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LISA SMITH, COUNTY RECORDER  
MADISON COUNTY IOWA

**Prepared By & Return To**  
**MADISON COUNTY ZONING AND ENVIRONMENTAL HEALTH**  
COURTHOUSE  
P.O. BOX 152  
WINTERSSET, IOWA 50273

**RESOLUTION ADOPTING AMENDMENTS TO THE MADISON COUNTY  
FLOOD PLAIN AND CONSERVATION DISTRICT REGULATIONS FOR THE  
UNINCORPORATED AREAS OF MADISON COUNTY, IOWA**

**Whereas,** The Board of Supervisors of Madison County, Iowa has received a recommendation from the Madison County, Iowa Zoning Commission, appointed pursuant to the provisions of the Code of Iowa, after a public hearing held by said Commission on August 26, 2010, that the Board of Supervisors adopt amendments to the Madison County Flood Plain and Conservation District Regulations, has set same down for public hearing August 31, 2010 and has given notice thereof as prescribed by law; A summary of the amendments are as follows:

The Madison County Flood Plain and Conservation District Regulations 90 thru 95 amended to change to *Title V – Property and Land Use – Chapter 52 Flood Plain Management Ordinance*. The effective date to be October 6, 2010.

Add: 52.01 Statutory Authorization, Findings of Fact and Purposes  
Add: Section A Statutory Authorization

52.02 Definitions – add the following:

1. Base Flood
4. Existing Construction
5. Existing Factory-Built Home Park or Subdivision
6. Expansion of Existing Factory-Built Home Park of Subdivision
10. Flood Insurance Rate Map (FIRM)
13. Historic Structure
15. Minor Projects
16. New Construction
17. New Factory-Built Home Park or Subdivision
18. Recreational Vehicle
19. Routine Maintenance of Existing Building and Facilities
22. Substantial Damage
24. Variance
25. Violation

52.04 Standards for Flood Plain Development – add the following:

- Section H Flood Control Structural Work
- Section I Accessory Structures
- Section J Recreational Vehicles
- Section K Pipeline and Streambed Crossings

52.05 Administration – add the following:


- D. Construction And Use To Be As Provided In Application And Plan
- E. Variance
- F. Subdivision Review
- G. Nonconforming Uses
- H. Penalties for Violation - Violations of the provisions of this Ordinance or failure to comply with any of the requirements shall constitute a misdemeanor. Any person who violates this Ordinance or fails to comply with any of its requirements shall upon conviction thereof be fined not more than \$500.00 (five hundred) or imprisoned for not more than thirty (30) days. Nothing herein contained prevent the county of Madison County from taking such other lawful action as is necessary to prevent or remedy violation.
- I. Amendments

**Whereas**, Public Hearing has been held upon these proposed amendments to the Madison County Flood Plain and Conservation District Regulations sections, and opportunity has been given to proponent and objectors to be heard thereon; and

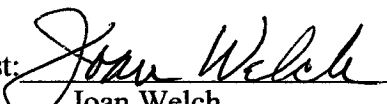
**Whereas**, The Board of Supervisors of Madison County, Iowa, after due consideration, has determined that these amendments to the Madison County Flood Plain and Conservation District Regulations provide for the adequacy, safety and efficiency of the citizens of Madison County, all for the purpose of protecting the health, safety and general welfare and repeal all other ordinances or resolutions in conflict herewith,

**Now, therefore, be it resolved** by the Board of Supervisors, Madison County, Iowa, that these amendments to the Madison County Flood Plain and Conservation District Regulations for the unincorporated areas of Madison County, Iowa, prepared, submitted and on file in the office of the Auditor of this County, are hereby approved and adopted and shall become effective October 6, 2010.

**Dated** at Winterset, Iowa, this 31 day of August 2010.



Steve Raymond, Chairman,  
Board of Supervisors, Madison County,  
Iowa

Attest:   
Joan Welch  
Madison County Auditor



increase in flood heights and velocities.

