

CHAPTER 18
FLOODPLAIN ZONING CODE

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18.01 INTRODUCTION. (1) **STATUTORY AUTHORIZATION.** This Floodplain Zoning Code is adopted pursuant to §§62.23 and 87.30, Wis. Stats.

(2) **FINDING OF FACT AND STATEMENT OF PURPOSE.** The development and use of the flood hazard areas could adversely affect the public health, safety and general welfare of the City. Development of these areas is not essential to the orderly growth of this community, and these lands are suitable for open space uses not requiring structures or filling or storage of materials or equipment.

(3) **TITLE.** This chapter may be cited as the “Floodplain Zoning Code for the City of St. Croix Falls, Wisconsin.”

18.02 GENERAL PROVISIONS. (1) **DISTRICT BOUNDARIES.** The boundaries of the floodplain district are those areas designated as A Zones or floodplains on the FIA Flood Hazard Boundary Map dated October 10, 1975. This is the Official Floodplain Zoning Map and has been approved by the Department of Natural Resources (DNR) and the Federal Emergency Management Agency (FEMA) and is on file in the office of the City Clerk.

(2) **AMENDMENT AND APPEALS.** (a) Procedure. 1. The Zoning Administrator shall furnish to the Department district office, within 5 days of filing, a copy of any appeal or petition for a map or text amendment to this chapter.

2. The Council shall decide such matters in conformity with the provisions of §62.23(7)(d)2., Wis. Stats., and Wis. Adm. Code NR 116.11 and 116.18.

(b) DNR Action. The Department may take action in accordance with §87.30, Wis. Stats., if the City approves action on floodplain zoning matters which are contrary to the standards for use and development of floodplains in Wis. Adm. Code NR 116.

(c) Official Map Amendment. If mapped incorrectly as floodplain or to remove lands from the floodplain district:

1. The applicant must submit data to substantiate the correct designation or plans for filling the land to remove it from the floodplain for local approval and DNR approval based on the requirements of Wis. Adm. Code NR 116.

2. The placement of fill is required to remove lands from the floodplain. The fill must be at least 2 feet above regional flood elevation and contiguous to lands outside the floodplain to allow vehicular rescue and relief during the regional flood.

3. The City must formally amend the official map by rezoning procedures following statutory requirements.

(d) DNR Approval. No amendment shall become effective until reviewed and approved by the DNR.

- (e) FEMA Action Required. To remove flood insurance requirements, FEMA must first revise the Flood Insurance Rate Map or issue a Letter of Map Amendment or Revision.
- (3) **GREATER RESTRICTIONS**. If another local ordinance provision is more restrictive than the provisions contained in this chapter, that ordinance provision shall continue in full force and effect to the extent of the greater restrictions.
- (4) **ABROGATION**. This chapter is not intended to repeal, abrogate or impair any existing easements, covenants or private deed restrictions. However, if this chapter imposes greater restrictions, the provisions of this chapter shall prevail.
- (5) **INTERPRETATION**. If a provision of this chapter is required by a standard in Wis. Adm. Code NR 116, and the meaning of the chapter provision is unclear, the provision shall be interpreted based on the NR 116 standards in effect on the date of the adoption of or the latest amendment to this chapter.
- (6) **WARNING AND DISCLAIMER OF LIABILITY**. The degree of flood protection provided by this chapter is considered reasonable for regulatory purposes and is based on engineering experience and scientific methods of study. Larger floods may occur or the flood height may be increased by man-made or natural causes such as ice jams or bridge openings restricted by debris. Therefore, this chapter does not imply that areas outside of the delineated floodplain or permitted land uses within the floodplain will be totally free from flooding and associated flood damages, nor does this chapter create liability on the part of, or a cause of action against, the City or any officer or employee for any flood damage that may result from reliance on this chapter.
- (7) **SEVERABILITY**. If any portion of this chapter is adjudged unconstitutional or invalid by a court of competent jurisdiction, the remainder of this chapter shall not be affected thereby.
- (8) **COMPLIANCE**. The use of floodplains in the City shall be in full compliance with the terms of this chapter and other applicable local, State and Federal regulations. All permitted development shall require the issuance of a zoning permit. All units of government are required to comply with this chapter and obtain all necessary permits unless specifically exempted by law.

18.03 ZONING ADMINISTRATOR. (1) **APPOINTMENT**. The Building Inspector is appointed as Zoning Administrator.

- (2) **DUTIES**. The Zoning Administrator shall:
 - (a) Review all development, as defined in sec. 18.08 of this chapter, to assure compliance with this chapter, Wis. Adm. Code NR 116, and other local, State and Federal Regulations.
 - (b) Advise applicants of the chapter provisions and assist in preparing permit applications, appeals or petitions for rezoning.
 - (c) Keep records of all official actions related to administration of this chapter.
 - (d) Assure that all notifications required by this chapter are completed.

18.04 ADMINISTRATION. (1) The administration of this chapter shall be in conformity with the applicable portions of §§62.23 and 87.30, Wis. Stats., and Wis. Adm. Code NR 116.

- (2) In riverline situations, the Zoning Administrator shall:
 - (a) Notify adjacent communities and the appropriate DNR District office prior to any alteration or relocation of a watercourse.
 - (b) Submit copies of such notifications to FEMA.
 - (c) Assure that the flood-carrying capacity is maintained within the altered or relocated portions of any watercourse.

