

### Section 520.7.05: General Floodplain District (GFP)

- (1) **Applicability.** The provisions for this district shall apply to all floodplains ~~for which flood profiles are not available or where flood profiles are available but floodways have not been delineated.~~ Floodway and flood fringe districts shall be delineated when adequate data is available mapped as A, AO or AH Zones.
- (2) **Permitted Uses.** Pursuant to Section 520.7.05(3), it shall be determined whether the proposed use is located within a floodway or flood fringe area. Those uses permitted in floodway (Section 520.7.03(2)) and flood fringe areas (Section 520.7.04(02)) are allowed within the general floodplain district, according to the standards of Section 520.7.05(3), provided that all permits or certificates required under Section 520.7.07(1) have been issued.
- (3) **Standards for Development in the General Floodplain District.** Section 520.7.03 applies to floodway areas, Section 520.7.04 applies to flood fringe areas. The rest of this Article applies to either district.
  - (a) In AO/AH Zones the structure's lowest floor must meet one of the following conditions, whichever is greater.
    1. at or above the flood protection elevation; or
    2. two (2) feet above the highest adjacent grade around the structure; or
    3. The depth as shown on the FIRM
  - (b) In AO/AH Zones, provide plans showing adequate drainage paths to guide floodwaters around structures.
- (4) **Determining Floodway and Flood fringe Limits.** Upon receiving an application for development within the general floodplain district, the zoning administrator shall:
  - (a) Require the applicant to submit two copies of an aerial photograph or a plan which shows the proposed development with respect to the general floodplain district limits, stream channel, and existing floodplain developments, along with a legal description of the property, fill limits and elevations, building floor elevations and flood proofing measures; and the flood zone as shown on the FIRM.
  - (b) Require the applicant to furnish any of the following information deemed necessary by the Department to evaluate the effects of the proposal upon flood height and flood flows, regional flood elevation and to determine floodway boundaries:
    1. ~~A typical valley cross-section showing the stream channel, the floodplain adjoining each side of the channel, the cross-sectional area to be occupied by the proposed development, and all historic high water information~~ Hydrologic and Hydraulic Study as specified in Section 520.7.07(1)(b)3.
    2. Plan (surface view) showing elevations or contours of the ground; pertinent structure, fill or storage elevations; size, location and layout of all proposed and existing structures on the site; location and elevations of streets, water supply, and sanitary facilities; soil types and other pertinent information.

3. ~~Profile showing the slope of the bottom of the channel or flow line of the stream. Specifications for building construction and materials, floodproofing, filling, dredging, channel improvement, storage, water supply and sanitary facilities.~~
  4. ~~In AO Zones the structure's lowest floor level (including basement) must be the more restrictive of
    - i. ~~the flood protection elevation or~~
    - ii. ~~The lowest floor (including the basement) elevated above the highest adjacent grade at least as high as the depth number specified in feet on the FIRM (at least two feet if no depth number is specified)~~~~
  5. ~~In AO Zones, require within AO zones adequate drainage paths around structures and on slopes to guide floodwaters around and away from proposed structures.~~
- (c) ~~Transmit one copy of the information described Section 520.7.05(4)(a) and Section 520.7.05(4)(b) to the Department Regional office along with a written request for technical assistance to establish regional flood elevations and, where applicable, floodway data. Where the provisions of Section 520.7.07(1)(b)3 apply, the applicant shall provide all required information and computations to delineate floodway boundaries and the effects of the project on flood elevations.~~

