

Floodplain and Shoreland Management

Notes

Floodplain Management: Who's in Charge

It can be very frustrating for officials just starting in the field of floodplain management if they do not know some of the more basic aspects of floodplain management. One area which can be confusing is determining who is responsible for regulating the floodplain and which set of regulations is the one that must be followed.

Floodplain management in Wisconsin is regulated by the local community through the local zoning ordinance, the Department of Natural Resources (DNR) through Chapter NR 116, Wisconsin Administrative Code and the Federal Emergency Management Agency (FEMA) which administers the National Flood Insurance Program (NFIP) through 44 CFR 59-72. The NFIP sets national minimum standards for development in Special Flood Hazard Areas (SFHA). States may accept those minimum standards or impose higher, more restrictive standards. In turn, communities may also adopt higher, more restrictive standards.

The NFIP is a voluntary program based on a mutual agreement between the federal government and the local government with the state providing technical advice, community monitoring and ordinance approval. In exchange for adopting and enforcing a floodplain ordinance which meets the minimum standards of the NFIP, federally backed flood insurance is made available to property owners and renters throughout the community. Because the State of Wisconsin had more restrictive standards in place before the creation of the NFIP, communities in Wisconsin must adopt ordinances which meet the requirements of Ch. NR 116,

Wis. Admin. Code, as well as 44 CFR 59-72.

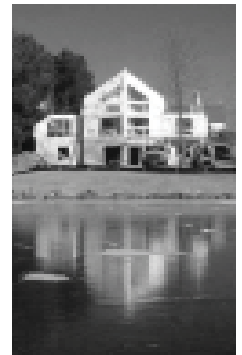
For any proposed development in a SFHA, the property owner or developer must obtain a land use/floodplain development permit from the community zoning official and then a building permit from the building inspector. The local zoning official via the local floodplain ordinance is the primary regulatory authority. Since the floodplain ordinance must be approved by both the DNR and FEMA, it must be compliant with their regulations.

In incorporated communities, one person may hold both of these titles. However, in unincorporated areas, it can become more complicated with the land use/floodplain development permit being issued by the county and the building permit being issued by the township. Neither the NFIP or the DNR recognize the townships as a "community" when considering floodplain issues. They both define the regulatory authority as the county. Therefore, it is extremely important for townships and the county to have clearly defined roles and procedures to ensure that no violations occur in SFHA.

In SFHA, the local zoning official is the primary regulatory authority through the local floodplain ordinance. Both the DNR and FEMA can and will provide technical advice upon request. The DNR will only become involved if the community fails to adequately enforce the local ordinance. FEMA will only become involved after a request by the DNR and will only focus on violations of 44 CFR 59-72. The DNR will respond to violations of ch. NR 116, Wis. Admin. Codes as state standards are more restrictive than federal standards.



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State Shoreland Development Rules Updated

Forty years after they were first adopted, state shoreland development rules have been updated to better protect lakes and rivers while allowing property owners more flexibility on their land. These minimum statewide standards are just one tool Wisconsin uses to safeguard our shorelands for the future.

The state Natural Resources Board adopted revisions to the rules Nov. 13, 2009. The final, official rules are expected to be officially published in early 2010. County governments will have two years from that time to update their shoreland development rules to be consistent with or exceed the state's rules.

Now and after the rules are enacted locally, owners of existing homes and buildings can keep what they have. They will not have to do anything different unless they propose a major change on their property, like remodeling their home, expanding it, or paving or covering more surfaces. Then, they may have to take steps to offset the potential impacts from their project: increased water runoff and

pollutants, loss of plants to filter runoff and provide wildlife habitat, and impacts on their neighbors' and lake and river users' scenic views.

Key Shoreland Development Rule Provisions

Some Standards Remain the Same:

- Homes must still be set back 75 feet from the water.
- Minimum lot size requirements remain at 20,000 square feet and 10,000 square feet.

Some Standards Changed:

- Spending limits on repairs to existing non-conforming residences located within 75 feet of the water's edge have been eliminated.
- Expansion of an existing home closer than 75 feet from the water is now allowed in some cases: a property owner can build a second story or otherwise add-on vertically, if their existing house is at least 35-feet back from the water. Expansion of an existing home more than 75 feet from the water is still allowed.

