

CHAPTER 20

FLOODPLAIN CONTROL AND PROTECTION

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FLOODPLAIN CONTROL AND PROTECTION

Sec. 20.01 Authority, Intent, And Title

- 1) **STATUTORY AUTHORIZATION.** This Chapter for floodplain protection is adopted pursuant to the authorization contains in Sections 61.35, 62.23 and 87.30, Wis. Stats.
- 2) **FINDING OF FACT.** The uncontrolled use of the floodplains, rivers or streams of the Village of Whiting, Wisconsin would adversely affect the public health, safety, convenience and general welfare and impairs its tax base.
- 3) **STATEMENT OF PURPOSE.** The purpose of this Chapter is to provide a uniform basis for the preparation, implementation and administration of sound regulations for all Whiting Floodplains within the Village of Whiting to:
 - (a) Protect life, health and property;
 - (b) Minimize expenditures of public monies for costly flood control projects;
 - (c) Minimize rescue and relief efforts, generally undertaken at the expense of the general public;
 - (d) Minimize business interruptions which usually result in the loss of local incomes;
 - (e) Minimize damage to public facilities on the floodplains such as water mains, sewer lines, streets and bridges;
 - (f) Minimize the occurrence of future flood blight areas on floodplains; and
 - (g) Discourage the victimization of unwary land and homebuyers.
- 4) **TITLE.** This Chapter shall be known as the Floodplain Zoning Ordinance for the Village of Whiting, Portage County, Wisconsin.

Sec. 20.02 General Provisions

- 1) **AREAS TO BE REGULATED.** Areas regulated by this Chapter include all lands, within the corporate limits of the Village of Whiting, Wisconsin that would be inundated by the “regional Flood” defined in the Definitions of this Chapter.
- 2) **DISTRICT BOUNDARIES.**
 - a) **DISTRICT BOUNDARIES.** The boundary of the floodplain districts, and where shown, the floodway and flood fringe districts, shall be those areas designated as floodplains in the Village of Whiting Flood Insurance Study dated January 18, 1984 and the Flood Boundary and Floodway Map and the Flood Insurance Rate Map, or any subsequent floodplain mapping of a more accurate nature approved by Federal Emergency Management Agency (FEMA). These maps, dated January 18, 1984 are the official floodplain zoning maps for the community and have been approved by the Department of Natural Resources and FEMA, and are on file in the office of the Village Clerk-Treasurer. If more than one map is referenced, the most restrictive shall apply.
 - b) **DISTRICTS.** The floodplain areas within the jurisdiction of this Chapter are hereby divided into three districts: the Floodway District (FW), Flood Fringe District (FF), and General Floodway District (GFP), defined as follows:
 - 1) The Floodway District (FW) consists of the channel of a stream and those portions of the floodplain adjoining the channel that are required to carry and discharge the flood waters or flood flows of any river or stream associated with the regional flood.
 - 2) The Flood Fringe District (FF) consists of that portion of the floodplain between the regional flood limits and the floodway area.
 - 3) The General Floodplain District (GFP) consists of the land which has been or may be hereafter covered by floodwater during the regional flood and encompasses both the Floodway and Flood Fringe Districts.
- 3) **LOCATING FLOODPLAIN BOUNDARIES.**
 - a) Where an apparent discrepancy exists between the location of the outermost boundary of the Flood Fringe District or General Floodplain District shown on the official floodplain zoning map and actual field conditions, the location of the district boundary line shall be initially determined by the zoning administrator using the criteria set forth in subsections (b) or (c) below. Where the Zoning Administrator finds that there is a significant difference between the district boundary shown on the map and the actual field conditions, the map shall be amended using the procedures established in this Chapter. Disputes between the Zoning Administrator and an applicant on the location of the district boundary line shall be settled according to this Chapter.