## Section 520.7.06: Nonconforming Uses

### (1) General.

- (a) Applicability. If these standards conform with Wisconsin Statutes 62.23(7)(h), for cities and villages, they shall apply to all modifications or additions to any nonconforming use or structure and to the use of any structure or premises which was lawful before the passage of this Article or any amendment thereto.
- (b) The existing lawful use of a structure or its accessory use which is not in conformity with the provisions of this Article may continue subject to the following conditions:
  1. No modifications or additions to a nonconforming use or structure shall be permitted unless they comply with this Article. The words "modification" and "addition" include, but are not limited to, any alteration, addition, modification, structural repair, rebuilding or replacement of any such existing use, structure or accessory structure or use. Ordinary maintenance repairs are not considered an extension, modification or addition; these include painting, decorating, paneling and the replacement of doors, windows and other nonstructural components and the maintenance, repair or replacement of existing private sewage or water supply systems or connections to public utilities. Ordinary maintenance repairs do not include any costs associated with the repair of a damaged structure. The construction of a deck that does not exceed 200 square feet and that is adjacent to the exterior wall of a principal structure is not an extension, modification or addition. The roof of the structure may extend over a portion of the deck in order to provide safe ingress and egress to the principal structure.
  2. If a nonconforming use or the use of a nonconforming structure is discontinued for 12 consecutive months, it is no longer permitted and any future use of the property, and any structure or building thereon, shall conform to the applicable requirements of this Article.
  3. The municipality shall keep a record which lists all nonconforming uses and nonconforming structures, their present equalized assessed value, the cost of all modifications or additions which have been permitted, and the percentage of the structure's total current value those modifications represent.
  4. No modification or addition to any nonconforming structure or any structure with a nonconforming use, which over the life of the structure would equal or exceed 50% of its present equalized assessed value, shall be allowed unless the entire structure is permanently changed to a conforming structure with a conforming use in compliance with the applicable requirements of this Article. Contiguous dry land access must be provided for residential and commercial uses in compliance with Section 520.7.04(3)(a). The costs of elevating a nonconforming building or a building with a nonconforming use to the flood protection elevation are excluded from the 50% provisions of this paragraph.
  5. No maintenance to any nonconforming structure or any structure with a nonconforming use, the cost of which would equal or exceed 50% of its present equalized assessed value, shall be allowed unless the entire structure is permanently

changed to a conforming structure with a conforming use in compliance with the applicable requirements of this article. Contiguous dry land access must be provided for residential and commercial uses in compliance with Section 94.7.04(3)(a).

6. If on a per event basis the total value of the work being done under subparagraphs 4. and 5. equals or exceeds 50% of the present equalized assessed value the work shall not be permitted unless the entire structure is permanently changed to a conforming structure with a conforming use in compliance with the applicable requirements of this article. Contiguous dry land access must be provided for residential and commercial uses in compliance with Section 94.7.04(3)(a).

7. Except as provided in subparagraph 8 below, if any nonconforming structure or any structure with a nonconforming use is destroyed or is substantially damaged, it cannot be replaced, reconstructed or rebuilt unless the use and the structure meet the current ordinance requirements. A structure is considered substantially damaged if the total cost to restore the structure to its pre-damaged condition equals or exceeds 50% of the structure's present equalized assessed value.

8. For nonconforming buildings that are substantially damaged or destroyed by a non-flood disaster, the repair or reconstruction of any such nonconforming building ~~may~~ shall be permitted in order to restore it to the size and use in effect prior to the damage event, provided that the minimum federal code requirements below are met and all required permits have been granted prior to the start of construction after the non-flood disaster, provided that the nonconforming building will meet all of the minimum requirements under applicable FEMA regulations (44 CFR Part 60), or the regulations promulgated there under.

a. Residential Structures

i. Shall have the lowest floor, including basement, elevated to or above the base flood elevation using fill, pilings, columns, posts or perimeter walls. Perimeter walls must meet the requirements of Section 520.7.07(5)(b).

ii. Shall be anchored to prevent floatation, collapse, or lateral movement of the structure resulting from hydrodynamic and hydrostatic loads, including the effects of buoyancy and shall be constructed with methods and materials resistant to flood damage.

iii. Shall be constructed with electrical, heating, ventilation, plumbing and air conditioning equipment and other service facilities that are designed and/or elevated so as to prevent water from entering or accumulating within the components during conditions of flooding.

iv. In A Zones, obtain, review and utilize any flood data available from a federal, state or other sources.

v. In AO Zones with no elevations specified, shall have the lowest floor, including basement, meet the standards in Section 520.7.05(3)(a).

vi. AO Zones shall have adequate drainage paths around structures on slopes to guide floodwaters around and away from the structure.

