

## CHAPTER 31

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### FLOODPLAIN ZONING

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**PART I. GENERAL PROVISIONS.**

**31.01 Title.**

This ordinance may be referred to as the Floodplain Ordinance or the Floodplain Zoning Ordinance for Manitowoc County, Wisconsin.

### **31.02 Statement of Purpose.**

This Floodplain Ordinance is intended to regulate floodplain development to protect life, health, and property; minimize expenditures of public funds for flood control projects; minimize rescue and relief efforts undertaken at the expense of the taxpayers; minimize business interruptions and other economic disruptions; minimize damage to public facilities in the floodplain; minimize the occurrence of future flood blight areas in the floodplain; discourage the victimization of unwary land and home buyers; prevent increases in flood heights that could increase flood damage and result in conflicts between property owners; and discourage development in a floodplain if there is any practicable alternative to locate the activity, use, or structure outside of the floodplain.

### **31.03 Statutory Authorization.**

This Floodplain Ordinance is adopted pursuant to the authorization in Wis. Stat. §§ 59.69, 59.692, and 59.694 for counties; and the requirements in Wis. Stat. § 87.30.

### **31.04 Finding of Fact.**

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

### **31.05 Warning and Disclaimer of Liability.**

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

## **PART II. DEFINITIONS.**

### **31.06 Definitions.**

“A zone” means an area shown on the Official Floodplain Zoning Map which would be inundated by the regional flood. An A zone may be numbered or unnumbered. Depending on the availability of data for a given area, an A zone may not be reflective of the flood profile.

“AH zone” See “area of shallow flooding.”

“AO zone” See “area of shallow flooding.”

“Accessory structure or use” means a building, facility, structure, or use that is accessory or incidental to the principal use of a building, property, or structure. An accessory structure shall not be used for human habitation.

“Alteration” means 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, or other systems within a structure.

“Area of shallow flooding” means a designated AO, AH, AR/A, 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.

“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 Flood Insurance Study (FIS) and depicted on a Flood Insurance Rate Map (FIRM).

“Basement” means any enclosed area of a building having its floor sub-grade, i.e., below ground level, on all sides.

“Breakaway wall” means 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.

“Building” means a structure.

“Bulkhead line” means a geographic line along a reach of navigable water, which has been adopted by a municipal ordinance and approved by the Department pursuant to Wis. Stat. § 30.11 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 Floodplain Ordinance.

“Campground” means a parcel of land that is designed, intended, maintained, or used for the purpose of providing sites for nonpermanent overnight use by 4 or more camping units or that is advertised or represented as a camping area.

“Camping unit” means any portable device, no more than 400 square feet in area, used as a temporary shelter, including but not limited to a bus, camping trailer, motor home, pick-up truck, tent, van, or any other mobile recreational vehicle.

“Certificate of compliance” means a written document certifying that the construction and use of a structure, the use of the property, the elevation of fill, or the elevation of the lowest floor of a structure is in compliance with all of the provisions of this Floodplain Ordinance.

“Channel” means a natural or artificial watercourse with a definite bed and banks to confine and conduct normal flow of water.

“Coastal floodplain” means an area along the coast of Lake Michigan that is inundated by the regional flood and that is also subject to additional hazard due to wave runup.

“Coastal high hazard area” means 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.

“Corrected effective model” means 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.

“Crawl space” or “crawlway” means 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.

“Deck” means an unenclosed exterior structure that has no roof or sides and has a permeable floor that allows the infiltration of precipitation.

“Department” or “DNR” means the Wisconsin Department of Natural Resources.

“Development” means 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.

“Director” means the director of the Manitowoc County Planning and Zoning Department or the department director’s designee.

“Dryland access” means a vehicular access route that is above the regional flood elevation and that connects land located in the floodplain to land outside the floodplain, such as a road with its surface above regional flood elevation that is wide enough for wheeled rescue and relief vehicles.

“Duplicate effective model” means a copy of the hydraulic analysis used in the effective Flood Insurance Study and referred to as the effective model.

“Effective model” means the hydraulic engineering model that was used to produce the current effective Flood Insurance Study.

“Encroachment” means any building, development, equipment, fill, structure, or use in the floodway.

“Existing manufactured home park or subdivision” means 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 Floodplain Ordinance. At a minimum, this includes the installation of utilities, the construction of streets, and either final site grading or the pouring of concrete pads.

“Existing model (pre-project)” means 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 mode, then this model would be identical to the corrected effective model or duplicate effective model.

“Expansion to existing mobile/manufactured home park” or “expansion” means the preparation of additional sites by the construction of facilities for servicing the lots on which the mobile or 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.

“Federal Emergency Management Agency” or “FEMA” means the federal agency that administers the National Flood Insurance Program.

“Flood” or “flooding” means 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.

“Flood frequency” means 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.

“Floodfringe” means that portion of the floodplain outside of the floodway which is covered by flood waters during the regional flood and is associated with standing water rather than flowing water.

“Flood hazard boundary map” means 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.

“Flood Insurance Rate Map” or “FIRM” means a map on which the Federal Insurance Administration has delineated both special flood hazard areas (the floodplain) and the risk premium zones applicable to the community. A FIRM can only be amended by the Federal Emergency Management Agency.

“Flood Insurance Study” or “FIS” means 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.

“Floodplain” means land that 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.

“Floodplain island” means a natural geologic land formation within the floodplain that is surrounded, but not covered, by floodwater during the regional flood.

“Floodplain management” means the policy and procedures to insure wise use of floodplains, including mapping and engineering, mitigation, education, and administration and enforcement of floodplain regulations.

“Flood profile” means 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.

“Floodproofing” means 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.

“Flood protection elevation” means an elevation of two feet of freeboard above the water surface profile elevation designated for the regional flood (also see “freeboard”).

“Flood storage” means those floodplain areas where storage of floodwater has been taken into account during analysis in reducing the regional flood discharge.

“Floodway” means the channel of a river or stream and those portions of the floodplain adjoining the channel required to carry the regional flood discharge.

“Freeboard” means 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, and loss of flood storage areas due to development and aggregation of the river or stream bed.

“Habitable structure” means any structure or portion of a structure use or designed for human habitation.

“Hearing notice” means the publication or posting meeting the requirements of Wis. Stat. ch. 985. 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 one week (7 days) before the hearing is required.

“High flood damage potential” means 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.

“Highest adjacent grade” means the highest natural elevation of the ground surface prior to construction next to the proposed walls of a structure.

“Historic structure” means any structure that is 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.

“Human habitation” means the use of a structure for living for any period of time, or for activities such as sleeping, eating, or cooking, or combination thereof.

“Increase in regional flood height” means a calculated upward rise in the regional flood elevation greater than 0.00 feet, 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.

“Land use” means any nonstructural use made of unimproved or improved real estate. See also “development.”

“Lowest adjacent grade” means the elevation of the lowest ground surface that touches any of the exterior walls of a building.

“Lowest floor” means the lowest floor of the lowest enclosed area (including basement). An enclosed space as provided in s. 31.35(6) is not considered the building’s lowest floor.



“Maintenance” means the act or process of restoring to original soundness, including redecorating, refinishing, nonstructural repairs, or the replacement of existing fixtures, systems or equipment with equivalent fixtures, systems or structures.

“Manufactured home” means 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.”

“Mobile manufactured home park or subdivision” means a parcel (or contiguous parcels) of land, divided into two or more manufactured home lots for rent or sale.

“Mobile recreational vehicle” means 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 for use as a temporary living quarters for camping, recreational, seasonal, or travel use rather than for use as a permanent dwelling. 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 a “mobile recreational vehicle.”

“Moderate wave action area” or “MoWA” means 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”)

“Municipality” or “municipal” means a city, county, or village governmental unit enacting, administering, or enforcing this Floodplain Ordinance.

“National Geodetic Vertical Datum” or “NGVD” means the elevations referenced to mean sea level datum, 1929 adjustment.

“New construction” means, for floodplain management purposes, any structure for which the start of construction commenced on or after the effective date of floodplain zoning regulations adopted by the County and includes any subsequent improvements to the structure.

“Nonconforming structure” means an existing lawful structure or building which is not in conformity with the dimensional or structural requirements of this Floodplain Ordinance for the area of the floodplain that it occupies, e.g., an existing residential structure in the floodfringe district is a conforming use, but the structure is nonconforming if the lowest floor is lower than the flood protection elevation.

“Nonconforming use” means an existing lawful use or accessory use of a structure or building which is not in conformity with the provisions of this Floodplain Ordinance for the area of the floodplain which it occupies, e.g., a residence in the floodway.