- b) Where flood profiles exist, the location of the district boundary line shall be determined by the Zoning Administrator using both the scale appearing on the map and the elevations shown on the water surface profile of the regional flood. Where a discrepancy exists between the boundary line location shown on the map and the location indicated by the regional flood elevation and actual field conditions, the regional flood elevations shall govern. A map amendment is required where there is a significant discrepancy between the boundary line shown on the map and the location indicated by the regional flood elevations. The Zoning Administrator shall have the authority to immediately grant or deny a land use permit on the basis of a district boundary derived from the elevations shown on the water surface profile of the regional flood, whether or not a map amendment is required. The Zoning Administrator shall be responsible for initiating any map amendments required under this Section within a reasonable period of time.
 - c) Where flood profiles do not exist, the location of the district boundary line shall be determined by the Zoning Administrator using the scale appearing on the map, visual on-site inspection and any available information provided by the Department. Where there is a significant difference between the district boundary line shown on the map and actual field conditions, the map shall be amended. Where a map amendment has been approved by the Village Board and the Department, the Zoning Administrator shall have the authority to grant or deny a land use permit.
- 4) **REMOVAL OF LANDS FROM FLOODPLAIN.** Compliance with the provisions of this Chapter shall not be grounds for removing lands from the floodplain district, unless they are removed by filling to a height of at least two (2) feet above the regional flood elevation, the fill is contiguous to land lying outside the floodplain district, and the map is amended pursuant to This Chapter. To remove the land from flood insurance requirements, FEMA must first revise the flood insurance rate map.
- 5) **COMPLIANCE WITH CHAPTER.** The use or development of any land or water, a change in the use of any land or water, and then use, change of use, construction, reconstruction, remodeling or expansion of any structure within the areas to be regulated by this Chapter shall be in compliance with the terms of this Chapter, and other applicable local, state and federal regulation.
- 6) **ABROGATION AND GREATER RESTRICTIONS**
- a) **GREATER RESTRICTIONS.** Where the Village zoning ordinance is more restrictive than the provisions contained in this Chapter, that ordinance shall continue in full force and effect to the extent of the greater restrictions, but not otherwise.
 - b) **ABROGATION.** This Chapter is not intended to repeal, abrogate, or impair any existing easements, covenants, or private deed restrictions. However, where this ordinance imposes greater restrictions, the provisions shall prevail.
 - c) **INTERPRETATION.** In their interpretation and application, the provisions of this Chapter shall be held to be minimum requirements liberally construed in favor of the governing body, and shall not be deemed a limitation on or repeal of any other powers granted by the Wisconsin Statutes. Where a provision of this Chapter is required by a standard in Chapter NR 116, Wisconsin Administrative Code, and where the meaning of the Chapter provision is unclear, the provision shall be interpreted in light of the Chapter NR 116 standard in effect on the date of the adoption of this Chapter or in effect on the date of the most recent text amendment to this Chapter.
 - d) **WARNING AND DISCLAIMER OR LIABILITY.** This degree of flood protection intended to be provided by this Chapter is considered reasonable for regulatory purposes and is based on engineering and scientific methods of study. Larger floods may occur on rare occasions or the flood height may be increased by man-made or natural causes, such as ice jams and bridge openings restricted by debris. This Chapter does not imply that areas outside of the delineated floodplain or permitted land uses within the floodplain will be totally free from flooding and associated flood damages, nor shall this Chapter create a liability on the part of or a cause of action against, the Village of Whiting or any officer or employee thereof for any flood damage that may result from reliance on this Chapter.

Sec. 20.03 General Standards Applicable To All Floodplain Districts

- 1) Except as provided below, no development shall be allowed in the floodplain which, acting in combination with existing or future similar works, will cause an increase equal to or greater than 0.1 foot (3 cm.) in the height of the regional flood or will adversely affect existing drainage courses or facilities.
- 2) Obstructions or increases equal to or greater than 0.01 foot may only be permitted if amendments are made to this ordinance, the official floodplain zoning maps, including floodway lines and water surface profiles, in accordance with Article H, and only if the total cumulative effect of the proposed development will not increase the height of the regional flood more than 1.0 foot maximum increase hydraulic reach of the stream unless a waiver is secured from FEMA for the 1.0 foot maximum increase.

- 3) For the purpose of this Chapter, increases on the regional flood elevation shall be calculated:
 - a) Based upon an equal degree of hydraulic encroachment from the original hydraulic floodway lines for a hydraulic reach on both sides of the river or stream; and
 - b) Based upon an equal degree of hydraulic encroachment throughout a hydrologic reach of a river or stream to determine the volume of storage area which is lost.
- 4) Owners or operators of all existing mobile home parks and mobile home subdivisions located in the Regional Floodplain (in A-zones on flood hazard boundary maps or flood insurance study maps) shall file an evacuation plan, indicating alternate vehicular access and escape routes, including mobile home hauler routes, with the appropriate local disaster preparedness authorities, and shall provide for adequate surface drainage to minimize flood damage.
- 5) All mobile homes to be placed on a site located in the Regional Floodplain (in A-zones on flood hazard boundary maps or flood insurance study maps) shall be anchored so they do not float, collapse or move laterally during a flood. Such mobile homes shall be anchored according to the following specifications:
 - a) Over-the-top ties shall be provided at each of the four corners of the mobile home, with two (2) additional ties per side at intermediate locations and mobile homes less than fifty (50) feet long shall require one (1) additional tie per side.
 - b) Frame ties shall be provided at each corner of the mobile home with five (5) additional ties per side at intermediate points and mobile homes less than fifty (50) feet long requiring four (4) additional ties per side.
 - c) All components of the anchoring system shall be capable of carrying a force of four thousand, eight hundred (4,800) pounds; and
 - d) Any additions to the mobile home shall be similarly anchored.
- 6) The placement of all new mobile homes in addition to the standards listed above, must also meet the residential development standards in the flood fringe as found below.
- 7) For all subdivision proposals, a "subdivision" is defined in Section 236.02(8), Wis. Stats., and other proposed developments exceeding five (5) acres in area or where the estimated cost of the proposed development exceed Seventy-five Thousand (\$75,000.00) Dollars, the applicant shall provide all computations which are required to show the effects of the proposal on flood heights, velocities and floodplain storage. Further, the applicant shall provide within such proposals regional flood elevation data, and the means to provide adequate surface drainage and to minimize flood damage. In those instances where the applicant is not required to provide computations and where inadequate data exists, the available information may be transmitted to Department of Natural Resource' District office for a determination of the flood protection elevation and for an evaluation of the effects of the proposal on flood heights, velocities and floodplain storage. Additional information, such as valley cross-sections or survey data may be required by the Department to determine the effects of the proposal. This information shall be obtained from the applicant or the applicant's agent by the Village. The provisions of this Chapter shall apply hereto. The applicant shall provide all data and calculations for any development which would require an amendment to the district boundaries or regional flood profiles.
- 8) Prior to any alteration or relocation of a watercourse, and prior to the issuance of any land use permit which may be required for the alteration or relocation of a watercourse, the Zoning Administrator shall notify adjacent municipalities, the appropriate district office of the Department of Natural Resources and the appropriate office of FEMA and shall require the applicant to secure all necessary state and federal permits. The flood carrying capacity within the altered or relocated portion of any watercourse shall be maintained.
- 9) Development which requires a permit from the Department of Natural Resources, pursuant to Chapters 30 and 31, Wis. Stats., such as docks, piers, wharves, bridges, culverts, dams and navigational aids may be allowed provided the necessary Village permits are obtained and necessary amendments to the official floodway lines, water surface profiles, floodplain zoning maps or floodplain zoning ordinance, are made according to this Chapter.