b. Nonresidential Structures

- i. Shall meet the requirements of Sections 520.7.6(1)(b)8.a. i.- ii. and v.- vi.
  - ii. Shall either have the lowest floor, including basement, elevated to or above the regional flood elevation; or, together with attendant utility and sanitary facilities, shall meet the standards in Sections 520.7.07(5)(a) or (b).
  - iii. In AO Zones with no elevations specified, shall have the lowest floor including basement, meet the standard in Section 520.7.05(3)(a).
- (c) A nonconforming historic structure may be altered if the alteration will not preclude the structures continued designation as a historic structure, the alteration will comply with Section 520.7.03(3)(a), flood resistant materials are used, and construction practices and floodproofing methods that comply with Section 520.7.07(5) are used. Repair or rehabilitation of historic structures shall be exempt from the development standards of Section 520.7.06(1)(b)8.a. if it is determined that the proposed repair or rehabilitation will not preclude the structure's continued designation as a historic structure and is the minimum necessary to preserve the historic character and design of the structure.

**(2) Floodway Areas.**

- (a) No modification or addition shall be allowed to any nonconforming structure or any structure with a nonconforming use in a floodway area, unless such modification or addition:
  - 1. Has been granted a permit or variance which meets all ordinance requirements.
  - 2. Meets the requirements of Section 520.7.06(1).
  - 3. Will not increase the obstruction to flood flows or regional flood height.
  - 4. Any addition to the existing structure shall be flood proofed, pursuant to Section 520.7.07(5), by means other than the use of fill, to the flood protection elevation.
  - 5. If any part of the foundation below the flood protection elevation is enclosed, the following standards shall apply:
    - a. The enclosed area shall be designed by a registered architect or engineer to allow for the efficient entry and exit of flood waters without human intervention. A minimum of two openings must be provided with a minimum net area of at least one square inch for every one square foot of the enclosed area. The lowest part of the opening can be no more than 12 inches above the adjacent grade.
    - b. The parts of the foundation located below the flood protection elevation must be constructed of flood-resistant materials.
    - c. Mechanical and utility equipment must be elevated or flood proofed to or above the flood protection elevation; and
    - d. The use must be limited to parking or storage.
- (b) No new on-site sewage disposal system, or addition to an existing on-site sewage disposal system, except where an addition has been ordered by a government agency to correct a hazard to public health, shall be allowed in a floodway area. Any replacement, repair or maintenance of an existing on-site sewage disposal system in a floodway area shall meet

the applicable requirements of all municipal ordinances and COMM 83 of the Wisconsin Administrative Code.

- (c) No new well or modification to an existing well used to obtain potable water shall be allowed in a floodway area. Any replacement, repair or maintenance of an existing well in a floodway area shall meet the applicable requirements of all municipal ordinances and NR 811 and NR 812 of the Wisconsin Administrative Code.

**(3) Flood fringe Areas.**

- (a) No modification or addition shall be allowed to any nonconforming structure or any structure with a nonconforming use unless such modification or addition has been granted a permit or variance by the municipality, and the modification or addition shall be placed on fill or flood proofed to the flood protection elevation in compliance with the standards for that particular use in Section 520.7.04(3), except where Section 520.7.6(3)(b) is applicable.
- (b) Where compliance with the provisions of Section 520.7.06(3)(a) would result in unnecessary hardship and only where the structure will not be used for human habitation or be associated with a high flood damage potential, the Board of Adjustment/Appeals, using the procedures established in Section 520.7.07(3), may grant a variance from those provisions of Section 520.7.06(3)(a) for modifications or additions, using the criteria listed below. Modifications or additions which are protected to elevations lower than the flood protection elevation may be permitted if:
  1. No floor is allowed below the regional flood elevation for residential or commercial structures.
  2. Human lives are not endangered.
  3. Public facilities, such as water or sewer, will not be installed.
  4. Flood depths will not exceed two feet.
  5. Flood velocities will not exceed two feet per second; and
  6. The structure will not be used for storage of materials as described in Section 520.7.04(3)(e).
- (c) ~~If neither the provisions of Section 520.7.06(3)(a) or Section 520.7.06(3)(b), above, can be met, one addition to an existing room in a nonconforming building or a building with a nonconforming use may be allowed in the flood fringe, if the addition:~~
  1. ~~Meets all other regulations and will be granted by permit or variance.~~
  2. ~~Does not exceed 60 square feet in area; and~~
  3. ~~In combination with other previous modifications or additions to the building, does not equal or exceed 50% of the present equalized assessed value of the building.~~All new private sewage disposal systems, or addition to, replacement, repair or maintenance of a private sewage disposal system shall meet all the applicable provisions of all local ordinances and COMM 83 of the Wisconsin Administrative Code.