“North American Vertical Datum” or “NAVD” means the elevations referenced to mean sea level datum, 1988 adjustment.

“Obstruction to flow” or “obstruct flow” means any development that blocks the conveyance of floodwaters such that the development alone or together with any future development will cause an increase in regional flood height.

“Official floodplain zoning map” or “official map” means a map adopted and made part of this Floodplain Ordinance, as described in s. 31.14(1), which has been approved by the Department and FEMA.

“Open space use” means a use having a relatively low flood damage potential and not involving structures.

“Ordinary highwater mark” means 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, prevention of terrestrial vegetation, predominance of aquatic vegetation, or any other easily recognized characteristic.

“Person” means any individual or group of individuals, corporation, partnership, association, municipality, or state agency.

“Planning and Zoning Department” means the Manitowoc County Planning and Zoning Department or the department director’s designee.

“Primary frontal dune” means 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.

“Private sewage system” means 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 (DSPS), 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.

“Public utility” means a utility 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.

“Reasonably safe from flooding” means that base flood waters will not inundate the land or damage structures to be removed from the special flood hazard area and that any subsurface waters related to the base flood will not damage existing or proposed buildings.

“Regional flood” means 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 regional flood elevation (RFE) is equivalent to the base flood elevation (BFE).

“Revised model (post-project)” means a modification of the existing or pre-project conditions model, duplicate effective model or corrected effective model to reflect revised or post-project conditions.

“Sand dunes” means naturally occurring accumulations of sand in ridges or mounds landward of the beach.

“Start of construction” means the date a building permit is issued, provided the actual start of construction, repair, reconstruction, rehabilitation, addition, placement, or other improvement commences within 180 days of the permit date. “Actual start” means 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, 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; excavation for a basement, footings, pier, or foundation; the erection of temporary forms; the installation of streets or walkways; or the installation of any accessory building on the property, such as a garage or shed not occupied as a dwelling unit or not part of the main structure. “Actual start” of an alteration means the first alteration of any wall, ceiling, floor, or other structural part of a building, even if the alteration does not affect the external dimensions of the building.

“Structure” means any manmade object with form, shape, and utility, either permanently or temporarily attached to, placed upon, or set into the ground, stream bed, or lake bed, including but not limited to roofed and walled buildings, bridges, culverts, dams, and gas or liquid storage tanks.

“Subdivision” has the meaning given in Wis. Stat. § 236.02(12).

“Substantial damage” means 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.

“Substantial improvement” means 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.

“Unnecessary hardship” means that there are special conditions affecting a particular property, which were not self-created, that make strict conformity with restrictions

governing areas, setbacks, frontage, height, or density unnecessarily burdensome or unreasonable in light of the purposes of this Floodplain Ordinance.

“Variance” means an authorization by the board of adjustment for the construction or maintenance of a building or structure in a manner that is inconsistent with dimensional standards contained in this Floodplain Ordinance. A variance may not be granted for a use that is inconsistent with the standards contained in this Floodplain Ordinance.

“Violation” means the failure of a structure or other development to be fully compliant with this Floodplain 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.

“Watershed” means the entire region contributing runoff or surface water to a watercourse or body of water.

“Water surface profile” means 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.

“Well” means an excavation or opening in the ground made by boring, digging, drilling, driving or other method to obtain groundwater regardless of its intended use.

### **PART III. APPLICABILITY AND COMPLIANCE.**

#### **31.07 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 and Manitowoc County may also be regulated under the provisions of this ordinance, where applicable.

#### **31.08 Municipalities and State Agencies Regulated.**

Unless specifically exempted by law, all cities, villages, towns, and counties are required to comply with this Floodplain Ordinance and obtain all necessary permits. State agencies are required to comply if Wis. Stat. § 13.48(13) applies. The construction, reconstruction, maintenance, and repair of state highways and bridges by the Wisconsin Department of Transportation is exempt when Wis. Stat. § 30.2022 applies. Although exempt from a local zoning permit and permit fees, the Wisconsin Department of Transportation must provide sufficient project documentation and analysis to ensure that Manitowoc County is in compliance with Federal, State, and local floodplain standards.

If a local transportation project is located within an A zone and is not a Wisconsin Department of Transportation project under Wis. Stat. § 30.2022, then the road project design documents (including appropriate details plans and profiles) may be sufficient to meet the requirements for issuance of a land use permit if the following apply:

- (1) The applicant provides documentation to the Planning and Zoning Department that the proposed project is a culvert replacement or bridge replacement under 20' span at the same location;
- (2) The project is exempt from a DNR permit under Wis. Stat. § 30.123(6)(d);
- (3) The capacity is not decreased;
- (4) The top road grade is not raised;
- (5) No floodway data is available from a federal, state, or other source; and
- (6) 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.

### **31.09 Compliance.**

- (1) No structure or use within areas regulated by this Floodplain Ordinance shall hereafter be located, erected, constructed, reconstructed, repaired, extended, converted, enlarged, or altered without full compliance with the terms of this Floodplain Ordinance and all other applicable regulations that apply to uses within the jurisdiction of this Floodplain Ordinance.
- (2) Failure to obtain a land use permit shall be a violation of this Floodplain Ordinance and shall be punishable in accordance with Part XIII of this Floodplain Ordinance.
- (3) Floodplain development permits issued on the basis of plans and applications approved by the Planning and Zoning Department authorize only the use and arrangement set forth in such approved plans and applications, or amendments thereto if approved by the Planning and Zoning Department. Use, arrangement, or construction contrary to that authorized shall be deemed a violation of these regulations and punishable in accordance with Part XIII of this Floodplain Ordinance.

### **31.10 Abrogation and Greater Restrictions.**

- (1) This Floodplain Ordinance supersedes all the provisions of any zoning ordinance enacted under Wis. Stat. § 59.69, 59.692 or 59.694, or Wis. Stat. § 87.30 that relate to floodplains. If another ordinance is more restrictive than this Floodplain

Ordinance, that ordinance shall continue in full force and effect to the extent of the greater restrictions, but not otherwise.

- (2) This Floodplain Ordinance is not intended to repeal, abrogate, or impair any existing deed restrictions, covenants, or easements. If this Floodplain Ordinance imposes greater restrictions, the provisions of this Floodplain Ordinance shall prevail.

### **31.11 Interpretation.**

The provisions of this Floodplain Ordinance are minimum requirements and shall be 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 Floodplain Ordinance that is required by Wis. Admin. Code ch. NR 116 is unclear, the provision shall be interpreted in light of the standards in effect on the date of the adoption of this Floodplain Ordinance or in effect on the date of the most recent text amendment to this Floodplain Ordinance.

### **31.12 Severability.**

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

## **PART IV. FLOODPLAIN DISTRICTS AND MAPS.**

### **31.13 Establishment of Districts.**

- (1) The regional floodplain is divided into the following four districts: floodway, floodfringe, general floodplain, and coastal floodplain.
- (2) The Floodway District (FW) consists of the channel of a river or stream and that portion of the floodplain adjoining the channel that is required to carry the regional floodwaters and are contained within AE zones as shown on the FIRM or within A zones shown on the FIRM when determined according to s. 31.33.
- (3) The Floodfringe District (FF) consists of that portion of a riverine special flood hazard area outside the floodway within AE zones of the FIRM, or, when floodway limits have been determined according to s. 31.33, within A zones shown on the FIRM.
- (4) The General Floodplain District (GFP) consists of 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.

- (5) 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, development within the floodway must comply with the regulations for both the FW and CFP. Where a riverine A zone or AE zone with no floodway determination abuts the CFP, 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.