Sec. 20.04 Floodway District (Fw)

- 1) **APPLICABILITY.** The provisions of this section shall apply to all areas within the Floodway District, as shown on the official floodplain zoning maps, and to the floodway portion of the General Floodplain District, as determined pursuant to this Chapter.
- 2) **DESCRIPTION OF DISTRICT.** The Floodway District shall include mapped floodway areas so designated on the official floodplain-zoning map showing the regional flood limits, which are bases on the Flood Hazard Boundary maps or Flood Insurance Study maps prepared by Department of Housing and Urban Development.

All such maps shall be approved by the Department of Natural Resources and the Federal Insurance Administration

- 3) **PERMITTED USES.** The following open space uses are permitted within the Floodway District, and in the floodway portion of the General Floodplain District provided that they are not prohibited by any other ordinance, or underlying zoning district, and provided further that they meet all of the standards contained in any Land Use Permit that has been issued by the Zoning Administrator under this Municipal Code.
 - a) Outdoor plant nurseries, forestry, sod farming and wild crop harvesting.
 - b) Nonstructural, industrial and commercial uses, such as loading areas, parking areas.
 - c) Private and public recreational uses, such as: picnic grounds, boat launching ramps, swimming areas, parks, wildlife and nature preserves, game farms, fish hatcheries, hiking and horseback riding trails, and snowmobile trails.
 - d) Uses or structures accessory to open space uses, or those classified as historic structures, providing they are not in conflict with the provisions of this Municipal Code
 - e) Docks, piers or wharves, including docks, piers or wharves used as part of a marina, and other water-related uses, such as dams, flowage areas, culverts, navigational aids and river crossings of transmission lines, and pipelines.
 - f) Public and private utilities, streets, bridges, and non-potable wells subject to any permits required under Chapter 30 or 31 of the Wisconsin Statutes and NR 112 of the Wisconsin Administrative Code.
 - g) Repair, replacement or expansion of existing hydroelectric power facilities consistent with Article F of this Chapter and Wisconsin Statutes.
 - h) All uses not listed as permitted uses in Subsection (a) above are prohibited within the Floodway District and in the Floodway portion of the General Floodplain District.
- 4) **STANDARDS FOR DEVELOPMENTS IN FLOODWAY AREAS.**
 - a) **GENERAL REQUIREMENTS.** Any development in floodway areas shall:
 - 1) Meet all of the provisions of this Chapter;
 - 2) Not obstruct flood flows; and
 - 3) Have low flood damage potential.
 - b) **STRUCTURES.** In, or over floodway areas, only structures which are accessory to permitted open space uses, those classified as historic structure, or are functionally dependent on a waterfront location, may be allowed by permit, providing the structures meet all of the following criteria:
 - 1) Are not designed for human habitation;
 - 2) Are to be constructed and placed on the building site so as to offer minimum obstruction to the flow of floodwaters. Whenever possible, structures will be constructed with the longitudinal axis parallel to the direction of flow of flood waters, and will be placed with their longitudinal axes approximately on the same line as those of adjoining structures;
 - 3) Are firmly anchored to prevent them from floating away and restricting bridge openings or other restricted sections of the stream or river; and
 - 4) Public utilities, streets and bridges provided that:
 - a) Adequate flood-proofing measures are provided to the flood protection elevation;
 - b) Construction shall not cause any increase of 0.1 foot or greater in the height of the regional flood, except that reasonable increases up to 1.0 foot may be approved if the amendment procedures and all conditions of this Chapter are met; and
 - c) The Village amends its water surface profiles, floodplain-zoning maps and floodplain-zoning ordinances, as needed, to reflect any changes resulting from such construction.
 - d) Requirements and permits required by Chapter 30 and 31 of the Wisconsin Statutes and NR 112 of the Wisconsin Administrative Code are met.
- 5) **Fills or deposition of materials may be permitted provided that:**
 - a) The provisions of this Chapter are met;
 - b) Fill or deposition of materials does not encroach on the channel area between the ordinary high water mark on each bank of the stream unless a permit has been granted by the Department of Natural Resources pursuant to Chapter 30, Wis. Stats., and a permit pursuant to Section 404 of the Federal Water Pollution Control Act., Amendments of 1972, 33 U.S.C. 1334 has been issued, if applicable, and the other requirements of this Section are met; and
 - c) The fill or other materials will be protected against erosion by riprap vegetative cover, sheet piling and/or bulk heading sufficient to prevent erosion and leachate; and provided that:
 - 1) Such fills are not associated with private or public solid waste disposal.