18.05 ZONING PERMITS. (1) **REQUIRED.** A zoning permit shall be obtained from the Zoning Administrator before any new development or any change in use of an existing building or structure in the floodplain is initiated.

- (2) **PERMIT APPLICATION.** An application for a zoning permit shall identify the property owner and applicant and shall provide a complete description of the subject property and any proposed change or development. All permits shall expire one year from the date issued. The applicant shall be responsible for obtaining any other Federal, State and local permits before development begins. All permits shall show the regional flood elevation for the site.

18.06 DEVELOPMENT IN FLOODPLAIN AREAS. (1) All development, as defined in sec. 18.08 of this chapter, is prohibited in floodplain areas, except the following uses which have a low flood damage potential and do not obstruct flood flows. The following uses are allowed by permit within the floodplain district, provided they are not prohibited by any other regulations and do not include filling, structures, storage of materials or equipment, sewage disposal systems, wells, solid waste disposal, wastewater treatment or sanitary sewer service:

- (a) Agricultural uses such as general farming, pasturing, outdoor plant nurseries, horticulture, viticulture, truck farming, forestry, sod farming and wild crop harvesting.
 - (b) Nonstructural industrial and commercial uses such as loading or parking areas and airport landing strips.
 - (c) Private and public recreational uses such as golf courses, tennis courts, driving ranges, archery ranges, picnic grounds, boat launching ramps, swimming areas, parks, wild life and nature preserves, game farms, fish hatcheries, shooting preserves, target ranges, trap and skeet ranges, hunting and fishing areas, and hiking and horseback riding trails.
- (2) Any development other than that allowed in sub. (1) above requires an amendment to rezone the site out of the floodplain based on an engineering analysis of the effects of such removal, in compliance with sec. 18.02(2) of this chapter and Wis. Adm. Code NR 116.

18.07 NONCONFORMING USES AND STRUCTURES. All applications to repair, reconstruct, extend, alter or enlarge a nonconforming structure or use shall be reviewed for their compliance with Wis. Adm. Code NR 116 and §62.23(7)(h), Wis. Stats., by the Zoning Administrator. All terms and conditions recommended by the DNR shall be considered for conditions included in any City permit issued.

18.08 DEFINITIONS. Unless specifically defined below, words and phrases used in this chapter shall have the same meaning as when in common usage and to give this chapter its most reasonable application. Present tense includes the future, singular reflects plural and plural reflects singular. “May” is permissive; “shall” is mandatory.

- (1) **A ZONES.** Those areas shown on the flood insurance map which would be inundated by the “regional flood,” as defined below. These areas may be numbered or be unnumbered A Zones. The A Zones may or may not be reflective of flood profiles, depending on the availability of data for a given area.
- (2) **DEPARTMENT.** The Wisconsin Department of Natural Resources.
- (3) **DEVELOPMENT.** Any man-made change to improved or unimproved real estate, including, but not limited to, the construction of or additions or substantial improvements to buildings, structures or accessory structures; the placement of mobile homes; mining, dredging, filling, grading, paving, excavation or drilling operations; and the deposition or extraction of materials; public or private sewage disposal systems or water supply facilities.
- (4) **FEDERAL EMERGENCY MANAGEMENT AGENCY (FEMA).** The Federal agency that administers the National Flood Insurance Program.
- (5) **FLOOD OR FLOODING.** A general and temporary condition of partial or complete inundation of normally dry land areas caused by:
 - (a) The overflow or rise of inland waters.
 - (b) The rapid accumulation or runoff of surface waters from any source.
 - (c) The inundation caused by waves or currents of water exceeding anticipated cyclical levels along the shore of Lake Michigan or Lake Superior.
 - (d) 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.
- (6) **FLOODPLAIN.** That land which has been or may be covered by flood water during the regional flood. The floodplain includes the floodway, the flood fringe and general floodplain areas.
- (7) **NONCONFORMING USE OR STRUCTURE.** An existing lawful structure or use of a structure which is not in conformity with the requirements of this chapter.
- (8) **OPEN SPACE USE.** Those uses having a relatively low flood damage potential and not involving structures, filling or storage of materials or equipment.

- (9) **REGIONAL FLOOD.** A flood determined to be representative of large floods known to have generally occurred in Wisconsin and which may be expected to occur on a particular stream because of like physical characteristics. The flood frequency of the regional flood is once in every 100 years. This means that in any given year, there is a 1% chance that the regional flood may occur or be exceeded. The regional flood is based upon a statistical analysis of stream flow records available for the watershed or an analysis of rainfall and runoff characteristics in the general watershed region, or both. Also known as “Base Flood” or “100 Year Flood,” this is a nation-wide standard for flood insurance and floodplain management rules and regulations.
- (10) **STRUCTURE.** Any man-made object with form, shape and utility, either permanently or temporarily attached to, placed upon or set into the ground, stream bed or lake bed. A structure includes, but is not limited to, such objects as roofed and walled buildings, gas or liquid storage tanks, bridges, dams and culverts.

18.09 ENFORCEMENT AND PENALTIES. Any violation of the provisions of this chapter by any person shall be unlawful and shall be referred by the Zoning Administrator to the City Attorney who shall expeditiously prosecute all such violators. A violator shall, upon conviction, forfeit to the City a penalty of not less than \$10 and not more than \$50, together with the taxable cost of such action. Each day of continued violation shall constitute a separate offense. Every violation of this chapter is a public nuisance and may be enjoined and abated by action at suit of the City, the State or any citizen, in accordance with §87.30, Wis. Stats.