

ORDINANCE

SUBJECT: FLOODPLAIN ZONING

COMMITTEE: PLANNING RESOURCES & DEVELOPMENT COMMITTEE

FIRST CONSIDERATION: October 20, 2011

FINAL CONSIDERATION: November 14, 2011

ORDINANCE # 95 - 11/11 **PUBLICATION DATE** November 26, 2011

The County Board of Supervisors of La Crosse County does ordain as follows:

AN ORDINANCE TO AMEND CHAPTER 16 OF THE GENERAL CODE OF LA CROSSE COUNTY, WISCONSIN ENTITLED "FLOODPLAIN ZONING"

ANALYSIS

The changes in Chapter 16 by this amendment are required by the Federal Emergency Management Agency (FEMA) and the Wisconsin Department of Natural Resources (WDNR) and they also update and make necessary corrections to the ordinance. The main changes are as follows:

1. The change to the official maps in s. 16.07 is required to continue eligibility for the National Flood Insurance Program (NFIP) and to reflect new Flood Insurance Rate Maps (FIRMs) as required by FEMA and the WDNR.
2. Definitions of "hydraulic reach" are deleted as unnecessary.
3. Notes and other changes are added to comply with the WDNR model floodplain zoning ordinance.
4. Section 16.17 of the current ordinance regarding base flood elevations is deleted at the request of the WDNR.
5. Changes to regulations in floodway areas and changes to flood elevation references from 0.1 ft. to 0.0 ft. are made to comply with FEMA requirements.
6. Other changes correct errors and update the ordinance to reflect current names of agencies or committees.

INFORMATION:

County Board Rules: Governing Body s. 2.02(8) states, in part: Ordinances are drafted by the Corporation Counsel. After the ordinance has been reviewed by a standing committee, each Supervisor will be given a copy of the ordinance showing the deleted language (grayed) and the new language (underlined) and an analysis of the intent of the ordinance. After introduction to the County Board, the ordinance shall be referred to the next monthly meeting unless waived by a 2/3 vote of the Supervisors present and a public hearing may be held if requested by a Supervisor. An amendment may be introduced and debated at either the original or the referred meeting. Copies of the ordinances of the County of La Crosse in their entirety are available with Corporation Counsel, County Clerk, or www.co.la-crosse.wi.us/code/.

(rev. 3/03)

ORDINANCE #95 - 11/11

**AN ORDINANCE TO AMEND CHAPTER 16 OF THE GENERAL CODE OF LA CROSSE COUNTY,
WISCONSIN REGARDING FLOODPLAIN ZONING**

The County Board of Supervisors of the County of La Crosse does hereby ordain as follows:

Section 1. Section 16.05(40)-(68) is amended to read:

(40) "Increase in Regional Flood Height" - a calculated upward rise in the regional flood elevation, equal to or greater than 0.0 foot, based on a comparison of existing conditions and proposed conditions which is directly attributable to development in the floodplain but not attributable to manipulation of mathematical variables such as roughness factors, expansion and contraction coefficients and discharge.

(41) "Land Use" - any nonstructural use made of unimproved or improved real estate.

(42) "Manufactured Home" - a structure transportable in 1 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".

(43) "Mobile Recreational Vehicle" - a vehicle which is built on a single chassis, 400 square feet or less when measured at the largest horizontal projection, designed to be self-propelled, carried or permanently towable by a licensed, light-duty vehicle; is licensed for highway use if registration is required and is designed primarily not for use as a permanent dwelling, but as temporary living quarters for recreational, camping, travel or seasonal use. Manufactured homes that are towed or carried onto a parcel of land, but do not remain capable of being towed or carried, including park model homes, do not fall within the definition of "mobile recreational vehicles".

(44) "Municipality" means La Crosse County.

(45) "NAVD" or "North American Vertical Datum" - elevations referenced to mean sea level datum, 1988 adjustment.

(46) "NGVD or National Geodetic Vertical Datum" - elevations referenced to mean sea level datum, 1929 adjustment.

(47) "New Construction" - structures for which the start of construction commenced on or after the effective date of floodplain zoning regulations adopted by this community and includes any subsequent improvements to such structures. For the purpose of determining flood insurance rates, it includes any structures for which the start of construction commenced on or after the effective date of an initial FIRM or after March 15, 1984, whichever is later, and includes any subsequent improvements to such structures.

(48) "Nonconforming Structure" - an existing lawful structure or building which is not in conformity with the dimensional or structural requirements of this ordinance for the area of the floodplain which it occupies.

(49) "Nonconforming Use" - an existing lawful use or accessory use of a structure or building which is not in conformity with the provisions of this ordinance for the area of the floodplain which it occupies.

(50) "Obstruction to Flow" - any development which blocks the conveyance of floodwaters such that this development alone or together with any future development will cause an increase in regional flood height.