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Floodplain and Shoreland Management Notes

"Floodplain and Shoreland Management Notes" is published by the WDNR, Bureau of Watershed Management. Its purpose is to inform local zoning officials and others concerned about state and federal floodplain management, flood insurance, shoreland and wetland management, and dam safety issues. Comments or contributions are welcome.

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Flood Buyouts Underway

As a result of the 2008 flooding and subsequent federal disaster declaration, nearly \$30.9 million was made available in Wisconsin to implement mitigation projects through the Hazard Mitigation Grant Program. Per the priorities as established in the Wisconsin Hazard Mitigation Plan, acquisition and demolition of flood damaged properties was the highest priority for funding. Primary residences that were deemed substantially damaged (over 50% damaged) per the local floodplain management ordinance received first priority. Applications were submitted to FEMA for 16 communities totaling \$30,608,082 for acquisition and demolition of 214 structures. At this time all but amendments for two communities have been approved and funds obligated.

Due to substantial damages, almost all of the structures have been vacant since the flood and property owners are waiting for offers from the local community. Property owners are offered pre-flood fair market value for their properties. The assistance will allow the property owners the ability to purchase replacement housing outside of the flood risk area. The local community will own the properties after acquisition with permanent deed restrictions. Open space uses are the only allowable uses for the property after acquisition such as parks and recreational facilities, flood water retention, etc.

Nine of the communities have completed the appraisal process with appraisals underway in the rest of the communities. Forty-one properties have been acquired in five communities with many more scheduled for the near future. Demolitions are underway in at least one community.

The Hazard Mitigation Grant Program is administered by the Wisconsin Emergency Management. For more information, contact WEM Mitigation Staff at 608-242-3211.

COMMUNITY	PROPERTIES	AMOUNT
Elroy	6	\$ 572,000
Excelsior	1	\$ 121,800
Fond du Lac	14	\$ 1,642,410
Gays Mills	12	\$ 1,098,006
Grant County	5	\$ 467,300
Janesville	9	\$ 1,244,750
Jefferson	3	\$ 499,830
Jefferson County	46	\$ 8,087,681
Kenosha County	17	\$ 2,488,118
LaFarge	15	\$ 1,195,675
Paddock Lake	6	\$ 688,610
Reedsburg	20	\$ 2,602,770
Richland Center	1	\$ 113,500
Rock County	6	\$ 1,172,709
Rock Springs	20	\$ 2,512,786
Spring Green	28	\$ 5,377,624
Sugar Creek	5	\$ 722,513
TOTAL	214	\$30,608,082

Floodplain Development Basics

Building or purchasing a home is the most important decision most people will make. Researching and assessing all possible risks – including flooding – should always be part of the process. While flooding can occur anywhere, it is much more likely in areas designated as floodplains. Knowing some basic information about floodplains and floodplain development regulations can greatly reduce a structure's risk to flooding as well as insurance costs.

What is a floodplain?

Floodplains or Special Flood Hazard Areas (SFHA) are lowland areas adjacent to lakes, wetlands and rivers that are covered by water during a 1% or 100-year flood and are designated as A (approximate study) or AE (detailed study) zones on the Flood Insurance Rate Maps (FIRMs). Wisconsin regulations recognize three flood zones: floodway, floodfringe and general floodplain. The floodway includes the river channel and areas adjacent to the channel which convey the 1% chance flood flows; the floodway experiences the deepest water and the highest flow velocities. The floodfringe includes the rest of the floodplain landward of the floodway and is primarily a floodwater storage area. The general floodplain covers all Zone A areas where the 1% flood has not been determined and is regulated as floodway until the required studies are approved to determine the floodway/floodfringe areas. Local ordinances should be checked to determine if other areas are regulated as floodplain.

Is development allowed in the floodplain?

All human activities are regulated in the floodplain including activities such as structures, roads, bridges, fill and storage. The level of regulation differs based on the flood zone. Local ordinances should be checked to determine what specific activities are allowed or prohibited and what permits are required.

How can I find out if my community participates in the NFIP or if my property is located in a floodplain?

The first step is to contact the community where the property is located and speak to either the Clerk or the Zoning Administrator. For properties located in unincorporated areas (towns), the community would be the county. Another option is download FEMA's Community Status Book at www.fema.gov/fema/csb.shtm. It is important to note that under Chapter NR 116, Wisconsin Administrative Code, all communities where adequate hydraulic and engineering data is available must adopt reasonable and effective floodplain regulations whether or not they participate in the NFIP.

