



CITY OF KEWAUNEE, KEWAUNEE COUNTY, WI
PLAN COMMISSION
APRIL 25, 2024 AT 6:30 P.M.
Kewaunee Municipal Building, 401 Fifth Street, Kewaunee WI 54216

AGENDA (to be posted 04/24/2024)

- 1. Call to Order/Roll Call.**
- 2. Approval of Minutes – March 28, 2024 meeting.**
- 3. Public Comment/Communications.**
Your comments are welcome. Please limit comments to three (3) minutes. If you need more time, contact the Plan Commission Chairperson or the City Administrator and ask that your topic be placed on a Plan Commission Agenda
- 4. Public Hearing** (action may be taken on this matter following the Public Hearing)
 - a. Jed and Alli Pansier d/b/a Waterfront Bar & Grill LLC (property owners).** Rezoning Application by Jed and Alli Pansier, owners as Waterfront Bar & Grill, LLC, to amend the Zoning Map to rezone their property from P-1 Park District to B-3 Highway Business District on property located on Ellis Street just east of 1510 Ellis Street, Parcel Number 241-00340-0040. **A PUBLIC HEARING IS SCHEDULED FOR THIS MEETING UPON THIS MATTER.**
- 5. Business Matters**
No Public Hearing is required upon the following matters; action may be taken on all matters.
 - a. Declaration of Surplus Real Estate.** The Common Council requests a Plan Commission recommendation declaring the following properties as surplus real estate for purposes of future marketing of such properties:
 1. 1304 Ellis Street (Tax Parcel # 31 241 NW19 14-1)
 2. 123 Kilbourn Street (Tax Parcel # 31 241 OTP 179)
 - b. Short-Term Rentals Discussion.** Review draft Ordinance amending and replacing existing regulations using City of Algoma draft as a model. To be located in Article VI of Chapter 18 (Businesses).
 - c. Proposed Revisions to Sign Standards (Article VIII of Chapter 94 Zoning) [Deferred to May 23, 2024]**
 - d. Manufactured Homes in R-1 District.** Discussion of possible changes to Section 94-44 of Municipal Code
 - e. Floodplain Ordinance Update.** As required by FEMA, the City must adopt a revised set of floodplain zoning, currently located in Chapter 34, Article II.
- 6. Adjournment**

Note: Items on the agenda may not be taken in the same order as they appear. Members of other governmental bodies (boards, commissions, committees, councils, etc.) may attend the above noticed meeting of the Plan Commission to gather information. The only action to be taken at the above noticed meeting will be actions by the Plan Commission.

NOTICE: If a person with a disability requires that the meeting be accessible or that materials at the meeting be in an accessible format, call the City Clerk prior to the meeting at 920-388-5000 to request adequate accommodations.

Notice of Possible Quorum: Notice is hereby given that Common Council members or members of other governmental bodies who are not members of this board, commission or committee may be present at this meeting to gather information about a subject over which they have decision-making authority. In that event this meeting may also constitute a simultaneous meeting of the Council or of such other governmental bodies. Whether a simultaneous meeting is occurring depends on whether the presence of one or more Council members or members of such other governmental bodies results in a quorum of the Council or of such other governmental bodies and, if there is a quorum, whether any agenda items listed above involve matters within the Council's or the other governmental bodies' jurisdiction. If a simultaneous meeting is occurring, no action other than information gathering will be taken at the simultaneous meeting. [State ex rel. Badke vs. Greendale Village Board, 173 Wis. 2d 553 (1993).]

**CITY OF KEWAUNEE
PLAN COMMISSION MEETING MINUTES
MARCH 28, 2024**

1. Call to Order/Roll Call.

Chairperson Laura Gerold called the meeting to order at 6:30 p.m. Members present, John Blaha, Claude Stangel, John Mastalir and Jeff Welhouse.

Absent, Chris Holterman and Cindy Tang

2. Approval of Minutes – February 22, 2024 meeting.

Claude Stangel motioned to approve the minutes as presented. John Mastalir Seconded the motion. Motion carried unanimously.

3. Public Comment/Communications.

None

4. Public Hearing

Public Hearing called to order at 6:33 pm.

- a. **HAAGMIRE, LLC** - Comprehensive Plan Amendment Application by Anthony and Geri Haag III, owners as Haagmire, LLC, to amend the 2007 Comprehensive Plan Future Land Use Map to change the land use category of their property from "Marina/Waterfront" to "Downtown Commercial," property located at 223 Milwaukee Street, Parcel Number 241-00010-1500.
- b. **HAAGMIRE, LLC** - Rezoning Application by Anthony and Geri Haag III, owners as Haagmire, LLC, to amend the Zoning Map to rezone their property from WFD Waterfront District to B-2 Community Business District on property located at 223 Milwaukee Street, Parcel Number 241-00010-1500. **A PUBLIC HEARING IS SCHEDULED FOR THIS MEETING UPON THIS MATTER.**

Property owners Anthony and Geri Haag addressed the commissioners explaining that they would like to become of the property. By Amending the Comprehensive Plan and Rezoning the property this would allow for retail business, sports rentals and even a micro-brewery.

Chris Schroeder, E2721 Townline Rd, Kewaunee addressed the commissioners stating that he was the party interested in putting the micro-brewery on the property.

Public Hearing closed at 6:41 pm.

Parking was discussed and determined that there would be no issues. Spot zoning was also discussed.

Claude Stangel motioned to approve the Comprehensive Plan Amendment and move to Council for approval. John Mastalir seconded the motion. Motion carried unanimously.

Claude Stangel motioned to approve the Rezoning application and move to Council for approval. Jeff Welhouse seconded the motion. Motion carried unanimously.

5. Business Matters

- a. Allied Construction. Follow-up discussion of a revised Conceptual Plan under Sec. 94-102.(b) for a multi-family proposal on property located at 118 Kilbourn Street (Tax Parcel #31 241 OTP 190) and 614 Main Street (Tax Parcel #31 241 OTP 191).

Mark Rukamp and Kevin Havlovitz of Alliance Construction presented to the commissioner the new Conceptual Plan for a multi-family proposal for the property. It is a scaled down version from the previous one as the property owner was not

able to secure the purchase of the 2nd property. The new version will now house 42 units, consisting of 6 studios, 21 one-bedroom, 12 two-bedroom and 3 three-bedroom. Parking is estimated at 1.7 spots per unit.

This is a condominium project with ownership for each unit. There would also be a Home Owners Association.

Materials presented were informational only and no decisions were made.

- b. ***[Deferred to April 25, 2024 Meeting]*** Declaration of Surplus Real Estate. The Common Council requests a Plan Commission recommendation declaring the following properties as surplus real estate for purposes of future marketing of such properties:
 - 1. 1304 Ellis Street (Tax Parcel # 31 241 NW19 14-1)
 - 2. 123 Kilbourn Street (Tax Parcel # 31 241 OTP 179)
- c. ***[Deferred to April 25, 2024 Meeting]*** Short-Term Rentals Discussion. Review draft Ordinance amending and replacing existing regulations using City of Algoma draft as a model. To be located in Article VI of Chapter 18 (Businesses).
- d. ***[Deferred to April 25, 2024 Meeting]*** Proposed Revisions to Sign Standards (Article VIII of Chapter 94 Zoning)
- e. Updates on incoming projects: CJ's Parking proposal (1510 Ellis Street)

Discussion was had on the presented parking area. Concerns were had on the number of spaces, how big each space would be and the view when exiting the lot.

6. Adjournment

John Blaha motioned to adjourn the meeting. John Mastalir seconded the motion. Motion carried unanimously. Meeting adjourned at 7:32 pm.

Respectfully Submitted
Karen Muchowski
Administrative Assistant



City of Kewaunee
401 Fifth Street
Kewaunee, WI 54216
T: 920-388-5000
F: 920-388-5025

MEMORANDUM

TO: Plan Commission

FROM: Heath Eddy, AICP, City Administrator

RE: Plan Commission meeting of April 25, 2024

DATE: March 25, 2024

All Code Sections in this memo refer to the Kewaunee Municipal Code Chapter 94 version dated January 13, 2022, unless as specifically denoted below.

1. **Call to Order/Roll Call.**

2. **Approve of Minutes.**

a. **Approval of meeting of March 28, 2024.**

3. **Public Comment.**

4. **Public Hearing**

a. **Jed and Alli Pansier d/b/a Waterfront Bar & Grill LLC (property owners).**

Rezoning Application by Jed and Alli Pansier, owners as Waterfront Bar & Grill LLC, to amend the Zoning Map to rezone their property from P-1 Park District to B-3 Highway Business District on property located Ellis Street just east of 1510 Ellis Street, Parcel Number 241-00340-0040.

Attachments: (1) Draft Plan Commission Resolution No. 2024-??
(2) Draft Ordinance No. 2024-?? (Rezoning)
(3) Notices of Public Hearing (as posted in the Press-Gazette and mailed to adjacent property owners)
(4) Applicant's submission package

5. **Business Matters**

a. **Declaration of Surplus Real Estate.** The Common Council requested a Plan Commission recommendation declaring the following properties as surplus real estate for purposes of future marketing of such properties:

1. 1304 Ellis Street (Tax Parcel # 31 241 NW19 14-1)

2. 123 Kilbourn Street (Tax Parcel # 31 241 OTP 179)

These two parcels are subject to requirements of the CDBG Blight Control program just completed. We are still waiting on a letter for each from the Wisconsin Department of Administration (DOA) regarding final closure of their clean-up and certification so that the requirements of the CDBG program (including a 5-year hold for development) can begin. The City received the "Case Closure with Continuing Obligations" notification dated February 5, 2024, which means the 5-year clock concludes in February 2029.

- b. **Short Term Rentals Discussion.** At the January 25, 2024 meeting, the Plan Commission reviewed documentation from the City of Algoma about a recently adopted ordinance regulating short-term rentals. The Mayor confirmed that this ordinance was indeed adopted, so staff converted the model from Algoma into the framework of the City of Kewaunee for further review and consideration. The attached draft accommodates/addresses cross-references correctly. We're looking for affirmation to forward to Common Council for further decision/scheduling.

Attachments: (5) Draft Short-Term Rentals ordinance (amending existing code)

- c. **Proposed Revisions to Sign Standards (Article VIII of Chapter 94 Zoning).** [Deferred to May 23, 2024 Meeting] Continuing the review of proposed versus current sign standards attached are two tables from Chairperson Gerold comparing (1) Wall mounted banner sign, temporary, (2) Ground mounted banner sign, temporary, and (3) Temporary signs. Due to the number of items on this agenda, the Plan Commission Chairperson suggested continuing this discussion to the May meeting.
- d. **Manufactured Homes in R-1 District.** Discussion of possible changes to Section 94-44 of Municipal Code.

The City recently processed a building permit change for a property currently addressed as 529 Terraqua Drive. The property owners originally intended to build a new single-family dwelling on the property, but the inflated costs for materials and construction caused them to change their plans, to the acquisition and installation of a manufactured home. The 2001-model home is 14' x 76' is currently installed on the property, and includes a set of 24 concrete block piers anchored on rubber bases and a 12-14 inch compacted gravel bed. The sub-floor piers will be covered by a skirting to cover up the basing.

I checked the current standards in Section 94-44 of Municipal Code, and they list as follows:

- (a) A manufactured home within this ordinance shall be considered a single-family dwelling. Therefore, manufactured homes are an allowed use in zoning districts where single-family dwellings are a principal use provided that:

- (1) To help ensure that the manufactured home is compatible with site-built housing, the manufactured home shall comply with the following design standards:
 - a. The manufactured home is set on an enclosed foundation in accordance with Wis. Stats. § 70.043(1), and subchapters III, IV, and V of ch. Comm 21, Wis. Admin. Code. The building inspector may require a plan to be certified by a registered architect or engineer to ensure proper support for the home.
 - b. The manufactured home shall be securely anchored to its foundations with tie-downs, having a minimum tensile strength of 2,800 pounds, and the anchors embedded in concrete to withstand the tie-down strain. The amount of tie-downs shall be guided by the manufactured home manufacturer's recommendations provided there are no less than four tie-downs.
 - c. The manufactured home is installed in accordance with the manufacturer's instructions and is properly connected to utilities.
 - d. The hitch and wheels must be removed.
 - e. The roof must be double pitched so that there is at least a three-inch vertical rise for each 12-inch of horizontal run and covered with material that is residential in appearance, including but not limited to, approved wood, asphalt, composition or fiberglass shingles, but excluding corrugated aluminum or corrugated fiberglass. The roof shall have a minimum eight-inch roof overhang on each of the dwelling's perimeter walls such that the overhang is architecturally integrated into the design of the dwelling.
 - f. The dwelling shall have exterior siding material that is residential in appearance and consist of either wood, masonry, concrete, stucco, clapboards, simulated clapboards such as conventional vinyl or metal siding, wood shingle shakes or similar material, but excluding smooth, ribbed or corrugated metal or plastic panels. The exterior siding material shall extend to ground level, except that when a solid concrete or masonry perimeter foundation is used, the siding material need not extend below the top of the foundation.
- (2) All other zoning district regulations shall apply.

In reviewing this issue, it's important to remember that Chapter 94 defines "manufactured home" and "mobile home." The definitions are similar but not identical; differences are highlighted and the key language is in bold-italics:

Manufactured home means a structure, transportable in one or more sections built on a **permanent** chassis and designed to be used as a dwelling unit, with or without permanent foundation, when connected to the required utilities, and includes the plumbing, heating, air conditioning, and electrical systems contained in it, and is **certified and labeled as a manufactured home under 42 USC §§ 5401—5426.**

Manufactured homes within this ordinance shall be considered single-family dwellings.

Mobile home means a structure, transportable in one or more sections built on a chassis and designed to be used as a dwelling unit, with or without permanent foundation, when connected to the required utilities, and includes the plumbing, heating, air conditioning, and electrical systems contained in it, and built prior to the enactment of the Federal Manufactured Construction and Safety Standards Act of 1974, which became effective July 15, 1976. ***No mobile home shall be used as a residence within the city unless located within a mobile home park.***

I reviewed the language with the City Attorney as it is applied and the manufactured home located at 529 Terraqua Drive is permitted. This review was done prior to the owners locating the unit, as we didn't want them to get "stuck" and have to remove it.

The only issue with the unit is the method of the "foundation" but the State Administrative Codes listed in (1)a. did not appear to specify the full foundation requirements for something like a manufactured home. It's not clear what an "enclosed foundation" as listed in that subsection would be, so from staff's point of view the installed piers are consistent with the installation standards provided by the manufacturer and would satisfy the requirement of "enclosed foundation" since the support structure would in effect be "enclosed." The home meets all the other aesthetic requirements of Section 94-44.

To my knowledge, the only other property with this similar kind of condition is located at 409 Dodge Street, which is zoned B-2 Community Business. That property has a full residential-type foundation, in large part because the property has a change of elevation of approximately 9 feet from the south lot line toward the northwest corner of the property, so a pier-type installation (common with manufactured homes) would be impossible to install. That unit is also significantly older (it appears to be close to 60 years old) which means it doesn't comply with any of the standards listed above.

The factor to account for is that Chapter 94 classifies a manufactured home as a single-family dwelling, which is consistent with the Fair Housing Act. Adjusting the language is the prerogative of the Plan Commission, but staff urges caution. Manufactured homes are also over-built to account for over-the-road delivery, so they are in many ways more substantial than a site-built structure. The consideration should also account for the "stigma" that such units tend to represent so-called undesirable residents. The fact that the property owners also own the adjacent campground shouldn't be relevant, because this is about land use and appropriate design.

e. Floodplain Ordinance Update.

FEMA has instructed the City, by way of the DNR, that an updated floodplain ordinance is required, as the revised FIRM maps proceed toward confirmation (effective 8/28/24).

This review process needs to be completed in a timely fashion so that staff can get the public hearing scheduled. DNR recommends having the draft finalized by **May 28, 2024**, because we'll need to get a public hearing scheduled (which requires a Class 2 notice

similar to any other zoning amendment). Ideally staff recommends the following schedule:

April 25, 2024	Plan Commission completes review of draft ordinance
May 23, 2024	Public Hearing on ordinance is scheduled and held
June 10, 2024	Plan Commission forwards recommendation to Council
Post-June 10	Common Council adopted replacement ordinance A Class 1 Notice of the enacted ordinance is published. Affidavits of publication from the newspaper are obtained Forward affidavits and certified copy of ordinance to DNR

The proposed revised Ordinance was prepared for the City by WDNR Water Management Division staff. I compared the proposed draft against the current ordinance (Municipal Code Chapter 34, Article II, which was the model ordinance adopted 2007), and this is what I have found.