- 2) Storage of any materials that are buoyant, flammable, explosive, or injurious to human, animals, plant, fish or other aquatic life is prohibited.
- 3) Uses which are not in harmony with, or which may be detrimental to, the uses permitted in the adjoining districts are prohibited.
- 4) Private or public on-site sewage disposal systems are prohibited, with the exception of portable latrines that are removed during flooding, and systems associated with public recreational areas and Department approved campgrounds, that meet the applicable provisions of the Wisconsin Administrative Code, which may be permitted in floodway areas.
- 5) Wells, whether public or private, which are used to obtain water for ultimate human consumption are prohibited.
- 6) Solid waste disposal sites, whether public or private are prohibited.

Sec. 20.05 Flood Fringe District (Ff)

- 1) **APPLICABILITY.** The provisions of this Article shall apply to all areas within the Flood Fringe District, as shown on the official floodplain zoning maps, and to those portions of the General Floodplain District that are determined to be in the flood fringe area pursuant to this Chapter.
- 2) **DESCRIPTION OF DISTRICT.** The regional flood fringe district shall include the A Zones so designated on the official floodplain-zoning map showing the regional flood limits, which are based on the Flood Hazard Boundary maps prepared by the Department of Housing and Urban Development. All such maps shall be approved by the Department of Natural Resources and the Federal Insurance Administration.
- 3) **PERMITTED USES.** Any structures, land use, or development, including accessory structures and uses, are allowed within the Flood Fringe District and flood fringe portions of the General Floodplain District, provided that the standards contained in this Chapter are met that the use is not prohibited by this or any other ordinance or any other local, state or federal regulation and that all permits or certificates require have been issued by the Zoning Administrator.
- 4) **STANDARDS FOR DEVELOPMENT IN FLOOD FRINGE AREAS.**
 - a) **STANDARDS.** All of the provisions of this Municipal Code shall apply hereto.
 - b) **RESIDENTIAL USES.** Any structure or building used for human habitation, which is to be erected, constructed, reconstructed, altered, or moved into the flood fringe area shall meet or exceed the following standards:
 - 1) The lowest floor including the basement, except where Subsection (b)(2) is applicable, shall be placed on fill at or above the flood protection elevation, which is a point two (2) feet above the regional flood elevation. The fill elevation shall be one (1) foot or more above the regional flood elevation and shall extend at such elevation at least fifteen (15) feet beyond the limits of any such structures or building erected thereon.
 - 2) The basement floor may be placed at the regional flood elevation providing it is flood proofed to the flood protection elevation. Where a community wide exception allowing the flood proofing of basements has been granted by FEMA, the basement floor may be placed at an elevation lower than the regional floods elevations providing it is flood proofed to the flood protection elevation in granted by FEMA, requests to construct the basement floor below the regional flood elevation must be considered as a variance, thereby requiring action by the Board of Appeals.
 - 3) Except as provided below, contiguous dry-land access shall be provided from a structure or building to land which is outside of the floodplain, so that any such structure shall be accessible by rescue and relief vehicles during periods of regional flooding. Contiguous dry-land access means a road with a surface at or above the regional flood elevation and wide enough for rescue and relief vehicles.
 - 4) In existing development where existing streets or sewer lines are at elevations which make compliance with this Chapter impractical, the municipality may permit new development and substantial improvements where access roads are at an elevation lower than the regional flood elevation, provided the Village has written assurance from the appropriate local units of police, fire, and emergency services that rescue and relief will be provided to the structure(s), taking into account the anticipated depth duration, and velocity of the regional flood event. The structure or building shall be flood proofed to the food protection elevation in accordance with the standards of this Chapter when a variance has been granted.
 - c) **ACCESSORY STRUCTURES OR USES.** An accessory structure or use (not connected to a principal structure) shall meet all the applicable provisions of this Municipal Code. A lesser degree of protection, compatible with these criteria and the criteria in Subsection (d) may be permissible for an accessory

structure or use providing that the site is not inundated to a depth greater than two (2) feet or subjected to flood velocities greater than four (4) feet per second upon the occurrence of the regional flood.