## **SECTION C. STATEMENT OF PURPOSE.**

It is the purpose of these Regulations to protect the rights, privileges and property of Madison County, Iowa, and its residents and to preserve and improve the peace, safety, health, welfare, comfort and convenience of its residents by minimizing those flood losses described In Section B with provisions designed to:

- 1 Restrict or prohibit uses which are dangerous to health, safety or property in times of flood or which cause excessive Increases in flood heights or velocities.
- 2 Require that uses vulnerable to floods, including public facilities which serve such uses, be protected against flood damage at the time of initial construction or substantial Improvement.
- 3 Protect Individuals from buying lands which may not be suited for intended purposes because of flood hazard.
- 4 Assure the eligibility is maintained for property owners in the community to purchase flood Insurance through the National Flood Insurance Program.

## **52.02. DEFINITIONS.**

### **1. BASE FLOOD**

The flood having one (1) percent chance of being equaled or exceeded in any given year. (See 100-year flood).

### **2. BASEMENT**

Any enclosed area of a building which has its floor or lowest level below, grade level (subgrade) on all sides. Also see "lowest floor".

### **3. DEVELOPMENT**

Any man-made change to improved or unimproved real estate, including but not limited to buildings or other structures, mining, dredging, filling, grading, paving, excavation or drilling operations.

### **4. EXISTING CONSTRUCTION**

Any structure for which the "start of construction" commenced before the effective date of the first floodplain management regulations adopted by the community (December 1969).

### **5. EXISTING FACTORY-BUILT HOME PARK OR SUBDIVISION**

A factory-built home park or subdivision for which the construction of facilities for servicing the lots on which the factory-built homes are to be affixed (including at a minimum, the installation of utilities, the construction of streets, and either final site grading or the pouring of concrete pads) is completed before the effective date of the first floodplain management regulations adopted by the community (December 1969).

**6. EXPANSION OF EXISTING FACTORY-BUILT HOME PARK OR SUBDIVISION** The preparation of additional sites by the construction of facilities for servicing the lots on which

the factory-built homes are to be affixed (including at a minimum, the installation of utilities, the construction of streets, and either final site grading or the pouring of concrete pads).

#### 7. FACTORY-BUILT HOME

Any structure, designed for residential use, which is wholly or in substantial part, made, fabricated, formed or assembled in manufacturing facilities for installation or assembly and installation, on a building site. For the purpose of these Regulations, factory-built homes include mobile homes, manufactured homes and modular homes and also park trailers, and other similar vehicles placed on a site for greater than one hundred eighty (180) consecutive days.

#### 8. FACTORY-BUILT HOME PARK OR SUBDIVISION

A parcel (or continuous parcel) of land divided into two (2) or more factory-built home lots for sale or rent.

#### 9. FLOOD

A temporary rise in a stream's flow or stage that results in water overflowing its banks and inundating areas to the channel or an unusual and rapid accumulation of runoff or surface waters from any source.

10. FLOOD INSURANCE RATE MAP (FIRM) - The official map prepared as part of (but published separately from) the Flood Insurance Study which delineates both the flood hazard areas and the risk premium zones applicable to the community.

#### 11. FLOODPROOFING

Any combination of structural and non-structural additions, changes, or adjustments to structures, including utility and sanitary facilities, which would preclude the entry of water. Structural components shall have the capability of resisting hydrostatic and hydrodynamic loads and the effect of buoyancy.

#### 12. FLOODWAY

The channel of a river or stream and those portions of the flood plain adjoining the channel, which are reasonably required to carry and discharge flood water or flood flows so that confinement or flood flows to the floodway area will not result in substantially higher flood levels and flow velocities.

13. HISTORIC STRUCTURE - Any structure that is:

- a. Listed individually in the National Register of Historic Places, maintained by the Department of Interior, or preliminarily determined by the Secretary of the Interior as meeting the requirements for individual listing of the National Register;
- b. Certified or preliminarily determined by the Secretary of the Interior as contributing to the historical significance of a registered historic district or a district preliminarily determined by the Secretary to qualify as a registered historic district;

- c. Individually listed on a state inventory of historic places in states with historic preservation programs which have been approved by the Secretary of the Interior; or,
- d. Individually listed on a local inventory of historic places in communities with historic preservation programs that have been certified by either (i) an approved state program as determined by the Secretary of the Interior or (ii) directly by the Secretary of the Interior in states without approved programs.