To determine if your property is located with a floodplain, first look at the FIRMs for the community in which the property is located. Paper copies of the FIRMs are usually kept in either the Clerk's or the Zoning Administrator's office. Some communities have also placed the FIRMs on the community's website. FIRMs can also be viewed on FEMA's website www.msc.fema.gov and the DNR website <http://dnr.wi.gov/org/water/wm/dsfm/section/map-index.htm>. The next step is to talk to the Zoning Administrator to clarify any questions or concerns. The Zoning Administrator can also explain any local floodplain regulations and permitting requirements.

What if it is unclear in which flood zone my property is located?

If a property's flood zone is still unclear after viewing the FIRMs and meeting with the local Zoning Administrator, a licensed engineer or surveyor should be hired to produce a certified survey establishing the location of the structure in relation to the floodplain, the lowest adjacent grade around the structure and the lowest floor of the structure. If the survey shows the structure still in the floodplain, a detailed engineering analysis to modify the floodplain boundaries is another option. Infor-

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mation about the LOMA/LOMR process is available at www.fema.gov/plan/prevent/fhm/ot_lmreq.shtm. An elevation certificate can be downloaded from FEMA's website www.fema.gov/business/nfip/elvinst.shtm.

Can I still develop my property if it is located within the floodplain and do I need special permits?

Development is allowed in the floodplain and typically only requires a land use permit and a building permit, but restrictions may apply. In the floodway, new structures, substantially improved or damaged structures, the storage of hazardous/solid waste and wells/sewage systems are prohibited. Only development related to open space uses and with a low flood damage potential is allowed. Development in the floodway is restricted in order to maintain the flow capacity of the stream during flooding. Any development proposed in the floodway must have either an approved encroachment analysis showing no change in the base flood elevation or an approved Letter of Map Revision from FEMA.

In the floodfringe, new structures are allowed, but all new and substantially damaged or improved structures must have the first floor elevated on fill to two (2) feet above the base flood elevation and have dryland access. In areas where the floodfringe and the floodway have not been determined, an engineering analysis will be needed to delineate the floodway/floodfringe boundary.

Why is two feet of freeboard and dryland access required?

State regulations require that all new or substantially improved structures in the floodplain have the first floor elevated to two (2) feet above the base flood elevation to ensure that the structure is safe from flooding. The extra elevation ensures that the structure will not become non-conforming if flood elevations change during remapping. The extra elevation also lowers flood insurance premiums.

Dryland access ensures that emergency vehicles can reach the structure and its occupants during a flood.

What is meant by substantially damaged or substantially improved?

Structures located in the floodplain are considered substantially damaged if they are damaged by 50% or more of the structure's equalized assessed value as listed before the damage occurred. The cost of repair is based on local market costs for the community and includes the cost of labor at prevailing wages. Under Wisconsin regulations, structures substantially damaged by flooding must meet the elevation standards for new construction as stated in Ch. NR 116, Wis. Admin. Code or if located within the floodway the structure must be relocated. Structures damaged by non-flood disasters must meet the NFIP elevation requirements as stated in 44 CFR 60.3.

Substantially improved structures are those structures which have had additions or been modified by 50% or more of the structure's equalized assessed value at the time the work was proposed and is cumulative over the life of the structure. A builder's estimate for the improvement is frequently used to determine the cost of the project.

Why can't I have a walkout basement?

In the floodplain, basements are defined as any enclosed area having its floor below ground level on all sides. Walk-out basements typically have at least one side at ground level and therefore are not considered basements. Structures with walk-out basements must have the lowest floor elevated to at least two (2) feet above the base flood elevation in order to be compliant with state and federal floodplain regulations.

For more information on Floodplain Management or to download this article as a Fact Sheet visit: <http://dnr.wi.gov/org/water/wm/dsfm/flood/communities.htm>.

FEMA Flood Insurance Basics

How do I know if I am in a flood hazard area?

- FEMA floodplain maps are available at the planning, zoning, clerk or building offices
- You can also view the maps on-line at: <http://msc.fema.gov>
- Talk to your neighbors; they may have already looked at the maps

I am not in a mapped floodplain, why should I buy flood insurance?

- Not all flood risk areas are mapped; some high-risk areas have been left off due to budget and technical limitations
- More than one of every four flood insurance claims are filed on properties outside of the mapped floodplain
- Flood insurance can cost as little as \$100 a year for lower-risk properties

I did not flood in 2008 so I must be safe, right?