- The draft consists of 10 sections (the current adopted version has 8 sections). I have compared the draft to the existing Article and provided the following summary of changes (with page references to the draft):
 1. **Section 1 – Statutory Authorization, Finding of Fact, Statement of purpose, Title and General Provisions**
 - The Zones to be regulated are specified, and the draft also includes a reference to DNR approved areas AND local areas subject to regulation (these last two are new)
 - The draft creates a NEW fourth district – Coastal Floodplain District (CFD) (Page 5)
 - There is a NEW delineation subsection for approvals of LOMR/LOMA which are clarifications of existing (Page 6)
 - Compliance – this is more specific than current (Page 6)
 - Municipalities and State Agencies Regulated – includes more specific language on requirements for DOT and other road projects (Page 6)
 - Moves “General Standards” section (Sec. 34-35 in current) to next Section
 2. **General Standards Applicable to All Floodplain Districts**
 - General Standards – the old paragraph (Sec. 34-35) was opened up to a bulletized listing of requirements (Pages 7-8)
 - Hydraulic/Hydrologic Analyses (Page 8) – removes allowance for obstructions or increases equal/greater than 0.01 foot
 - Watercourse Alterations (Page 8) – minor verbiage changes
 - Chapter 30,31 Wis. Stats, Development – (Page 8) – simplifies the amendment response
 - Public/Private Campgrounds (Page 9-10) –
 - The State Agency was changed to DATCP (was DHFS).
 - Adds new subsections 11 and 12 for locations and permitting

3. Floodway District (FW)

- Permitted Uses (Page 11) – adds 4 new: portable toilets, public/private wells, wastewater treatment ponds, sanitary sewer/water supply lines
- Standards for Development (Page 11) – calculations/analysis are clarified as to intent and who is required to do this.
- Structures (Page 12) – more specific requirements for possible structures in Floodway, particularly for structures designed to allow entry of floodwaters below the Regional Flood Elevation and for Certification for floodproofing measures.

4. Floodfringe District (FF)

- Standards for Development (Page 14-15) –
 - Minor changes for Residential Uses;
 - Minor changes for Accessory Structures/Uses;
 - Manufacturing/Industrial Uses – one clarification included
 - Public Utilities/Streets/Bridges – adds one clarification
 - Sewage Systems – clarifies on infiltration
 - Wells – clarifies on infiltration

5. Other Floodplain Districts

- The draft separates into General Floodplain District (GFP) and Coastal Floodplain District (CFD) – CFD is NEW
- GFP (Pages 16-17)
 - Specifies applicable Zones (A, AO, AH, AE floodway not delineated)
 - Floodway Boundaries (Page 16) – NEW
 - Standards for Development (Page 17) – adds language for CRS standards (see below and Attachment) and more specific language on standards by Zone.
 - Determining Floodway/Floodfringe Limits (Page 17) – clarifications on Zones and removes/streamlines terms and cross references.
- CFD (Pages 18-20) – NEW for Zones V, V1-30 and VE (broken out from other Districts as previously delineated)

6. Nonconforming Uses

- Applicability (Page 20) – more specificity and reference to Wis. Stats. and Wis. Adm. Code (Page 20); lists several NEW specific situations, and more specific requirements for nonconforming buildings damaged/destroyed by non-flood events (Page 21-22); adds more requirements for historic structures (Page 22).
- Act 175 NEW (Pages 22-24) – this additional material is for permitting repairs beyond the “50% Rule” with certain qualifications. ***This is OPTIONAL – we don’t have to allow this unless you support doing so.***
- Floodway District (Page 25) – one minor addition adding “building access” 6.2e)4.
- Floodfringe District (Pages 25-26) – minor modifications to language and removes current section that permitted “one addition to existing room in a nonconforming building...”
- Coastal Floodplain District (Page 26) – NEW

7. Administration

- The draft changes “Plan Commission” to “Zoning Agency” and identifies the “Common Council” as the Zoning Agency, though DNR says this can be changed based on local decision-making processes.
- Zoning Administrator (Pages 26-31)
 - Duties and Powers section on record-keeping was expanded with additional 4 requirements (floodproofing certificates, list of nonconforming structures/uses, and two certifications/documentation for the CFD)
 - Land Use Permit – some clarification on when the permit is required.
 - Hydraulic and Hydrologic Studies to Analyze Development replaces current “Data Requirements” and is significantly expanded to include specific requirements for Zones A and AE and much more detail on mapping requirements (Pages 28-30). This is 2 ½ pages of details that were previously 2 paragraphs.
 - Expiration (Page 31) added ability to extend a permit “for good and sufficient cause” and a reference to compliance for work that wasn’t started during the permit period (180 days).
 - Certificate of Compliance (Page 31) – adds two new requirements for areas subject to coastal flooding.
 - Other Permits (Page 31) – adds clarifying language that other permits that are needed must be secured BEFORE a land use permit is authorized.
- Zoning Agency (Page 31-32) – other than the comment above, the draft adds one additional requirements (publish adequate notice).
- Board of Appeals
 - Variance (Page 33-34) – the draft reorganizes the variance criteria, and adds language on increases in flood insurance premiums.
- To Review Appeals of Permit Denials (Page 34) – removes language about an increase of “equal to or greater than 0.01 foot”
- Floodproofing Standards (Page 35) – this section was substantially rewritten and requirements were specified to (a) limit the number of structures to be located and (b) require more specific engineered responses.
 - Specifies “non-residential structure designed to be watertight below the regional flood elevation” and requires a FEMA Floodproofing Certificate, and states “floodproofing is not an alternative to development standards” listed earlier
 - Adds new subpart (2) to specify structural design to permit entry of floodwaters
 - Adds additional floodproofing requirements (subparts d, e, f) and creates more specific requirements for enclosed foundations below the flood protection elevation (subpart g)

8. Amendments (this section currently is Amendments, Enforcement and Penalties, Definitions – the draft breaks these out into separate Sections)

- Adds a new introductory section for these processes (Page 36) including specific requirements for AE Zones with a mapped floodway and Zone A.

- General (Page 36) – clarifies that the list of requirements are for “amendments to the ordinance and/or submittal of a Letter of Map Change (LOMC); the criteria list is essentially the same, just slightly reorganized.
- Procedures (Page 36-37) – opening paragraph specifies a Land Use Permit is not to be issued until a LOMR is issued by FEMA. The list of procedures also eliminated the increase of 0.01 foot or more.

9. **Enforcement and Penalties**

- The one change is to the amount of the penalty (Page 37) – current says “not less than \$5 and not more than \$1,500, together with a taxable cost of such action” and draft reduces it to “not more than \$50, together with a taxable cost of such action”. I have an inquiry in to DNR about this.

10. **Definitions** (Pages 37-44)

- The draft makes a significant change to the following current definitions:
 - “Accessory Structure or Use” - adds a second sentence: “An accessory structure shall not be used for human habitation.”
 - “Increase in Regional Flood Height” – changes the upward rise in regional flood elevation from “equal to or greater than 0.01 foot” to “greater than 0.00 foot”
- The draft adds 22 definitions to this section:
 - AH Zone
 - AO Zone
 - Alteration
 - Area of Shallow Flooding
 - Breakaway Wall
 - Coastal Floodplain
 - Coastal High Hazard Area
 - Highway Adjacent Grade
 - Lowest Adjacent Grade
 - Lowest Floor
 - Maintenance
 - Mobile/Manufactured Home Park or Subdivision
 - Model, Corrected Effective
 - Model, Duplicate Effective
 - Model, Effective
 - Model, Existing (Pre-Project)
 - Model, Revised (Post-Project)
 - Moderate Wave Action Area (MoWA)
 - Non-Flood Disaster
 - Primary Frontal Dune
 - Sand Dunes
 - Substantial Improvement
- The draft includes standards that provide some variations if the City were included in the Community Rating System, which is summarized in Attachment 7.

- The draft includes a reference to 2019 Act 175, which modified the requirements for structures currently located in the floodplain. Current practice is that changes or modifications to such structures exceeding 50% of the present equalized assessed value are not allowed, unless the structure is changed to a conforming structure with conforming use. This change permits such standards IF certain requirements are met. See Attachment 8.
- More generally, the allowance for new development is reduced from an increase of 0.01 feet to zero.

Attachments: (6) Draft Floodplain Ordinance (WDNR draft April 1, 2024)
(7) Community Rating System At-A-Glance
(8) Act 175 Guidance (handout)

6. Adjournment.

REPORT TO CITY COUNCIL

**REPORT APPROVING AN AMENDMENT TO THE
ZONING CODE OF THE CITY OF KEWAUNEE**

WHEREAS, the City of Kewaunee, pursuant to Section 62.23 of the Wisconsin Statutes, has established a City Plan Commission; and

WHEREAS, the Common Council adopted a Comprehensive Plan on January 25, 2007, following extensive public participation; and

WHEREAS, Jed and Alli Pansier, d/b/a Waterfront Bar & Grill LLC, property owners, have submitted a petition to change the zoning designation of a parcel of land located at approximately 1500 Ellis Street, Kewaunee, WI 54216, with Tax Parcel No. 241-00340-0040, from "P-1" Park District to "B-3" Highway Business; and

WHEREAS, the Plan Commission finds that the comprehensive plan, with the proposed amendment, contains all of the required elements specified in Section 66.1001(2) of the Wisconsin Statutes and that the comprehensive plan, with the proposed amendment, is internally consistent; and

WHEREAS, the City of Kewaunee has duly noticed and held a public hearing on the proposed amendment, following the procedures in Section 66.1001(4)(d) of the Wisconsin Statutes.

NOW, THEREFORE, BE IT RESOLVED, that pursuant to Section 66.1001(4)(b) and Section 62.23(7) of the Wisconsin Statutes, the City of Kewaunee Plan Commission hereby approves the attached Amendment No. 09 to the City of Kewaunee Zoning Code.

BE IT FURTHER RESOLVED that the Plan Commission does hereby recommend that the City Council enact an Ordinance adopting the requested zoning change.

Adopted this 25th day of April, 2024.

Ayes _____ Noes _____ Absent _____

City of Kewaunee
By:

Laura Gerold, Chair
City Plan Commission

ATTEST:

Karen Muchowski
Secretary of the Plan Commission

STATE OF WISCONSIN

CITY OF KEWAUNEE

KEWAUNEE COUNTY

ORDINANCE NO. 646-2024

AN ORDINANCE TO AMEND SECTION 94-8. OF THE CITY OF KEWAUNEE
MUNICIPAL CODE (ZONING MAP) TO REZONE A CERTAIN PARCEL OF LAND FROM
P-1 PARK DISTRICT TO B-3 HIGHWAY BUSINESS DISTRICT
(LOCATED AT APPROXIMATELY 1500 ELLIS STREET)
(APPROXIMATELY 0.203 ACRES)
(JED AND ALLI PANSIER, APPLICANTS)

WHEREAS, Jed and Alli Pansier, d/b/a Waterfront Bar & Grill LLC, property owners, having petitioned for the rezoning of approximately 0.203 acres of land, from P-1 Park District to B-3 Highway Business District, such land located at approximately 1500 Ellis Street; and

WHEREAS, a public hearing was held before the City of Kewaunee Plan Commission on the 25th day of April, 2024, upon the aforesaid petition and the Plan Commission thereafter having determined that the proposed rezoning would promote the health, safety and welfare of the City and having recommended approval thereof to the Common Council; and

WHEREAS, the Common Council having considered the petition and having concurred with the recommendation of the Plan Commission and having determined that the proposed rezoning is consistent with the *City of Kewaunee 20-Year Comprehensive Plan*, and would promote the health, safety and welfare of the Community.

NOW THEREFORE, the Common Council of the City of Kewaunee, Wisconsin, do ordain as follows:

SECTION 1: Sec. 94-8. (Zoning Map) of the City of Kewaunee Municipal Code is hereby amended to provided that the zoning district designation for land located at approximately 1500 Ellis Street, as described below, be changed from P-1 Park District to B-3 Highway Business District:

Parcel Number 241-00340-0040, Tax Key Number 31 241 NE24 31-1.2, described as located in Section 24, Township 23 North, Range 24 East.

SECTION 2: The terms and provisions of this ordinance are severable. Should any term or provision of this ordinance be found to be invalid by a court of competent jurisdiction, the remaining terms and provisions shall remain in full force and effect.

SECTION 3: All ordinances and parts of ordinances in contravention to this ordinance are hereby repealed.

SECTION 4: This ordinance shall take effect and be in force from and after its passage and publication.

ORDINANCE NO. 646-2024

Page 2

Introduced at a regular meeting of the Common Council of the City of Kewaunee this 13th day of May, 2024, by Alderperson _____.

Passed and adopted at a regular meeting of the Common Council of the City of Kewaunee this 13th day of May, 2024.

APPROVED:

Jeffrey Vollenweider Sr., Mayor

ATTEST:

Jo Ann Lesser, CMC, WCMC
City Clerk/Treasurer

AYES ____ NOES ____ ABSENT ____

Please publish in the April 11 and 18 issues of the Green Bay Press-Gazette. An affidavit of publication is also required.

Jo Ann Lesser, CMC, WCMC
City Clerk



**CITY OF KEWAUNEE
NOTICE OF PUBLIC HEARING
CITY OF KEWAUNEE PLAN COMMISSION
April 25, 2024 – 6:30 P.M.**

NOTICE IS HEREBY GIVEN that the City of Kewaunee Plan Commission will hold a public hearing on Thursday, April 25, 2024, at 6:30 p.m. at the Kewaunee Municipal Building, 401 Fifth Street, Kewaunee, WI 54216, to take public comments regarding an Application by Waterfront Bar & Grill, LLC (Jed and Allie Pansier, applicants and property owners), requesting approval of an Ordinance amending the Zoning Map to rezone their property from P-1 Park District to B-3 Highway Business District on property located at an unaddressed property, Parcel Number 241-00340-0040.

This public hearing is being held pursuant to the requirements of §62.23(7)(d)2. of the Wisconsin Statutes and Sec. 94-313 of the City of Kewaunee Municipal Code. Copies of the Application and all supporting materials are available for review and may be obtained from the City Clerk at the Kewaunee Municipal Building, 401 Fifth Street, Kewaunee WI 54216 during normal business hours. The public is invited to attend the public hearing and to provide input. The proposed amendment is subject to revisions following public hearing and the further consideration by the Plan Commission and the City of Kewaunee Common Council.

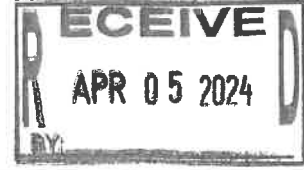
Dated this 5th day of April 2024.

Jo Ann Lesser, CMC, WCMC
City Clerk



City of Kewaunee
 401 Fifth Street
 Kewaunee, Wisconsin 54126
 (920) 388-5000
cityofkewaunee.org

APPLICATION DATE: _____
 STAMP DATE: city use only



COMMON COUNCIL REVIEW APPLICATION

PROJECT INFORMATION [print legibly]

APPLICANT [FULL LEGAL NAMES]	APPLICANT IS REPRESENTED BY [CONTACT PERSON]
NAME: <u>Jed E Parsier</u>	NAME:
COMPANY: <u>Waterfront Bar & Grill LLC</u>	COMPANY:
MAILING ADDRESS: <u>215 N. Main St.</u>	MAILING ADDRESS: <u>SAME</u>
CITY/STATE: <u>Kewaunee WI</u> ZIP: <u>54216</u>	CITY/STATE: _____ ZIP: _____
PHONE: <u>920-255-3033</u>	PHONE:
EMAIL ADDRESS: <u>WF BAR GRILL@gmail.com</u>	EMAIL ADDRESS:

PROJECT PROPERTY INFORMATION

PROPERTY ADDRESS: <u>1510 Ellis St. Kewaunee</u>	TAX KEY NUMBER: <u>31 241 NE 24 31-1.2</u>
PROPERTY OWNER: <u>Jed Parsier</u>	PHONE: <u>920-255-3033</u>
MAILING ADDRESS: <u>215 N. Main Kewaunee</u>	EMAIL ADDRESS: <u>WF BAR GRILL@gmail.com</u>
CITY/STATE: <u>Kewaunee WI</u> ZIP: <u>54216</u>	DATE OF COMPLETION: _____ office use only

APPLICATION TYPE

Please check the application type that you are applying for

- Comprehensive Plan Amendment
 Rezoning
 Conditional Use
 Zoning Text Amendment

These requests require Plan Commission review and Common Council approval.

Applicant is responsible for providing Plan Commission resubmittal materials up to 8 copies pending staff request and comments.

SIGNATURES

The applicant and property owner(s) hereby certify that: (1) all statements and other information submitted as part of this application are true and correct to the best of applicant's and property owner(s)' knowledge; (2) the applicant and property owner(s) has/have read and understand all information in this application; and (3) the applicant and property owner(s) agree that any approvals based on representations made by them in this Application and its submittal, and any subsequently issued building permits or other type of permits, may be revoked without notice if there is a breach of such representation(s) or any condition(s) of approval. By execution of this application, the property owner(s) authorize the City of Kewaunee and/or its agents to enter upon the subject property(ies) between the hours of 7:00 a.m. and 7:00 p.m. daily for the purpose of inspection while the application is under review. The property owner(s) grant this authorization even if the property has been posted against trespassing pursuant to Wis. Stat. §943.13.

(The applicant's signature must be from a Managing Member if the business is an LLC, or from the President or Vice President if the business is a corporation. A signed applicant's authorization letter may be provided in lieu of the applicant's signature below, and a signed property owner's authorization letter may be provided in lieu of the property owner's signature[s] below. If more than one, all of the owners of the property must sign this Application).

I, the applicant, certify that I have read the following page detailing the requirements for plan commission and common council approval and submittals and understand that incomplete applications and submittals cannot be reviewed.