- d) **COMMERCIAL.** In commercial areas, any structure or building which is to be erected, constructed, reconstructed, altered or moved into the flood fringe area shall meet the requirements of above. Storage yards, parking lots and other accessory land uses may be at lower elevations, subject to the requirements of this Chapter. However, no such area in general use by the public shall be inundated to a depth greater than two (2) feet or subjected to flood velocities greater than four (4) feet per second upon the occurrence of the regional flood.
- e) **MANUFACTURING, AGRICULTURAL AND INDUSTRIAL USES.** Any manufacturing, agricultural or industrial structure or building which is to be erected, constructed, reconstructed, altered or moved into the flood fringe areas shall be protected to the flood protection elevation utilizing fill, levees, floodwalls, adequate flood proofing measures in accordance with this Chapter, or any combination thereof. On streams or rivers having prolonged flood durations, greater protection may be required to minimize interference with normal plant operations. A lesser degree of protection, compatible with the criteria in this Chapter may be permissible for storage yards, parking lots and other similar uses.
- f) **STORAGE OR PROCESSING OF MATERIALS.** The storage or processing of materials that are buoyant, flammable, explosive, or which in times of flooding, could be injurious to human, animal, or plant life, shall be at or above the flood protection elevation for the particular area or flood proofed in compliance with this Chapter. Adequate measures shall be taken to assure that said materials will not enter the river or stream during flooding.
- g) **PUBLIC UTILITIES, STREETS AND BRIDGES.**
 - 1) When failure or interruption of public utilities, streets and bridges would result in danger to the public health or safety or where such facilities are essential to the orderly functioning of the area, construction of and substantial improvements to such facilities may only be permitted if they are flood proofed, in compliance with this Chapter, to the flood protection elevation; minor or auxiliary roads or nonessential utilities may be constructed at lower elevations providing they withstand flood forces to the regional flood elevation.
 - 2) Public utilities, streets and bridges in flood fringe areas should be designed to be compatible with the local comprehensive floodplain development plans.
 - a) **SEWAGE SYSTEMS.** All on-site sewage disposal systems shall be flood proofed to the flood protection elevation and shall meet the applicable provisions of all local ordinances and the Wisconsin administrative Code.
 - b) **WELLS.** All wells, whether public or private, shall be flood proofed to the flood protection elevation, and shall meet the applicable provisions of Chapters NR 111 and NR 112, Wis. Adm. Code.
 - c) **SOLID WASTE DISPOSAL SITES.** All solid waste disposal sites, whether public or private, are prohibited in flood fringe areas.
- 5) **MOBILE HOMES AND MANUFACTURED HOMES.**
 - a) Owners or operators of all mobile manufactured home parks and subdivisions located in the regional floodplain shall provide for adequate surface drainage to minimize flood damage, prepare secure approval, file an evacuation plan, indicating vehicular access, and escape routes, with the appropriate local emergency management authorities.
 - b) In existing mobile home parks, (see definition) all new homes with new pads, replacement units on existing pads, and substantially improved mobile/manufactured homes and recreational vehicles that remain on-site in excess of 180 days, or are licensed or not ready for highway use and which are placed or improved on a site located in the regional floodplain shall:
 - 1) Have the lowest floor elevated to the regional flood elevation; and
 - 2) Be anchored so they do not float, collapse or move laterally during a flood.
 - c) Outside of existing mobile home parks: including new mobile home parks, and all single units outside of existing parks; all new, replacement and substantially improved mobile/manufactured homes and recreational vehicles that remain on-site more than 180 days, which are unlicensed are not ready for highway use, shall meet the residential development standards for the flood fringe in this Chapter.

Sec. 20.06 General Floodplain District (Gfp)

- 1) **APPLICABILITY.** The provisions for this district shall apply to all floodplains in the Village, for which "regional flood" data, as defined in the definitions are not available, or where regional flood data is available

but floodways have not been delineated. As adequate regional flood data becomes available and floodways are delineated for portions of this district, such portions shall be placed in the Flood Fringe or Floodway District, as appropriate.

- 2) **PERMITTED USES.** Those uses permitted in herein² are allowed within the general floodplain district, provided that the procedures of this Chapter below are met, and all permits or certificates required have been issued by the zoning Administrator.
- 3) **STANDARDS FOR DEVELOPMENT IN THE GENERAL FLOODPLAIN DISTRICT.** The general Floodplain District encompasses both floodway and flood fringe areas. Therefore, a determination shall be made pursuant to this Chapter to determine whether the proposed use is located within a floodway or flood fringe area. If it is determined that a proposed use is located within a floodway, the provisions of this Chapter shall apply. If it is determined that the proposed use is located within the flood fringe, the appropriate provisions of this Chapter shall apply.

Sec. 20.07 Nonconforming Uses

- 1) **GENERAL.** Insofar as the standards in this Article are not inconsistent with the provisions of Sections 59.97(10) and 62.23(7) (h), Wis. Stats., they shall apply to all nonconforming structures and nonconforming uses. These regulations apply to the modification of, or addition to, any structure and to the use of any structure or premises which was lawful before passage of this Chapter or any amendment thereto. The existing lawful use of a structure or building or its accessory use which is not in conformity with the provisions of this Chapter may be continued subject to the following conditions:
 - a) No modifications or additions to a nonconforming use shall be permitted unless they are made in conformity with the provisions of this article. For the purposes of this article the words “modifications” and “addition” shall include, but not be limited to, any alteration, addition, modification, structural repair, rebuilding or replacement of any such existing use, structure or accessory structured or use. Ordinary maintenance repairs are not considered structural repairs, modifications or additions; such ordinary maintenance repairs include internal and external painting, decorating, paneling and the replacement of doors, windows and other nonstructural components;
 - b) If a nonconforming use is discontinued for twelve (12) consecutive months, it is no longer permitted and any future use of the property, and any structure or building thereon, shall be made to conform to the applicable requirements of this Chapter.
- 2) As requests are received by the municipality for modifications or additions to nonconforming uses or nonconforming structures, a record shall be kept which lists the nonconforming uses and nonconforming structures, their present equalized assessed value, and the cost of those additions or modifications which have been permitted, and the percentage of the structure’s total current value those modifications represent.
- 3) No modification or addition to any nonconforming structure or any structure with a nonconforming use, which over the life of the structure would exceed fifty (50%) percent 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 Chapter and contiguous dry land access is provided in compliance with this Municipal Code.
- 4) **FLOODWAY AREAS.** No modifications or additions shall be allowed to any nonconforming structure or any structure with a nonconforming use in a floodway area, unless such modification or addition has been granted a permit or variance and meets all of the following criteria:
 - a) The modification or addition to the existing structure will not increase the amount of obstruction to flood flows as provided herein:
 - b) Any addition to the existing structure shall be flood proofed, pursuant to this Chapter by means other than the use of fill, to the flood protection elevation; and
 - c) If any nonconforming structure or any structure with a nonconforming use is destroyed or is so badly damaged that it cannot be practically restored, it cannot be replaced, reconstructed or rebuild unless the provisions of this Chapter are met. For the purposes of this subsection restoration is deemed impractical where the total cost of such restoration would exceed fifty (50%) percent of the present equalized assessed value of said structure.
 - d) 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 provisions of this Municipal Code and the Wis. Adm. Code.