#### 14. LOWEST FLOOR

The floor of the lowest enclosed area in a building including a basement except when all the following criteria are met:

1. The enclosed area is designed to flood to equalize hydrostatic pressure during floods with walls and openings that satisfy the provisions of 52.04 section B c-1
2. The enclosed area is unfurnished (not carpeted, drywalled, etc.) and used solely for low damage potential uses such as building access, parking or storage, and;
3. Machinery and service facilities (e.g., hot water heater, furnace, electrical service) contained in the enclosed area are located at least one (1) foot above the 100-year flood level, and;
4. The enclosed area is not a "basement" as defined in this section.

In cases where the lowest enclosed area satisfies criteria 1, 2, 3, and 4, above, the lowest floor of the next highest enclosed area that does not satisfy the criteria above.

15. MINOR PROJECTS - Small development activities (except for filling, grading and excavating) valued at less than \$500.

16. NEW CONSTRUCTION - (new buildings, factory-built home parks) - Those structures or development for which the start of construction commenced on or after the effective date of the first floodplain management regulations adopted by the community and includes any subsequent improvements to such structures.

17. NEW FACTORY-BUILT HOME PARK OR SUBDIVISION - A factory-built home park or subdivision for which the construction of facilities for servicing the lots on which the factory-built homes are to be affixed (including at a minimum, the installation of utilities, the construction of streets, and either final site grading or the pouring of concrete pads) is completed on or after the effective date of the effective date of the first floodplain management regulations adopted by the community and includes any subsequent improvements to such structures.

18. RECREATIONAL VEHICLE - A vehicle which is:

- a. Built on a single chassis;

- b. Four hundred (400) square feet or less when measured at the largest horizontal projection;
- c. Designed to be self-propelled or permanently towable by a light duty truck; and
- d. Designed primarily not for use as a permanent dwelling but as a temporary living quarters for recreational, camping, travel, or seasonal use.

19. ROUTINE MAINTENANCE OF EXISTING BUILDINGS AND FACILITIES – Repairs necessary to keep a structure in a safe and habitable condition that do not trigger a building permit, provided they are not associated with a general improvement of the structure or repair of a damaged structure. Such repairs include:

- a) Normal maintenance of structures such as re-roofing, replacing roofing tiles and replacing siding;
- b) Exterior and interior painting, papering, tiling, carpeting, cabinets, counter tops and similar finish work;
- c) Basement sealing;
- d) Repairing or replacing damaged or broken window panes;
- e) Repairing plumbing systems, electrical systems, heating or air conditioning systems and repairing wells or septic systems.

#### 20. SPECIAL FLOOD HAZARD AREA.

The land within a community subject to a one percent (1%) or greater chance of flooding in any given year. This land is identified as Zone A on the Flood Insurance Rate Map.

#### 21. STRUCTURE.

Anything constructed or erected on the ground or attached to the ground including, but not limited to buildings, factories, sheds, cabins, factory-built homes, storage tanks, and other similar uses.

22. 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 fifty (50) percent of the market value of the structure before the damage occurred.

*Substantial damage also means flood-related damages sustained by a structure on two separate occasions during a 10-year period for which the cost of repairs at the time of such flood event, on the average, equals or exceeds 25 percent of the market value of the structure before the damage occurred.)*

#### 23. SUBSTANTIAL IMPROVEMENT.

Any improvement to a structure which satisfies either of the following criteria:

- A. Any repair, reconstruction or improvement of a structure, the cost of which equals or exceeds fifty percent (50%) of the market value of the structure, either;
  - 1. Before the improvement or repair is started, or;
  - 2. If the structure has been damaged and is being restored before the damage occurred, For the purpose of this definition, "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 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 conditions for the existing use.

- B. Any addition which increases the original floor area of a building by twenty-five percent (25%) or more. All additions constructed after April 1, 1973, shall be added to any proposed addition in determining whether the total Increases the original floor space would exceed twenty-five percent (25%).

**24. VARIANCE** - A grant of relief by a community from the terms of the floodplain management regulations.

**25. VIOLATION** - The failure of a structure or other development to be fully compliant with the community's floodplain management regulations.

**26. 100-YEAR FLOOD.**

A flood, the magnitude of which has a one percent (1%) chance of being equaled or exceeded in any given year or which, on the average, will be equaled or exceeded at least one every 100 years.