### 31.14 Official Maps and Revisions.

- (1) 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 based on flood hazard analyses summarized in the Flood Insurance Study listed in sub. (2). Additional flood hazard areas subject to regulation under this Floodplain Ordinance are identified on maps based on studies approved by the DNR and listed in sub. (3). These maps and revisions are on file in the office of the Manitowoc County Planning and Zoning Department.
- (2) Official Maps. Based on the Flood Insurance Study 5507CV000A dated August 2, 2011, the following Flood Insurance Rate Maps for Manitowoc and Incorporated Areas, issued by the Federal Emergency Management Agency with an effective date of August 2, 2011, are designated as the official maps for purposes of floodplain zoning:

55071C0010D	55071C0080D	55071C0180D	55071C0216E
55071C0020D	55071C0083E	55071C0181D	55071C0217E
55071C0030D	55071C0091E	55071C0182D	55071C0218E
55071C0034D	55071C0093E	55071C0183D	55071C0235D
55071C0037D	55071C0094E	55071C0184D	55071C0245D
55071C0040D	55071C0110D	55071C0188D	55071C0255D
55071C0041D	55071C0120D	55071C0189D	55071C0256D
55071C0042D	55071C0130D	55071C0191D	55071C0257D
55071C0044D	55071C0135D	55071C0192D	55071C0258D
55071C0055D	55071C0140D	55071C0193D	55071C0259D
55071C0059D	55071C0145D	55071C0201D	55071C0265D
55071C0060D	55071C0155D	55071C0203D	55071C0270D
55071C0063D	55071C0160D	55071C0207E	55071C0276D
55071C0064D	55071C0165D	55071C0208D	55071C0277D
55071C0065D	55071C0166D	55071C0209E	55071C0278D
55071C0066D	55071C0167D	55071C0211E	55071C0279D
55071C0067D	55071C0169D	55071C0212E	55071C0281D
55071C0068D	55071C0177D	55071C0213E	55071C0282D
55071C0078D	55071C0179D	55071C0214E	55071C0283D

55071C0284D	55071C0311D	55071C0380D	55071C0415D
55071C0290D	55071C0312D	55071C0386D	55071C0416D
55071C0295D	55071C0313D	55071C0387D	55071C0417D
55071C0301D	55071C0314E	55071C0388D	55071C0420D
55071C0302D	55071C0316E	55071C0389D	55071C0426D
55071C0303D	55071C0317E	55071C0395D	55071C0427E
55071C0304D	55071C0318E	55071C0403D	55071C0428E
55071C0306D	55071C0326E	55071C0404D	55071C0429E
55071C0307E	55071C0360D	55071C0410D	55071C0436E
55071C0308E	55071C0367D	55071C0411D	55071C0438E
55071C0309E	55071C0370D	55071C0412D	

(3) Official Maps Based on Other Studies. Any maps referenced in this sub. (3) must be approved by DNR and be more restrictive than those based on the Flood Insurance Study at the site of the proposed development.

(a) Dam Failure Analysis approved by DNR.

1. Millhome Dam Failure analysis approved by the Department of Natural Resources on March 13, 2014, including:

- a. Map dated December 8, 2012 and titled “Hydraulic Analysis Millhome Dam.”
- b. Floodway data table dated March 13, 2014 and titled “Centerline Profile Hydraulic/Dam Failure Analysis: Condition 2a.”
- c. Flood profiles dated March 13, 2014 and titled “Sheboygan River Profile Hydraulic Analysis: Millhome Dam: Condition 2.”

2. Sheboygan Marsh Dam Failure analysis approved by the Department of Natural Resources on January 5, 2016, including:

- a. Map dated December 10, 2015 and titled “Hydraulic Shadow Map Sheboygan Marsh Dam.”
- b. Floodway data table dated December 10, 2015 and titled “FLOODWAY DATA (Sheboygan Marsh Dam Failure under 100-year Flood” with Floodway column.
- c. Flood profiles dated December 10, 2015 and titled “Sheboygan Marsh Dam Hydraulic Shadow Profile.”

3. Rockville Dam Failure analysis approved by the Department of Natural Resources on August 3, 1999, including:



- a. Map dated February 1995 and titled “Rockville Dam Failure Analysis.”
  - b. Floodway data table dated June 1997 and titled “Comparison of Water Surface Elevation and Flows 100-year Flood” DAMBRK Failure Column.
  - c. Flood profiles dated June 1997 and titled “Exhibit 1 100-year floodplain profile Sheboygan River Dam failure Analysis” Failure (DMBRK) profile.
- (b) Flood Studies.
  - (c) Letter of Map Revision (LOMR).
    1. 11-05-7812P 10/28/2011 Kennel Club
    2. 20-05-4694P 03/11/2021 CTH R Bridge
  - (d) Letter of Map Revision Based on Fill (LOMR-F).
    1. 10-05-2864P 01/18/2011 Riesterer & Schnell
    2. 19-05-4840A 09/25/2019 Winter on Wilke Lake
    3. 20-05-4263A 09/16/2020 CTH CR, Town of Newton, Tract 3 & 4
    4. 98-05-1870A 03/11/1998 15719 Becker Rd.
- (4) Any change to the base flood elevations (BFE) in the Flood Insurance Study or on the Flood Insurance Rate Map must be reviewed and approved by DNR and FEMA before it is effective.
  - (5) Any change to the regional flood elevations (RFE) on non-FEMA maps must be reviewed and approved by DNR before it is effective.

### **31.15 Locating Floodplain Boundaries.**

- (1) Discrepancies between the exterior boundaries of zone A1-30, AE, AH, or A on the official floodplain zoning map and actual field conditions shall be resolved using the criteria in sub. (2) and (3). If a significant difference exists, the map must be amended according to s. 31.53.
- (2) If flood profiles exist, the map scale and the profile elevations shall determine the district boundary. The regional or base flood elevations govern if there are any discrepancies.

- (3) Where flood profiles do not exist, including any boundary of zone A, AO, V1-30, VE, or V, the location of the boundary shall be determined by the map scale, visual on-site inspection, and any information provided by the Department.
- (4) The Planning and Zoning Department may 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 Planning and Zoning Department shall be responsible for documenting actual pre-development field conditions and the basis upon which the district boundary was determined and for initiating any map amendments required under this section.
- (5) Disputes between the Planning and Zoning Department and an applicant over the district boundary line shall be settled according to s. 31.50 and the criteria in sub. (2) and (3) above.
- (6) Where the flood profiles are based on established base flood elevations from a FIRM, FEMA must also approve any map amendment pursuant to s. 31.53.

### **31.16 Removal of Land From Floodplain.**

- (1) Compliance with the provisions of this Floodplain Ordinance shall not be grounds for removing land from the floodplain unless the land 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. 31.53.
- (2) The delineation of any of the floodplain districts may be revised by Manitowoc County 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. Manitowoc County shall not sign a community acknowledgement form unless all criteria set forth in the following paragraphs are met:
  - (a) The land and/or land around the structure must be filled at least two feet above the regional or base flood elevation; and
  - (b) The fill must be contiguous to land outside the floodplain. The applicant shall obtain a floodplain development permit before applying for a LOMR or LOMR-F;
- (3) Removal of lands from the floodplain may also occur by operation of Wis. Stat. § 87.30(1)(e) if a property owner has obtained a Letter of Map Amendment from the Federal Emergency Management Agency under 44 C.F.R. 70.

## **PART V. GENERAL STANDARDS APPLICABLE TO ALL FLOODPLAIN DISTRICTS.**

### **31.17 General Development Standards.**

- (1) The county 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.
- (2) If a proposed building site is in a flood-prone area, all new construction and substantial improvements shall be designed or modified and adequately anchored to prevent flotation, collapse, or lateral movement of the structure resulting from hydrodynamic and hydrostatic loads including the effects of buoyancy; be constructed with materials resistant to flood damage; be constructed by methods and practices that minimize flood damages; have all mechanical and utility equipment elevated to or above the flood protection elevation.
- (3) Subdivisions or other proposed new development in a flood-prone area, shall be reviewed for compliance with the above standards. All subdivision proposals, including proposals for mobile or manufactured home parks, shall include regional flood elevation and floodway data for any development that meets the subdivision definition of this Floodplain Ordinance along with all other requirements in s. 31.44.
- (4) Adequate drainage shall be provided to reduce exposure to flood hazards and all public utilities and facilities, such as sewer, gas, electrical, and water systems are located and constructed to minimize or eliminate flood damages.

### **31.18 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 and Increase in the regional flood height due to floodplain storage area lost.
- (2) The Planning and Zoning Department shall deny any permit 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. 31.53 are met.

### **31.19 Watercourse Alterations.**

- (1) No land use permit to alter or relocate a watercourse in a mapped floodplain shall be issued until the Planning and Zoning Department 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. 31.18 must be met and the flood carrying capacity of any altered or relocated watercourse shall be maintained.
- (2) As soon as is practicable, but not later than six months after the date of the watercourse alteration or relocation and pursuant to s. 31.53, the Planning and Zoning Department shall apply for a Letter of Map Revision from FEMA. Any such alterations must be reviewed and approved by FEMA and the DNR through the LOMC process.

### **31.20 Development and Wis. Stat. Chs. 30 and 31.**

Development that requires a permit from the Department under Wis. Stat. chs. 30 and 31, such as docks, piers, wharves, bridges, culverts, dams, and navigational aids, may be allowed if the necessary permits are obtained and amendments to this Floodplain Ordinance are made according to s. 31.53.