- e) No new well used to obtain water for ultimate human consumption, or modifications to an existing well, shall be allowed in a floodway area. Any replacement, repair or maintenance of an existing well in a floodway area shall meet the applicable provisions of this ordinance and chapters NR 111 and Nr 112, Wis. Adm. Code.
- 5) FLOOD FRINGE AREAS.
- a) No modification or addition shall be allowed to any nonconforming structure or any structure with a nonconforming use in the flood fringe area unless such modification or addition has been granted a permit or variance and, except where Subsection (b) is applicable, the modification or addition is placed on fill or is flood proofed to the flood protection elevation in compliance with the applicable regulations for that particular use in a flood fringe areas as contained in this Chapter.
- b) Where compliance with the provisions Subsection (a) above would result in unnecessary hardship, and only where the structure will not be either used for human habitation or be associated with a high flood damage potential, the Board of Appeals may grant a variance from those provisions, using the criteria listed below. Modifications or additions which are protected to elevations lower than the flood protection elevation may be permitted if:
- 1) Human lives are not endangered;
 - 2) Public facilities, such as water or sewer, are not to be installed;
 - 3) Flood depths will not exceed four (4) feet;
 - 4) Flood velocities will not exceed two (2) feet per second; and
 - 5) The structure will not be used for storage of materials described herein.
- c) Any new, addition to, replacement, repair or maintenance of an on-site sewage disposal system in a flood fringe area shall meet all the applicable provisions of this Municipal Code and the Wis. Adm. Code.
- d) Any new, addition to, replacement, repair or maintain of a well in a flood fringe area shall meet the applicable provisions of this Chapter and Chapters NR 111 and NR 112, Wis. Adm. Code.

Sec. 20.08 Administration

- 1) Intent. This Section provides for the appointment of appropriate boards and staff, and the development of necessary policies and procedures, to administer the floodplain-zoning ordinance in accordance with this Article. Where a zoning administrator, planning agency or a board of appeals has already been appointed to administer a zoning ordinance adopted under Section 62.23(7), Wis. Stats., these officials shall also administer the floodplain-zoning ordinance.
- 2) ZONING ADMINSTRATOR. The Village Zoning Administrator is hereby authorized to administer the provisions of this Chapter. The Zoning Administrator shall have the following duties and powers:
 - (a) Advise applicants as to the provisions of this Chapter, assist them in preparing permit applications and appeals, and insure that the regional flood elevation for the proposed development is shown o all permit applications.
 - (b) Issue permits, inspect properties for compliance with this Chapter, and issue Certificates of Compliance when appropriate.
 - (c) Keep the official records of all water surface profiles, floodplain-zoning maps, floodplain zoning ordinances, nonconforming uses and changes thereto, permit applications, permits, appeals, variances, and amendments related to this floodplain-zoning ordinance.
 - (d) Submit copies of all decisions granting or denying variances and appeals, all map and text amendments, case-by-case analyses, annual reports, and any other required information to the appropriate district Office of the Department of Natural Resources. An annual summary showing only the number and types of all floodplain-zoning actions taken by the Village shall also be submitted to the Department by the Zoning Inspector.
 - (e) Investigate, prepare reports and report violations of the floodplain-zoning ordinance to the appropriate Village committee and to the municipal attorney, corporation counsel or district attorney, with copies to the appropriate district office of the Department of Natural Resources.
 - (f) Submit copies of map and text amendments and annual reports to the Federal Emergency Management Agency.
 - (g) Maintain on file a list of all documentations of certified elevations.
- 3) ADMINISTRATIVE PROCEDURES.
 - (a) LAND USE PERMIT. A land use permit shall be obtained from the Zoning Inspector any new development as defined herein, or any change in these of an existing building or structure may be initiated. Application for a land use permit shall be made to the Zoning Administrator upon forms

furnished and shall include, for the purpose of proper enforcement of these regulations, the following data:

- 1) Name and address of the applicant, property owner, and contractor-builder;
 - 2) Legal description of the property, including the type of proposed use, and an indication as to whether new construction or a modification to an existing structure is involved;
 - 3) The elevation of the lowest floor using National Geodetic and Vertical Datum (NGVD);
 - 4) A site development plan which accurately locates or describes the proposal with respect to the floodway and flood fringe districts showing the dimensions of the lot and locations of all existing and proposed structures from lot lines, centerlines of all abutting highways, and the ordinary high-water mark of any abutting or nearby watercourse;
 - 5) Information concerning all private water supply systems and on-site sewage disposal systems to be installed, the location of all existing wells, structures, and on-site sewage disposal systems, and the ordinary high-water mark of all streams and lakes within one hundred (100) feet of a proposed sewage disposal site; and
 - 6) Data sufficient to determine the regional flood elevation at the location of the development and to determine whether the requirements herein are met.
- (b) **CERTIFICATE OF COMPLIANCE.** No vacant or developed land shall be occupied in the floodplain, and no building or structure hereafter erected, altered or moved into the floodplain shall be occupied or used, until the applicant obtains a certificate of compliance from the zoning administrator. The zoning Administrator shall issue a registered professional engineer or registered land surveyor that the fill and lowest/basement floor elevation were placed in compliance with the development standards contained in this Chapter. If flood proofing is required pursuant to this Chapter, the Zoning administrator shall issue a certificate only after the applicant has submitted a certification signed by a registered professional engineer or architect that the structure is adequately constructed to comply with the provisions of this Municipal Code.
- (c) **OTHER PERMITS.** It is the responsibility of the applicant to secure all other necessary permits from all appropriate Federal, State and local agencies, including those required by the U.S. Army Corps of Engineers under Section 4040 of the Federal Water Pollution Control Act amendments of 1972, 33 U.S.C. 1334.
- (d) **ZONING AGENCY.**
- 1) For purposes of this Chapter, the Village Plan Commission shall serve as the Zoning Agency/Committee.
 - 2) The Plan Commission shall have the following duties and powers to:
 - a) Oversee the functions of the office of the Zoning Administrator;
 - b) Review and recommend to the Village Board all proposed amendments to the floodplain zoning ordinance map and text;
 - c) Maintain a complete public record of all its proceedings.
- 4) **BOARD OF APPEALS.**
- (a) **STATUTORY AUTHORIZATION.** The appropriate board created under Chapter 62.23(7) (e), Wis. Stats., for villages are hereby authorized to act as a Board of Appeals for the purposes of this Chapter. The powers of the Board of Appeals shall be pursuant to Chapter 62.33(7), Wisconsin Statutes.
- (b) **APPEALS TO THE BOARD.** Appeals to the Board of Appeals may be taken by any person aggrieved or by an officer, department, board or bureau of the municipality affected by any decision of the Zoning Administrator or other administrative officer. Such appeal shall be taken within a reasonable time, as provided by the rules of the Board, by filing with the zoning Administrator and with the Board of Appeals a notice of appeal specifying whether an interpretation of the ordinance text or map or a variance is sought and the grounds thereof. The Zoning Administrator or other officer shall forthwith transmit to the Board all the papers constituting the record upon which the action appealing from was taken.
- (c) **HEARING APPEALS.**
- 1) The Board of Appeals shall fix a reasonable time for the hearing of the appeal; give public notice thereof by publishing, in the official newspaper of the municipality, a Class 2 notice pursuant to Chapter 985, Wis. Stats., specifying the date, time and place of hearing and the matters to come before the Board. The hearing notice shall be mailed to the parties in interest in advance of the hearing.
 - 2) A decision regarding the appeal shall be made within a reasonable time.
 - 3) The final disposition of an appeal to the Board of Appeals shall be in the form of a written determination or order signed by the Chairman or secretary of the Board. The determination shall

state the specific facts which are the basis for the Board's determination and shall either affirm, reverse, vary or modify the order, requirement, decision or determination appealed, in whole or in part, deny the appeal for lack of justification, or grant or deny the application for a variance. The reasons or justification for granting an appeal including a description of the hardship or practical difficulty which was demonstrated by the applicant in the case of a variance shall be clearly stated in the recorded minutes of the Board of Appeals proceedings.