- (d) All new wells, or addition to, replacement, repair or maintenance of a well shall meet the applicable provisions of this Article and NR 811 and NR 812 of the Wisconsin Administrative Code.

## Section 520.7.07: Administration

Where a zoning administrator, planning agency or a board of adjustment/appeals has already been appointed to administer a zoning ordinance adopted under 59.69, 59.692 or 62.23(7) of Wisconsin Statutes, these officials shall also administer this Article.

### (1) Zoning Administration.

- (a) ~~The Zoning Administrator~~ Duties and Powers. The Administrator is authorized to administer this Article and shall have the following duties and powers:
1. Advise applicants of the ordinance provisions, assist in preparing permit applications and appeals, and assure that the regional flood elevation for the proposed development is shown on all permit applications.
  2. Issue permits and inspect properties for compliance with provisions of this Article, and issue certificates of compliance where appropriate.
  3. Inspect all damaged floodplain structures and perform a substantial damage assessment to determine if substantial damage to the structures has occurred.
  4. Keep records of all official actions such as:
    - i. All permits issued, inspections made, and work approved.
    - ~~ii. Documentation of certified lowest floor and regional flood elevations for floodplain development.~~
    - iii. Records of water surface profiles, floodplain zoning maps and ordinances, nonconforming uses and structures including changes, appeals, variances and amendments.
    - iv. All substantial damage assessment reports for floodplain structures.
    - v. Floodproofing Certificates
    - vi. List of nonconforming structures and uses
  5. Submit copies of the following items to the Department Regional office:
    - i. Within 10 days of the decision, a copy of any decisions on variances, appeals for map or text interpretations, and map or text amendments.
    - ii. Copies of any case-by-case analyses, and any other information required by the Department including an annual summary of the number and types of floodplain zoning actions taken.
    - iii. Copies of substantial damage assessments performed and all related correspondence concerning the assessments.
  6. Investigate, prepare reports, and report violations of this Article to the municipal zoning agency and attorney for prosecution. Copies of the reports shall also be sent to the Department Regional office.
  7. Submit copies of text and map amendments and biennial reports to the FEMA Regional office.



- (b) Land use Permit. A land use permit shall be obtained before any new development or any structural repair or change in the use of a building or structure, including sewer and water facilities, may be initiated. Application to the zoning administrator shall include:

1. General Information.

- i. Name and address of the applicant, property owner and contractor.
- ii. Legal description, proposed use, and whether it is new construction or a modification.

2. Site Plan Development. A site plan drawn to scale shall be submitted with the permit application form and shall contain:

- i. Location, dimensions, area and elevation of the lot.
- ii. Location of the ordinary high water mark of any abutting navigable waterways.
- iii. Location of any structures with distances measured from the lot lines and street center lines.
- iv. Location of any existing or proposed on-site sewage systems or private water supply systems.
- v. Location and elevation of existing or future access roads.
- vi. Location of floodplain and floodway limits as determined from the official floodplain zoning maps.
- vii. The elevation of the lowest floor of proposed buildings and any fill using the vertical datum from the adopted study – either National Geodetic Vertical Datum (NGVD) or North American Vertical Datum (NAVD).
- viii. Data sufficient to determine the regional flood elevation in NGVD or NAVD at the location of the development and to determine whether or not the requirements of Section 520.7.03 or Section 520.7.04 are met; and
- ix. Data to determine if the proposed development will cause an obstruction to flow or an increase in regional flood height or discharge according to Section 520.7.02(1). This may include any of the information noted in Section 520.7.03(3)(a).