PROPERTY OWNER SIGNATURE: <u>Jed Parsier</u>	APPLICANT SIGNATURE: <u>Jed Parsier</u>
NAME & TITLE: <u>Jed E Parsier - Member</u> DATE: <u>4-4-24</u>	NAME & TITLE: <u>Jed E Parsier - Member</u> DATE: <u>4-4-24</u>
PROPERTY OWNER SIGNATURE: <u>X</u>	APPLICANT REPRESENTATIVE SIGNATURE: <u>X</u>
NAME & TITLE: _____ DATE: _____	NAME & TITLE: _____ DATE: _____

Date: April 4, 2024

To: City of Kewaunee

From: Waterfront Banquet Hall & Catering

Re: Zoning Change Request

City of Kewaunee:

Jed and Alli Pansier, owners of Waterfront Banquet Hall & Catering, located at 1510 Ellis St Kewaunee, WI 54216, are requesting a zone change for parcel number 31 241 NE24 31-1.2.

The above parcel is currently a P-1 Park Zone. We are requesting a change to a B-3 Highway Business Zone. Our intention for this zone change is to design and build a suitable parking area for our customers. Our business plan consists of the banquet facility, offsite catering, and a pub/grill. The pub/grill portion will need parking for 5 nights per week in operation. Our banquet hall will need parking mostly Friday through Sunday, with occasional midweek functions for private luncheons, funeral meals, or community hosted functions. Current construction is being done on the premises, but operations for our establishment will be starting approximately June 1, 2024. We would like to get approved and complete the project by this date.

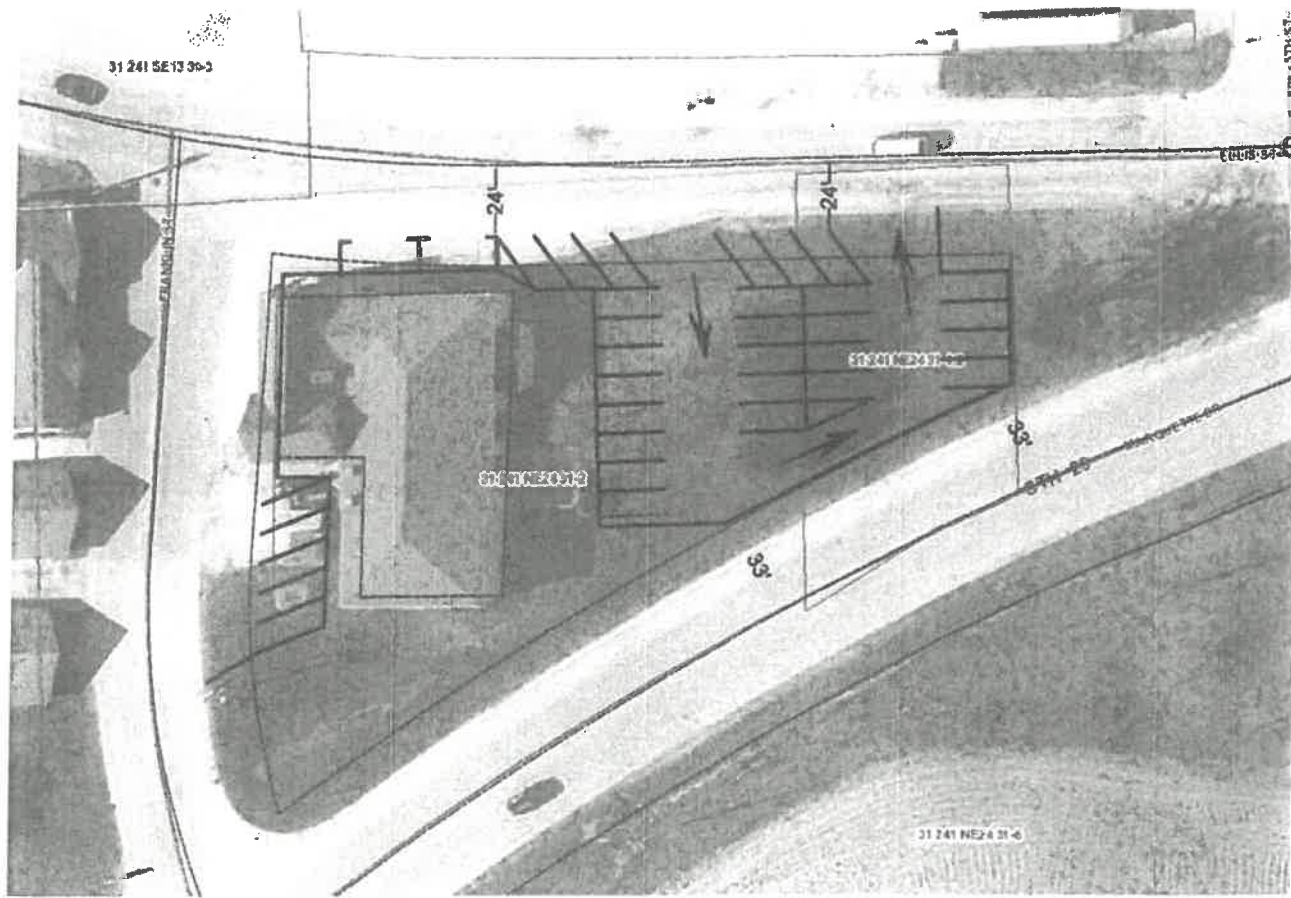
We thank you for your time to review this request and look forward to hearing from you as soon as possible.

Regards,

Jed & Alli Pansier

Waterfront Banquet Hall & Catering

From: Brian Peot brian.peot@yahoo.com
Subject: CJs Parking
Date: Mar 15, 2024 at 1:28:39 PM
To: wfbargrill@gmail.com



RECEIVE
MAR 18 2024
BY: _____

jed 920-255-3033

1 STATE OF WISCONSIN CITY OF KEWAUNEE KEWAUNEE COUNTY

2
3 ORDINANCE NO. 2024-XXX

4
5 AN ORDINANCE REPEALING AND REPLACING ARTICLE VI OF CHAPTER 18
6 (BUSINESSES) IN THE CITY OF KEWAUNEE MUNICIPAL CODE AS IT RELATES TO
7 REGULATING SHORT TERM RENTALS

8
9 WHEREAS, The Common Council of the City of Kewaunee has the authority to amend
10 the City of Kewaunee Municipal Code; and

11
12 WHEREAS, The Common Council deems it advisable to repeal and replace Article VI of
13 Chapter 18, Businesses, of the City of Kewaunee Municipal Code to regulate short term rentals.

14
15 NOW, THEREFORE the Common Council of the City of Kewaunee does ordain that
16 Article VI of Chapter 18, Businesses, shall be repealed and replaced with the following:

17
18 **ARTICLE VI. – SHORT TERM RENTALS**

19
20 **DIVISION 1. – GENERALLY**

21
22 **Sec. 18-210. - Purposes.**

23
24 The purposes of this article are to:

- 25
- 26 (a) Ensure the quality of short-term rentals operating within the City is adequate
- 27 for protecting public health, safety, and general welfare, including establishing
- 28 minimum standards of space for human occupancy and parking and for an
- 29 adequate level of maintenance;
- 30 (b) Determine the responsibilities of owners and property managers operating or
- 31 managing these rental properties for tourists or transient occupants, including,
- 32 but not limited to, the responsibility to expeditiously and personally respond
- 33 to, stop, mitigate, or prevent the reoccurrence of unreasonable activities on, or
- 34 conditions, uses or misuses of, these rental properties which adversely impact
- 35 or sustainably annoy, disturb, threaten, harm, offend or interfere with the
- 36 residential uses, nature or values of other properties in the neighborhoods in
- 37 which these rental properties operate, or with the comfort, health, enjoyment,
- 38 security, life, or safety of others, or which substantially interfere with,
- 39 obstruct, or tend to obstruct or render dangerous for passage any lane, street,
- 40 road, bridge or other public or private way used by emergency vehicles, or
- 41 protective service personnel to gain access to property or navigable body of
- 42 water to provide services (i.e., public nuisances);
- 43 (c) Protect the character and stability of all areas, especially residential areas,
- 44 within the City of Kewaunee;
- 45 (d) Provide minimum standards necessary for the health and safety of persons
- 46 occupying or using buildings, structures, or premises;

- 47 (e) Require the provision of liability insurance in connection with the operation of
48 short-term rentals so that persons on these properties, and the owners and
49 occupants of adjacent properties, who suffer bodily injury or property damage
50 arising from the condition or operation of the short-term rental, or from acts or
51 omissions occurring thereon, are afforded a potential source of recovery to
52 pay such damage claims; and
53 (f) provide for the administration and enforcement hereof.

54
55 **Sec. 18-211. - Definitions**

56
57 *CLERK* – The Clerk of the City of Algoma or designee.

58
59 *DWELLING UNIT* – One (1) or more rooms with provisions for living, cooking,
60 sanitary and sleeping facilities and a bathroom arranged for exclusive use by one (1) or
61 more persons maintaining a common household. Dwelling units include residential,
62 tourist rooming house, seasonal employee housing, and dormitory units.

63
64 *ENTITY* – A corporation, investment company, limited partnership, limited liability
65 partnership, limited liability company, cooperative association, unincorporated
66 cooperative association, common law trust, or any other group or organization licensed to
67 do business in this state.

68
69 *GUEST REGISTER* – The official record provided and kept by a Property Owner or
70 Property Manager in which short-term rental guests are required to list their true names
71 and addresses before being assigned sleeping quarters, pursuant to Wis. Admin. Code §
72 ATCP 72.16.

73
74 *LICENSE* – The Short-Term Rental License issued under §18-104.

75
76 *LICENSE YEAR* – The period from April 1st of each year to March 31st of the
77 following year.

78
79 *OCCUPANT* – Any person, over one (1) year of age, living, sleeping, cooking, or
80 eating in, or having actual possession of, a dwelling unit.

81
82 *PERSON* – An individual, group of individuals, or an entity.

83
84 *PROPERTY MANAGER* – Any person who is not the Property Owner and is
85 authorized by the property owner, expressly or impliedly, to act as agent and as the local
86 contact person on behalf of the property owner for one or more short-term rental, and to
87 take remedial action and promptly respond to any violation of this chapter of the
88 Municipal Code relating to the licensed premises.

89
90 *PROPERTY OWNER* – The owner of a short-term rental.
91

92 *RENEWAL LICENSE* – Any license issued under this Chapter 28, Article V which
93 will be or is in effect for the License Year immediately following a License Year for
94 which the City Clerk issued a license under this chapter for the same short-term rental
95 property.
96

97 *SHORT-TERM RENTAL* – A residential dwelling that is offered for rent for a fee and
98 for fewer than twenty-nine (29) consecutive days, as defined in Wis. Stat. §66.1404.
99

100 **Sec. 18-212. - Operation of Short Term Rentals**

- 101
- 102 (a) No person may maintain, manage or operate a short-term rental more than ten
103 (10) nights each License Year without a short-term rental license. Every short-
104 term rental shall be operated by a Property Owner or Property Manager.
105
- 106 (b) Each short-term rental Property Owner is required to have the following
107 licenses and permits:
108
- 109 (1) A state of Wisconsin Tourist Rooming House License.
110
- 111 (2) A seller’s permit issued by the Wisconsin Department of Revenue
112
- 113 (3) A license from the City issued pursuant to this chapter.
114
- 115 (c) Each short-term rental shall comply with all of the following:
116
- 117 (1) No residential dwelling unit may be rented for a period of six (6) or fewer
118 consecutive days. However, after a short-term rental license has been
119 issued for a residential dwelling unit under Sec. 18-222, then any
120 subsequent rental of that dwelling unit during the license term may be for
121 a period of six or fewer consecutive days.
122
- 123 (2) There shall not be excessive noise as prohibited by §94-196 of the
124 Municipal Code, excessive fumes, glare, or vibration, any nuisance
125 activities prohibited pursuant to Chapter 50 of the Municipal Code, dogs at
126 large as prohibited by Chapter 10 of the Municipal Code, or trespass onto
127 neighboring properties as prohibited by Chapter 54 of the Municipal Code.
128
- 129 (3) Name plates or other signage related to the short-term rental property shall
130 not exceed one square foot. No other signage advertising the short-term
131 rental is permitted on site, unless the proper sign permit was obtained prior
132 to the passing of this ordinance.
133
- 134 (4) The number of occupants in any dwelling unit shall not exceed the limits
135 set forth in Wis. Admin. Code § ATCP 72.14 for hotels, motels, and
136 tourist rooming houses.

- 137 (5) No recreational vehicles (RVs), campers, tents or other temporary lodging
138 arrangements shall be permitted on site as a means of providing additional
139 accommodations for paying guests or other invitees.
140
- 141 (6) Compliance with all applicable state, county, and local codes and
142 regulations are required.
143
- 144 (7) The property owner shall have and maintain homeowner's liability or
145 business liability insurance effective during all short-term rental periods
146 for the premises that are used for short-term rental and shall provide
147 written evidence of such insurance with the license application and
148 renewal application forms.
149
- 150 (8) The property owner or property manager of each short-term rental shall
151 provide a guest register and require all guests to register their true names
152 and addresses and rental time period(s) before being assigned sleeping
153 quarters. The guest register shall be kept by the property owner or
154 property manager and available for inspection for at least one year, as
155 required by the Wisconsin Administrative Code.
156
- 157 (9) Upon probable cause to believe that a violation of this chapter, or of law,
158 code, rule or regulation relating to buildings, housing, electrical,
159 plumbing, heating, gas, fire, health, safety, environmental pollution, water
160 quality, food or zoning has occurred or is occurring, the Building
161 Inspector, the County health officer, the Chief of Police, or the Chief's
162 designee, may request that the property owner or property manager allow
163 him or her, upon presenting proper identification, access to the short-term
164 rental premises at any reasonable time. As used in this subsection,
165 "probable cause" means facts and circumstances within an officer's
166 knowledge and of which he or she has reasonably trustworthy information
167 that are sufficient to warrant a reasonable officer in believing that a
168 violation has been or is being committed. If consent is refused, the
169 Building Inspector, County health officer, Chief of Police, or Chief's
170 designee may apply for a special inspection warrant issued under Wis.
171 Stats. § 66.0119, or other warrant, subpoena or order as may be necessary
172 or appropriate.
173

174 **Secs. 18-213 – 18-221. – Reserved**

175
176 **DIVISION 2. – PERMIT PROCEDURE**

177
178 **Sec. 18-222. Short-term Rental License.**

- 179
180 (a) The City Clerk shall issue a short-term rental license if an applicant
181 demonstrates compliance with the provisions of Chapter 18 of the Municipal
182 Code. A short-term rental license is issued for one (1) License Year and may

183 be renewed annually as provided in §18-224. The license shall contain the
184 following information:

- 185
- 186 (1) The name of the Property Owner, with contact information including
187 mailing address and a telephone number at which the Property Owner is
188 available. If the Property Owner is also acting as the Property Manager,
189 then the requirements of subsection (2) below shall apply to the Property
190 Owner.
- 191
- 192 (2) The name of the Property Manager, with contact information including
193 mailing address, physical address (if different than mailing address) and a
194 telephone number at which the Property Manager is available at all times
195 the property is rented.
- 196
- 197 (3) The license term.
- 198
- 199 (4) The State of Wisconsin Tourist Rooming House license number.
- 200

201 Sec. 18-223. Short-Term Rental License Procedure.

202

- 203 (a) All applications for a short-term rental license shall be filed with the City
204 Clerk on forms provided by the Clerk. Applications must be filed by the
205 Property Owner or the Property Manager. No license shall be issued unless
206 the completed application form is accompanied by payment of the required
207 application fee, which shall be non-refundable.
- 208
- 209 (b) Each application shall include the following information and documentation
210 for each short-term rental unit in order to demonstrate compliance with all
211 requirements of this chapter, including, but not limited to, §18-226:
- 212
- 213 (1) The name of the Property Owner, with contact information including
214 mailing address and a telephone number at which the Property Owner is
215 available.
- 216
- 217 (2) A copy of the state of Wisconsin Tourist Rooming House license issued
218 under Wis. State §97.605; or proof that such state license has been applied
219 for, in which event a provisional short-term rental license may be issued
220 under this chapter for a period of thirty (30) days but shall be conditioned
221 upon the City Clerk's receipt of a copy of such state license from the
222 applicant within said thirty (30) day period, and if a copy of such state
223 license is not received by the Clerk within said period, then such
224 provisional license shall expire and be void at and after the end of said
225 thirty (30) day period.
- 226
- 227 (3) A copy of a completed state of Wisconsin Lodging Establishment
228 Inspection form dated within one (1) year of such inspection.