### **31.21 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 Wisconsin Department of Agriculture, Trade and Consumer Protection or its duly authorized agent.
- (2) A land use permit for the campground is issued by the Planning and Zoning Department.
- (3) The character of the river system and the elevation of the campground is 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 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, 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 Wisconsin Department of Agriculture, Trade and Consumer Protection and all other applicable regulations.
- (6) Only mobile recreational vehicles that are fully licensed, if required, and ready for highway use are allowed.
- (7) A recreational vehicle may 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.
- (8) 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 for a period not to exceed 180 days and shall ensure compliance with all the provisions of this section.
- (9) Manitowoc County shall monitor the limited authorizations issued by the campground operator to assure compliance with the terms of this section.
- (10) All camping units that remain in place for more than 180 consecutive days must meet the applicable requirements in either Part VI or Part VII for the floodplain district in which the structure is located.
- (11) 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.
- (12) All service facilities, including but not limited to refuse collection, electrical service, natural gas lines, propane tanks, sewage systems, and wells shall be properly anchored and placed at or floodproofed to the flood protection elevation.
- (13) Standards for structures in a campground:
  - (a) All structures must comply with s. 31.21 or meet the application requirements of Part VI, VII, VIII, or IX of this Floodplain Ordinance 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, is portable, contains no walls or roof, and can be removed from the campground by a truck and/or trailer.
    1. Sections of such portable landings may be placed together to form a single deck not greater than 200 square feet at one entry point.

2. Provisions for the removal of these temporary landings during flood events must be addressed within the written agreement with Manitowoc County compliant with s. 31.21(4).
  3. 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 s. 31.21(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 is evacuated within the timelines specified within the written agreement with the municipality, compliant with s. 31.21(4).
- (14) A land use permit shall be obtained as provided under s. 31.44 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.

## **PART VI. FLOODWAY DISTRICT (FW).**

### **31.22 Applicability.**

This part applies to all floodway areas on the floodplain zoning maps and those identified pursuant to s. 31.33.

### **31.23 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, meet the standards in ss. 31.24 and 31.25, and all necessary permits or certificates must have been issued according to Part XII of this Floodplain Ordinance:

- (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. 31.24(6).
- (4) Uses or structures accessory to open space uses, or classified as historic structures that comply with ss. 31.24 and 31.25.
- (5) Extraction of sand, gravel, or other materials that comply with s. 31.24(6).
- (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 Wis. Stat. chs. 30 and 31.
- (7) Public utilities, streets, and bridges that comply with s. 31.24(5).
- (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 Wis. Admin. Code ch. SPS 383.
- (9) Public or private wells used to obtain potable water for recreational areas that meet the requirements of local ordinances and Wis. Admin. Code chs. NR 811 and NR 812.
- (10) Wastewater treatment ponds or facilities permitted under Wis. Admin. Code § NR 110.15(3)(b).
- (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.

### **31.24 Standards for Developments in Floodway Areas.**

- (1) Any development in floodway areas shall comply with Part V of this Floodplain Ordinance and have a low flood damage potential.
- (2) Applicants shall provide an analysis calculating the effects of the proposal on the regional flood height to determine the effects of the proposal according to ss. 31.18 and 31.44(4).

- (a) The analysis must be completed by a registered professional engineer in the state of Wisconsin.
  - (b) Any encroachment in the regulatory floodway is prohibited unless the data submitted for sub. (2) demonstrates that the encroachment will not cause an increase in flood elevations in flood events up to the base flood at any location, or removes the encroachment area from the regulatory floodway as provided in s. 31.16.
- (3) 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) The structure is not designed for human habitation, does not have a high flood damage potential, and is constructed to minimize flood damage;
  - (b) The structure shall either have the lowest floor elevated to or above the flood protection elevation or shall meet all the following standards:
    - 1. Be dry flood proofed 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 s. 31.24(4) 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 s. 31.24(4).
  - (c) The structure must be anchored to resist flotation, collapse, and lateral movement;
  - (d) The structure must have mechanical and utility equipment elevated to or above the flood protection elevation; and
  - (e) The structure must not obstruct flow of flood waters or cause any increase in flood levels during the occurrence of the regional flood.
  - (f) For structures to allow the automatic entry of floodwaters below the regional flood elevation, the applicant shall submit a plan that meets pars. (a) through (e) and meets or exceeds the following standards:
    - 1. The lowest floor must be elevated to or above the flood protection 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 such openings shall remain open.
  4. The use must be limited to parking, building access, or limited storage.
- (4) 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:
- (a) Reinforcement of floors and walls to resist rupture, collapse, or lateral movement caused by water pressures or debris buildup;
  - (b) Construction of wells, water supply systems, and waste treatment systems are installed so as to prevent the entrance of flood waters in such systems and are in accordance with the provisions of ss. 31.25(4) and 31.25(5).
  - (c) Subsurface drainage systems shall be installed relieve external pressures on foundation walls and basement floors;
  - (d) Cutoff valves on sewer lines or the elimination of gravity flow basement drains; and
  - (e) Placement of utilities above the flood protection elevation.
- (5) 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. 31.18.
- (6) Fills or Deposition of Materials. Fills or deposition of materials may be allowed by permit, if:
- (a) The requirements of s. 31.18 are met;

- (b) No material is deposited in the navigable waters unless a permit is issued by the Department pursuant to Wis. Stat. ch. 30 and a permit pursuant to sec. 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 rip-rap, vegetative cover, sheet piling, or bulkheading; and
- (d) The fill is not classified as a solid waste or hazardous material.

### **31.25 Prohibited Uses.**

All uses not listed as permitted uses in s. 31.23 are prohibited, including the following uses:

- (1) Habitable structures, structures with high flood damage potential, or structures 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 Wis. Admin. Code ch. SPS 83;
- (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 Wis. Admin. Code chs. NR 811 and NR 812;
- (6) Any solid or hazardous waste disposal sites;
- (7) Any wastewater treatment ponds or facilities, except those permitted under Wis. Admin. Code § NR 110.15(3)(b); 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.

## **PART VII. FLOODFRINGE DISTRICT (FF).**

### **31.26 Applicability.**

This Part VII applies to all floodfringe areas shown on the floodplain zoning maps and those identified pursuant to s. 31.33.

### 31.27 Permitted Uses.

Any structure, land use, or development is allowed in the floodfringe district if the standards in s. 31.28 are met, the use is not prohibited by this or any other ordinance or regulation, and all permits or certificates specified in Part XII have been issued.

### 31.28 Standards for Development in Floodfringe Areas.

- (1) The requirements in s. 31.18 apply to all development in floodfringe areas in addition to the requirements in this Part VII for the requested use. Any existing structure in the floodfringe must meet the requirements of Part X of this Floodplain Ordinance.
- (2) 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. 31.16;
  - (b) Notwithstanding par. (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 par. (d); and
  - (d) In developments where existing street or sewer line elevations make compliance with par. (c) impractical, Manitowoc County may permit new development and substantial improvements where roads are below the regional flood elevation, if:
    1. Manitowoc County 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. Manitowoc County has a DNR approved emergency evacuation plan that follows acceptable hazard mitigation planning guidelines.

- (3) Accessory Structures or Uses. In addition to the requirements in Part V of this Floodplain Ordinance, new construction and substantial improvements of accessory structures shall be constructed on fill with the lowest floor at or above the regional flood elevation.
- (4) Commercial Uses. In addition to the requirements in Part V of this Floodplain Ordinance, any commercial structure that is erected, altered, or moved into the floodfringe area shall meet the requirements of sub.(2). Subject to the requirements of sub. (6), 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) Manufacturing and Industrial Uses. In addition to the requirements in Part V of this Floodplain Ordinance, any manufacturing or industrial structure that is erected, altered, or moved into the floodfringe area shall have the lowest floor elevated to or above the flood protection elevation or meet the floodproofing standards in s. 31.45. Subject to the requirements of sub. (6), 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.
- (6) 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. 31.45. Adequate measures shall be taken to ensure that such materials will not enter the water body during flooding.
- (7) Public Utilities, Streets, and Bridges.
  - (a) All utilities, streets, and bridges shall be designed to be compatible with comprehensive floodplain development plans.
  - (b) 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. 31.45.
  - (c) 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.
- (8) Sewage Systems. All sewage disposal systems shall be designed to minimize or eliminate infiltration of flood waters into the system pursuant to s. 31.45 to the flood protection elevation and meet the provisions of all local ordinances and Wis. Admin. Code ch. SPS 83.
- (9) Wells. All wells shall be designed to minimize or eliminate infiltration of floodwaters into the system pursuant to s. 31.45 to the flood protection elevation and shall meet the provisions of Wis. Admin. Code chs. NR 811 and NR 812.