3. ~~Data Requirements—Hydraulic and Hydrologic studies~~ to Analyze Developments. All hydraulic and hydrologic studies shall be completed under the direct supervision of a professional engineer registered in the State. The study contractor shall be responsible for the technical adequacy of the study. All studies shall be reviewed and approved by the Department. The applicant shall provide all survey data and computations required to show the effects of the project on flood heights, velocities and floodplain storage, for all subdivision proposals, as "subdivision" is defined in 236 of Wisconsin Statutes, and other proposed developments exceeding 5 acres in area or where the estimated cost exceeds \$125,000. The applicant shall provide:

- ~~i. An analysis of the effect of the development on the regional flood profile, velocity of flow and floodplain storage capacity.~~
- ~~ii. A map showing location and details of vehicular access to lands outside the~~

floodplain; and

~~iii. A surface drainage plan showing how flood damage will be minimized. The estimated cost of the proposal shall include all structural development, landscaping, access and road development, utilities, and other pertinent items, but need not include land costs.~~

a. Zone A floodplains

- i. Hydrology. The appropriate method shall be based on the standards in Wis. Admin. Code NR § 116.07(3), Hydrological Analysis: Determination of Regional Flood Discharge.
- ii. Hydraulic modeling. The regional flood elevation shall be based on the standards in Wis. Admin. Code NR § 116.07(4), Hydraulic Analysis: Determination of Regional Flood Elevation and the following:
  1. Determination of the required limits of the hydraulic model shall be based on the detailed study information for downstream structures (dam, bridge, and culvert) to determine adequate starting WSEL for the study.
  2. Channel sections must be surveyed.
  3. Minimum four foot contour data in the overbanks shall be used for the development of cross section overbank and floodplain mapping.
  4. A maximum distance of 500 feet between cross sections is allowed in developed areas with additional intermediate cross sections required at transitions in channel bottom slope including a survey of the channel at each location.
  5. The most current version of HEC RAS shall be used.
  6. A survey bridge and culvert openings and the top of road is required at each structure.
  7. Additional cross sections are required at the downstream and upstream limits of the proposed development and any necessary intermediate locations based on the length
  8. Standard accepted engineering practices shall be used when assigning parameters for the base model such as flow, Manning's N values, expansion and contraction coefficients or effective flow limits. The base model shall be calibrated to past flooding data such as high water marks to determine the reasonableness of the model results.

If no historical data is available, adequate justification shall provide for any parameters outside standard accepted engineering practices.

2. The model must extend past the upstream limit of the difference in the existing and proposed flood profiled in order to provide a tie-in to existing studies. The height difference between the proposed flood profile and the existing study profiles shall be no more than 0.00 feet.

iii. Mapping. A work map of the reach studied shall be provided, showing all cross section locations, floodway/floodplain limits based on best available topographic data, geographic limits of the proposed development and whether the proposed development is located in the floodway.

1. If the proposed development is located outside of the floodway, then it is determined to have no impact on the regional flood elevation.

2. If any part of the proposed development is in the floodway, it must be added to the base model to show the difference between existing and proposed conditions. The study must ensure that all coefficients remain the same as in the existing model, unless adequate justification based on standard accepted engineering practices is provided.

b. Zone AE Floodplains

i. Hydrology. If the proposed hydrology will change the existing study, the appropriate method to be used shall be based on Wis. Admin. Code NR § 116.07(3), *Hydrologic Analysis: Determination of Regional Flood Discharge.*

ii. Hydraulic Model. The regional flood elevation shall be based on the standards in Wis. Admin. Code HR §116.07(4), *Hydraulic Analysis: Determination of Regional Flood Elevation* and the following:

1. Duplicated Effective Model. The effective model shall be reproduced to ensure correct transference of the model data and to allow integration of the revised data to provide a continuous FIS model upstream and downstream of the revised reach. If data from the effective model is available, models shall be generated that duplicate the FIS profiles and the elevations shown in the Floodway Data Table in the FIS report to within 0.1 foot.