## **52.03 GENERAL PROVISIONS.**

### **SECTION A. LANDS TO WHICH REGULATIONS APPLY**

The provisions of these Regulations shall apply to all areas having special flood hazards within the jurisdiction of Madison County, Iowa. For the purpose of these Regulations, the special flood hazard areas are those areas designated as Zone A on the Flood Insurance Rate Map for Madison County, Iowa, as amended, which is hereby adopted and made a part of these Regulations.

### **SECTION B. RULES FOR INTERPRETATION OF FLOOD HAZARD BOUNDARIES.**

The boundaries of the special flood hazard areas shall be determined by scaling distances on the official Flood Insurance Rate Map. When an interpretation is needed as to the exact location of a boundary, a Registered Land Surveyor shall make the necessary interpretation,

### **SECTION C. COMPLIANCE.**

No structure or land shall hereafter be used and no structure shall be



located, extended, converted or structurally altered without full compliance with the terms of these Regulations and other applicable regulations which apply to uses within the jurisdiction of these Regulations.

#### **SECTION D. ABROGATION AND GREATER RESTRICTIONS**

It is not intended by these Regulations to repeal, abrogate or impair any existing easements, covenants, or deed restrictions. However, where these Regulations impose greater restrictions, the provisions of these Regulations shall prevail. All other regulations inconsistent with these Regulations are hereby repealed to the extent of the inconsistency only.

#### **SECTION E. INTERPRETATION**

In their Interpretation and application, the provisions of these Regulations shall be held to be minimum requirements and shall be liberally construed In favor of the governing body and shall not be deemed a limitation or repeal of any other powers granted by State statutes.

#### **SECTION F. WARNING AND DISCLAIMER OR LIABILITY**

The standards required by these Regulations are considered reasonable for regulatory purposes. These Regulations do not imply that areas outside the designated special flood hazard areas will be free from flooding or flood damages. These Regulations shall not create liability on the part of Madison County, Iowa, or any officer or employee thereof for any flood damages that result from reliance on these Regulations or any administrative decision lawfully made thereunder.

#### **SECTION G. SEVERABILITY**

If any section, clause, provision or portion of these Regulations are adjudged unconstitutional or invalid by a court of competent jurisdiction, the remainder of these Regulations shall not be affected thereby.

### **52.04 STANDARDS FOR FLOOD PLAIN DEVELOPMENT.**

All uses shall meet the following applicable performance standards. Where needed, the Department of Natural Resources shall be contacted to compute 100-year flood elevation and floodway data.

#### **SECTION A. ALL DEVELOPMENT WITHIN THE SPECIAL FLOOD HAZARD AREA SHALL:**

1. Be consistent with the need to minimize flood damage.
2. Use construction methods and practices that will minimize flood damage.

3. Use construction materials and utility equipment that are resistant to flood damage.
4. Obtain all other necessary permits from Federal, State and local government agencies including approval when required from the Iowa Department of Natural Resources.

## **SECTION B. STRUCTURES**

A. New or substantially Improved residential structures shall have the first floor (to include basement) elevated a minimum of one (1) foot above the 100 year flood level.

B. New or substantially improved non-residential structures shall have the first floor (including basement) elevated a minimum of one (1) foot above the 100-year flood level, or together with attendant utility and sanitary systems, be floodproofed to such a level. When floodproofing is utilized, a Professional Engineer registered in the State of Iowa, shall certify that the floodproofing methods used are adequate to withstand the flood depths, pressures, velocities, impact and uplift forces and other factors associated with the 100-year flood; and that structures below the 100-year flood level is watertight with walls substantially impermeable to the passage of water. A record of the certification indicating the specific elevation (in relation to the North American Vertical Datum) to which any structures are floodproofed shall be maintained by the Administrator.

C. All new and substantially improved structures

1. Fully enclosed areas below the "lowest floor" (not including basements) that are subject to flooding shall be designed to automatically equalize hydrostatic flood forces on exterior walls by allowing for the entry and exit of floodwaters. Designs for meeting this requirement must either be certified by a Registered Professional Engineer or meet or exceed the following minimum criteria:
  - (a) A minimum of two (2) openings having a total net area of not less than one (1) square inch for every square foot of enclosed area subject to flooding shall be provided.
  - (b) The bottom of all openings shall be no higher than one (1) foot above the grade.
  - (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.
2. New and substantially Improved structures must be designed (or modified) and adequately anchored to prevent floatation, collapse, or lateral movement of the structure resulting from hydrodynamic and hydrostatic loads, including the effects of buoyancy.