(51) "Official Floodplain Zoning Map" - a map, adopted and made part of this ordinance, as described in s. 16.07, which has been approved by the Department and FEMA.

(52) "Open Space Use" means those having a relatively low flood damage potential and not involving structures.

(53) "Ordinary Highwater Mark" - the point on the bank or shore up to which the presence and action of surface water is so continuous as to leave a distinctive mark such as by erosion, destruction or prevention of terrestrial vegetation, predominance of aquatic vegetation, or other easily recognized characteristic.

(54) "Person" - an individual, or group of individuals, corporation, partnership, association, municipality or state agency.

(55) "Private Sewage System" - a sewage treatment and disposal system serving 1 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 commerce, including a substitute for the septic tank or soil absorption field, a holding tank, a system serving more than 1 structure or a system located on a different parcel than the structure.

(56) "Public Utilities" means those utilities using underground or overhead transmission lines such as electric, telephone and telegraph, and distribution and collection systems such as water, sanitary sewer and storm sewer.

(57) "Reasonably Safe From Flooding" - 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.

(58) "Regional Flood" - a flood determined to be representative of large floods known to have occurred in Wisconsin. A regional flood is a flood with a 1% chance to being equaled or exceeded in any given year, and if depicted on the FIRM, the RFE is equivalent to the BFE.

(59) "Start of Construction" - the date the building permit was issued, provided the actual start of construction, repair, reconstruction, rehabilitation, addition, placement, or other improvement was within 180 days of the permit date. The actual start means either the first placement of permanent construction on a site, such as the pouring of slab or footings, the installation of piles, the construction of columns, or any work beyond initial excavation, or the placement of a manufactured home on a foundation. Permanent construction does not include land preparation, such as clearing, grading and filling, nor does it include the installation of streets and/or walkways, nor does it include excavation for a basement, footings, piers or foundations or the erection of temporary forms, nor does it include the installation on the property of accessory buildings, such as garages or sheds not occupied as dwelling units or not part of the main structure. For an alteration, the actual start of construction means the first alteration of any wall, ceiling, floor or other structural part of a building, whether or not that alteration affects the external dimensions of the building.

(60) "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, gas or liquid storage tanks, bridges, dams and culverts.

(61) "Subdivision" has the meaning given in s. 236.02(12), Wis. Stats.

(62) "Substantial Damage" - damage of any origin sustained by a structure, whereby the cost of restoring the structure to its pre-damaged condition would equal or exceed 50% of the equalized assessed value of the structure before the damage occurred.

(63) "Unnecessary Hardship" means where special conditions affecting a particular property, which were not self-created, have made strict conformity with restrictions governing areas, setbacks, frontage, height or density unnecessarily burdensome or unreasonable in light of the purposes of the ordinance.

(64) "Variance" means an authorization by the Board of Adjustment or appeals for the construction or maintenance of a building or structure in a manner which is inconsistent with dimensional standards contained in the floodplain zoning ordinance.

(65) "Violation" - the failure of a structure or other development to be fully compliant with the floodplain zoning ordinance. A structure or other development without required permits, lowest floor elevation documentation, floodproofing certificates or required floodway encroachment calculations is presumed to be in violation until such time as that documentation is provided.

(66) "Watershed" - the entire region contributing runoff or surface water to a watercourse or body of water.

(67) "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.

(68) "Well" means an excavation opening in the ground made by digging, boring, drilling, driving or other methods, to obtain groundwater regardless of its intended use.

Section 2. Section 16.06 is amended to read:

16.06 AREAS TO BE REGULATED. This ordinance regulates all areas within the unincorporated limits of La Crosse County that would be covered by the regional flood or base flood. Note: Base flood elevations are derived from the flood profiles in the Flood Insurance Study. Regional flood elevations may be derived from other studies. Areas covered by the base flood are identified as A-Zones on the Flood Insurance Rate Map.

Section 3. Sections 16.07(1) and (1)(a) are amended to read:

16.07 (1) Designations. The boundaries of all floodplain districts are designated as floodplains or A-Zones on the maps listed below and the revisions in the La Crosse County Floodplain Appendix. Any change to the base flood elevations (BFE) in the Flood Insurance Study (FIS) or on the Flood Insurance Rate Map (FIRM) must be reviewed and approved by the DNR and FEMA before it is effective. No changes to regional flood elevations (RFE's) on non-FEMA maps shall be effective until approved by the DNR. These maps and revisions are on file in the office of the La Crosse County Zoning, Planning and Land Information Department. If more than 1 map or revision is referenced, the most restrictive information shall apply.