- 229 (4) Proof of insurance as required by §18.212(c)(7).
230
231 (5) A copy of a current Seller’s Permit issued by the Wisconsin Department of
232 Revenue.
233
234 (6) A description of the property boundaries, location of buildings and the on-
235 site, off-street parking area(s) designated for tenants and invitees on the
236 premises.
237
238 (7) Designation of a Property Manager, unless Property Owner is acting as the
239 Property Manager, with contact information including mailing address,
240 physical address (if different from mailing address), a telephone number,
241 an affirmative statement that the Property Manager is authorized to act as
242 agent and as the local contact person for the Property Owner with respect
243 to operation of the short-term rental.
244
245 (8) Written certification by the Property Owner that the short-term rental
246 meets the requirements of this chapter and applicable state and county
247 laws, ordinances, and regulations.
248
249 (9) Employer identification number issued by the Internal Revenue Service.
250
251 (10) For renewal licenses only, written certification that a guest register has
252 been kept as required by the Wisconsin Administrative Code.
253
254 (c) Unless earlier revoked, each license shall run from April 1st of one year to
255 March 31st of the following year and may be renewed for additional one (1)
256 year periods. The application fee shall be paid upon filing of the application.
257 Any application that does not include all of the information and supporting
258 documentation required by this chapter shall not be considered as complete.
259
260 (d) When the City Clerk determines that an application is complete and meets the
261 requirements of this chapter, the Clerk shall approve the application and issue
262 a short-term rental license (or, if applicable, a provisional short-term rental
263 license) to the application. If the Clerk determines that the application is
264 incomplete or does not meet the requirements of this chapter, the Clerk shall
265 deny the application and inform the applicant, in writing, of the reason(s) why
266 the application was denied and what action is needed to obtain approval of the
267 application.
268
269 (e) No short-term rental license (or, if applicable provisional short-term rental
270 license) shall be issued or renewed if the application or short-term rental
271 property has outstanding fees, taxes, special charges, or forfeitures owed to
272 the City, State of Wisconsin, or Kewaunee County.
273

- 274 (f) No short-term rental license (or, if applicable provisional short-term rental
275 license) shall be issued if the applicant or short-term rental property is found
276 to be subject to one of the grounds for revocation as provided in §18-227(d).
277

278 **Sec. 18-224. - Renewal.**
279

- 280 (a) Each application for renewal of a short-term rental license shall include
281 updated information for the documentation file with the City Clerk, and
282 payment of the renewal fee. A renewal application must be filed with, and a
283 nonrefundable renewal fee must be paid to, the City Clerk at least ninety (90)
284 days prior to the license expiration date to allow the City Clerk adequate time
285 to review the application. The Clerk shall determine whether the information
286 provided in the renewal application is complete and meets the requirements of
287 this chapter. The Clerk may also request reports from the City Building
288 Inspector, Police Department, and other law enforcement agencies regarding
289 any enforcement actions taken with respect to the short-term rental properties
290 and operations, and their owners, tenants, occupants or visitors. The Clerk
291 shall review the renewal application and may approve or deny the application
292 after taking into consideration the number, frequency and/or severity of law
293 violations relating to the short-term rental property and operations, and its
294 owner(s), tenant(s), occupant(s), or visitor(s), and whether such violations
295 substantially harm or adversely impact the predominantly residential uses and
296 nature of the surrounding neighborhood. If after such consideration the Clerk
297 determines not to renew the license, the Clerk shall notify the application in
298 writing of the reason(s) for such decision, and the applicant's right to appeal
299 the decision to the Common Council as provided in §18-227.
300

- 301 (b) No license shall be renewed if the short-term rental property is under an order
302 issued by the Building Inspector or the County health officer, or his or her
303 designee, to bring the premises into compliance with state, county, or local
304 laws, codes, rules, or regulations.
305

306 **Sec. 18-225. - Standards for Short-Term Rentals.**
307

- 308 (a) Each short-term rental shall comply with this chapter's requirements and any
309 other applicable state, county, or local laws, codes, rules or regulations. Each
310 short-term rental shall comply with the following standards:
311
- 312 (1) The number of occupants may not be more than allowed under Wis.
313 Admin. Code. Ch. ATCP 72 or any other state regulation, state statute, or
314 local ordinance.
315
 - 316 (2) Not less than one (1) on-site, off-street parking space shall be provided for
317 every four (4) occupants, based upon maximum occupancy.

318 (3) The short-term rental premises shall have functioning smoke detectors and
319 carbon monoxide detectors pursuant to the requirements of Wis. Admin.
320 Code Ch. SPS 321.
321

322 (4) Certification of compliance: As a condition of issuance of a license under
323 Chapter 28 of the City Code, the Property Owner or Property Manager
324 shall certify in writing in each initial application and renewal application
325 form that the short-term rental property complies with the terms and
326 conditions of the license and this chapter.
327

328 **Sec. 18-226. - Display of Permit.**
329

330 Each license shall be displayed on the inside of the main entrance door of each
331 short-term rental.
332

333 **Sec. 18-227. Appeal of Licensing Decisions; License Revocation; Appeal Procedure;**
334 **Judicial Review.**
335

336 (a) The City Clerk's decision to deny any initial short-term rental license or to
337 deny renewal of a short-term rental license shall specify the reason(s) for such
338 denial, in writing. Prior to the time for the renewal of the license, the City
339 Clerk shall notify the licensee in writing of the City's intention not to renew
340 the license and notify the licensee of his or her right to an appeal hearing as
341 provided in subsection (b) below.
342

343 (b) The City Clerk's decision to deny an initial license or to deny renewal of a
344 license may be appealed to the Common Council by filing a written appeal
345 with the Clerk within twenty-one (21) calendar days (excluding legal
346 holidays) after the date of mailing of the written notice of the City Clerk's
347 decision denying such license or renewal license. The Common Council shall
348 conduct a due process hearing and issue a written decision on the appeal
349 within thirty (30) calendar days of the City's receipt of the written appeal. If
350 the appellant appears at the hearing he or she may produce and cross-examine
351 witnesses, present relevant evidence, and be represented by counsel of his or
352 her choosing, at his or her expense. If the Common Council finds the City
353 Clerk's reason(s) for his or her decision sufficient, the decision shall be
354 affirmed. If the Common Council finds the City Clerk's reason(s) for his or
355 her decision insufficient, the decision shall be reversed, and the license shall
356 be granted and issued. If the appellant does not appear at the hearing and the
357 Common Council finds the City Clerk's reason(s) for his or her decision
358 sufficient, the decision shall be affirmed. The Common Council's written
359 decision on the appeal must specify the reason(s) for its determination. The
360 City Clerk shall give written notice of the Common Council's decision to the
361 applicant or licensee.
362

363 (c) A license may be revoked by the Common Council during the term of a
364 License Year and following a due process hearing for one or more the
365 following reasons:

366
367 (1) Failure by the licensee to make payment of delinquent fees, taxes, special
368 charges, forfeitures, or other debt owed to the City of Kewaunee, State of
369 Wisconsin, or Kewaunee County.

370
371 (2) Failure to maintain all required local, county, or state laws or regulations
372 which, based upon their number, frequency and/or severity, and their
373 relation to the short-term rental property, its owner(s), tenant(s),
374 occupant(s), or visitor(s), substantially harm or adversely impact the
375 predominantly residential uses and nature of the surrounding
376 neighborhood.

377
378 (d) Revocation. Any resident or owner of property within the City may file sworn
379 written complaint with the City Clerk and Kewaunee Police Department
380 alleging one or more of the reasons set forth in subsection (c) above as
381 grounds for revocation of a short-term rental license issued under this chapter.
382 Upon the filing of the complaint, the City Clerk shall notify the licensee of the
383 complaint by certified mail – return receipt requested and provide the licensee
384 with a copy of the complaint. The notice shall direct the licensee to appear
385 before the Common Council on a day, time, and place included in the notice,
386 not less than ten (10) days and not more than forty-five (45) days from the
387 date of the notice and show cause why his or her license should not be
388 revoked. The hearing shall be conducted as provided in subsection (b). If a
389 license is revoked, the City Clerk shall give notice of revocation to the
390 licensee by certified mail – return receipt requested. No part of the fee paid for
391 any license if revoked may be refunded.

392
393 (e) Judicial Review. The action of the Common Council in granting, refusing to
394 grant or renew, or revoking a license under this chapter may be reviewed by
395 the County Circuit Court upon appeal by the applicant, licensee, or a resident
396 of or owner of property within the City, such appeal shall be filed within thirty
397 (30) days of the date of mailing by the City Clerk of the notice of the
398 Common Council's action granting or renewing, refusing to grant or renew, or
399 revoking a license. The procedure on review shall be the same as in civil
400 actions commenced in the circuit court pursuant to Wis. Stat. Chps. 801 to
401 807.

402
403 **Sec. 18-228. - Penalties.**

404
405 (a) Any person who violates any provision of this chapter shall be subject upon
406 conviction thereof to a forfeiture of not less than \$250 nor more than \$2500
407 for each offense, together with the costs of prosecution. Each violation and

408 each day a violation occurs or continues to exist shall constitute a separate
409 offense.

410 (b) The penalties set forth in this section shall be in addition to all other remedies
411 of injunction, abatement or costs, whether existing under this chapter or
412 otherwise.
413

414
415 **Sec. 18-229. - Fees**

416 Any person applying for an initial short-term rental license or renewing a license
417 pursuant to this chapter shall be subject to the fees as established by resolution of the
418 Common Council.
419

420
421 **Sec. 18-230. - Severability.**

422 Should any portion of this ordinance be declared invalid or unconstitutional by a
423 court of competent jurisdiction, such decision shall not affect the validity of any other
424 provisions of this ordinance.
425

426 This ordinance shall become effective upon passage and publication / posting.
427

428 Adopted by the Common Council of the City of Kewaunee, Wisconsin at a meeting thereof on
429 the ____ day of _____, 2024, by a vote of ____ for and ____ opposed.
430

431
432 APPROVED:
433
434
435
436
437 _____
438 Jeffrey L. Vollenweider Sr., Mayor

439 ATTEST:
440
441
442 _____
443 Jo Ann Lesser, CMC, WCMC
444 Clerk/Treasurer

445
446
447 Class II Notice of Publication: _____
448
449 Date Adopted: _____
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FLOODPLAIN ORDINANCE FOR THE CITY OF KEWAUNEE

Effective: _____

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- 2. **Date of Adoption:** _____
- 3. **Dates of Publication or Posting:** _____
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- 4. **Date of Publication or Posting of Notice of Enacted Ordinance:**
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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 and the requirements in s. 87.30, 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 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 homebuyers;
- (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 ordinance shall be known as the Floodplain Zoning Ordinance for the City of Kewaunee, Wisconsin.

1.5 GENERAL PROVISIONS

(1) AREAS TO BE REGULATED

This ordinance regulates all areas of special flood hazard identified as zones A, AO, AH, A1-30, AE, VE, V1-30, or V 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, AO, VE, V1-30, or V on the Flood Insurance Rate Maps (FIRMs) based on flood hazard analyses summarized in the Flood Insurance Study (FIS) listed in subd. (a) below. Additional flood hazard areas subject to regulation under this ordinance are identified on maps based on studies approved by the DNR and listed in subd. (b) below. These maps and revisions are on file in the office of the City Clerk.

(a) OFFICIAL MAPS: Based on the Flood Insurance Study (FIS):

1. Flood Insurance Rate Map (FIRM), panel numbers 55061C0256C, 55061C0257C, 55061C0258C, 55061C0259C, 55061C0276C and 55061C0278C, dated 8/28/2024.
2. Flood Insurance Study (FIS) for Kewaunee County Volume 55061CV000A, dated 8/28/2024.

Approved by: The DNR and FEMA

(3) ESTABLISHMENT OF FLOODPLAIN ZONING DISTRICTS

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

- a) The Floodway District (FW), is the channel of a river or stream and those portions of the floodplain adjoining the channel required to carry the regional floodwaters, within AE Zones as shown on the FIRM, or within A Zones shown on the FIRM when determined according to s. 5.1(5).
- b) The Floodfringe District (FF) is that portion of a riverine special flood hazard area outside the floodway within AE Zones on the FIRM, or, when floodway limits have been determined according to s. 5.1(5), within A Zones shown on the FIRM.
- c) The General Floodplain District (GFP) is those riverine areas that may be covered by floodwater during the regional flood in which a floodway boundary has not been delineated on the FIRM and also includes shallow flooding areas identified as AH and AO zones on the FIRM.
- d) The Coastal Floodplain District (CFP) is 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, including areas identified as zone V, V1-30, or VE on the FIRM. Where a riverine AE floodway extends into the CFP district, development within the floodway must comply with the regulations for both the FW and CFP districts. Where a riverine A zone or AE zone with no floodway determination abuts the CFP district, the riverine study's floodway limit must be determined based on standard floodway expansion principles within the CFP district and development within the floodway must comply with the standards for both the FW and CFP districts.

(4) LOCATING FLOODPLAIN BOUNDARIES

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

- a) If flood profiles exist, the map scale and the profile elevations shall determine the district boundary. The regional or base flood elevations shall govern if there are any discrepancies.
- b) Where flood profiles do not exist for projects, including any boundary of zone A, AO, V1-30, VE, or V, the location of the boundary shall be determined by the map scale.

(5) REMOVAL OF LANDS FROM FLOODPLAIN

- a) Compliance with the provisions of this ordinance shall not be grounds for removing land from the floodplain unless it is filled at least two feet above the regional or base flood elevation, the

fill is contiguous to land outside the floodplain, and the map is amended pursuant to s. 8.0 *Amendments*.

- b) The delineation of any of the Floodplain Districts may be revised by the community where natural or man-made changes have occurred and/or where more detailed studies have been conducted. However, prior to any such change, approval must be obtained from the Wisconsin Department of Natural Resources and Federal Emergency Management Agency. A completed Letter of Map Revision is a record of this approval. The floodplain administrator shall not sign a community acknowledgement form unless all criteria set forth in the following paragraphs are met:
 - 1. The land and/or land around the structure must be filled at least two feet above the regional or base flood elevation;
 - 2. The fill must be contiguous to land outside the floodplain; Applicant shall obtain floodplain development permit before applying for a LOMR or LOMR-F;
- c) Removal of lands from the floodplain may also occur by operation of §87.30(1)(e), Wis. Stat. if a property owner has obtained a letter of map amendment from the federal emergency management agency under 44 C.F.R. 70.

(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 authorize only the use, and arrangement, set forth in such approved plans and applications, or amendments thereto if approved by the Floodplain Administrator. Use, arrangement, or construction contrary to that authorized shall be deemed a violation of these regulations and punishable in accordance with s. 9.0.

(7) MUNICIPALITIES AND STATE AGENCIES REGULATED

Unless specifically exempted by law, all cities, villages, towns, and counties are required to comply with this ordinance and obtain all necessary permits. State agencies are required to comply if s. 13.48(13), 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, 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. If a local transportation project is located within a Zone A floodplain and is not a WisDOT project under s. 30.2022, then the road project design documents (including appropriate detailed plans and profiles) may be sufficient to meet the requirements for issuance of a local floodplain permit if the following apply: The applicant provides documentation to the Floodplain Administrator that the proposed project is a culvert replacement or bridge replacement under 20' span at the same location, the project is exempt from a DNR permit under s. 30.123(6)(d), the capacity is not decreased, the top road grade is not raised, and no floodway data is available from a federal, state, or other source. If floodway data is available in the impacted area from a federal, state, or other source that existing data must be utilized by the applicant in the analysis of the project site.

(8) ABROGATION AND GREATER RESTRICTIONS

- a) This ordinance supersedes all the provisions of any municipal zoning ordinance enacted under s. 62.23; 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.
- b) This ordinance is not intended to repeal, abrogate, or impair any existing deed restrictions, covenants, or easements. If this ordinance imposes greater restrictions, the provisions of this ordinance shall prevail.

(9) INTERPRETATION

In their interpretation and application, the provisions of this 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, required by ch. 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 ordinance or in effect on the date of the most recent text amendment to this ordinance.

(10) WARNING AND DISCLAIMER OF LIABILITY

The flood protection standards in this ordinance are based on engineering experience and research. Larger floods may occur, or the flood height may be increased by man-made or natural causes. This ordinance does not imply or guarantee that non-floodplain areas or permitted floodplain uses will be free from flooding and flood damages. This ordinance does not create liability on the part of, or a cause of action against, the municipality or any officer or employee thereof for any flood damage that may result from reliance on this ordinance.

(11) SEVERABILITY

Should any portion of this ordinance be declared unconstitutional or invalid by a court of competent jurisdiction, the remainder of this ordinance shall not be affected.

(12) ANNEXED AREAS FOR CITIES AND VILLAGES

The Kewaunee County floodplain zoning provisions in effect on the date of annexation shall remain in effect and shall be enforced by the municipality for all annexed areas until the municipality adopts and enforces an ordinance which meets the requirements of ch. NR 116, Wis. Adm. Code and 44 CFR 59-72, *National Flood Insurance Program* (NFIP). These annexed lands are described on the municipality's official zoning map. County floodplain zoning provisions are incorporated by reference for the purpose of administering this section and are on file in the office of the municipal zoning administrator. All plats or maps of annexation shall show the regional flood elevation and the floodway location.

2.0 GENERAL STANDARDS APPLICABLE TO ALL FLOODPLAIN DISTRICTS

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

- 1) If a proposed building site is in a flood-prone area, all new construction and substantial improvements shall:
 - a. be designed and anchored to prevent flotation, collapse, or lateral movement of the structure resulting from hydrodynamic and hydrostatic loads, including the effects of buoyancy;
 - b. be constructed with flood-resistant materials;
 - c. be constructed by methods and practices that minimize flood damages; and

- d. Mechanical and utility equipment must be elevated to or above the flood protection elevation.
- 2) If a subdivision or other proposed new development is in a flood-prone area, the community shall assure that:
- a. such proposed subdivision or other proposed new development is consistent with the need to minimize flood damage within the flood-prone area;
 - b. public utilities and facilities such as sewer, gas, electrical, and water systems are located and constructed to minimize or eliminate flood damage; and
 - c. adequate drainage is provided to reduce exposure to flood hazards.

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

2.1 HYDRAULIC AND HYDROLOGIC ANALYSES

- 1) No floodplain development shall:
- a. Obstruct flow, defined as development which blocks the conveyance of floodwaters by itself or with other development, causing any increase in the regional flood height; or
 - b. Cause any increase in the regional flood height due to floodplain storage area lost.
- 2) The zoning administrator shall deny permits if it is determined the proposed development will obstruct flow or cause any increase in the regional flood height, based on the officially adopted FIRM or other adopted map, unless the provisions of s. 8.0 *Amendments* are met.