- To one can accurately predict when or where floods will occur in any year; there have been consecutive 100-year flood events in the same community
- In areas with new development, flood elevations and flood frequencies are increasing; stormwater controls are not always adequate
- Weather patterns are constantly shifting; we are seeing wetter summers in some parts of the state, dryer in others

How can I protect my home from flooding?

- Buy flood insurance; it's the most effective method available to provide comprehensive coverage at a reasonable cost
- Elevate utilities and mechanical equipment in your basement; floodproof basement walls and install sump pumps and check valves
- Analyze the drainage patterns on your lot and the neighborhood; there are landscaping options to fix recurring flooding problems

Are all the flood hazard areas in my community mapped?

- Probably not, most communities have flood-risk areas that are not mapped
- Maps be older and not accurately depict current flood risks; blocked culverts or drainage swales are a common problem
- Community may have more accurate flood risk information; also check with Regional Planning Commission

Will flood insurance cover every type of flood loss?

- No. It only covers overland flooding which affects two or more structures or more than two acres of land
- It does not cover sewer back-up or groundwater flooding (seepage) unless there is a coverable flood in the area that is the cause of the back-up or seepage
- Covers subsidence, mud flows, erosion and other losses caused by overland flooding; info: www.fema.gov/business/nfip/qanda.shtm

How do I get flood insurance?

- Contact the agent who wrote your homeowners policy – they generally also write flood insurance policies
- If your agent doesn't write this coverage, visit the agent look-up tool on the FEMA FloodSmart website: www.floodsmart.gov
- Most reputable insurance companies provide this service, even if your agent isn't aware of it; you may wish to contact the home office

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Why did my community just get new flood maps?

- It is a congressionally mandated project, funded by FEMA and occurring in every State in the nation.
- Wisconsin is funded by FEMA through a Cooperating Partnership Agreement.
- It started in 2003 with the most populous counties in the State.
- Development pressure is also factored in decisions on which areas to map
- 48 counties will have new maps by the end of 2010, when the current funding cycle ends.

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- Property owners expanding the physical footprint of a non-conforming structure will be required to offset the environmental impact of the expansion by choosing from a number of options. Examples include reducing the amount of mowing next to the water, installing rain-gardens to absorb storm runoff, or re-planting native vegetation near the shoreline. Counties will set what the specific mitigation requirements are as they update their ordinances.

Some Standards Are New:

- A new standard caps the total amount of hard or "impervious" surfaces such as roofs, pavement and decks allowed on shoreland property. The caps apply only to properties within 300 feet of lakes or rivers, and they do not affect existing property owners unless the owners try to make major changes that would cover up more land with hard surfaces.
- No limitations would exist for additions or new buildings where the lot's impervious surfaces do not exceed 15 percent of the total lot size. Where the sum total of impervious surfaces is between 15 percent and 30 percent of the lot size, property owners would be required to take measures to offset the environmental impact of their proposed project.

For more information contact: Gregg Breese, Shoreland Team Leader,
gregory.breese@wisconsin.gov (608) 261-6430



- Shoreland Home

DNR Website for Mapping Status

The Department of Natural Resources has developed a website to provide communities and others with information regarding the Flood Map Modernization Program in Wisconsin. The website contains information on project status, the public open house schedule, the comment and appeal process, post preliminary map process and other mapping related issues.

Links to FEMA's website are included. The FEMA sites are for information on Letters of Map Change and the Map Service Center.

For further information regarding the Flood Map Modernization Program contact:

Amanda Schwoegler - Process Issues
amanda.schwoegler@wisconsin.gov

Bob Watson - Technical Issues
robert.watson@wisconsin.gov

Ken Hinterlong - FEMA
ken.hinterlong@dhs.gov

The website is located at: <http://dnr.wi.gov/org/water/wm/dsfm/flood/mapping.htm>.

Current Letters of Final Determination

Letters of Final Determination (LFD) have been issued for several counties. Once an LFD has been issued, all communities in the county participating in the NFIP have six (6) months to amend the local floodplain ordinance to include the new FIRMs and Flood Insurance Study. Communities which do not adopt by the effective date of the maps will be immediately suspended from the NFIP. Communities which do not currently participate in the NFIP have one (1) year to join the NFIP and adopt the new maps.

