

FLOODPLAINS

MENOMINEE COUNTY ORDINANCE NO. 71

AN ORDINANCE REGULATING DEVELOPMENT IN FLOODPLAIN AREAS

WHEREAS, the County of Menominee wishes to establish eligibility in the National Flood Insurance Program and in order to do so must meet the requirements of 60.3 (a) of the National Flood Insurance Program Regulations.

NOW, THEREFORE, in order to determine which developments would increase the flood hazard within the County of Menominee, the following measures shall be required within the corporate limits of the County of Menominee.

SECTION 1. PURPOSE

This ordinance is enacted pursuant to the police powers granted to the County of Menominee by the authorization in 59.69, 59.692, 59.694 and the requirements in s. 87.30, Wis. Stats. in order to accomplish the following purposes:

- A. To prevent unwise developments from increasing flood or drainage hazards to others;
- B. protect new buildings and major improvements to buildings from flood damage;
- C. to lessen the burden on the taxpayer for flood control, repairs to public facilities and utilities, as well as flood rescue and relief operations;
- D. maintain property values and a stable tax base by minimizing the potential for creating blight areas;
- E. make federally subsidized flood insurance available, and
- F. to preserve the natural characteristics and functions of watercourses and floodplains in order to moderate flood and stormwater impacts, improve water quality, reduce soil erosion, protect aquatic and riparian habitat, provide recreational opportunities, provide aesthetic benefits and enhance community and economic development.

SECTION 2. DEFINITIONS. Unless specifically defined below, word or phrases used in this document shall be interpreted so as to give them the same meaning as they have in common usage and so as to give this document its most reasonable application.

- (a) "Development" Any man-made change to real estate including, but not necessarily limited to:
- i. Demolition, construction, reconstruction, repair, placement of a building, or any structural alteration to a building,
 - ii. substantial improvement of an existing building;
 - iii. installation of a manufactured home on a site, preparing a site for a manufactured home, or installing a travel trailer on a site for more than 180 days per year;
 - iv. installation of utilities, construction of roads, bridges, culverts or similar projects;
 - v. construction or erection of levees, dams, walls, or fences;
 - vi. drilling, mining, filling, dredging, grading, excavating, paving, or other alterations of the ground surface;
 - vii. storage of materials including the placement of gas and liquid storage tanks; and
 - viii. channel modifications or any other activity that might change the direction, height, or velocity of flood or surface waters.

"Development" does not include routine maintenance of existing buildings and facilities; resurfacing roads; or gardening, plowing, and similar practices that do not involve filling, grading, or construction of levees.

(b) "Flood" A general and temporary condition of partial or complete inundation of normally dry land areas from the overflow, the unusual and rapid accumulation, or the runoff of surface water from any source.

(c) "Floodplain" Any land area susceptible to being inundated by water from any source (see "Flood").

(d) "Floodproofing" Any combination of structural and nonstructural additions, changes, or adjustments to structures which reduce or eliminate flood damage to real estate or improved real property, water and sanitary facilities, structures and their contents.

(e) "Manufactured Home" A structure transportable in one or more sections, that is built

on a permanent chassis and is designed to be used with or without a permanent foundation when connected to required utilities.

(f) "Structure" For floodplain management purposes, a walled and roofed building, including gas or liquid storage tanks, that is principally above ground. The term includes RVs and travel trailers on site for more than 180 days.

(g) "Substantial Damage" Damage of any origin sustained by a structure whereby the cost of restoring the structure to its before damage condition would equal or exceed 50% of the market value of the structure before the damage occurred regardless of actual repair work performed. Volunteer labor and materials must be included in this determination.

(h). "Substantial Improvement" Any reconstruction, rehabilitation, addition, or improvement of a structure, the cost of which equals or exceeds 50 percent of the market value of the structure before the improvement or repair is started, "Substantial improvement" is considered to occur when the first alteration of any wall, ceiling, floor, or other structural part of the building commences, whether or not that alteration affects the external dimensions of the structure. The term does not, however, include either (1) any project for improvement of a structure to comply with existing state or local health, sanitary, or safety code specifications which are solely necessary to assure safe living conditions or (2) any alteration of a structure listed on the National Register of Historic Places or the Wisconsin Register of Historic Places.

SECTION 3. PERMIT REQUIREMENTS.

No person, firm, corporation, or governmental body not exempted by state law shall commence any development activity in an area known to flood without first obtaining a development permit from the Menominee County Zoning Office.

SECTION 4. PERMIT APPLICATION.

To obtain a permit the applicant must first file a permit application on a form furnished for that purpose. The form must be completed and submitted to the County Zoning Office.

SECTION 5. DUTIES OF THE ZONING ADMINISTRATOR.

The County Zoning Administrator shall be responsible for the general administration of this ordinance and ensure that all development activities under the jurisdiction of the County of Menominee *meet* the requirements of this ordinance. The County Zoning Administrator shall be responsible for receiving applications and examining the plans and specifications for the application, the County Zoning Administrator shall require any additional measures which are necessary to meet the minimum requirements of this ordinance.

SECTION 6. REVIEW OF PROPOSED DEVELOPMENT.

- (a) The County Zoning Administrator shall review proposed development to assure that all necessary permits have been received from those governmental agencies from which approval is required by Federal or State law, including Section 404 of the Federal Water Pollution Control Act Amendments of 1972, 33 U.S.C. 1334.
- (b) If the development is proposed for a channel or adjacent area of a stream draining one square mile or more, the applicant must first secure a permit from the Wisconsin Department of Natural Resources (WDNR), or a letter stating "Permit Not Required."