2.2 WATERCOURSE ALTERATIONS

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

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

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

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

2.4 PUBLIC OR PRIVATE CAMPGROUNDS

Public or private campgrounds shall have a low flood damage potential and shall meet the following provisions:

- 1) The campground is approved by the Department of Agriculture, Trade and Consumer Protection;
- 2) A land use permit for the campground is issued by the zoning administrator;
- 3) The character of the river system and the campground elevation are such that a 72-hour warning of an impending flood can be given to all campground occupants;
- 4) There is an adequate flood warning procedure for the campground that offers the minimum notice required under this section to all persons in the campground. This procedure shall include a written agreement between the campground owner, the floodplain zoning agency or zoning administrator, the municipal emergency government coordinator and the chief law enforcement official which specifies the flood elevation at which evacuation shall occur, personnel responsible for monitoring flood elevations, types of warning systems to be used and the procedures for notifying at-risk parties, and the methods and personnel responsible for conducting the evacuation;
- 5) This agreement shall be for no more than one calendar year, at which time the agreement shall be reviewed and updated - by the officials identified in sub. (4) - to remain in compliance with all applicable regulations, including those of the state Department of Agriculture, Trade and Consumer Protection and all other applicable regulations;
- 6) All mobile recreational vehicles placed on site must meet one of the following:
 - a. Be fully licensed, if required, and ready for highway use; or
 - b. Not occupy any site in the campground for more than 180 consecutive days, at which time the recreational vehicle must be removed from the floodplain for a minimum of 24 hours; or
 - c. Meet the requirements in either s. 3.0, 4.0, 5.1, or 5.3 for the floodplain district in which the structure is located;

A mobile recreational vehicle is ready for highway use if it is on its wheels or jacking system, is attached to the site only by quick-disconnect utilities and security devices and has no permanently attached additions.
- 7) All camping units that remain on site for more than 30 days shall be issued a limited authorization by the campground operator, a written copy of which is kept on file at the campground. Such authorization shall allow placement of a camping unit consistent with 2.4(6) and shall ensure compliance with all the provisions of this section;
- 8) The municipality shall monitor the limited authorizations issued by the campground operator to assure compliance with the terms of this section;
- 9) The campground shall have signs clearly posted at all entrances warning of the flood hazard and the procedures for evacuation when a flood warning is issued; and
- 10) All service facilities, including but not limited to refuse collection, electrical service, gas lines, propane tanks, sewage systems and wells shall be properly anchored and placed at or floodproofed to the flood protection elevation; and
- 11) Standards for structures in a campground:
 - a. All structures must comply with section 2.4 or meet the applicable requirements in ss. 3.0, 4.0, 5.1, or 5.3 for the floodplain district in which the structure is located;

- b. Deck/landing-a portable landing may be allowed for a camping unit for each entry provided that the landing is not permanently attached to the ground or camping unit, is no more than 200 square feet in size, shall be portable, contain no walls or roof, and can be removed from the campground by a truck and/or trailer. Sections of such portable landings may be placed together to form a single deck not greater than 200 square feet at one entry point. Provisions for the removal of these temporary landings during flood events must be addressed within the written agreement with the municipality compliant with section 2.4(4). Any such deck/landing structure may be constructed at elevations lower than the flood protection elevation but must not obstruct flow of flood waters or cause any increase in flood levels during the occurrence of the regional flood.
- c. Decks/patios that are constructed completely at grade may be allowed but must also comply with applicable shoreland zoning standards.
- d. Camping equipment and appurtenant equipment in the campground may be allowed provided that the equipment is not permanently attached to the ground or camping unit, is not used as a habitable structure, and must not obstruct flow of flood waters or cause any increase in flood levels during the occurrence of the regional flood. Provisions for the removal of this equipment during flooding events shall be addressed within the written agreement with the municipality compliant with section 2.4(4).
- e. Once a flood warning in the written agreement has been issued for the campground, the campground owner or the designated operator shall ensure that all persons, camping units, decks, camping equipment and appurtenant equipment in the campground shall be evacuated within the timelines specified within the written agreement with the municipality compliant with section 2.4(4).

12) A land use permit shall be obtained as provided under 7.1(2) before any development; repair, modification, or addition to an existing structure; or change in the use of a building or structure, including sewer and water facilities, may be initiated.

3.0 FLOODWAY DISTRICT (FW)

3.1 APPLICABILITY

This section 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.
- 1) Agricultural uses, such as: farming, outdoor plant nurseries, horticulture, viticulture, and wild crop harvesting.
 - 2) Nonstructural industrial and commercial uses, such as loading areas, parking areas and airport landing strips.
 - 3) 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).

- 4) Uses or structures accessory to open space uses or classified as historic structures that comply with s. 3.3 and 3.4.
- 5) Extraction of sand, gravel or other materials that comply with s. 3.3(4).
- 6) 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, Stats.
- 7) Public utilities, streets and bridges that comply with s. 3.3(3).
- 8) 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.
- 9) Public or private wells used to obtain potable water for recreational areas that meet the requirements of local ordinances and chs. NR 811 and NR 812, Wis. Adm. Code.
- 10) Wastewater treatment ponds or facilities permitted under s. NR 110.15(3)(b), Wis. Adm. Code.
- 11) Sanitary sewer or water supply lines to service existing or proposed development located outside the floodway that complies with the regulations for the floodplain area occupied.

3.3 STANDARDS FOR DEVELOPMENT IN THE FLOODWAY

1) GENERAL

- a. Any development in the floodway shall comply with s. 2.0 and have a low flood damage potential.
- b. Applicants shall provide an analysis calculating the effects of this proposal on the regional flood height to determine the effects of the proposal according to s. 2.1 and 7.1(2)(c). The analysis must be completed by a registered professional engineer in the state of Wisconsin.
- c. Any encroachment in the regulatory floodway is prohibited unless the data submitted for subd. 3.3(1)(b) above demonstrates that the encroachment will cause no increase in flood elevations in flood events up to the base flood at any location or removes the encroached area from the regulatory floodway as provided in s. 1.5(5).

2) STRUCTURES

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

- a. Not designed for human habitation, does not have a high flood damage potential and is constructed to minimize flood damage;
- b. Shall either have the lowest floor elevated to or above the flood protection elevation or shall meet all the following standards:

1. Have the lowest floor elevated to or above the regional flood elevation and be dry floodproofed so that the structure is watertight with walls substantially impermeable to the passage of water and completely dry to the flood protection elevation without human intervention during flooding;
 2. Have structural components capable of meeting all provisions of Section 3.3(2)(g) and;
 3. Be certified by a registered professional engineer or architect, through the use of a Federal Emergency Management Agency Floodproofing Certificate, that the design and methods of construction are in accordance with Section 3.3(2)(g).
- c. Must be anchored to resist flotation, collapse, and lateral movement;
- d. Mechanical and utility equipment must be elevated to or above the flood protection elevation; and
- e. Must not obstruct flow of flood waters or cause any increase in flood levels during the occurrence of the regional flood.
- f. For a structure designed to allow the automatic entry of floodwaters below the Regional Flood Elevation, the applicant shall submit a plan that meets s. 3.3(2)(a) through 3.3(2)(e) and meets or exceeds the following standards:
1. The lowest floor must be elevated to or above the regional flood elevation;
 2. 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;
 3. the bottom of all openings shall be no higher than one foot above the lowest adjacent grade; openings may be equipped with screens, louvers, valves, or other coverings or devices provided that they permit the automatic entry and exit of floodwaters, otherwise must remain open.
 4. The use must be limited to parking, building access or limited storage.
- g. Certification: Whenever floodproofing measures are required, a registered professional engineer or architect shall certify that the following floodproofing measures will be utilized, where appropriate, and are adequate to withstand the flood depths, pressures, velocities, impact and uplift forces and other factors associated with the regional flood:
1. Reinforcement of floors and walls to resist rupture, collapse, or lateral movement caused by water pressures or debris buildup;
 2. Construction of wells, water supply systems and waste treatment systems so as to prevent the entrance of flood waters in such systems and must be in accordance with provisions in Sections 3.4(4) and 3.4(5);
 3. Subsurface drainage systems to relieve external pressures on foundation walls and basement floors;
 4. Cutoff valves on sewer lines or the elimination of gravity flow basement drains; and
 5. Placement of utilities to or above the flood protection elevation.

3) PUBLIC UTILITIES, STREETS AND BRIDGES

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

- a. Adequate floodproofing measures are provided to the flood protection elevation; and
- b. Construction meets the development standards of s. 2.1.

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 ch. 30, 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 have been met;
- c. The fill or other materials will be protected against erosion by riprap, vegetative cover, sheet piling or bulkheading; and
- d. 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 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;
- 5) Any public or private wells which are used to obtain potable water, except those for recreational areas that meet the requirements of local ordinances and chs. 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.

4.0 FLOODFRINGE DISTRICT (FF)

4.1 APPLICABILITY

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

4.2 PERMITTED USES

Any structure, land use, or development is allowed in the Floodfringe District if the standards in s. 4.3 are met, the use is not prohibited by this, or any other ordinance or regulation and all permits or certificates specified in s. 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 s. 6.0 *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;

- 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 s. 1.5(5).
- b) Notwithstanding s. 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.

Commented [CVH1]: Replace with "one (1) foot above the regional flood elevation" for CBS communities.
BFE + 1 required for CBS.

(2) ACCESSORY STRUCTURES OR USES

In addition to s. 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 s. 2.0, any commercial structure which is erected, altered, or moved into the floodfringe shall meet the requirements of s. 4.3(1). Subject to the requirements of s. 4.3(5), storage yards, surface parking lots and other such uses may be placed at lower elevations if an adequate warning system exists to protect life and property.

(4) MANUFACTURING AND INDUSTRIAL USES

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

(5) STORAGE OF MATERIALS

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

(6) PUBLIC UTILITIES, STREETS AND BRIDGES

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

- a) When failure of public utilities, streets and bridges would endanger public health or safety, or where such facilities are deemed essential, construction or repair of such facilities shall only be permitted if they are designed to comply with s. 7.5.
- b) Minor roads or non-essential utilities may be constructed at lower elevations if they are designed to withstand flood forces to the regional flood elevation.

(7) SEWAGE SYSTEMS

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

(8) WELLS

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

(9) SOLID WASTE DISPOSAL SITES

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

(10) DEPOSITION OF MATERIALS

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

(11) MANUFACTURED HOMES

- a) Owners or operators of all manufactured home parks and subdivisions shall provide adequate surface drainage to minimize flood damage, and prepare, secure approval, and file an evacuation plan, indicating vehicular access and escape routes, with local emergency management authorities.
- b) In existing manufactured home parks, all new homes, replacement homes on existing pads, and substantially improved homes shall:
 - 1. have the lowest floor elevated to the flood protection elevation; and
 - 2. be anchored so they do not float, collapse, or move laterally during a flood;
- c) Outside of existing manufactured home parks, including new manufactured home parks and all single units outside of existing parks, all new, replacement and substantially improved manufactured homes shall meet the residential development standards for the floodfringe in s. 4.3(1).

(12) MOBILE RECREATIONAL VEHICLES

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

- a) fully licensed and ready for highway use; or
- b) shall meet the elevation and anchoring requirements in s. 4.3 (11)(b) and (c).

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

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 s. 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 s. 1.5(2)(a), the boundaries of the regulatory floodway shall be determined pursuant to s. 5.1(5). If the development is proposed to encroach upon the regulatory floodway, the development is subject to the standards of s 3.0. If the development is located entirely within the floodfringe, the development is subject to the standards of s. 4.0.

3) PERMITTED USES

Pursuant to s. 5.1(5) it shall be determined whether the proposed use is located within the floodway or floodfringe. Those uses permitted in the Floodway (s. 3.2) and Floodfringe (s. 4.2)

Districts are allowed within the General Floodplain District, according to the standards of s. 5.1(4) provided that all permits or certificates required under s. 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); Section 4.0 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, two feet (2) above the highest adjacent natural grade or higher.
- 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 s. 4.0 applicable to flood fringe areas.

Commented [CVH2]: Add: "plus one additional foot of floodward."

The CRS prerequisite applies to AO zones as well as AE zones. All zones where a specific elevation is required by NFP minimum standards.

Commented [VHMAD(3): Change s. 5.1(4)(b) to read:

The CRS prerequisite applies to AO zones as well as AE zones. All zones where a specific elevation is required by NFP minimum standards.

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 shows the proposed development with respect to the general floodplain district limits, stream channel, and existing floodplain developments, along with a legal description of the property, fill limits and elevations, building floor elevations and flood proofing measures and the flood zone as shown on the FIRM.
- b) Require the applicant to furnish any of the following information deemed necessary by the Department to evaluate the effects of the proposal upon flood height and flood flows, regional flood elevation and to determine floodway boundaries.
 - 1. A Hydrologic and Hydraulic Study as specified in s. 7.1(2)(c).
 - 2. Plan (surface view) showing elevations or contours of the ground; pertinent structure, fill or storage elevations; size, location, and layout of all proposed and existing structures on the site; location and elevations of streets, water supply, and sanitary facilities; soil types and other pertinent information.
 - 3. Specifications for building construction and materials, floodproofing, filling, dredging, channel improvement, storage, water supply and sanitary facilities.

5.2 COASTAL FLOODPLAIN DISTRICT (CFD)

(1) **APPLICABILITY**

The provisions of this section apply to all Coastal Floodplain Districts (CFD) shown on the floodplain zoning maps, which includes zones V, V1-30, and VE. Where a floodway shown on the floodplain zoning maps, or a floodway determined as explained in s. 1.5(3)(d) or a regulatory floodway identified pursuant to s. 5.1(5), extends into a Coastal Floodplain District, development shall comply with the standards of s. 3.0 and s. 5.3.

(2) STANDARDS FOR DEVELOPMENT IN THE COASTAL FLOODPLAIN DISTRICT

Development in the CFD district shall meet the requirements of s. 2.0, as well as the following:

- a. New construction shall be located landward of the Ordinary High-Water Mark.
- b. Bulkheads, seawalls, revetments, and other erosion control measures shall not be connected to the foundation or superstructure of a building and shall be designed and constructed so as not to direct floodwaters or increase flood forces or erosion impacts on the foundation or superstructure of any building.
- c. Man-made alterations of sand dunes are prohibited unless an engineering report documents that the alterations will not increase potential flood damage by reducing the wave and flow dissipation characteristics of the sand dunes.
- d. The use of fill for structural support of buildings is prohibited.
 1. Non-structural fill shall be permitted only if an engineering report demonstrates that the fill will not cause runoff, ramping, or deflection of floodwaters that cause damage to buildings.
- e. New construction and substantial improvement of buildings shall be elevated, consistent with SPS 321.34, on pilings or columns so that the bottom of the lowest horizontal structural member of the lowest floor (excluding the pilings or columns) is elevated to or above the FPE.
 1. The pile or column foundation and structure attached thereto shall be anchored to resist flotation, collapse, and lateral movement due to the effects of wind and water loads acting simultaneously on all building components. Water loading values shall be those associated with the base flood. Wind loading values shall be those defined according to *American Society of Civil Engineers 7-16 Minimum design loads and associated criteria for buildings and other structures*, or other equivalent standard.
 2. A registered professional engineer or architect shall develop or review the structural design, specifications, and plans for the construction, and shall certify that the design and methods of construction to be used are in accordance with accepted standards of practice for meeting the provisions of s. 5.3(2)(e).
- f. New construction and substantial improvement of buildings shall have the space below the lowest floor either free of obstruction or constructed with non-

supporting breakaway walls, open wood latticework, or insect screening intended to collapse without causing collapse, displacement, or other structural damage to the elevated portion of the building or supporting foundation system.

1. For the purpose of s. 5.3(2)(f), a breakaway wall shall have a design safe loading resistance of not less than 10 and not more than 20 pounds per square foot.
 2. Use of breakaway walls which exceed a design safe loading resistance of 20 pounds per square foot (either by design or where so required by local or state codes) may be permitted only if a registered professional engineer or architect certifies that the designs proposed meet all of the following conditions:
 - a) Breakaway wall collapse shall result from a water load less than that which would occur during the base flood; and
 - b) The elevated portion of the building and supporting foundation system shall not be subject to collapse, displacement, or other structural damage due to the effects of wind and water loads acting simultaneously on all building components (structural and non-structural). Water loading values shall be those associated with the base flood. Wind loading values shall be those defined according to American Society of Civil Engineers 7-16 *Minimum design loads and associated criteria for buildings and other structures*, or equivalent standard.
 3. All space enclosed by breakaway walls, open wood latticework, or insect screening below the lowest floor shall be used solely for parking, building access, or storage.
- g. Require within flood-prone areas:
1. New and replacement water supply systems to be designed to minimize or eliminate infiltration of flood waters into the systems; and
 2. New and replacement sanitary sewage systems to be designed to minimize or eliminate infiltration of flood waters into the systems and discharges from the systems into flood waters and onsite waste disposal systems to be located to avoid impairment to them or contamination from them during flooding.
- h. All mobile recreation vehicles must be on site for less than 180 consecutive days and be either:
1. fully licensed and ready for highway use; or
 2. shall meet the standards of ss. 5.3(2)(a) through 5.3(2)(g) inclusive

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

- i. Manufactured homes placed or substantially improved within the Coastal Floodplain District shall meet the standards of ss. 5.3(2)(a) through 5.3(2)(g) inclusive.