All ordinance amendments must be reviewed and approved by the DNR and FEMA. For further information on ordinance amendments and adoption go to <http://dnr.wi.gov/org/water/wm/dsfm/flood/communities.htm> and download the appropriate DNR Model Floodplain Ordinance and Checklist and the Ordinance Approval Procedures. You may also consider contacting your local DNR Regional Engineer.

LFDs have been issued for the following counties and all the incorporated communities within the county:

County	Effective Date
Dodge County	April 19, 2010
Buffalo County	May 3, 2010
Clark County	July 6, 2010
Marathon County	July 22, 2010
Outagamie County	July 22, 2010
Pepin County	August 19, 2010

For further information and updates on mapping issues go to <http://dnr.wi.gov/org/water/wm/dsfm/flood/mapping.htm>.

Updating Your Floodplain Ordinance

Interested in updating your local floodplain ordinance? Download the latest Model Floodplain Ordinance at <http://dnr.wi.gov/org/water/wm/dsfm/flood/communities.htm> or contact Gary Heinrichs (gary.heinrichs@wisconsin.gov) or Miriam Anderson (miriam.anderson@wisconsin.gov) for further information.

Hazard Mitigation Assistance Program

FEMA's Hazard Mitigation Assistance (HMA) grant programs provide funding for eligible mitigation activities that reduce disaster losses and protect life and property from future disaster damages. HMA grant funds are provided to Wisconsin Emergency Management which is responsible for soliciting applications from communities and then reviewing the proposed projects for eligibility.

The FY11 grant application cycle is expected to open in June 2010. For further information on the HMA grant programs go to either www.fema.gov/government/grant/hma/index.shtm or emergencymanagement.wi.gov "Hazard Mitigation".

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Public Hearing NR 335/NR 336 Rule Changes

The DNR is in the process of revising the administrative rules that implement the Municipal Dam and Dam Removal grant programs (NR 335 and NR 336). These rules assist the Department in achieving the statutory goals of Chapter 31, Stats., which vests the Department with the responsibility to regulate dams and promote safety and protect life and property from unsafe dams. The grant programs provide funding to dam owners to address safety deficiencies at dams.

The objectives of the revisions to ch. NR 335 and ch. NR 336 are to implement changes to enabling legislation. The rule changes can be divided into two broad categories:

- Incorporate statutory changes into the existing grant codes
- Facilitate investing the bonding allocation for the program

To view the draft rules and to learn more about providing comments at either the public hearing or by written submission, visit our website at: <http://dnr.wi.gov/org/caer/cfa/Grants/dammaint.html>.

- The public hearing is scheduled for April 15, 2010.
- Written comments will be accepted until close of business April 16, 2010.

Certified Floodplain Managers Exams

May 17 and 21, 2010 - ASFPM Annual Conference, Oklahoma City, OK.

Application to take the CFM exam must be made at least two weeks in advance through the Association of State Floodplain Managers at: www.floods.org/Certification/certcal.asp or cfm@floods.org.



2010 ASFPM Conference

The 34th annual Association of State Floodplain Managers national conference will be held May 16 - 21, 2010 at the Cox Convention Center in Oklahoma City, Oklahoma. The theme of the conference will be "Building Blocks of Floodplain Management". A list of presenters and papers can be found on the ASFPM website: www.floods.org. Information on registration,

transportation and accommodations can also be found on-line. Early bird registration deadline for the conference is April 3, 2010. Questions regarding the conference can be sent to registration@floods.org.

WISCONSIN ASSOCIATION FOR FLOOD- PLAIN, STORMWATER AND COASTAL MANAGEMENT (WAFSCM)

Membership Application/Renewal Form

For January 2010 – December 2010

Membership Fee: \$20.00

Name: _____

Title: _____

Organization: _____

Address: _____

City: _____ State: _____ Zip Code: _____

Phone: _____ Ext.: _____ Fax: _____

E-mail: _____

Would you like to receive occasional announcements, newsletters
and/or notices via E-mail: Yes ___ No ___

Other Affiliations: _____

Primary Interest: ___ Floodplain ___ Stormwater ___ Coastal

Specific Interest: _____

Please include a check for the annual Membership Fee of \$20.00
made payable to: *WAFSCM*

Return to:

Roxanne Gray

WAFSCM

c/o Wisconsin Emergency Management

2400 Wright Street

Madison, WI 53707-7865

If you have questions, call Roxanne Gray at (608) 242-3211 or Roxanne.gray@wisconsin.gov or
visit the WAFSCM website at <http://wi.floods.org/>.