- (10) Solid Waste Disposal Sites. Disposal of solid or hazardous waste is prohibited in floodfringe areas.
- (11) Deposition of Materials. Any deposited material must meet all the provisions of this Floodplain Ordinance.
- (12) 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 sub. (2).
- (13) Mobile Recreational Vehicles. All mobile recreational vehicles must be on site for less than 180 consecutive days and either:
  - (a) Be fully licensed and ready for highway use. 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; or
  - (b) Shall meet the elevation and anchoring requirements in ss. 31.28(12)(b) and (c).

## **PART VIII. GENERAL FLOODPLAIN DISTRICT (GFP).**

### **31.29 Applicability.**

The provisions for the general floodplain district shall apply to development in all floodplains mapped as A, AO, AH, and AE zones within which a floodway is not delineated on the Flood Insurance Rate Map identified in s. 31.14(1).

### **31.30 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. 31.14(2), the boundaries of the regulatory floodway shall be determined pursuant to s. 31.33. If the development is proposed to encroach upon the regulatory floodway, the development is subject to the standards of Part VI of this Floodplain Ordinance. If the development is located entirely within the floodfringe, the development is subject to the standards of Part VII of this Floodplain Ordinance.

### **31.31 Permitted Uses.**

- (1) Pursuant to s. 31.33, it shall be determined whether the proposed use is located within the floodway or floodfringe.
- (2) Uses that are permitted in floodway and floodfringe districts are allowed within the general floodplain district, according to the standards of s. 31.32, provided that all permits or certificates required under Part XII of this Floodplain Ordinance have been issued.

### **31.32 Standards for Development in the General Floodplain District.**

- (1) Part VI applies to all floodway areas within a general floodplain district.
- (2) Part VII applies to all floodfringe areas within a general floodplain district.
- (3) New construction and substantial improvement of structures in zone AO shall have the lowest floor, including basement, elevated;
  - (a) To or above the depth, in feet, as shown on the FIRM above the highest adjacent natural grade; or
  - (b) If the depth is not specified on the FIRM, to two (2) feet above the highest adjacent natural grade.
- (4) 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.
- (5) In AO/AH zones, adequate drainage paths to guide floodwaters around structures shall be provided.
- (6) All development in zones AO and AH shall meet the requirements of Part VII of this Floodplain Ordinance applicable to floodfringe areas.

### **31.33 Determining Floodway and Floodfringe Limits.**

- (1) Upon receiving an application for development within zone A, or zone AE where a floodway has not been delineated on the Flood Insurance Rate Maps, the Planning and Zoning Department shall:
  - (a) Require the applicant to submit two copies of an aerial photograph or a plan that 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. 31.44(4); and
    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; and
    3. Specifications for building construction and materials, floodproofing, filling, dredging, channel improvement, storage, water supply, and sanitary facilities.
- (2) Upon receiving an application for development within the general floodplain district, the code administrator shall transmit one copy of the information described in sub. (1) to the Department regional office along with a written request for technical assistance to establish regional flood elevations and, where applicable, floodway data. Where the provisions of s. 31.44(4) apply, the applicant shall provide all required information and computations to delineate floodway boundaries and the effects of the project on flood elevations.

## **PART IX. COASTAL FLOODPLAIN DISTRICT.**

### **31.34 Applicability.**

The provisions of this Part IX apply to all Coastal Floodplain Districts (CFD) shown on the floodplain zoning maps, including zones V, V1-30, and VE. Where a floodway shown on the floodplain zoning maps, or a floodway determined as explained in s. 31.13(5), or a regulatory floodway identified pursuant to s. 31.33, extends into a Coastal Floodplain

District, development shall comply with the standards of Part VI and Part IX of this Floodplain Ordinance.

### **31.35 Standards for Development in the Coastal Floodplain District.**

Development in the Coastal Floodplain Districts district shall meet the requirements of Part V of this Floodplain Ordinance, as well as the following:

- (1) New construction shall be located landward of the Ordinary High Water Mark.
- (2) 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 to not to direct floodwaters or increase flood forces or erosion impacts on the foundation or superstructure of any building.
- (3) Man-made alteration 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.
- (4) The use of fill for structural support of buildings is prohibited. Non-structural fill shall be permitted only if an engineering report demonstrates that the fill will not cause runup, ramping, or deflection of floodwaters that cause damage to buildings.
- (5) New Construction and substantial improvement of buildings shall be elevated, consistent with Wis. Admin. Code § 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 flood protection elevation.
  - (a) The pile or column foundation and structure attached thereto shall be anchored to resist floatation, 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 standard ASCE 7-16 (*Minimum Design Loads and Associated Criteria for Buildings and Other Structures*), or other equivalent standard.
  - (b) 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 this sub. (5).
- (6) 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 lattice-work, 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.

- (a) For the purpose of this sub. (6), a breakaway wall shall have a design safe loading resistance of not less than 10 and not more than 20 pounds per square foot.
  - (b) 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:
    - 1. Breakaway wall collapse shall result from a water load less than that which would occur during the base flood; and
    - 2. 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 standard ASCE 7-16 (*Minimum Design Loads and Associated Criteria for Buildings and Other Structures*), or other equivalent standard.
  - (c) All space enclosed by breakaway walls, open wood lattice-work, or insect screening below the lowest floor shall be used solely for parking, building access, or storage.
- (7) Required within flood-prone areas.
- (a) New and replacement water supply systems shall be designed to minimize or eliminate infiltration of flood waters into the systems; and
  - (b) New and replacement sanitary sewage systems shall be designed to minimize or eliminate infiltration of flood waters into the systems and discharge from the systems into flood waters and onsite waste disposal systems shall be located to avoid impairment to them or contamination from them during flooding.
- (8) All mobile recreation vehicles must be on site for less than 180 consecutive days and either:
- (a) Be fully licensed and ready for highway use. 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; or

- (b) Shall meet the standards of subs. (1) through (7) inclusive.
  
- (9) Manufactured homes placed or substantially improved within the Coastal Floodplain District shall meet the standards of subs. (1) through (7) inclusive.

## **PART X. NONCONFORMING USES.**

### **31.36 General.**

- (1) The standards in this section shall apply to all uses and buildings that do not conform to the provisions contained within this Floodplain Ordinance or with Wis. Stat. § 87.30 and Wis. Admin. Code § NR 116.15, and 44 C.F.R. §§ 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 Floodplain 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.
- (2) The existing lawful use of a structure or its accessory use which is not in conformity with the provisions of this Floodplain Ordinance may continue provided no modification or addition to a nonconforming use or structure shall be permitted unless it complies with this Floodplain 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 structure, use, or accessory structure or use. Maintenance is not considered a modification. Maintenance includes painting, decorating, paneling and the and the maintenance, repair, or replacement of existing private sewage or water supply systems or connections to public utilities. Any cost associated with the repair of a damaged structure is 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.
- (3) 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 Floodplain Ordinance.
- (4) Manitowoc County shall keep a record that 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.

- (5) 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 Floodplain Ordinance. Contiguous dry land access must be provided for residential and commercial uses in compliance with ss. 31.28(2) and 31.28(4). 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.
- (6) 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 Floodplain Ordinance. Contiguous dry land access must be provided for residential and commercial uses in compliance with ss. 31.28(2) and 31.28(4). 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.
- (7) If on a per event basis the total value of the work being done under subs. (6) and (7) 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 Floodplain Ordinance. Contiguous dry land access must be provided for residential and commercial uses in compliance with ss. 31.28(2) and 31.28(4).
- (8) Except as provided in sub. (9), 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.
- (9) For nonconforming buildings that are substantially damaged or destroyed by a nonflood disaster, the repair or reconstruction of any such nonconforming building may be permitted in order to restore it to the size and use in effect prior to the damage event provided the following minimum requirements are met and all required permits have been issued prior to the start of construction.
  - (a) Residential Structures. Residential structures shall:
    1. Have the lowest floor, including basement, elevated to or above the flood protection elevation using fill, pilings, columns, posts, or perimeter walls. Perimeter walls must meet the requirements of s. 31.45(2);

2. Be anchored to prevent flotation, collapse, or lateral movement of the structure resulting from hydrodynamic and hydrostatic loads, including the effects of buoyancy;
3. Be constructed with methods and materials resistant to flood damage;
4. 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;
5. In A zones, obtain, review and utilize any flood data available from a federal, state, or other source;
6. In AO zones with no elevations specified, have the lowest floor, including the basement, meet the standards in s. 31.32; and
7. In AO zones, have adequate drainage paths around structures on slopes to guide floodwaters around and away from the structure.