(a) Official Maps: Based on the Flood Insurance Study (FIS) Number dated January 6, 2012, volume numbers 55063CV001B and 55063CV002B - Flood Insurance Rate Maps (FIRM), community number 550217, panel numbers: 55063C0010D, 55063C0015D, 55063C0020D, 55063C0029D, 55063C0033D, 55063C0034D, 55063C0037D, 55063C0040D, 55063C0041D, 55063C0042D, 55063C0043D, 55063C0044D, 55063C0053D, 55063C0054D, 55063C0058D, 55063C0063D, 55063C0064D, 55063C0068D, 55063C0069D, 55063C0088D, 55063C0089, 55063C0106D, 55063C0107D, 55063C0108D, 55063C0109D, 55063C0128D, 55063C0129D, 55063C0130D, 55063C0133D, 55063C0134D, 55063C0135D, 55063C0136D, 55063C0137D, 55063C0138D, 55063C0139D, 55063C0141D, 55063C0142D, 55063C0143D, 55063C0144D, 55063C0151D, 55063C0153D, 55063C0155D, 55063C0161D, 55063C0162D, 55063C0163D,

55063C164D, 55063C0169D, 55063C0186D, 55063C0187D, 55063C0188D, 55063C0189D,
55063C0191D, 55063C0193D, 55063C0195D, 55063C0213D, 55063C0215D, 55063C0220D,
55063C0231D, 55063C0232D, 55063C0233D, 55063C0234D, 55063C0242D, 55063C0244D,
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55063C0283D, 55063C0284D, 55063C0288D, 55063C0332D, 55063C0351D, 55063C0352D,
55063C0356D, 55063C0376D, 55063C0377D with an effective date of January 6, 2012. All maps
require approval by the DNR and FEMA.

Section 4. Section 16.07(3)(b) is amended to read:

16.07(3)(b) Where flood profiles do not exist, the location of the boundary shall be determined by the map scale, visual on-site inspection and any information provided by the Department. Note: Where the flood profiles are based on established flood elevations from a FIRM, FEMA must also approve any map amendment pursuant to s. 16.23(1)(f).

Section 5. Sections 16.16(4)(a) and (e) are amended to read:

16.16(4) (a) The campground is approved by the Department of Health Services.

(e) This agreement shall be for no more than 1 calendar year, at which time the agreement shall be reviewed and updated – by the officials identified in par. (d) – to remain in compliance with all applicable regulations, including those of the state Department of Health Services and all other applicable regulations.

Section 6. Section 16.17 is repealed.

Section 7. Section 16.18(3)(a)3. is amended to read:

16.18(3)(a) 3. The zoning administrator shall deny the permit application if the project will increase flood elevations upstream or downstream 0.0 foot or more, based on the data submitted for par. 2. above.

Section 8. Section 16.18(3)(b) is amended to read:

(b) Structures: Structures accessory to permanent open space uses or functionally dependent on a waterfront location may be allowed by permit if the structures comply with the following criteria:

1. The structure is not designed for human habitation and does not have a high flood damage potential;

2. It must be anchored to resist flotation, collapse, and lateral movement;

3. Mechanical and utility equipment must be elevated or flood proofed to or above the flood protection elevation; and

4. It must not obstruct flow of flood waters or cause any increase in flood levels during the occurrence of the regional flood.

Section 9. Section 16.19(3)(c)1. is amended to read:

16.19(3)(c) 1. Except as provided in par. 2., an accessory structure which is not connected to a principal structure shall be constructed with its lowest floor at or above the regional flood elevation.

Section 10. Section 16.23(2)(c) is amended to read:

16.23(c) All persons petitioning for a map amendment that obstructs flow, increasing regional flood height 0.0 foot or more, shall obtain flooding easements or other appropriate legal arrangements from all adversely affected property owners and notify local units of government before the amendment can be approved by the governing body.

Section 11. Section 16.24 is amended to read:

16.24 ENFORCEMENT AND PENALTIES. Any violation of the provisions of this ordinance by any person shall be unlawful and shall be referred to the District Attorney who shall expeditiously prosecute all such violations. A violator shall, upon conviction, forfeit to the County a penalty of not more than \$50, together with the taxable costs of such action. Each day of continued violation shall constitute a separate offense. Every violation of this ordinance is a public nuisance and the creation may be enjoined and the maintenance may be abated by action at suit of the municipality, the state, or any citizen thereof pursuant to s. 87.30, Wis. Stats.

Section 12. This Ordinance shall take effect the day after passage and publication as required by law.

LA CROSSE COUNTY

By: _____

County Board Chair

By: _____

Ginny Dankmeyer, County Clerk

PASSED: November 14, 2011
PUBLISHED: November 26, 2011

STATE OF WISCONSIN
COUNTY OF LA CROSSE

I, Ginny Dankmeyer, County Clerk of La Crosse County do hereby certify that this document is a true and correct copy of the original ordinance required by law to be in my custody and which the County Board of Supervisors of La Crosse County adopted at a meeting held on the 14th day of November, 2011.

Ginny Dankmeyer, La Crosse County Clerk