) Follow the procedures of Sec. 13-3-63;

- (2) Consider Zoning Agency recommendations;
- (3) Either uphold the denial or grant the appeal.
- (c) For appeals concerning increases in regional flood elevation, the Board shall:
 - (1) Uphold the denial where the Board agrees with the data showing an increase in flood elevation. Increases equal to or greater than 0.01 foot may only be allowed after amending the flood profile and map and any appropriate legal arrangements are made with all adversely affected property owners.
 - (2) Grant the appeal where the Board agrees that the data properly demonstrates that the project does not cause an increase equal to or greater than 0.01 foot provided no other reasons for denial exist.

SEC. 13-3-67 FLOODPROOFING.

- (a) No permit or variance shall be issued until the applicant submits a plan or document certified by a registered professional engineer or architect that the floodproofing measures are adequately designed to protect the structure or development to the flood protection elevation. Where floodproofing measures, as defined in Sec. 13-3-90(a) are required, they shall be designed to:
 - (1) Withstand the flood pressures, depths, velocities, uplift and impact forces and other factors associated with the regional flood;
 - (2) Assure protection to the flood protection elevation;
 - (3) Provide anchorage of structures to foundations to resist flotation and lateral movement;
 - (4) Insure that the structural walls and floors are watertight and the interior remains completely dry during flooding without human intervention.
- (b) Flood measures could include:
 - (1) Reinforcement of walls and floors to resist rupture or collapse caused by water pressure or floating debris;
 - (2) Addition of mass or weight to structures to prevent floatation;
 - (3) Placement of essential utilities above the flood protection elevation;
 - (4) Surface or subsurface drainage systems, including pumping facilities to relieve external foundation wall and basement floor pressures;
 - (5) Construction of water supply wells and waste treatment systems to prevent the entrance of flood waters into the systems;
 - (6) Cutoff valves on sewer lines or elimination of gravity flow basement drains.

SEC. 13-3-68 PUBLIC INFORMATION.

- (a) Where useful, marks on bridges or buildings or other markers may be set to show the depth of inundation during the regional flood at appropriate locations within the floodplain.
- (b) All available information in the form of maps, engineering data and regulations shall be readily available and should be widely distributed.
- (c) *All real estate transfers should show what floodplain zoning district any real property is in.*

SEC. 13-3-69 THROUGH SEC. 13-3-71 RESERVED FOR FUTURE USE.