(b) Nonresidential Structures. Nonresidential structures shall:

1. Meet the requirements of s. 31.36(9)(a)1. through 7.;
2. Either have the lowest floor, including the basement, elevated to or above the regional flood elevation, or together with attendant utility and sanitary facilities, meet the standards in s. 31.45; and
3. In AO zones with no elevations specified, have the lowest floor, including basement, meet the standards in s. 31.32.

(10) 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. 31.24, flood resistant materials are used, and construction practices and floodproofing methods that comply with s. 31.45 are used. Repair or rehabilitation of historic structures shall be exempt from the development standards of s. 31.36(9)(a) 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.

### **31.37 Floodway Areas.**

(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 unless:

- (a) Such modification or addition has been granted a permit or variance which meets all ordinance requirements;
  - (b) Such modification or addition meets the requirements of s. 31.36;
  - (c) Such modification or addition will not increase the obstruction to flood flows or regional flood height;
  - (d) Any addition to the existing structure is floodproofed, pursuant to s. 31.45, 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 or limited storage.
- (2) No new on-site sewage disposal system, or addition to an existing on-site sewage disposal system, shall be allowed in a floodway district, except where an addition has been ordered by a government agency to correct a hazard to public health. Any replacement, repair, or maintenance of an existing on-site sewage disposal system in a floodway area shall meet the applicable requirements of all Manitowoc County ordinances, s. 31.45(3) and (4), and Wis. Admin. Code ch. SPS 83.
- (3) No new well or modification to an existing well used to obtain potable water shall be allowed in a floodway district. Any replacement, repair, or maintenance of an existing well in a floodway area shall meet the applicable requirements of all municipal ordinances, s. 31.45(3) and (4), and Wis. Admin. Code chs. NR 811 and NR 812.

### **31.38 Floodfringe Areas.**

- (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 Manitowoc County, and the modification or

addition shall be placed on fill or floodproofed to the flood protection elevation in compliance with the standards for that particular use in s. 31.28, except where sub. (2) is applicable.

- (2) Where compliance with the provisions of sub. (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 adjustment using the procedures established in s. 31.51, may grant a variance from those provisions of sub. (1) for modifications or additions, using the criteria listed below. Modifications or additions that 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, will not be installed;
  - (d) Flood depths will not exceed two feet;
  - (e) Flood velocities will not exceed two feet per second; and
  - (f) The structure will not be used for storage of materials as described in s. 31.28(6).
- (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 Manitowoc County ordinances and Wis. Adm. Code ch. SPS 83.
- (4) All new wells, or addition to, replacement, repair, or maintenance of a well shall meet the applicable provisions of this Floodplain Ordinance and Wis. Admin. Code chs. NR 811 and NR 812.

### **31.39 Coastal Floodplain Areas.**

- (1) New construction and substantial improvements shall meet the standards of Part IX of this Floodplain Ordinance.
- (2) No structure 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 Part IX of this Floodplain Ordinance.

## **PART XI. ADMINISTRATION.**

### **31.40 Administration.**

This Floodplain Ordinance shall be administered by the Director of the Planning and Zoning Department as provided in Wis. Stat. § 59.69(2)(bm).

### **31.41 Planning and Zoning Department.**

The Director of the Planning and Zoning Department, as the administrator of this Floodplain Ordinance, has the following powers and shall:

- (1) 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.
- (2) Issue permits and inspect properties for compliance with provisions of this Floodplain Ordinance, and issue certificates of compliance where appropriate.
- (3) Inspect and assess all damaged floodplain structures to determine if substantial damage to a structure has occurred.
- (4) Keep records of all official actions, such as:
  - (a) Permits issued, inspections made, and work approved;
  - (b) Documentation of certified lowest floor and regional flood elevations;
  - (c) Floodproofing certificates;
  - (d) Water surface profiles, floodplain zoning maps and ordinances, and nonconforming uses and structures, including amendments, appeals, changes, and variances;
  - (e) Substantial damage assessment reports for floodplain structures;
  - (f) A list of all nonconforming structures and uses;
  - (g) 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; and
  - (h) In the Coastal Floodplain District, certification by a licensed professional engineer or architect where required for new construction and substantial improvement under Part IX of this Floodplain Ordinance.
- (5) Submit copies of the following items to the Department's regional office:

- (a) A copy of any decisions on variances, appeals for map or text interpretations, and map or text amendments, within 10 days of the decision;
  - (b) A copy of any case-by-case analysis and any other required information; and
  - (c) A copy of each substantial damage assessment performed and all related correspondence concerning the assessment.
- (6) Investigate, prepare reports, and report violations of this ordinance to the planning and park commission and to the corporation counsel for prosecution. Copies of the reports shall also be sent to the Department regional office.
- (7) Submit copies of amendments to the FEMA regional office.

### **31.42 Planning and Park Commission.**

- (1) The planning and park commission shall:
- (a) Review and advise the county board on all proposed amendments to this Floodplain Ordinance, maps, and text; and
  - (b) Publish adequate notice pursuant to Wis. Stat. ch. 985, specifying the date, time, place and subject of a public hearing amending this Floodplain Ordinance.
- (2) The planning and park commission shall not:
- (a) Grant variances to the terms of this Floodplain Ordinance in place of action by the board of adjustment; or
  - (b) Amend the text or zoning maps in place of official action by the county board.

### **31.43 Board of Adjustment.**

- (1) The board of adjustment created pursuant to Wis. Stat. § 59.694 is hereby authorized to exercise the powers conferred by the Wisconsin Statutes for the purpose of this Floodplain Ordinance.
- (2) Powers and Duties. The board of adjustment shall have the following powers and duties:
- (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 standards of this Floodplain Ordinance.

## **PART XII. PROCEDURE.**

### **31.44 Land Use Permit.**

- (1) A person shall apply to the Planning and Zoning Department for a land use permit. A land use permit shall be obtained before any new development, repair, modification, or addition to any existing structure, or change in the use of a building or structure, including sewer and water facilities, may be initiated.
- (2) The land use permit application shall include the following general information:
  - (a) Name and address of the applicant, property owner, and contractor; and
  - (b) Legal description of the property, proposed use, and whether it is new construction or a modification.
- (3) The land use permit application shall include a site development plan, drawn to scale, with the following information:
  - (a) Location, dimensions, area, and elevation of the lot;
  - (b) Location of the ordinary highwater mark of any abutting navigable waterways;
  - (c) Location of any structures, with distances measured from the lot lines and street center lines;
  - (d) Location of any existing or proposed on-site sewage systems or private water supply systems;
  - (e) Location and elevation of existing or future access roads;
  - (f) Location of floodplain and floodway limits as determined from the official floodplain zoning maps;
  - (g) The elevation of the lowest floor of proposed buildings and any fill using either the National Geodetic Vertical Datum (NGVD) or North American Vertical Datum (NAVD) from the adopted study;
  - (h) Data sufficient to determine the regional flood elevation in NGVD or NAVD at the location of the development and to determine whether the

requirements of Part VI or Part VII of this Floodplain Ordinance are met; and

- (i) Data to determine if the proposed development will cause an obstruction to flow or cause an increase in regional flood height or discharge according to s. 31.18. This may include any of the information noted in s. 31.24.
- (4) Hydraulic and Hydrologic Studies to Analyze Development. All hydraulic and hydrologic studies shall be completed under the direct supervision of a professional engineer registered in the state of Wisconsin. The study contractor shall be responsible for the technical adequacy of the study. All studies shall be reviewed and approved by the Department.
- (a) A Zone and AE Zones Within Which a Floodway Is Not Delineated:
    - 1. Hydrology. The appropriate method shall be based on the standards in Wis. Admin. Code § NR 116.07(3) “*Hydrologic Analysis: Determination of Regional Flood Discharge.*”
    - 2. Hydraulic Modeling. The regional flood elevation shall be based on the standards in Wis. Admin. Code § NR 116.07(4)” *Hydraulic Analysis: Determination of Regional Flood Elevation* and the following:
      - a. Determination of the required limits of the hydraulic model shall be based on detailed study information for downstream structures (e.g. dam, bridge, culvert) to determine adequate starting WSEL for the study.
      - b. Channel sections must be surveyed.
      - c. Minimum four foot contour data in the overbanks shall be used for the development of cross section overbank and floodplain mapping.
      - d. 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.
      - e. The most current version of HEC\_RAS shall be used.
      - f. A survey of bridge and culvert openings and the top of road is required at each structure.
      - g. Additional cross sections are required at the downstream and upstream limits of the proposed development and any



- a. 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 within 0.1 foot.
  - b. 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.
  - c. 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.
  - d. 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.
  - e. All changes to the Duplicate Effective Model and subsequent models must be supported by certified topographic information, bridge plans, construction plans and survey notes.
  - f. 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 revise each as required. The Effective Model shall not be truncated.
3. Mapping. Maps and associated engineering data shall be submitted to the Department for review, which meet the following conditions:
    - a. 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, and bridge plans.