3. New and substantially improved structures must 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 conditions of flooding.

#### **SECTION C. FACTORY-BUILT HOMES**

1. Factory-built homes, including those placed in existing factory-built home parks or subdivisions, shall be anchored to resist flotation, collapse, or lateral movement.
2. Factory-built homes, including those placed in existing factory-built home parks or subdivisions, shall be elevated on a permanent foundation such that the lowest floor of the structure is a minimum of one (1) foot above the 100-year flood level.

#### **SECTION D. SUBDIVISIONS.**

Subdivisions (including factory-built home parks and subdivisions) shall be consistent with the need to minimize flood damage and shall provide adequate drainage to reduce exposure to flood hazards. Development associated with subdivisions shall meet the applicable standards of this section.

#### **SECTION E. UTILITY AND SANITARY SYSTEMS**

1. All new and replacement sanitary systems shall be designed minimize and eliminate floodwaters into the system as well as the discharge of effluents into floodwaters.
2. On-site disposal systems shall be designed to minimize or eliminate Infiltration of floodwaters into the system.
3. New and replacement water systems shall be designed to minimize or eliminate Infiltration of floodwaters into the system.
4. Utilities such as gas and electrical systems shall be located and constructed to minimize or eliminate flood damage to the systems and the risk associated with such flood damaged or impaired systems.

#### **SECTION F. WATERCOURSE ALTERATIONS OR RELOCATIONS**

Watercourse alterations or relocations must be designed to maintain the flood carrying capacity within the altered or relocated portion.

#### **SECTION G. STORAGE OF MATERIALS AND EQUIPMENT**

Storage of materials and equipment that are flammable, explosive or injurious to human, animal or plant life is prohibited unless elevated a minimum of one (1) foot above the 100-year flood level. Other material and equipment must either be similarly elevated or;

1. Not be subject to major flood damage and be anchored to prevent movement due to floodwaters or;

2. Be readily removable after flood warning.

#### **SECTION H. FLOOD CONTROL STRUCTURAL WORKS**

Flood control structural works such as levees, flood walls, etc. shall provide, at a minimum, protection from a 100-year flood with a minimum of 3 ft. of design freeboard and shall provide for adequate interior drainage. In addition, structural flood control works shall be approved by the Department of Natural Resources.

#### **SECTION I. ACCESSORY STRUCTURES**

1. Detached garages, sheds, and similar structures accessory to a residential use are exempt from the 100-year flood elevation requirements where the following criteria are satisfied.
  - a. The structure shall not be used for human habitation.
  - b. The structure shall be designed to have low flood damage potential.
  - c. The structure shall be constructed and placed on the building site so as to offer minimum resistance to the flow of floodwaters.
  - d. The structure shall be firmly anchored to prevent flotation which may result in damage to other structures.
  - e. The structure's service facilities such as electrical and heating equipment shall be elevated or flood proofed to at least one foot above the 100-year flood level.
2. Exemption from the 100-year flood elevation requirements for such a structure may result in increased premium rates for flood insurance coverage of the structure and its contents.

#### **SECTION J. RECREATIONAL VEHICLES**

1. Recreational vehicles are exempt from the requirements of (Section 52.04 (C)) of this Ordinance regarding anchoring and elevation of factory-built homes when the following criteria are satisfied.
  - a. The recreational vehicle shall be located on the site for less than 180 consecutive days, and,
  - b. The recreational vehicle must be fully licensed and ready for highway use. A recreational vehicle is ready for highway use if it is on its wheels or jacking system and is attached to the site only by quick disconnect type utilities and security devices and has no permanently attached additions.

2. Recreational vehicles that are located on the site for more than 180 consecutive days or are not ready for highway use must satisfy requirements of (Section 52.04 (B)) of this Ordinance regarding anchoring and elevation of factory-built homes.

## **SECTION K. PIPELINE AND STREAMBED CROSSINGS**

Pipeline river and stream crossings shall be buried in the streambed and banks, or otherwise sufficiently protected to prevent rupture due to channel degradation and meandering.