6.0 NONCONFORMING USES

6.1 GENERAL

1) Applicability

- a) The standards in this section shall apply to all uses and buildings that do not conform to the provisions contained within a floodplain zoning ordinance or with s. 87.30, Stats. and §§ NR 116.12-14, Wis. Adm. Code and 44 CFR 59-72., these standards shall apply to all modifications or additions to any nonconforming use or structure and to the use of any structure or premises which was lawful before the passage of this ordinance or any amendment thereto. A party asserting existence of a lawfully established nonconforming use or structure has the burden of proving that the use or structure was compliant with the floodplain zoning ordinance in effect at the time the use or structure was created.
 - 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.
- 2) The existing lawful use of a structure or its accessory use which is not in conformity with the provisions of this ordinance 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 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 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 ordinance;
 - c) The municipality 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 s. 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 in compliance with the applicable requirements of this ordinance. Contiguous dry land access must be provided for residential and commercial uses in compliance with s. 4.3(1). Maintenance to any nonconforming structure, which does not exceed 50% of its present equalized assessed value on a per event basis, does not count against the cumulative calculations over the life of the structure for substantial improvement calculations.
- f) If on a per event basis the total value of the work being done under (d) and (e) equals or exceeds 50% of the present equalized assessed value, the work shall not be permitted unless the entire structure is permanently changed to a conforming structure with a conforming use in compliance with the applicable requirements of this ordinance. Contiguous dry land access must be provided for residential and commercial uses in compliance with s. 4.3(1).
- g) Except as provided in subd. (h), if any nonconforming structure or any structure with a nonconforming use is destroyed or is substantially damaged, it cannot be replaced, reconstructed, or rebuilt unless the use and the structure meet the current ordinance requirements. A structure is considered substantially damaged if the total cost to restore the structure to its pre-damaged condition equals or exceeds 50% of the structure's present equalized assessed value.
- h) For nonconforming buildings that are substantially damaged or destroyed by a nonflood disaster, the repair or reconstruction of any such nonconforming building shall be permitted in order to restore it to the size and use in effect prior to the damage event, provided that the following minimum requirements are met, and all required permits have been granted prior to the start of construction:

1. Residential Structures

- a. Shall have the lowest floor, including basement, elevated to or above the base flood elevation using fill, pilings, columns, posts, or perimeter walls. Perimeter walls must meet the requirements of s. 7.5(2).
- b. Shall be anchored to prevent flotation, collapse, or lateral movement of the structure resulting from hydrodynamic and hydrostatic loads, including the effects of buoyancy, and shall be constructed with methods and materials resistant to flood damage.
- c. Shall be constructed with electrical, heating, ventilation, plumbing and air conditioning equipment and other service facilities that are designed and/or elevated so as to prevent water from entering or accumulating within the components during conditions of flooding.

Commented [VHMAD(4)]: CBS requirement: "Change to "and not above the base flood elevation"

- d. In A Zones, obtain, review, and utilize any flood data available from a federal, state or other source.
- e. In AO Zones with no elevations specified, shall have the lowest floor, including basement, meet the standards in s. 5.1(4).
- f. in AO Zones, shall have adequate drainage paths around structures on slopes to guide floodwaters around and away from the structure.

2. Nonresidential Structures

- a. Shall meet the requirements of s. 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 s. 7.5 (1) or (2).
 - c. In AO Zones with no elevations specified, shall have the lowest floor, including basement, meet the standards in s. 5.1(4).
- 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 s. 3.3 (1), flood resistant materials are used, and construction practices and floodproofing methods that comply with s. 7.5 are used. Repair or rehabilitation of historic structures shall be exempt from the development standards of s. 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) 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;
 - 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. Any development that adds additional fill or creates an encroachment in the floodplain from beyond the original nonconforming structure's 3-D building envelope must determine the floodway in accordance with section 5.1(5). If the encroachment is in the floodway, it must meet the standards in section 3.3(4);
 - e) 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;
 - f) Repair or reconstruction of nonconforming structures and substantial improvements of residential buildings in zones A1-30, AE, and AH must have the lowest floor (including basement) elevated to or above the base flood elevation;

Commented [VHMAD(5)]: OPTIONAL - Reserve for Communities who want to implement Act 175. This section is optional. If the Community is removing this language, please update the Table of Contents page references.
See guidance language

Commented [CVH6]: RS requirement: Change to "one foot"

Commented [CVH7]: RS requirement: Change to "one foot"

- g) Repair or reconstruction of nonconforming structures and substantial improvements of non-residential buildings in zones A1-30, AE, and AH must have the lowest floor (including basement) elevated to or above the base flood elevation, or (together with attendant utility and sanitary facilities) be designed so that below the base flood elevation the building is watertight with walls substantially impermeable to the passage of water and with structural components capable of resisting hydrostatic and hydrodynamic loads and effects of buoyancy:
- i. Where a non-residential structure is intended to be made watertight below the base flood elevation, a registered professional engineer or architect must develop and/or review structural design, specifications, and plans for the construction, and must certify that the design and methods of construction are in accordance with accepted standards of practice for meeting the provisions of s. 6.1(4)(g) above.
 - ii. The community must maintain a record of such certification including the specific elevation to which each such structure is floodproofed;
- h) Fully enclosed areas below the lowest floor of repair or reconstruction of nonconforming structures and substantial improvements in zones A1-30, AE, and AH that are usable solely for parking of vehicles, building access, or storage, must be designed to adequately equalize hydrostatic forces on exterior walls by allowing for the entry and exit of floodwaters. Subsequent improvements to repaired or reconstructed nonconforming structures must not increase the degree of their nonconformity. Designs for meeting this requirement must either be certified by a registered professional engineer or architect, or meet the following criteria:
- i. A minimum of two openings into each enclosed area must be located below the base flood elevation and provide a total net area of not less than one square inch for every square foot of enclosed area.
 - ii. The bottom of all openings must be no higher than one foot above the adjacent grade.
 - iii. Openings may be equipped with screens, louvers, valves, or other coverings if they permit the automatic entry and exit of floodwaters;
- i) Manufactured homes that are placed or substantially improved within zones A1-30, AE, and AH outside of a manufactured home park or subdivision, in a new manufactured home park or subdivision, in an expansion to an existing manufactured home park or subdivision, or in an existing manufactured home park or subdivision on which a manufactured home has incurred substantial damage as a result of flood, must be elevated on a permanent foundation such that the lowest floor of the manufactured home is at or above the base flood elevation, and be securely anchored to an adequately anchored foundation system to resist flotation, collapse, and lateral movement;
- j) Manufactured homes that are placed or substantially improved within zones A1-30, AE, and AH on existing sites in an existing manufactured home park that is not undergoing expansion and on which a manufactured home has not incurred substantial damage as a result of flood must be elevated so that either the lowest floor of the manufactured home is at or above the base flood elevation, or the manufactured home chassis is supported by reinforced piers or other foundation elements of at least equivalent strength that are no less than 36 inches in height above grade, and be securely anchored to an adequately anchored foundation system to resist flotation, collapse, and lateral movement;
- k) Recreational vehicles placed on sites within zones A1-30, AH, and AE must either:

Commented [CVH8]: CRS requirement. Change to "one foot"

Commented [CVH9]: CRS requirement. Change to "one foot"

- i. Be on site for fewer than 180 consecutive days; or
 - ii. Be fully licensed and ready for highway use (a recreational vehicle is ready for highway use if it is on its wheels or jacking system, is attached to the site only by quick disconnect type utilities and security devices, and has no permanently attached additions); or
 - iii. Meet the elevation and anchoring requirements for manufactured homes in s. 6.1(4)(i) above;
- l) In a regulatory floodway that has been delineated on the FIRM in zone A1-30 or AE, encroachments, including repair or reconstruction of nonconforming structures, substantial improvement, or other development (including fill) must be prohibited unless it has been demonstrated through hydrologic and hydraulic analyses performed in accordance with standard engineering practice that the proposed encroachment will not result in any increase in flood levels within the community during the occurrence of the base flood discharge. Subsequent improvements to repair or reconstructed nonconforming structures must not increase the degree of their nonconformity;
- m) In zone A, the community must obtain, review, and reasonably utilize any base flood elevation and floodway data available from a federal, state, or other source as criteria for requiring repair or reconstruction of nonconforming structures, substantial improvement, and other development to meet ss. 6.1(4)(f) through (l) (inclusive) above. Any development that adds additional fill or creates an encroachment in the floodplain from beyond the original nonconforming structure's 3-D building envelope must determine the floodway in accordance with section 5.1(5). If the encroachment is in the floodway, it must meet the standards in section 3.3(4). Subsequent improvements to repair or reconstructed nonconforming structures must not increase the degree of their nonconformity;
- n) In zones A1-30 or AE where a regulatory floodway has not been delineated on the FIRM, repair or reconstruction of nonconforming structures, substantial improvement, or any development that adds additional fill or creates an encroachment in the floodplain from beyond the original nonconforming structure's 3-D building envelope must determine the floodway in accordance with section 5.1(5). If the encroachment is in the floodway, it must meet the standards in section 3.3(4). Subsequent improvements to repair or reconstructed nonconforming structures must not increase the degree of their nonconformity;
- o) In zone AO, repair or reconstruction of nonconforming structures and substantial improvements of residential structures must have the lowest floor (including basement) elevated above the highest adjacent grade at least as high as the depth number specified in feet on the FIRM (at least two feet if no depth number is specified). Subsequent improvements to repair or reconstructed nonconforming structures must not increase the degree of their nonconformity; or
- p) In zone AO, repair or reconstruction of nonconforming structures and substantial improvements of nonresidential structures must have the lowest floor (including basement) elevated above the highest adjacent grade at least as high as the depth number specified in feet on the FIRM (at least two feet if no depth number is specified), or (together with attendant utility and sanitary facilities) be structurally dry-floodproofed to that level according to the standard specified in s. 6.1(4)(g) above. Subsequent improvements to repair or reconstructed nonconforming structures must not increase the degree of their nonconformity.

Commented [CVH10]: CRS Requirement. Change to "...one foot more than the depth number specified in feet on the FIRM (at least three feet if no depth number is specified)."

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 s. 6.1;
 - c) Shall not increase the obstruction to flood flows or regional flood height;
 - d) Any addition to the existing structure shall be floodproofed, pursuant to s. 7.5, by means other than the use of fill, to the flood protection elevation; and,
 - e) 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 least one square inch for every one square foot of the enclosed area. The lowest part of the opening can be no more than 12 inches above the adjacent grade;
 2. The parts of the foundation located below the flood protection elevation must be constructed of flood-resistant materials;
 3. Mechanical and utility equipment must be elevated or floodproofed to or above the flood protection elevation; and
 4. The use must be limited to parking, building access or limited storage.
- 2) 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 the Floodway District. Any replacement, repair or maintenance of an existing on-site sewage disposal system in a floodway area shall meet the applicable requirements of all municipal ordinances, s. 7.5(3) and Ch. SPS 383, Wis. Adm. Code.
- 3) No new well or modification to an existing well used to obtain potable water shall be allowed in the Floodway District. Any replacement, repair, or maintenance of an existing well in the Floodway District shall meet the applicable requirements of all municipal ordinances, s. 7.5(3) and chs. NR 811 and NR 812, Wis. Adm. Code.

6.3 FLOODFRINGE DISTRICT

- 1) No modification or addition shall be allowed to any nonconforming structure or any structure with a nonconforming use unless such modification or addition has been granted a permit or variance by the municipality and meets the requirements of s. 4.3 except where s. 6.3(2) is applicable.
- 2) Where compliance with the provisions of subd. (1) would result in unnecessary hardship and only where the structure will not be used for human habitation or be associated with a high flood damage potential, the Board of Appeals, using the procedures established in s. 7.3, may grant a variance from those provisions of subd. (1) 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:
 - a) No floor is allowed below the regional flood elevation for residential or commercial structures;

- b) Human lives are not endangered;
 - c) Public facilities, such as water or sewer, shall not be installed;
 - d) Flood depths shall not exceed two feet;
 - e) Flood velocities shall not exceed two feet per second; and
 - f) The structure shall not be used for storage of materials as described in s. 4.3(5).
- 3) 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, s. 7.5 (3) and ch. SPS 383, Wis. Adm. Code.
 - 4) All new wells, or addition to, replacement, repair, or maintenance of a well shall meet the applicable provisions of this ordinance, s. 7.5 (3) and ch. NR 811 and NR 812, Wis. Adm. Code.

6.5 COASTAL FLOODPLAIN DISTRICT (CFD)

- 1) New construction and substantial improvement shall meet the standards of s. 5.3.
- 2) No structural repairs, modifications or additions to an existing building, the cost of which exceeds, over the life of the existing building, 50% of its present equalized assessed value, may be allowed in a coastal floodplain area unless the entire building is permanently changed to conform with the standards prescribed in s. 5.3.

7.0 ADMINISTRATION

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

1.1 ZONING ADMINISTRATOR

1) DUTIES AND POWERS

The zoning administrator is authorized to administer this ordinance and shall have the following duties and powers:

- a) Advise applicants of the ordinance provisions, assist in preparing permit applications and appeals, and assure that the regional flood elevation for the proposed development is shown on all permit applications.
- b) Issue permits and inspect properties for compliance with provisions of this ordinance and issue certificates of compliance where appropriate
- c) Inspect and assess all damaged floodplain structures to determine if substantial damage to the structures has occurred.

- d) Keep records of all official actions such as:
 1. All permits issued, inspections made, and work approved;
 2. Documentation of certified lowest floor and regional flood elevations;
 3. Floodproofing certificates.
 4. Water surface profiles, floodplain zoning maps and ordinances, nonconforming uses and structures including changes, appeals, variances and amendments.
 5. All substantial damage assessment reports for floodplain structures.
 6. List of nonconforming structures and uses.
 7. In the Coastal Floodplain District, documentation of the certified elevation of the bottom of the lowest horizontal structural member of new construction and substantial improvements.
 8. In the Coastal Floodplain District, certification by a licensed professional engineer or architect where required for new construction and substantial improvement under s. 5.3

- e) Submit copies of the following items to the Department Regional office:
 1. Within 10 days of the decision, a copy of any decisions on variances, appeals for map or text interpretations, and map or text amendments;

 2. Copies of case-by-case analyses and other required information.

 3. Copies of substantial damage assessments performed and all related correspondence concerning the assessments.

- f) Investigate, prepare reports, and report violations of this ordinance to the municipal zoning agency and attorney for prosecution. Copies of the reports shall also be sent to the Department Regional office.

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

2) LAND USE PERMIT

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

- a) GENERAL INFORMATION
 1. Name and address of the applicant, property owner and contractor;

 2. Legal description, proposed use, and whether it is new construction or a modification;

- b) SITE DEVELOPMENT PLAN

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

 1. Location, dimensions, area and elevation of the lot;

 2. Location of the ordinary highwater mark of any abutting navigable waterways;

 3. Location of any structures with distances measured from the lot lines and street center lines;

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

c) **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. 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.
 - viii. standard accepted engineering practices shall be used when assigning parameters for the base model such as flow, Manning's N values, expansion and contraction coefficients or effective flow limits. The base model shall be calibrated to past flooding data such as high-water marks to determine the reasonableness of the model results. If no historical data is available, adequate justification shall be provided for any parameters outside standard accepted engineering practices.
 - ix. the model must extend past the upstream limit of the difference in the existing and proposed flood profiles in order to provide a tie-in to existing studies. The height difference between the proposed flood profile and the existing study profiles shall be no more than 0.00 feet.
- c. Mapping
- A work map of the reach studied shall be provided, showing all cross-section locations, floodway/floodplain limits based on best available topographic data, geographic limits of the proposed development and whether the proposed development is located in the floodway.
- i. If the proposed development is located outside of the floodway, then it is determined to have no impact on the regional flood elevation.
 - ii. If any part of the proposed development is in the floodway, it must be added to the base model to show the difference between existing and proposed conditions. The study must ensure that all coefficients remain the same as in the existing model, unless adequate justification based on standard accepted engineering practices is provided.

2. Zone AE Floodplains

a. Hydrology

If the proposed hydrology will change the existing study, the appropriate method to be used shall be based on ch. NR 116.07(3), Wis. Admin. Code, *Hydrologic Analysis: Determination of Regional Flood Discharge*.

b. Hydraulic model

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. Duplicate Effective Model

The effective model shall be reproduced to ensure correct transference of the model data and to allow integration of the revised data to provide a continuous FIS model upstream and downstream of the revised reach. If data from the effective model is available, models shall be generated that duplicate the FIS profiles and the elevations shown in the Floodway Data Table in the FIS report to within 0.1 foot.

ii. Corrected Effective Model.

The Corrected Effective Model shall not include any man-made physical changes since the effective model date but shall import the model into the most current version of HEC-RAS for Department review.