2. *Corrected Effective Model* .The Corrected Effective Model shall not include any man- made physical changes since the effective model date, but shall import the model into the most current version of HEC-RAS for department review.
  3. *Existing (Pre-Project Conditions) Model* .The existing model shall be required to support conclusions about the actual impacts of the project associated with the Revised (Post –Project) Model or to establish more up-to-date models on which to base the Revised (Post-Project) Model.
  4. *Revised (Post-Project Conditions) Model* .The Revised (Post-Project Conditions) Model shall incorporate the Existing Model and any proposed changes to the topography caused by the proposed development. This model shall reflect proposed conditions.
  5. All changes to the Duplicate Effective Model and subsequent models must be supported by certified topographic information, bridge plans, construction plans and survey notes.
  6. Changes to the hydraulic models shall be limited to the stream reach for which the revision is being requested. Cross sections upstream and downstream of the revised reach shall be identical to those in the effective model and result in water surface elevations and top widths upstream and downstream of the revised reach as required. The Effective Model shall not be truncated.
- iii. *Mapping* .Maps and associated engineering data shall be submitted to the Department for review which meet the following conditions:
1. Consistency between the revised hydraulic models, the revised floodplain and floodway delineations, the revised flood profiles, topographic work map, annotated FIRMs and/or Flood Boundary Floodway Maps (FBFMs), construction plans and bridge plans.
  2. Certified topographic map of suitable scale, contour interval, and a planimetric map showing the applicable items. If a digital version of the map is available, it may be submitted in order that the FIRM may be more easily revised.
  3. Annotated FIRM panel showing the revised 1% and 0.2% annual chance floodplains and floodway boundaries.
  4. If an annotated FIRM and/or FBFM and digital mapping (GIS or CADD) are used then all supporting documentation or metadata must be

included with the data submission along with the Universal Transverse Mercator (UTM) projection and State Plan Coordinate System in accordance with FEMA mapping specifications.

5. The revised floodplain boundaries shall tie into the effective floodplain boundaries.
6. All cross sections from the effective model shall be labeled in accordance with the effective map and a cross section lookup table shall be included to relate to the model input numbering scheme.
7. Both the current and proposed floodway shall be shown on the map.
8. The stream centerline, or profile baseline used to measure stream distance in the model shall be visible on the map.

4. Expiration. All permits issued under the authority of this Article shall expire 120 days after issuance.

(c) Certificate of Compliance. No land shall be occupied or used, and no building which is hereafter constructed, altered, added to, modified, repaired, rebuilt or replaced shall be occupied until a certificate of compliance is issued by the zoning administrator, except where no permit is required, subject to the following provisions:

1. The certificate of compliance shall show that the building or premises or part thereof, and the proposed use, conform to the provisions of this Article.
2. Application for such certificate shall be concurrent with the application for a permit.
3. If all ordinance provisions are met, the certificate of compliance shall be issued within 10 days after written notification that the permitted work is completed.
4. The applicant shall submit a certification signed by a registered professional engineer, architect or land surveyor that the fill, lowest floor and floodproofing elevations are in compliance with the permit issued. Floodproofing measures also require certification by a registered professional engineer or architect that floodproofing measures meet the requirements of Section 520.7.07(5).

(d) Other Permits. The applicant must secure all necessary permits from federal, state, and local agencies, including those required by the U.S. Army Corps of Engineers under s. 404 of the Federal Water Pollution Control Act, Amendments of 1972, 33 U.S.C. 1344.

(2) **Zoning Agency.**

(a) The Plan Commission shall:

1. Oversee the functions of the office of the zoning administrator; and
2. Review and advise the Governing body on all proposed amendments to this Article, maps and text.

(b) This zoning agency shall not:

1. Grant variances to the terms of the Article in place of action by the Board of Adjustment/Appeals; or
2. Amend the text or zoning maps in place of official action by the Governing body.