### **52.05 ADMINISTRATION.**

#### **1. APPOINTMENT, DUTIES AND RESPONSIBILITIES OF FLOOD PLAIN ADMINISTRATOR.**

- A. The Zoning Administrator is hereby appointed to implement and administer the provisions of these Regulations and will herein be referred to as the Administrator.
- B. Duties of the Administrator shall include, but not necessarily be limited to the following:
  1. Review all flood plain development permit applications to assure that the provisions of these regulations will be satisfied.
  2. Review flood plain development applications to assure that all necessary permits have been obtained from Federal, State and local governmental agencies including approval when required from the Department of Natural Resources for flood plain construction.
  3. Record and maintain a record of the elevation (in relation to North American Vertical Datum) of the lowest floor (including basement) of all new or substantially improved structures in the special flood hazard area.
  4. Record and maintain a record of the elevation (in relation to North American Vertical Datum) to which all new or substantially improved structures have been floodproofed.
  5. Notify adjacent communities and counties and the Department of Natural Resources prior to any proposed alteration or relocation of a watercourse and submit evidence of such notification to the Federal Emergency Management Agency.
  6. Keep a record of all permits, appeals and such other transaction and correspondence pertaining to the administration of these Regulations,

#### **2. FLOOD PLAIN DEVELOPMENT PERMIT.**

##### **A. PERMIT REQUIRED.**

A Flood Plain Development Permit Issued by the Administrator shall be secured prior to any flood plain development (any man-made change to improved or unimproved real estate, Including, but not limited to buildings or other structures, mining, filling, grading, paving, excavation or drilling operations), including the placement of factory-built homes.

## **B. APPLICATION FOR PERMIT.**

Application shall be made on forms furnished by the Administrator and shall Include the following:

1. Description of the work to be covered by the permit for which application is to be made.
2. Description of the land on which the proposed work is to be done (i.e., lot, block, tract, street address or similar description) that will readily identify and locate the work to be done.
3. Indication of the use at occupancy for which the proposed work is intended.
4. Elevation (in relation to North American Vertical Datum) of the lowest floor (including basement) of buildings.
5. For buildings being improved or rebuilt, the estimated cost of improvements and market value of the building prior to the improvements.
6. Elevation of the 100-year flood level,
7. Such other Information as the Administrator deems necessary for the purpose of these Regulations.

## **C. PROCEDURE FOR ACTING ON PERMIT**

The Administrator shall make a determination as to whether the flood plain development, as proposed meets the applicable provisions of Chapter 52 and shall approve or disapprove the application. In reviewing proposed development, the Administrator shall obtain, review and reasonably utilize any available flood plain Information or data from Federal, State or other sources.

## **D. CONSTRUCTION AND USE TO BE AS PROVIDED IN APPLICATION AND PLANS**

Floodplain Development Permits based on the basis of approved plans and applications authorize only the use, arrangement, and construction set forth in such approved plans and applications and no other use, arrangement or construction. Any use, arrangement, or construction at variance with that authorized shall be deemed a violation of this Ordinance. The applicant shall be required to submit certification by a professional engineer or land surveyor, as appropriate, registered in the State of Iowa, that the finished fill, building floor elevations, floodproofing, or other flood protection measures were accomplished in compliance with the provisions of this Ordinance, prior to the use or occupancy of any structure.