- b. Certified topographic map of suitable scale, contour interval, and a plain metric map showing the applicable items. If a digital version of the map is available, the digital version may be submitted so that the FIRM may be more easily revised.
  - c. Annotated FIRM panel showing the revised 1% and 0.2% annual chance floodplains and floodway boundaries.
  - d. 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.
  - e. The revised floodplain boundaries shall tie into the effective floodplain boundaries.
  - f. All cross sections from the effective model shall be labeled in accordance with the effective map and the cross section lookup table shall be included to relate to the model input numbering scheme.
  - g. Both the current and proposed floodways shall be shown on the map.
  - h. The stream centerline shall be shown, or the baseline used to measure stream distances in the model shall be provided and shall be feasible on the map.
- (5) Expiration. A permit issued under the authority of this Floodplain Ordinance shall expire 180 days from the date the permit is issued. 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 regulations, including any revision to the FIRM or FIS that took effect after the permit date.

### **31.45 Floodproofing Requirements.**

- (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 the 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 Part V, Part VI, Part VII, Part VIII or Part IX of this Floodplain Ordinance.

- (2) For a structure designed to allow the entry of floodwaters, no permit or variance shall be issued until the applicant submits a plan that is either:
  - (a) Certified by a registered professional engineer or architect; or
  - (b) Meets or exceeds 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 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; and
  - (f) Locate placement of essential utilities at or above the flood protection elevation; and
- (4) If any part of the foundation below the flood protection elevation is enclosed, the following standards shall apply:
  - (a) 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 one foot above the adjacent grade.

- (b) The parts of the foundation located below the flood protection elevation must be constructed of flood-resistant materials.
- (c) Mechanical and utility equipment must be elevated or floodproofed to or above the flood protection elevation.
- (d) The use must be limited to parking, building access or limited storage.

### **31.46 Certificate of Compliance.**

- (1) A person shall apply for a certificate of compliance concurrently with the application for a permit.
- (2) No land shall be occupied or used, and no building that is hereafter constructed, altered, added to, modified, repaired, rebuilt, or replaced after the effective date of this Floodplain Ordinance shall be occupied until a certificate of compliance is issued by the Planning and Zoning Department, except where no permit is required, subject to the following provisions:
  - (a) The applicant shall submit a certification signed by a registered professional engineer, architect, or land surveyor that the fill, lowest floor, and floodproofing elevations are in compliance with the permit issued. Floodproofing measures also require certification by a registered professional engineer or architect that floodproofing measures meet the requirements of s. 31.45.
  - (b) If all ordinance provisions are met, the Planning and Zoning Department shall issue the certificate of compliance within 10 days after written notification that the permitted work is completed.
  - (c) The certificate of compliance shall show that the building or premises, or part thereof, and the proposed use, conform to the provisions of this Floodplain Ordinance.
- (3) Where applicable pursuant to s. 31.32, 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.
- (4) Where applicable pursuant to s. 31.32, 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. 31.32.

### 31.47 Other Permits.

Prior to obtaining a land use 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 sec. 404 of the Federal Water Pollution Control Act Amendments of 1972, 33 U.S.C. § 1344.

### 31.48 Appeals.

- (1) Appeals. The board of adjustment shall hear and decide appeals where it is alleged there is an error in any decision, determination, order, or requirement made by the Planning and Zoning Department.
- (2) Notice of Appeal. Any person aggrieved, or any officer or department of Manitowoc County affected by a decision of the Planning and Zoning Department may appeal the decision to the board of adjustment by filing a written notice with the Planning and Zoning Department and the board of adjustment within 30 days of the decision. The notice must specify the reason for the appeal. The Planning and Zoning Department shall transmit all records regarding the matter to the board of adjustment within 30 days of receipt of the notice.
- (3) Hearing Notice. Upon receipt of notice of appeal, the board of adjustment shall:
  - (a) Fix a reasonable time for the hearing;
  - (b) Publish adequate notice, as required by the Wisconsin Statutes, specifying the date, time, place, and subject of the hearing; and
  - (c) Assure that the hearing notice is mailed to the parties in interest and the Department's regional office at least 10 days in advance of the hearing.
- (4) Hearing Procedure. Any party may appear at the hearing in person or by an agent.
- (5) Decision. The board of adjustment shall issue a final decision regarding the appeal, and the decision shall:
  - (a) Be made within a reasonable time;
  - (b) Be sent to the Department's regional office within 10 days of the decision;
  - (c) Be a written determination signed by the chairman or secretary of the board of adjustment;
  - (d) State the specific facts and reasons that are the basis for the board of adjustment's decision;



- (e) Either affirm, reverse, vary, or modify the order, requirement, decision, or determination appealed, in whole or in part, or dismiss the appeal for lack of jurisdiction; and
- (f) Include the reasons for its decision in the record of the board's proceedings.

### **31.49 Appeal of Permit Denials.**

- (1) The board of adjustment shall review all data related to the appeal or a permit denial. This may include:
  - (a) Permit application data listed in s. 31.44.
  - (b) Floodway/floodfringe determination data in s. 31.33.
  - (c) Data listed in s. 31.24(2) where the applicant has not submitted this information to the Planning and Zoning Department.
  - (d) Other data submitted with the application or submitted to the board of adjustment with the appeal.
- (2) For appeals of all denied permits the board of adjustment shall:
  - (a) Follow the procedures of s. 31.48;
  - (b) Consider Planning and Zoning Department recommendations; and
  - (c) Either uphold the denial or grant the appeal.
- (3) For appeals concerning increases in regional flood elevation the board of adjustment shall:
  - (a) Uphold the denial where the board of adjustment 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. 31.53; and
  - (b) Grant the appeal where the board of adjustment agrees that the data properly demonstrates that the project does not cause an increase in the regional flood elevation.

### **31.50 Boundary Disputes.**

- (1) The board of adjustment shall hear and decide disputes concerning floodplain district boundaries.

- (2) Notice of Dispute. Any person may file a written notice of a boundary dispute with the Planning and Zoning Department and the board of adjustment. The notice must specify the reason for the dispute. The Planning and Zoning Department shall transmit all records regarding the matter to the board of adjustment within 30 days of receipt of the notice.
- (3) Hearing Notice. Upon receipt of notice of a boundary dispute, the board of adjustment shall:
  - (a) Fix a reasonable time for the hearing;
  - (b) Publish adequate notice, as required by the Wisconsin Statutes, specifying the date, time, place, and subject of the hearing; and
  - (c) Assure that hearing notice is mailed to the parties in interest and the Department's regional office at least 10 days in advance of the hearing.
- (4) Hearing Procedure.
  - (a) Any party may appear at the hearing in person or by an agent. The person contesting the boundary location will be given a reasonable opportunity to present arguments and technical evidence to the board of adjustment.
  - (b) If a floodplain district boundary is established by approximate or detailed floodplain studies, the flood elevations or profiles shall prevail in locating the boundary.
  - (c) If the boundary is incorrectly mapped, the board of adjustment shall inform the planning and park commission or the person contesting the boundary location of the need to petition the county board for a map amendment according to s. 31.53.
- (5) Decision. The board of adjustment shall issue a final decision regarding the appeal, and the decision shall:
  - (a) Be made within a reasonable time;
  - (b) Be sent to the Department's regional office within 10 days of the decision;
  - (c) Be a written determination signed by the chairman or secretary of the board of adjustment; and
  - (d) State the specific facts and reasons that are the basis for the board of adjustment's decision.