(3) **Board of Adjustment/Appeals.** The Board of Adjustment/Appeals, created under 62.23(7)(e) of Wisconsin Statutes, for villages, is hereby authorized or shall be appointed to act for the purposes of this Article. The Board shall exercise the powers conferred by Wisconsin Statutes and adopt rules for the conduct of business. The zoning administrator may not be the secretary of the Board.

(a) Powers and Duties. The Board of Adjustment/Appeals shall:

1. Appeals. Hear and decide appeals where it is alleged there is an error in any order, requirement, decision or determination made by an administrative official in the enforcement or administration of this Article.
2. Boundary Disputes. Hear and decide disputes concerning the district boundaries shown on the official floodplain zoning map.
3. Variances. Hear and decide, upon appeal, variances from the ordinance standards

(b) Appeals to the Board.

1. Appeals to the board may be taken by any person aggrieved, or by any officer or department of the municipality affected by any decision of the zoning administrator or other administrative officer. Such appeal shall be taken within 30 days unless otherwise provided by the rules of the board, by filing with the official whose decision is in question, and with the board, a notice of appeal specifying the reasons for the appeal. The official whose decision is in question shall transmit to the board all records regarding the matter appealed.

2. Notice and Hearing for Appeals including Variances.

i. Notice. The board shall:

- a. Fix a reasonable time for the hearing.
- b. Publish adequate notice pursuant to Wisconsin Statutes, specifying the date, time, place and subject of the hearing.
- c. Assure that notice shall be mailed to the parties in interest and the Department Regional office at least 10 days in advance of the hearing.

ii. Hearing. Any party may appear in person or by agent. The board shall:

- a. Resolve boundary disputes according to Section 520.7.07(3)(c).
- b. Decide variance applications according to Section 520.7.07(3)(d).
- c. Decide appeals of permit denials according to Section 520.7.07(4).

3. Decision: The final decision regarding the appeal or variance application shall:

- i. Be made within a reasonable time.
- ii. Be sent to the Department Regional office within 10 days of the decision.
- iii. Be a written determination signed by the chairperson or secretary of the Board.

- iv. State the specific facts which are the basis for the Board's decision.
  - v. Either affirm, reverse, vary or modify the order, requirement, decision or determination appealed, in whole or in part, dismiss the appeal for lack of jurisdiction or grant or deny the variance application.
  - vi. Include the reasons for granting an appeal, describing the hardship demonstrated by the applicant in the case of a variance, clearly stated in the recorded minutes of the Board proceedings.
- (c) Boundary Disputes. The following procedure shall be used by the Board in hearing disputes concerning floodplain district boundaries:
1. If a floodplain district boundary is established by approximate or detailed floodplain studies, the flood elevations or profiles shall prevail in locating the boundary. If none exist, other evidence may be examined.
  2. In all cases, the person contesting the boundary location shall be given a reasonable opportunity to present arguments and technical evidence to the Board.
  3. If the boundary is incorrectly mapped, the Board should inform the zoning committee or the person contesting the boundary location to petition the governing body for a map amendment according to Section 520.7.08.
- (d) Variance.
1. The Board may, upon appeal, grant a variance from the standards of this Article if an applicant convincingly demonstrates that:
    - i. Literal enforcement of the ordinance provisions will cause unnecessary hardship.
    - ii. The hardship is due to adoption of the floodplain ordinance and unique property conditions, not common to adjacent lots or premises. In such case the ordinance or map must be amended.
    - iii. The variance is not contrary to the public interest; and
    - iv. The variance is consistent with the purpose of this Article in Section 520.7.01(3).
  2. In addition to the criteria in Section 520.7.07(3)(d)1, to qualify for a variance under FEMA regulations, the following criteria must be met:
    - i. The variance may not cause any increase in the regional flood elevation.
    - ii. Variances can only be granted for lots that are less than one-half acre and are contiguous to existing structures constructed below the RFE.
    - iii. Variances shall only be granted upon a showing of good and sufficient cause, shall be the minimum relief necessary, shall not cause increased risks to public safety or nuisances, shall not increase costs for rescue and relief efforts and shall not be contrary to the purpose of the Article.
  3. A variance shall not:
    - i. Grant, extend or increase any use prohibited in the zoning district.
    - ii. Be granted for a hardship based solely on an economic gain or loss.
    - iii. Be granted for a hardship which is self-created.