## E. VARIANCE

1. The Board of Adjustment may authorize upon request in specific cases such variances from the terms of this Ordinance that will not be contrary to the public interest where, owing to special conditions, a literal enforcement of the provisions of this Ordinance will result in unnecessary hardship. Variances granted must meet the following applicable standards.
  - a. Variances shall only be granted upon: (i) a showing of good and sufficient cause, (ii) a determination that failure to grant the variance would result in exceptional hardship to the applicant, and (iii) a determination that the granting of the variance will not result in increased flood heights, additional threats to public safety, extraordinary public expense, create nuisances, cause fraud on or victimization of the public or conflict with existing local codes or ordinances.
  - b. Variances shall only be granted upon a determination that the variance is the minimum necessary, considering the flood hazard, to afford relief.
  - c. In cases where the variance involves a lower level of flood protection for buildings than what is ordinarily required by this Ordinance, the applicant shall be notified in writing over the signature of the Administrator that: (i) the issuance of a variance will result in increased premium rates for flood insurance up to amounts as high as \$25 for \$100 of insurance coverage and (ii) such construction increases risks to life and property.
2. Factors Upon Which the Decision of the Board of Adjustment Shall be Based - In passing upon applications for Variances, the Board shall consider all relevant factors specified in other sections of this Ordinance and:
  - a. The danger to life and property due to increased flood heights or velocities caused by encroachments.
  - b. The danger that materials may be swept on to other land or downstream to the injury of others.
  - c. The proposed water supply and sanitation systems and the ability of these systems to prevent disease, contamination and unsanitary conditions.
  - d. The susceptibility of the proposed facility and its contents to flood damage and the effect of such damage on the individual owner.
  - e. The importance of the services provided by the proposed facility to the County.
  - f. The requirements of the facility for a floodplain location.
  - g. The availability of alternative locations not subject to flooding for the proposed use.
  - h. The compatibility of the proposed use with existing development and development anticipated in the foreseeable future.
  - i. The relationship of the proposed use to the comprehensive plan and floodplain management program for the area
  - j. The safety of access to the property in times of flood for ordinary and emergency vehicles.

- k. The expected heights, velocity, duration, rate of rise and sediment transport of the flood water expected at the site.
  - l. The cost of providing governmental services during and after flood conditions, including maintenance and repair of public utilities (sewer, gas, electrical and water systems), facilities, streets and bridges.
  - m. Such other factors which are relevant to the purpose of this Ordinance.
3. Conditions Attached to Variances - Upon consideration of the factors listed above, the Board of Adjustment may attach such conditions to the granting of variances as it deems necessary to further the purpose of this Ordinance. Such conditions may include, but not necessarily be limited to:
- a. Modification of waste disposal and water supply facilities.
  - b. Limitation of periods of use and operation.
  - c. Imposition of operational controls, sureties, and deed restrictions.
  - d. Requirements for construction of channel modifications, dikes, levees, and other protective measures, provided such are approved by the Department of Natural Resources and are deemed the only practical alternative to achieving the purpose of this Ordinance.
  - e. Floodproofing measures

#### **F. SUBDIVISION REVIEW**

The Administrator shall review all subdivision proposals within the special flood hazard areas to assure that such proposals are consistent with the purpose and spirit of these Regulations and shall advise the Board of Supervisors of potential conflicts. Flood plain development in connection with a subdivision (including installation of public utilities) shall require a Flood Plain Development Permit as provided in Chapter 52, subsection 52.05, paragraph 1. For proposals greater than five (5) acres or fifty (50) lots (whichever is less), the subdivider shall be responsible for providing flood elevation data.

#### **G. NONCONFORMING USES**

1. A structure or the use of a structure or premises which was lawful before the passage or amendment of this Ordinance, but which is not in conformity with the provisions of this Ordinance, may be continued subject to the following conditions:
  1. If such use is discontinued for six (6) consecutive months, any future use of the building premises shall conform to this Ordinance.
  2. Uses or adjuncts thereof that are or become nuisances shall not be entitled to continue as nonconforming uses.
2. If any nonconforming use or structure is destroyed by any means, including flood, it shall not be reconstructed if the cost is more than fifty (50) percent of the market value of the structure before the damage occurred, unless it is reconstructed in conformity with the



provisions of this Ordinance. This limitation does not include the cost of any alteration to comply with existing state or local health, sanitary, building or safety codes or regulations or the cost of any alteration of a structure listed on the National Register of Historic Places, provided that the alteration shall not preclude its continued designation.

## **H PENALTIES FOR VIOLATION**

Violations of the provisions of this Ordinance or failure to comply with any of the requirements shall constitute a misdemeanor. Any person who violates this Ordinance or fails to comply with any of its requirements shall upon conviction thereof be fined not more than \$500.00 (five hundred) or imprisoned for not more than thirty (30) days. Nothing herein contained prevent the county of Madison County from taking such other lawful action as is necessary to prevent or remedy violation.

## **I AMENDMENTS**

The regulations and standards set forth in this Ordinance may from time to time be amended, supplemented, changed, or repealed. No amendment, supplement, change, or modification shall be undertaken without prior approval of the Department of Natural Resources.