

§ 520-42. - Floodway District (FW).

A. *Applicability.* This section applies to all floodway areas on the floodplain zoning maps and those identified pursuant to subsection 520-44A.(5).

B. *Permitted uses.*

- (1) The following open space uses are allowed in the Floodway District and the floodway areas of the General Floodplain District, if:
  - (a) They are not prohibited by any other ordinance;
  - (b) They meet the standards in subsections 520-42C. and 520-42D; and
  - (c) All permits or certificates have been issued according to subsection 520-46A.
- (2) Agricultural uses, such as: farming, outdoor plant nurseries, horticulture, viticulture, and wild crop harvesting.
- (3) Nonstructural industrial and commercial uses, such as loading areas, parking areas and airport landing strips.
- (4) 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 subsection 520-42C.(4).
- (5) Uses or structures accessory to open space uses or classified as historic structures that comply with subsections 520-42C. and 520-42D.
- (6) Extraction of sand, gravel or other materials that comply with subsection 520-42C.
- (7) 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 Stats. chs. 30 and 31.
- (8) Public utilities, streets and bridges that comply with subsection 520-42C.
- (9) 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. Adm. Code ch. SPS 383.
- (10) Public or private wells used to obtain potable water for recreational areas that meet the requirements of local ordinances and Wis. Adm. Code chs. NR 811 and NR 812.
- (11) Wastewater treatment ponds or facilities permitted under Wis. Adm. Code section NR 110.15(3)(b).
- (12) 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.

C. *Standards for development in the floodway.*

(1) *General.*

- (a) Any development in the floodway shall comply with section 520-41 and have a low flood damage potential.
- (b) Applicants shall provide an analysis calculating the effects of this proposal on the regional flood height to determine the effects of the proposal according to subsections 520-41B. and 7.1(2)(c). The analysis must be completed by a registered professional engineer in the State of Wisconsin.
- (c) Any encroachment in the regulatory floodway is prohibited unless the data submitted for subsection 520-42C.(1)(b) above demonstrates that the encroachment will cause no increase in flood elevations in flood events up to the base flood at any location or removes the encroached area from the regulatory floodway as provided in subsection 520-40E.(5).

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

- (a) Not designed for human habitation, does not have a high flood damage potential and is constructed to minimize flood damage;
- (b) Shall either have the lowest floor elevated to or above the flood protection elevation or shall meet all the following standards:
  - 1. Have the lowest floor elevated to or above the regional flood elevation and be dry floodproofed so that the structure is watertight with walls substantially impermeable to the passage of water and completely dry to the flood protection elevation without human intervention during flooding;
  - 2. Have structural components capable of meeting all provisions of subsection 520-42C.(2)(g); and
  - 3. Be certified by a registered professional engineer or architect, through the use of a Federal Emergency Management Agency Floodproofing Certificate, that the design and methods of construction are in accordance with subsection 520-42C.(2)(g).
- (c) Must be anchored to resist flotation, collapse, and lateral movement;
- (d) Mechanical and utility equipment must be elevated to or above the flood protection elevation; and
- (e) Must not obstruct flow of flood waters or cause any increase in flood levels during the occurrence of the regional flood.
- (f)

For a structure designed to allow the automatic entry of floodwaters below the regional flood elevation, the applicant shall submit a plan that meets subsections 520-42C.(2)(a)—(e) and meets or exceeds the following standards:

1. The lowest floor must be elevated to or above the regional flood elevation;
  2. A minimum of two openings having a total net area of not less than one square inch for every square foot of enclosed area subject to flooding;
  3. The bottom of all openings shall be no higher than one foot above the lowest adjacent grade; openings may be equipped with screens, louvers, valves, or other coverings or devices provided that they permit the automatic entry and exit of floodwaters, otherwise must remain open; and
  4. The use must be limited to parking, building access or limited storage.
- (g) *Certification.* Whenever floodproofing measures are required, a registered professional engineer or architect shall certify that the following floodproofing measures will be utilized, where appropriate, and are adequate to withstand the flood depths, pressures, velocities, impact and uplift forces and other factors associated with the regional flood:
1. Reinforcement of floors and walls to resist rupture, collapse, or lateral movement caused by water pressures or debris buildup;
  2. Construction of wells, water supply systems and waste treatment systems so as to prevent the entrance of flood waters in such systems and must be in accordance with provisions in subsections 520-42D.(4) and (5);
  3. Subsurface drainage systems to relieve external pressures on foundation walls and basement floors;
  4. Cutoff valves on sewer lines or the elimination of gravity flow basement drains; and
  5. Placement of utilities to or above the flood protection elevation.
- (3) *Public utilities, streets and bridges.* Public utilities, streets and bridges may be allowed by permit, if:
- (a) Adequate floodproofing measures are provided to the flood protection elevation; and
  - (b) Construction meets the development standards of subsection 520-41B.
- (4) *Fills or deposition of materials.* Fills or deposition of materials may be allowed by permit, if:
- (a) The requirements of subsection 520-41B. are met;
  - (b) No material is deposited in navigable waters unless a permit is issued by the department pursuant to Wis. Stats. ch. 30, and a permit pursuant to section 404 of the Federal Water Pollution Control Act, amendments of 1972, 33 U.S.C. 1344 has been issued, if applicable, and all other requirements have been met;
- (c)

The fill or other materials will be protected against erosion by riprap, vegetative cover, sheet piling or bulkheading; and

(d) The fill is not classified as a solid or hazardous material.

D. *Prohibited uses.* All uses not listed as permitted uses in subsection 520-42B. are prohibited, including the following uses:

- (1) Habitable structures, structures with high flood damage potential, or those not associated with permanent open space uses;
- (2) Storing materials that are buoyant, flammable, explosive, injurious to property, water quality, or human, animal, plant, fish or other aquatic life;
- (3) Uses not in harmony with or detrimental to uses permitted in the adjoining districts;
- (4) Any private or public sewage systems, except portable latrines that are removed prior to flooding and systems associated with recreational areas and Department-approved campgrounds that meet the applicable provisions of local ordinances and Wis. Adm. Code ch. SPS 383;
- (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. Adm. 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. Adm. Code section 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.

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