- iii. Existing (Pre-Project Conditions) Model.
The Existing Model shall be required to support conclusions about the actual impacts of the project associated with the Revised (Post-Project) Model or to establish more up-to-date models on which to base the Revised (Post-Project) Model.
 - iv. Revised (Post-Project Conditions) Model.
The Revised (Post-Project Conditions) Model shall incorporate the Existing Model and any proposed changes to the topography caused by the proposed development. This model shall reflect proposed conditions.
 - v. All changes to the Duplicate Effective Model and subsequent models must be supported by certified topographic information, bridge plans, construction plans and survey notes.
 - vi. Changes to the hydraulic models shall be limited to the stream reach for which the revision is being requested. Cross sections upstream and downstream of the revised reach shall be identical to those in the effective model and result in water surface elevations and top widths computed by the revised models matching those in the effective models upstream and downstream of the revised reach as required. The Effective Model shall not be truncated.
- c. Mapping
Maps and associated engineering data shall be submitted to the Department for review which meet the following conditions:
- i. Consistency between the revised hydraulic models, the revised floodplain and floodway delineations, the revised flood profiles, topographic work map, annotated FIRMs and/or Flood Boundary Floodway Maps (FBFMs), construction plans, bridge plans.
 - ii. Certified topographic map of suitable scale, contour interval, and a planimetric map showing the applicable items. If a digital version of the map is available, it may be submitted in order that the FIRM may be more easily revised.
 - iii. Annotated FIRM panel showing the revised 1% and 0.2% annual chance floodplains and floodway boundaries.
 - iv. If an annotated FIRM and/or FBFM and digital mapping data (GIS or CADD) are used, then all supporting documentation or metadata must be included with the data submission along with the Universal Transverse Mercator (UTM) projection and State Plane Coordinate System in accordance with FEMA mapping specifications.
 - v. The revised floodplain boundaries shall tie into the effective floodplain boundaries.
 - vi. All cross sections from the effective model shall be labeled in accordance with the effective map and a cross section lookup table shall be included to relate to the model input numbering scheme.
 - vii. Both the current and proposed floodways shall be shown on the map.
 - 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 ordinance 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 ordinance;
- b) Application for such certificate shall be concurrent with the application for a permit;
- c) If all ordinance provisions are met, the certificate of compliance shall be issued within 10 days after written notification that the permitted work is completed;
- d) The applicant shall submit a certification signed by a registered professional engineer, architect, or land surveyor that the fill, lowest floor and floodproofing elevations are in compliance with the permit issued. Floodproofing measures also require certification by a registered professional engineer or architect that the requirements of s. 7.5 are met.
- e) Where applicable pursuant to s. 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 s. 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 s. 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 s. 404 of the Federal Water Pollution Control Act, Amendments of 1972, 33 U.S.C. 1344.

7.2 ZONING AGENCY

1) The City of Kewaunee Common Council shall:

- a) oversee the functions of the office of the zoning administrator; and
- b) review and advise the governing body on all proposed amendments to this ordinance, maps, and text.
- c) publish adequate notice pursuant to Ch. 985, Stats., specifying the date, time, place, and subject of the public hearing.

2) The City of Kewaunee Common Council shall not:

Commented [CEED11]: City staff: While I think it's best to review the entire ordinance, I do want to call out these two areas of 7.2 specifically! If "Common Council" does not make sense in the context of the duties that shall be done here, please feel free to plug in whatever entity makes the most sense here for your community. Thanks!

Commented [CEED12]: City staff: While I think it's best to review the entire ordinance, I do want to call out these two areas of 7.2 specifically! If "Common Council" does not make sense in the context of the duties that shall not be done here, please feel free to plug in whatever entity makes the most sense here for your community. Thanks!

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

7.3 BOARD OF APPEALS

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

1) POWERS AND DUTIES

The Board of Appeals shall:

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

2) APPEALS TO THE BOARD

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

b) NOTICE AND HEARING FOR APPEALS INCLUDING VARIANCES

1. Notice - The board shall:

- a. Fix a reasonable time for the hearing;
- b. Publish adequate notice pursuant to Wisconsin Statutes, specifying the date, time, place, and subject of the hearing; and
- c. Assure that notice shall be mailed to the parties in interest and the Department Regional office at least 10 days in advance of the hearing.

2. Hearing - Any party may appear in person or by agent. The board shall:

- a. Resolve boundary disputes according to s. 7.3(3);
- b. Decide variance applications according to s. 7.3(4); and
- c. Decide appeals of permit denials according to s. 7.4.

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

- 1. Be made within a reasonable time;
- 2. Be sent to the Department Regional office within 10 days of the decision;
- 3. Be a written determination signed by the chairman or secretary of the Board;
- 4. State the specific facts which are the basis for the Board's decision;

5. Either affirm, reverse, vary or modify the order, requirement, decision, or determination appealed, in whole or in part, dismiss the appeal for lack of jurisdiction or grant or deny the variance application; 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 proceedings.

3) BOUNDARY DISPUTES

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

- a) If a floodplain district boundary is established by approximate or detailed floodplain studies, the flood elevations or profiles shall prevail in locating the boundary.
- b) The person contesting the boundary location shall be given a reasonable opportunity to present arguments and technical evidence to the Board; 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 s. 8.0 *Amendments*.

4) VARIANCE

- a) The Board may, upon appeal, grant a variance from the standards of this ordinance if an applicant convincingly demonstrates that:
 1. Literal enforcement of the ordinance will cause unnecessary hardship;
 2. The hardship is due to adoption of the floodplain ordinance and unique property conditions, not common to adjacent lots or premises. In such case the ordinance or map must be amended;
 3. The variance is not contrary to the public interest; and
 4. The variance is consistent with the purpose of this ordinance in s. 1.3.
- b) In addition to the criteria in subd. (a), to qualify for a variance under FEMA regulations, the Board 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 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 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 (s. 7.2) or Board shall review all data related to the appeal. This may include:

- a. Permit application data listed in s. 7.1(2);
- b. Floodway/floodfringe determination data in s. 5.1(5);
- c. Data listed in s. 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 s. 7.3;
- b. Consider zoning agency recommendations; and
- c. Either uphold the denial or grant the appeal.

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

- a. Uphold the denial where the Board agrees with the data showing an increase in flood elevation. Increases 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 s. 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 ss. 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 least one square inch for every one square foot of the enclosed area. The lowest part of the opening can be no more than 12 inches above the adjacent grade;
 2. The parts of the foundation located below the flood protection elevation must be constructed of flood-resistant materials;
 3. Mechanical and utility equipment must be elevated or floodproofed to or above the flood protection elevation; and
 4. The use must be limited to parking, building access or limited storage.

7.6 PUBLIC INFORMATION

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

8.0 AMENDMENTS

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

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

8.1 GENERAL

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

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

8.2 PROCEDURES

Ordinance amendments may be made upon petition of any party according to the provisions of s. 62.23, Stats. The petitions shall include all data required by s. 5.1(5) and 7.1(2). The Land Use Permit shall not be issued until a Letter of Map Revision is issued by FEMA for the proposed changes.

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

9.0 ENFORCEMENT AND PENALTIES

Any violation of the provisions of this ordinance by any person shall be unlawful and shall be referred to the municipal attorney who shall expeditiously prosecute all such violators. A violator shall, upon conviction, forfeit to the municipality a penalty of not more than \$50.00 (fifty dollars), together with a taxable cost of such action. Each day of continued violation shall constitute a separate offense. Every violation of this ordinance is a public nuisance, and the creation may be enjoined, and the maintenance may be abated by action at suit of the municipality, the state, or any citizen thereof pursuant to s. 87.30, Stats.

10.0 DEFINITIONS

Unless specifically defined, words and phrases in this ordinance shall have their common law meaning and shall be applied in accordance with their common usage. Words used in the present tense include the future, the singular number includes the plural and the plural number includes the singular. The word "may" is permissive, "shall" is mandatory and is not discretionary.

1. A ZONES – Those areas shown on the Official Floodplain Zoning Map which would be inundated by the regional flood. These areas may be numbered or unnumbered A Zones. The A Zones may or may not be reflective of flood profiles, depending on the availability of data for a given area.
2. AH ZONE – See "AREA OF SHALLOW FLOODING".
3. AO ZONE – See "AREA OF SHALLOW FLOODING".
4. ACCESSORY STRUCTURE OR USE – A facility, structure, building or use which is accessory or incidental to the principal use of a property, structure or building. An accessory structure shall not be used for human habitation.
5. ALTERATION – An enhancement, upgrade or substantial change or modification other than an addition or repair to a dwelling or to electrical, plumbing, heating, ventilating, air conditioning and other systems within a structure.
6. AREA OF SHALLOW FLOODING – A designated AO, AH, AR/AO, AR/AH, or VO zone on a community's Flood Insurance Rate Map (FIRM) with a 1 percent or greater annual chance of flooding to an average depth of 1 to 3 feet where a clearly defined channel does not exist, where the path of flooding is unpredictable, and where velocity flood may be evident. Such flooding is characterized by ponding or sheet flow.
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. **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. **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. **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. **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. **DECK** – An unenclosed exterior structure that has no roof or sides and has a permeable floor which allows the infiltration of precipitation.
20. **DEPARTMENT** – The Wisconsin Department of Natural Resources.
21. **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.
22. **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.

23. ENCROACHMENT – Any fill, structure, equipment, use or development in the floodway.
24. FEDERAL EMERGENCY MANAGEMENT AGENCY (FEMA) – The federal agency that administers the National Flood Insurance Program.
25. 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.
26. 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.
27. 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.
28. FLOODFRINGE – 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.
29. 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 Flood Insurance Study and a Flood Insurance Rate Map.
30. FLOOD INSURANCE STUDY – A technical engineering examination, evaluation, and determination of the local flood hazard areas. It provides maps designating those areas affected by the regional flood and provides both flood insurance rate zones and base flood elevations and may provide floodway lines. The flood hazard areas are designated as numbered and unnumbered A-Zones. Flood Insurance Rate Maps, that accompany the Flood Insurance Study, form the basis for both the regulatory and the insurance aspects of the National Flood Insurance Program.
31. FLOODPLAIN – Land which has been or may be covered by flood water during the regional flood. It includes the floodway and the floodfringe and may include other designated floodplain areas for regulatory purposes.
32. FLOODPLAIN ISLAND – A natural geologic land formation within the floodplain that is surrounded, but not covered, by floodwater during the regional flood.
33. FLOODPLAIN MANAGEMENT – Policy and procedures to ensure wise use of floodplains, including mapping and engineering, mitigation, education, and administration and enforcement of floodplain regulations.
34. FLOOD PROFILE – A graph or a longitudinal profile line showing the relationship of the water surface elevation of a flood event to locations of land surface elevations along a stream or river.

35. FLOODPROOFING – Any combination of structural provisions, changes or adjustments to properties and structures, water and sanitary facilities and contents of buildings subject to flooding, for the purpose of reducing or eliminating flood damage.
36. FLOOD PROTECTION ELEVATION – An elevation of two feet of freeboard above the Regional Flood Elevation. (Also see: FREEBOARD.)
37. FLOOD STORAGE – Those floodplain areas where storage of floodwaters has been taken into account during analysis in reducing the regional flood discharge.
38. FLOODWAY – The channel of a river or stream and those portions of the floodplain adjoining the channel required to carry the regional flood discharge.
39. FREEBOARD – A safety factor expressed in terms of a specified number of feet above a calculated flood level. Freeboard compensates for any factors that cause flood heights greater than those calculated, including ice jams, debris accumulation, wave action, obstruction of bridge openings and floodways, the effects of watershed urbanization, loss of flood storage areas due to development and aggregation of the river or stream bed.
40. HABITABLE STRUCTURE – Any structure or portion thereof used or designed for human habitation.
41. HEARING NOTICE – Publication or posting meeting the requirements of Ch. 985, Stats. For appeals, a Class 1 notice, published once at least one week (7 days) before the hearing, is required. For all zoning ordinances and amendments, a Class 2 notice, published twice, once each week consecutively, the last at least a week (7 days) before the hearing. Local ordinances or bylaws may require additional notice, exceeding these minimums.
42. HIGH FLOOD DAMAGE POTENTIAL – Damage that could result from flooding that includes any danger to life or health or any significant economic loss to a structure or building and its contents.
43. HIGHEST ADJACENT GRADE – The highest natural elevation of the ground surface prior to construction next to the proposed walls of a structure.
44. HISTORIC STRUCTURE – Any structure that is either:
 - Listed individually in the National Register of Historic Places or preliminarily determined by the Secretary of the Interior as meeting the requirements for individual listing on the National Register;
 - Certified or preliminarily determined by the Secretary of the Interior as contributing to the historical significance of a registered historic district or a district preliminarily determined by the Secretary to qualify as a registered historic district;
 - Individually listed on a state inventory of historic places in states with historic preservation programs which have been approved by the Secretary of the Interior; or
 - Individually listed on a local inventory of historic places in communities with historic preservation programs that have been certified either by an approved state program, as determined by the Secretary of the Interior; or by the Secretary of the Interior in states without approved programs.
45. INCREASE IN REGIONAL FLOOD HEIGHT – A calculated upward rise in the regional flood elevation greater than 0.00 foot, based on a comparison of existing conditions and proposed conditions which is directly attributable to development in the floodplain but not attributable to manipulation of mathematical variables such as roughness factors, expansion and contraction coefficients and discharge.
46. LAND USE – Any nonstructural use made of unimproved or improved real estate. (Also see

DEVELOPMENT.)

47. **LOWEST ADJACENT GRADE** – Elevation of the lowest ground surface that touches any of the exterior walls of a building.
48. **LOWEST FLOOR** – The lowest floor of the lowest enclosed area (including basement). An enclosed space as provided in s. 5.3(2)(f), is not considered the building's lowest floor.
49. **MAINTENANCE** – The act or process of ordinary upkeep and repairs, including redecorating, refinishing, nonstructural repairs, or the replacement of existing fixtures, systems or equipment with equivalent fixtures, systems, or structures.
50. **MANUFACTURED HOME** – A structure transportable in one or more sections, which is built on a permanent chassis and is designed to be used with or without a permanent foundation when connected to required utilities. The term "manufactured home" includes a mobile home but does not include a "mobile recreational vehicle."
51. **MOBILE/MANUFACTURED HOME PARK OR SUBDIVISION** – A parcel (or contiguous parcels) of land, divided into two or more manufactured home lots for rent or sale.
52. **MOBILE/MANUFACTURED HOME PARK OR SUBDIVISION, EXISTING** – A parcel of land, divided into two or more manufactured home lots for rent or sale, on which the construction of facilities for servicing the lots is completed before the effective date of this ordinance. At a minimum, this would include the installation of utilities, the construction of streets and either final site grading or the pouring of concrete pads.
53. **MOBILE/MANUFACTURED HOME PARK, EXPANSION TO EXISTING** – The preparation of additional sites by the construction of facilities for servicing the lots on which the manufactured homes are to be affixed. This includes installation of utilities, construction of streets and either final site grading, or the pouring of concrete pads.
54. **MOBILE RECREATIONAL VEHICLE** – A vehicle which is built on a single chassis, 400 square feet or less when measured at the largest horizontal projection, designed to be self-propelled, carried or permanently towable by a licensed, light-duty vehicle, is licensed for highway use if registration is required and is designed primarily not for use as a permanent dwelling, but as temporary living quarters for recreational, camping, travel or seasonal use. Manufactured homes that are towed or carried onto a parcel of land, but do not remain capable of being towed or carried, including park model homes, do not fall within the definition of "mobile recreational vehicles."
55. **MODEL, CORRECTED EFFECTIVE** – A hydraulic engineering model that corrects any errors that occur in the Duplicate Effective Model, adds any additional cross sections to the Duplicate Effective Model, or incorporates more detailed topographic information than that used in the current effective model.
56. **MODEL, DUPLICATE EFFECTIVE** – A copy of the hydraulic analysis used in the effective FIS and referred to as the effective model.
57. **MODEL, EFFECTIVE** – The hydraulic engineering model that was used to produce the current effective Flood Insurance Study.
58. **MODEL, EXISTING (PRE-PROJECT)** – A modification of the Duplicate Effective Model or Corrected Effective Model to reflect any man-made modifications that have occurred within the floodplain since the date of the effective model but prior to the construction of the project for which the revision is being requested. If no modification has occurred since the date of the effective model, then this model would be identical to the Corrected Effective Model or Duplicate

Effective Model.

59. MODEL, REVISED (POST-PROJECT) – A modification of the Existing or Pre-Project Conditions Model, Duplicate Effective Model or Corrected Effective Model to reflect revised or post-project conditions.
60. MODERATE WAVE ACTION AREA (MoWA) – A special flood hazard area subject to the potential for breaking wave heights of greater than or equal to 1.5 feet, but less than 3 feet, where the primary source of flooding is astronomical tides, storm surges, seiches, and/or tsunamis. A MoWA is an area within zone AE on a FIRM that is between the inland limit of zone VE and a Limit of Moderate Wave Action, where identified. (Also known as "coastal A zone")
61. MUNICIPALITY or MUNICIPAL – The county, city or village governmental units enacting, administering, and enforcing this zoning ordinance.
62. NAVD or NORTH AMERICAN VERTICAL DATUM – Elevations referenced to mean sea level datum, 1988 adjustment.
63. NGVD or NATIONAL GEODETIC VERTICAL DATUM – Elevations referenced to mean sea level datum, 1929 adjustment.
64. NEW CONSTRUCTION – Structures for which the start of construction commenced on or after the effective date of a floodplain zoning regulation adopted by this community and includes any subsequent improvements to such structures.
65. NON-FLOOD DISASTER – A fire or an ice storm, tornado, windstorm, mudslide, or other destructive act of nature, but excludes a flood.
66. NONCONFORMING STRUCTURE – An existing lawful structure or building which is not in conformity with the dimensional or structural requirements of this ordinance for the area of the floodplain which it occupies. (For example, an existing residential structure in the floodfringe district is a conforming use. However, if the lowest floor is lower than the flood protection elevation, the structure is nonconforming.)
67. NONCONFORMING USE – An existing lawful use or accessory use of a structure or building which is not in conformity with the provisions of this ordinance for the area of the floodplain which it occupies. (Such as a residence in the floodway.)
68. OBSTRUCTION TO FLOW – Any development which blocks the conveyance of floodwaters such that this development alone or together with any future development will cause an increase in regional flood height.
69. OFFICIAL FLOODPLAIN ZONING MAP – That map, adopted and made part of this ordinance, as described in s. 1.5(2), which has been approved by the Department and FEMA.
70. OPEN SPACE USE – Those uses having a relatively low flood damage potential and not involving structures.
71. ORDINARY HIGHWATER MARK – The point on the bank or shore up to which the presence and action of surface water is so continuous as to leave a distinctive mark such as by erosion, destruction or prevention of terrestrial vegetation, predominance of aquatic vegetation, or other easily recognized characteristic.
72. PERSON – An individual, or group of individuals, corporation, partnership, association, municipality, or state agency.