SECTION 7. REVIEW OF PERMIT APPLICATION.

The County Zoning Office shall review all permit applications to determine whether proposed building sites will be reasonably safe from flooding. If a proposed building site is in a flood prone area, all new construction and substantial improvements (including the placement of prefabricated buildings and manufactured homes) shall:

- (a) be designed (or modified) and adequately anchored to prevent flotation, collapse, or lateral movement of the structure,
- (b) be constructed with materials resistant to flood damage,
- (c) be constructed by methods and practices that minimize flood damage,
- (d) be constructed with electrical, heating, ventilation, plumbing and air conditioning equipment and other service facilities that are designed and/or located so as to prevent water from entering or accumulating within the components during flooding.

SECTION 8. REVIEWS OF SUBDIVISION PROPOSALS

The County Zoning Administrator shall review subdivision proposals and other proposed new development to determine whether such proposals will be reasonably safe from flooding. If a subdivision proposal or other proposed new development is in a flood prone area, any such proposals shall be reviewed to assure that:

- (a) all such proposals are consistent with the need to minimize flood damage within the flood prone area,
- (b) all public utilities and facilities, such as sewer, gas, electrical, and water systems are located and constructed to minimize or eliminate flood damage, and
- (c) adequate drainage is provided to reduce exposure of flood hazards.

SECTION 9. WATER SUPPLY SYSTEMS.

The County Zoning Administrator shall require within flood prone areas new and replacement water supply systems to be designed to minimize or eliminate infiltration of flood waters into the systems.

SECTION 10. SANITARY SEWAGE AND WASTE DISPOSAL SYSTEMS.

The County Zoning Administrator shall require within flood prone areas:

- (a) new and replacement sanitary sewage systems to be designed to minimize or eliminate infiltration of flood waters into the systems and discharges from the systems into flood waters and
- (b) on-site waste disposal systems to be located to avoid impairment to them or contamination from them during flooding.

SECTION 11. VARIANCES.

Whenever the standards of this ordinance place undue hardship on a specific development proposal, the applicant may apply to the County Board of Adjustments (BOA) for a variance. The BOA shall review the applicant's request for a variance and shall submit its decision to the County Zoning Office. The BOA may attach such conditions to granting of a variance as it deems necessary to further the intent of this ordinance.

- A. No variance shall be granted unless the applicant demonstrates that all of the following conditions are met:
1. The development activity cannot be located outside the floodplain.
 2. An exceptional hardship would result if the variance were not granted.
 3. The relief requested is the minimum necessary.
 4. There will be no additional threat to public health, safety or creation of a nuisance.
 5. There will be no additional public expense for flood protection, rescue or relief operations, policing, or repairs to roads, utilities, or other public facilities.
 6. The applicant's circumstances are unique and do not establish a pattern inconsistent with the intent of the NFIP, and
 7. all other state and federal permits have been obtained.

The County BOA shall notify an applicant in writing that a variance from the requirements of the building protections standards that would lessen the degree of protection to a building will:

- i. result in increased premium rates for flood insurance up to \$25 *per* \$100 of insurance coverage;
- ii. increase the risks to life and property; and
- iii. require that the applicant proceed with knowledge of these risks and that the applicant acknowledge in writing the assumption of the risk and liability.

SECTION. 12 PENALTY.

Any person who violates this ordinance shall upon conviction thereof be fined not less than twenty-five dollars (\$25.00) nor more than two-hundred dollars (\$250.00). A separate offense shall be deemed committed upon each day during or on which a violation occurs or continues.

SECTION 13. APPLICATION OF ORDINANCES AND GREATER RESTRICTIONS.

This ordinance controls the requirements for compliance with the National Flood Insurance Program and supersedes other related ordinances including Section 23, Menominee County Zoning Ordinance – Floodplain Overlay District. However, this ordinance does not repeal any ordinance adopted to achieve eligibility in the program and does not repeal, abrogate, or impair any existing easements, covenants, or deed restrictions. Where this ordinance and other ordinance easements, covenants or deed restrictions conflict or overlap, whichever imposes the more stringent restrictions shall prevail.

SECTION 14. DISCLAIMER OF LIABILITY.

The degree of protection required by this ordinance is considered reasonable for regulatory purposes and is based on available information derived from engineering and scientific methods of study. Larger floods may occur or flood heights may be increased by man-made or natural causes. This ordinance does not imply that development either inside or outside of the floodplain will be free from flooding or damage. This ordinance does not create liability on the part of the County of Menominee or any officer or employee thereof for any flood damage that results from proper reliance on this ordinance or any administrative decision made lawfully thereunder.

SECTION 15. SEVERABILITY.

The provisions and sections of this ordinance shall be deemed separable and the invalidity of any portion of this ordinance shall not affect the validity of the remainder.

SECTION 16. EFFECTIVE DATE.

This ordinance shall be in full force and effect from and after its passage and approval and publication as required by law.

Passed by the Menominee County Board of Supervisors of the County of Menominee, Wisconsin, this 21st day of March, 2023.

Attested and filed in my office this 22nd day of March, 2023.

A handwritten signature in cursive script that reads "Laure Pecore". The signature is written in black ink and is positioned above a solid horizontal line.

Laure Pecore (Clerk)