- iv. Damage the rights or property values of other persons in the area.
  - v. Allow actions without the amendments to this Article or map(s) required in Section 520.7.08(1).
  - vi. Allow any alteration of an historic structure, including its use, which would preclude its continued designation as an historic structure.
4. When a floodplain variance is granted the Board shall notify the applicant in writing that it may increase flood insurance premiums and risks to life and property. A copy shall be maintained with the variance record.

(+) **Review of Appeals of Permit Denials.**

- (a) The Zoning Agency (Section 520.7.07(2)) or Board shall review all data related to the appeal. This may include:
  - 1. Permit application data listed in Section 520.7.07(1)(b).
  - 2. Floodway/flood fringe determination data in Section 520.7.05(4).
  - 3. Data listed in Section 520.7.03(3)(a)2 where the applicant has not submitted this information to the zoning administrator.
  - 4. Other data submitted with the application, or submitted to the Board with the appeal.
- (b) For appeals of all denied permits the Board shall:
  - 1. Follow the procedures of Section 520.7.07(3).
  - 2. Consider zoning agency recommendations; and
  - 3. Either uphold the denial or grant the appeal.
- (c) For appeals concerning increases in regional flood elevation the Board shall:
  - 1. Uphold the denial where the Board agrees with the data showing an increase in flood elevation. Increases equal to or greater than 0.01 foot may only be allowed after amending the flood profile and map and all appropriate legal arrangements are made with all adversely affected property owners.
  - 2. Grant the appeal where the Board agrees that the data properly demonstrates that the project does not cause an increase equal to or greater than 0.01 foot provided no other reasons for denial exist.

(5) **Floodproofing standards for nonconforming structures or uses.**

- (a) No permit or variance shall be issued for a non-residential structure designed to be watertight below the regional flood elevation until the applicant submits a plan certified by a registered professional engineer or architect that the floodproofing measures will protect the structure or development to the flood protection elevation and submits a FEMA Floodproofing Certificate.
- (b) For a structure designed to allow the entry of floodwaters, no permit or variance shall be issued until the applicant submits a plan either:
  - 1. Certified by a registered professional engineer or architect; or



2. Meets or exceeds the following standards:
  - a. A minimum of two openings having a total net area of not less than one square inch for every square foot on enclosed area subject to flooding;
  - b. The bottom of all openings shall be no higher than one foot above grade; and
  - c. Openings may be equipped with screens, louvers, valves, or other coverings or devices provided that they permit the automatic entry and exit of floodwaters.
- (c) Floodproofing measures shall be designed to:
  1. Withstand flood pressures, depths, velocities, uplift and impact forces and other regional flood factors.
  2. Protect structures to the flood protection elevation.
  3. Anchor structures to foundations to resist flotation and lateral movement; and
  4. ~~Insure that structural walls and floors are watertight to the flood protection elevation, and the interior remains completely dry during flooding without human intervention~~  
Minimize or eliminate infiltration of flood waters.
  5. Minimize or eliminate discharge into flood waters.
- (d) ~~Floodproofing measures could include:~~
  1. ~~Reinforcing walls and floors to resist rupture or collapse caused by water pressure or floating debris.~~
  2. ~~Adding mass or weight to prevent flotation.~~
  3. ~~Placing essential utilities above the flood protection elevation.~~
  4. ~~Installing surface or subsurface drainage systems to relieve foundation wall and basement floor pressures.~~
  5. ~~Constructing water supply wells and waste treatment systems to prevent the entry of flood waters.~~
  6. ~~Putting cutoff valves on sewer lines or eliminating gravity flow basement drains.~~
- (6) **Public Information.**
  - (a) Place marks on structures to show the depth of inundation during the regional flood.
  - (b) All maps, engineering data and regulations shall be available and widely distributed.
  - (c) All real estate transfers should show what floodplain zoning district any real property is in.