73. **PRIMARY FRONTAL DUNE** – A continuous or nearly continuous mound or ridge of sand with relatively steep seaward and landward slopes immediately landward and adjacent to the beach and subject to erosion and overtopping from high tides and waves during major coastal storms. The inland limit of the primary frontal dune occurs at the point where there is a distinct change from a relatively steep slope to a relatively mild slope.
74. **PRIVATE SEWAGE SYSTEM** – A sewage treatment and disposal system serving one structure with a septic tank and soil absorption field located on the same parcel as the structure. It also means an alternative sewage system approved by the Department of Safety and Professional Services, including a substitute for the septic tank or soil absorption field, a holding tank, a system serving more than one structure, or a system located on a different parcel than the structure.
75. **PUBLIC UTILITIES** – Those utilities using underground or overhead transmission lines such as electric, telephone and telegraph, and distribution and collection systems such as water, sanitary sewer, and storm sewer.
76. **REASONABLY SAFE FROM FLOODING** – Means base flood waters will not inundate the land or damage structures to be removed from the floodplain and that any subsurface waters related to the base flood will not damage existing or proposed buildings.
77. **REGIONAL FLOOD** – A flood determined to be representative of large floods known to have occurred in Wisconsin. A regional flood is a flood with a one percent chance of being equaled or exceeded in any given year, and if depicted on the FIRM, the RFE is equivalent to the BFE.
78. **SAND DUNES** – Naturally occurring accumulations of sand in ridges or mounds landward of the beach.
79. **START OF CONSTRUCTION** – The date the building permit was issued, provided the actual start of construction, repair, reconstruction, rehabilitation, addition, placement, or other improvement was within 180 days of the permit date. The actual start means either the first placement of permanent construction on a site, such as the pouring of slab or footings, the installation of piles, the construction of columns, or any work beyond initial excavation, or the placement of a manufactured home on a foundation. Permanent construction does not include land preparation, such as clearing, grading, and filling, nor does it include the installation of streets and/or walkways, nor does it include excavation for a basement, footings, piers or foundations or the erection of temporary forms, nor does it include the installation on the property of accessory buildings, such as garages or sheds not occupied as dwelling units or not part of the main structure. For an alteration, the actual start of construction means the first alteration of any wall, ceiling, floor, or other structural part of a building, whether or not that alteration affects the external dimensions of the building.
80. **STRUCTURE** – Any manmade object with form, shape and utility, either permanently or temporarily attached to, placed upon or set into the ground, stream bed or lakebed, including, but not limited to, roofed and walled buildings, gas or liquid storage tanks, bridges, dams and culverts.
81. **SUBDIVISION** – Has the meaning given in s. 236.02(12), Wis. Stats.
82. **SUBSTANTIAL DAMAGE** – Damage of any origin sustained by a structure, whereby the cost of restoring the structure to its pre-damaged condition would equal or exceed 50 percent of the equalized assessed value of the structure before the damage occurred.
83. **SUBSTANTIAL IMPROVEMENT** – Any repair, reconstruction, rehabilitation, addition or improvement of a building or structure, the cost of which equals or exceeds 50 percent of the equalized assessed value of the structure before the improvement or repair is started. If the

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

84. **UNNECESSARY HARDSHIP** – Where special conditions affecting a particular property, which were not self-created, have made strict conformity with restrictions governing areas, setbacks, frontage, height, or density unnecessarily burdensome or unreasonable in light of the purposes of the ordinance.
85. **VARIANCE** – An authorization by the board of adjustment or appeals for the construction or maintenance of a building or structure in a manner which is inconsistent with dimensional standards (not uses) contained in the floodplain zoning ordinance.
86. **VIOLATION** – The failure of a structure or other development to be fully compliant with the floodplain zoning ordinance. A structure or other development without required permits, lowest floor elevation documentation, floodproofing certificates or required floodway encroachment calculations is presumed to be in violation until such time as that documentation is provided.
87. **WATERSHED** – The entire region contributing runoff or surface water to a watercourse or body of water.
88. **WATER SURFACE PROFILE** – A graphical representation showing the elevation of the water surface of a watercourse for each position along a reach of river or stream at a certain flood flow. A water surface profile of the regional flood is used in regulating floodplain areas.
89. **WELL** – means an excavation opening in the ground made by digging, boring, drilling, driving or other methods, to obtain groundwater regardless of its intended use.

Community Rating System At-A-Glance



The **Community Rating System (CRS)** is a voluntary Federal Emergency Management Agency program that recognizes and rewards communities that go above and beyond the bare minimum requirements of the National Flood Insurance Program. There is no monetary cost to join; the only real “cost” is the time and effort of the staff person assigned as the CRS Coordinator.

Communities select activities to do voluntarily that earn that community points. The more points you have, the better rate class your community is in, which gets your community members a corresponding discount on federal flood insurance premiums. To be eligible to join, you must be in good standing with the National Flood Insurance Program.

What are the activities? There are 19 different possible activities you can participate in for CRS points that fall into four categories: Public information, Mapping and Regulations, Flood Damage Reduction and Flood Preparedness. More information on the specific activities can be found at the links below. Your community, when reviewing the creditable activities, will likely be pleasantly surprised to see that you're already doing some of them.

To join, two items are needed to request a CRS classification: a letter of interest to the FEMA regional office, and a “CRS Quick Check” that shows the community is implementing some CRS activities. Please feel free to engage with the DNR’s floodplain program for assistance or if you have any questions by emailing dnrfloodplain@wisconsin.gov. Please note that as part of the process of joining, an audit will be necessary (a Community Assistance Visit). [A link to the template letter of interest and the quick check form can be found here.](#)

For More Information:

[FEMA Fact sheet on CRS \(2021\)](#)

[FEMA Local Official's Guide \(2018\)](#)

BENEFITS:

- Discounted flood insurance premiums for community members, up to 45% off.
- Higher standards serve to enhance public safety, reduce damage to property and public infrastructure and avoid economic disruption and loss.
- Communities can evaluate their flood programs against a nationally recognized benchmark.
- Technical assistance in carrying out some activities is available to community officials at no charge.
- Citizens and property owners in CRS communities have enhanced opportunities to learn about their risk, evaluate their individual vulnerabilities and take action to protect themselves, as well as their home and businesses.

COSTS:

- There is no monetary cost to join.
- Time and effort on the part of staff:
 - A Community Assistance Visit;
 - Rectify any violations found;
 - Show that the community has a good permitting system, an organized system for recordkeeping;
 - And a community may need to update the ordinance, on a case-by-case basis
- It may take a while to complete the process to join.

Please contact the WI DNR floodplain management program with any questions: dnrfloodplain@wisconsin.gov

ACT 175 (s. 87.30 (1d)(d) Stats.) Guidance

The WDNR floodplain model ordinance includes the acceptable regulatory standards required in Ch. NR116, Wis. Admin. Code with supplemental wording intended to ensure that the minimum requirements for participation in the National Flood Insurance Program (44 C.F.R. §§59-72) are met or exceeded in all circumstances. The floodplain model ordinance now includes language for communities choosing to adopt changes consistent with 2019 Act 175.

Act 175 was enacted March 2020 and created § 87.30 (1d) (d), Wis. Stats. This Act changes how Ch. NR116, Wis. Admin. Code may require local governments to regulate nonconforming structures in the floodplain. To participate in the National Flood Insurance Program, however, communities must still adopt and enforce regulations that meet the NFIP's minimum standards, which are unchanged. § 87.30 (1d) (d) creates an exception to the state's "50% rule" for structures in the floodplain. The state's "50% rule" says 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 the local floodplain ordinance.

Essentially, in a floodplain zoning ordinance that has incorporated Act 175, if a nonconforming structure is altered to meet the federal minimum standards applicable to new construction and substantial improvements, and the living quarters in the nonconforming building are elevated to be at or above the flood protection elevation, then the Department is prohibited from imposing cost-based regulation or restrictions to the structure (i.e., "50% Rule"). It is important to note that structures modified to meet the requirements of § 87.30 (1d) (d) are not transformed into conforming structures. They are still considered nonconforming structures and are subject to all other non-cost-based regulations and restrictions applicable to nonconforming structures.

The NFIP minimum standards require a participating community to regulate all development, including all improvements to all structures in special flood hazard areas. The appropriate minimum standards must be applied to substantial improvements, modifications, additions, and repair or other improvement of substantially damaged buildings, without regard for whether such buildings are "nonconforming" with regard to ordinances adopted to meet Ch. NR116 regulations or other state or local zoning regulations.

Act 175 did not change any city, village, or county floodplain ordinance authority and communities are able to maintain their current ordinance and incorporate higher standards into their floodplain zoning ordinance.

Communities should decide whether to incorporate Act 175 into the floodplain ordinance or maintain their current framework for regulating nonconforming structures based on an assessment of local flood risks. Once the local flood risks are identified and an appropriate zoning approach is determined, some communities may choose to maintain existing floodplain zoning and implement higher standards, while others may modify their ordinances to adopt this new minimum standard. (see [WDNR floodplain model ordinance.](#))

1. When Act 175 is incorporated into an ordinance there is a potential for the community to allow modifications, additions, substantial improvements, maintenance and repairs to existing nonconforming structures in excess of the State's 50% Rule once the minimum requirements of **Appendix A** are met. This creates two classifications of nonconforming structures:
 - a. Class 1: Nonconforming structures that do not meet Appendix A minimum requirements and continued to be subject to the State's 50% Rule.
 - b. Class 2: Nonconforming structures meeting Appendix A minimum requirements and no longer subject to the State's 50% Rule.

2. For ordinances without Act 175 – repair/maintenance/modification/substantial improvement of structures in the floodplain is limited by the 50% rule as expressed in NR116.
 - a. No modification, addition, maintenance, or repair can be made on a structure in the floodway if the cost exceeds 50% of the present equalized assessed value of the structure;
 - b. If a structure in the floodway is substantially damaged by a flood, it must be removed from the floodway;
 - c. No modification, addition, maintenance, or repair can be made on a structure in the floodfringe if the cost exceeds 50% of the present equalized assessed value of the structure unless the structure is modified to conform to the floodplain ordinance;
 - d. In addition all standards for nonconforming structures in the floodplain, listed in Nonconforming Uses in Section 6.0 of the state model, must be followed.

Appendix A

For communities incorporating Act 175 into its ordinance, non-conforming structures not subject to the State 50% Rule must meet the following minimum standards:

- (1) Any living quarters in the nonconforming building are elevated to be at or above the flood protection elevation;
- (2) The lowest floor of the nonconforming building, including the basement, is elevated to or above the regional flood elevation;
- (3) The nonconforming building is permanently changed to conform to the applicable requirements of the general standards applicable to all floodplain districts;
- (4) The building is permanently changed to conform to all applicable requirements in the community's floodplain zoning ordinance such as Hydraulic and Hydrologic Analyses (H & H), lowest floor elevations, anchoring, mechanical and utility equipment elevations, floodproofing standards, and must not obstruct flow of floodwater or cause any increase in flood levels.

NOTE: Incorporating Act 175 into the local ordinance still requires the zoning administrator to carefully review and apply applicable portions of Nonconforming Uses in section 6.0 of the model ordinance because the structure is still a nonconforming structure.

- (5) If the nonconforming building is in the floodfringe, the building is permanently changed to conform to the applicable requirements of the floodfringe district.
- (6) New construction and substantial improvements of residential buildings in zones A1-30, AE, and AH must have the lowest floor (including basement) elevated to or above the base flood elevation.
- (7) New construction and substantial improvements of non-residential buildings in zones A1-30, AE, and AH must have the lowest floor (including basement) elevated to or above the base flood elevation, or (together with attendant utility and sanitary facilities) be designed so that below the base flood elevation the building is watertight with walls substantially impermeable to the passage of water and with structural components capable of resisting hydrostatic and hydrodynamic loads and effects of buoyancy.
 - a. Where a non-residential structure is intended to be made watertight below the base flood elevation, a registered professional engineer or architect must develop and/or review structural design, specifications, and plans for the construction, and must certify that the design and methods of construction are in accordance with accepted standards of practice for meeting the provisions of paragraph vii above.
 - b. The community must maintain a record of such certification including the specific elevation to which each such structure is floodproofed.
- (8) Fully enclosed areas below the lowest floor of new construction and substantial improvements in zones A1-30, AE, and AH that are usable solely for parking of vehicles, building access, or storage, must be designed to adequately equalize hydrostatic forces on exterior walls by allowing for the

entry and exit of floodwaters. Designs for meeting this requirement must either be certified by a registered professional engineer or architect, or meet the following criteria:

- a. A minimum of two openings into each enclosed area must be located below the base flood elevation and provide a total net area of not less than one square inch for every square foot of enclosed area;
 - b. The bottom of all openings must be no higher than one foot above the adjacent grade;
 - c. Openings may be equipped with screens, louvers, valves, or other coverings if they permit the automatic entry and exit of floodwaters.
- 9) Manufactured homes that are placed or substantially improved within zones A1-30, AE, and AH outside of a manufactured home park or subdivision, in a new manufactured home park or subdivision, in an expansion to an existing manufactured home park or subdivision, or in an existing manufactured home park or subdivision on which a manufactured home has incurred substantial damage as a result of flood, must be elevated on a permanent foundation such that the lowest floor of the manufactured home is at or above the base flood elevation, and be securely anchored to an adequately anchored foundation system to resist flotation, collapse, and lateral movement.
- 10) Manufactured homes that are placed or substantially improved within zones A1-30, AE, and AH on existing sites in an existing manufactured home park that is not undergoing expansion and on which a manufactured home has not incurred substantial damage as a result of flood must be elevated so that either the lowest floor of the manufactured home is at or above the base flood elevation, or the manufactured home chassis is supported by reinforced piers or other foundation elements of at least equivalent strength that are no less than 36 inches in height above grade, and be securely anchored to an adequately anchored foundation system to resist flotation, collapse, and lateral movement.
- 11) Recreational vehicles placed on sites within zones A1-30, AH, and AE must either
- a. Be on site for fewer than 180 consecutive days; or
 - b. Be fully licensed and ready for highway use (a recreational vehicle is ready for highway use if it is on its wheels or jacking system, is attached to the site only by quick disconnect type utilities and security devices, and has no permanently attached additions); or
 - c. Meet the elevation and anchoring requirements for manufactured homes in paragraph ix above.
- 12) In a regulatory floodway that has been delineated on the FIRM in zone A1-30 or AE, encroachments, including new construction, substantial improvement, or other development (including fill) must be prohibited unless it has been demonstrated through hydrologic and hydraulic analyses performed in accordance with standard engineering practice that the proposed encroachment will not result in any increase in flood levels within the community during the occurrence of the base flood discharge.
- 13) In zone A, the community must obtain, review, and reasonably utilize any base flood elevation and floodway data available from a federal, state, or other source as criteria for requiring new construction, substantial improvement, and other development to meet paragraphs (6) through

(12) (inclusive) above. If floodway data are available, the community must select and adopt a regulatory floodway based on the principle that the area chosen for the regulatory floodway must be designed to carry the waters of the base flood without increasing the water surface elevation of that flood more than one foot at any point.

- 14) In zones A1-30 or AE where a regulatory floodway has not been delineated on the FIRM, no new construction, substantial improvement, or other development (including fill) may be permitted unless it is demonstrated that the cumulative effect of the proposed development, when combined with all other existing and anticipated development, will not increase the water surface elevation of the base flood more than one foot at any point within the community.
- 15) Notwithstanding the requirements of paragraphs (12) and (14) above, the community may permit certain development in zones A1-30 and AE where a floodway has not been delineated, which will increase the water surface elevation of the base flood by more than one foot, or in a regulatory floodway, which will result in an increase in base flood elevations, if the community first obtains a Conditional Letter of Map Revision (CLOMR) from FEMA and fulfills the requirements of Section 65.12 of Title 44, Code of Federal Regulations.
- 16) In zone AO, new construction and substantial improvements of residential structures must have the lowest floor (including basement) elevated above the highest adjacent grade at least as high as the depth number specified in feet on the FIRM (at least two feet if no depth number is specified).
- 17) In zone AO, new construction and substantial improvements of nonresidential structures must have the lowest floor (including basement) elevated above the highest adjacent grade at least as high as the depth number specified in feet on the FIRM (at least two feet if no depth number is specified), or (together with attendant utility and sanitary facilities) be structurally dry-floodproofed to that level according to the standard specified in paragraph vii above.