### 31.51 Variances.

- (1) The board of adjustment shall, upon appeal, hear and decide appeals or requests for variances from the standards of this Floodplain Ordinance.
- (2) Variance Request. Any person may file a written request for a variance with the Planning and Zoning Department and the board of adjustment. The notice must specify the reason for the request. The Planning and Zoning Department shall transmit all records regarding the matter to the board of adjustment within 30 days of receipt of the notice.
- (3) Hearing Notice. Upon receipt of a variance request, the board of adjustment shall:
  - (a) Fix a reasonable time for the hearing;
  - (b) Publish adequate notice, as required by the Wisconsin Statutes, specifying the date, time, place, and subject of the hearing; and
  - (c) Assure that hearing notice is mailed to the parties in interest and the Department's regional office at least 10 days in advance of the hearing.
- (4) Hearing Procedure.
  - (a) Any party may appear at the hearing in person or by an agent.
  - (b) The person making the request will be given a reasonable opportunity to present arguments and technical evidence to the board of adjustment.
- (5) Decision. The board of adjustment shall issue a final decision regarding the appeal, and the decision shall:
  - (a) Be made within a reasonable time;
  - (b) Be sent to the Department's regional office within 10 days of the decision;
  - (c) Be a written determination signed by the chairman or secretary of the board of adjustment; and
  - (d) State the specific facts and reasons that are the basis for the board of adjustment's decision. If the request is granted, the determination must describe the hardship demonstrated by the applicant, which must also be clearly stated in the recorded minutes of the board of adjustment's proceedings.
- (6) The board of adjustment may grant a variance from the standards of this Floodplain Ordinance if an applicant clearly and convincingly demonstrates that:
  - (a) Literal enforcement of the ordinance provisions will cause unnecessary hardship;

- (b) The hardship is due to adoption of this Floodplain Ordinance and unique property conditions, not common to adjacent lots or premises, in which case the ordinance or map must be amended;
  - (c) The variance is not contrary to the public interest; and
  - (d) The variance is consistent with the purpose of this Floodplain Ordinance in s. 31.02.
- (7) In addition to the criteria in sub. (6), a variance may be granted only if the following FEMA criteria are met:
- (a) The variance shall not cause any increase in the regional flood elevation;
  - (b) The applicant has shown good and sufficient cause for issuance of the variance;
  - (c) Failure to grant the variance would result in exceptional hardship;
  - (d) 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; and
  - (e) The variance granted is the minimum necessary to afford relief, considering the flood hazard.
- (8) A variance shall not:
- (a) Grant, extend, or increase any use prohibited in the zoning district;
  - (b) Be granted for a hardship based on an economic gain or loss;
  - (c) Be granted for a hardship that is self-created;
  - (d) Damage the rights or property values of other persons in the area;
  - (e) Allow any action without an amendment to this Floodplain Ordinance or the official map if an amendment is required by s. 31.53; or
  - (f) Allow any alteration of a historic structure, including its use, which would preclude its continued designation as an historic structure;
- (10) When a floodplain variance is granted, the board of adjustment shall provide written notification to the applicant that the requested variance may increase flood insurance premiums and risks to life and property, and flood insurance premiums could increase up to \$25.00 per \$100.00 of coverage. A copy of the notice will be maintained with the variance record.

### **31.52 Public Information.**

- (1) The Planning and Zoning Department may cause or require an applicant to 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) Every real estate transfer should show the floodplain zoning district in which the real property is located.

### **31.53 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. 31.54.

- (1) In AE zones with a mapped floodway, no obstruction or increases shall be permitted unless the applicant receives a Conditional Letter of Map Revision (CLOMR) from FEMA and amendments are made to this Floodplain Ordinance, the official zoning maps, floodway lines, and water surface profiles, in accordance with s. 31.54. Any such alterations must be reviewed and approved by FEMA and 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. 31.54.

### **31.54 General.**

- (1) The county board may change or supplement the floodplain zoning district boundaries and this Floodplain Ordinance in the manner provided in s. 31.55.
- (2) The actions that require an amendment to this Floodplain Ordinance and/or submittal of a Letter of Map Change include, but are not limited to, the following:
  - (a) Any fill or floodway encroachment that obstructs flow causing any increase in regional flood height;
  - (b) Any change to the floodplain boundaries and/or any watercourse alteration on a FIRM;
  - (c) Any change to any other officially adopted floodplain map listed in s. 31.14(3);
  - (d) Correction of discrepancies between the water surface profiles and floodplain zoning maps;

- (e) Any fill in the floodplain that 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;
- (f) Any changes to the Floodplain Ordinance text required by Wis. Admin. Code § NR 116.05, or otherwise required by law, or by Manitowoc County; and
- (g) 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.

### **31.55 Procedures.**

- (1) Ordinance amendments may be made upon petition of any interested party according to the provisions of Wis. Stat. § 59.69. Petitions must include all data required by ss. 31.33 and 31.44. A land use permit shall not be issued until a Letter of Map Revision is issued by FEMA for the proposed changes.
- (2) A person petitioning for a map amendment that obstructs flow, causing any increase in the regional flood height shall obtain flooding easements from, or make other appropriate legal arrangements with, all adversely affected property owners and notify local units of government before the amendment may be approved by the county board.
- (3) The proposed amendment will be referred to the planning and park commission for a public hearing and recommendation to the county board. The amendment and notice of public hearing must be submitted to the Department's regional office for review prior to the hearing. The amendment procedure shall comply with the provisions of Wis. Stat. § 59.69.
- (4) No amendment will become effective unless it has been reviewed and approved by the Department.
- (5) Consult the FEMA web site at [www.fema.gov](http://www.fema.gov) for the map change fee schedule.

## **PART XIII. VIOLATIONS AND ENFORCEMENT.**

### **31.56 Violations.**

- (1) It is unlawful for any person to violate any provision of this Floodplain Ordinance or any condition contained in a permit issued pursuant to this Floodplain Ordinance.
- (2) It is unlawful for any person to knowingly provide false information, make a false statement, or fail to provide or misrepresent any material fact to a county agent,

board, commission, committee, department, employee, officer, or official acting in an official capacity under this Floodplain Ordinance.

- (3) It is unlawful for a person to disobey; fail, neglect, or refuse to comply with; or otherwise resist an order issued pursuant to this Floodplain Ordinance.
- (4) A separate offense is deemed committed on each day that a violation occurs or continues.

### **31.57 Enforcement.**

- (1) The Planning and Zoning Department may enter any property for which a permit has been issued under this Floodplain Ordinance to conduct an inspection to determine whether there is a violation of this Floodplain Ordinance or whether the conditions stated in the permit have been met.
- (2) The Planning and Zoning Department may issue an order to abate any violation of this Floodplain Ordinance.
- (3) The Planning and Zoning Department may issue a citation for any violation of this Floodplain Ordinance.
- (4) The Planning and Zoning Department may refer a violation of this Floodplain Ordinance to corporation counsel for legal action.
- (5) Every violation of this Floodplain Ordinance is a public nuisance, the creation of which may be enjoined and the maintenance of which may be abated by action at suit of the county, the State, or any citizen thereof pursuant to Wis. Stat. § 87.30.
- (6) Nothing in this s. 31.57 may be construed to prevent the County from using any other lawful means to enforce this Floodplain Ordinance.

### **31.58 Penalties.**

- (1) A person shall, upon conviction for a violation of this Floodplain Ordinance, forfeit not less than \$25 nor more than \$50 for each offense, together with any applicable assessments, costs, surcharges, and the costs of prosecution for each violation, and may be ordered to take such action as is necessary to abate the offense within a specified time.
- (2) A person who has the ability to pay a forfeiture entered pursuant to this Floodplain Ordinance, but who fails or refuses to do so may be confined in the county jail until the forfeiture and costs are paid, but the period of confinement may not exceed 30 days for each offense. In determining whether a person has the ability to pay, all items of income and all assets may be considered regardless of whether the income and assets are subject to garnishment, lien, or attachment by creditors.

- (3) In the event an offense is not abated as ordered, Manitowoc County may take such action as is necessary to abate the offense and the cost of such abatement will become a lien upon the person's property and may be collected in the same manner as other taxes.
- (4) The failure of any employee, official, or officer of the County to perform any official duty imposed by this code will not subject the employee, official, or officer to the penalty imposed for violation of this code unless a penalty is specifically provided.

### **31.59 Effective Date.**

This Floodplain Ordinance is effective February 23, 2023.

#### **HISTORY**

07/19/2011: Chapter 31 created by Ord. No. 2011/2012-39 to replace portions of ch. 9 effective August 1, 2011.

04/24/2012: Appendix A created by Ord. No. 2012/2013-8 effective April 30, 2012.

07/15/2014: Appendix A amended by Ord. No. 2014/2015-28 effective July 26, 2014.

11/05/2019: Appendix A amended by Ord. No. 2019/2020-38 effective November 9, 2019.

03/16/2021: Appendix A amended by Ord. No. 2020/2021-68 effective March 19, 2021.

02/15/2022: Typographical corrections made to Table of Contents and secs. 31.03, 31.06, 31.07 heading, 31.17 heading, and 31.21 heading.

02/21/2023: Repealed and recreated by Ordinance No. 2022/2023-53 effective February 23, 2023.