- 4) A copy of all decisions by the board of Appeals shall be mailed to the appropriate District office of the Department of Natural Resources.
- 5) **BOUNDARY OR MAPPING DISPUTES.** The following procedure shall be used by the Zoning Board of Appeals in hearing disputes concerning the district boundaries shown on the official floodplain zoning map:
 - (a) Where a floodplain district boundary is established by approximate or detailed floodplain studies, the regional flood elevations or profiles for the point in question shall be the governing factor in locating the district boundary. If no regional flood elevations or profiles are available to the Board, other available evidence may be examined.
 - (b) In all cases, the person contesting the location of the district boundary shall be given a reasonable opportunity to present arguments and technical evidence to the Board of Appeals. Where it is determined that the district boundary is incorrectly mapped, the Board should either inform the Plan Commission to proceed to petition the Village Board or inform the person contesting the location of the boundary to petition the Village Board, for a map amendment pursuant to this Municipal Code.
- 6) **VARIANCE.** Any deviation from the standards of this Chapter, for which a permit has been denied by the Zoning Administrator, may be allowed only upon written request for a variance submitted to the Zoning Administrator, after a public hearing and the issuance of a variance form by the Board of Appeals. The Board may authorize in specific cases such variance from the terms of the Chapter as will not be contrary to the public interest where, owing to special conditions affecting a particular property, a literal enforcement of the provisions of this ordinance would result in unnecessary hardship. A variance:
 - (a) Shall be consistent with the spirit and intent of the floodplain-zoning ordinance.
 - (b) Shall not permit a lower degree of flood protection in the floodway area than the flood protection elevation. In the flood fringe area, a lower degree of flood protection than the flood protection elevation may only be allowed pursuant to the provisions of this Chapter.
 - (c) Shall not be granted because of conditions that are common to a group of adjacent lots or premises. In such a case, the zoning ordinance would have to be amended through proper procedures.
 - (d) Shall not be granted unless it is shown that the variance will not be contrary to the public interest and will not damage the rights of other persons or property values in the area.
 - (e) Shall not be granted for actions which require an amendment to this floodplain zoning ordinance or the maps.
 - (f) Shall not have the effect of granting or increasing a use of property which is prohibited in a particular zoning district by the floodplain-zoning ordinance.
 - (g) Shall not be granted solely on the basis of economic gain or loss.
 - (h) Shall not be granted for a self-created hardship.
 - (i) Allow any alteration of an historic structure, including its use, which would preclude its continued designation as an historic structure.

NOTICE: When a variance is granted, the applicant shall be notified in writing, by the Chairman or Secretary of the Board of Appeals that increased flood insurance premiums may result. A copy of this notification shall be maintained with the variance.

- 7) **DETERMINING FLOODWAY AND FLOOD FRINGE LIMITS.**
 - (a) **APPLICABILITY.** When any development is proposed within the General Floodplain District, a determination shall be made to establish the boundaries of the floodway, to allow the Zoning Administrator to determine whether floodway or flood fringe uses apply, and, where required, to determine the regional flood elevation.
 - (b) Upon receiving an application for development within the General Floodplain District, the Zoning Administrator shall:
 - 1) Require the applicant to submit at the time of application, two (2) copies of an aerial photograph, or a plan which accurately locates the proposed development existing floodplain developments, together with all pertinent information such as the nature of the proposal, legal description of the property, fill limits and elevations, building floor elevations and flood-proofing measures.

- 2) Require the applicant to furnish any of the following additional information as is deemed necessary by the Department of Natural Resources for evaluation of the effects of the proposal upon flood flows, to determine the boundaries of the floodway and, where applicable, the regional flood elevation:
 - a) A typical valley cross-section showing the channel of the stream, 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.
 - b) Plan (surface view) showing: elevations or contours of the ground: pertinent structure, fill or storage elevations; size, location and spatial arrangement 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.
 - c) Profile showing the slope of the bottom of the channel or flow line of the stream.
 - d) Specifications for building construction and materials, flood proofing, filing, dredging, channel improvement, storage of materials, water supply and sanitary facilities.
 - 3) Transmit one (1) copy of the information described in subsections (b)(1) and (2) to the Department of Natural Resources along with a written request to have that agency provide technical assistance to establish regional flood elevations and, where applicable, floodway data. Where the provisions of this Chapter apply, the applicant shall provide all required information and computations.
- 8) FLOOD PROOFING.
- (a) Where flood-proofing measures are required, they shall be designed to withstand the flood pressures, depths, velocities, uplift and impact forces, and other factors associated with the regional flood, to assure protection to the flood protection elevation. In addition, all flood proofing measures shall provide anchorage of structures to foundations to resist flotation and lateral movement, and shall insure that the structural walls and floors are watertight (i.e., completely dry without human intervention during flooding) to the flood protection elevation. The applicant shall submit a plan or document certified by a registered professional engineer or architect that the flood proofing measures are adequately designed to protect the structure or development to the flood protection elevation for the particular area.
 - (b) Flood proofing measures could include:
 - 1) Reinforcement of walls and floors to resist rupture or collapse caused by water pressure or floating debris;
 - 2) Addition of mass or weight to structures to prevent flotation;
 - 3) Placement of essential utilities above the flood protection elevation;
 - 4) Surface drainage systems, including pumping facilities, to relieve external foundation wall and basement floor pressures;
 - 5) Construction of water supply and waste treatment systems so as to prevent the entrance of flood waters;
 - 6) Cutoff valves on sewer lines or the elimination of gravity flow basement drains.

Sec. 20.09 Amendments

- 1) GENERALLY. The Village Board of the Village of Whiting, Wisconsin, may from time to time, alter, supplement or change the boundaries of the floodplain zoning districts and the regulations contained in this Chapter in the manner provided by law. Official amendments are required for any changes in the official floodway lines, water surface profiles, floodplain zoning maps or text of the floodplain-zoning ordinance. Actions which required an amendment include, but are not limited to, the following:
 - (a) Any change in the official floodway lines or in the boundary of the general floodplain area;
 - (b) Correction of significant discrepancies between the water surface profiles and floodplain zoning maps;
 - (c) Any fill in the floodplain which raises the elevation of the filled area to a height at or above the flood protection elevation and is contiguous to land lying outside the floodplain;
 - (d) Any fill or encroachment into the floodplain that will cause a change, equal to or greater than 0.1 foot (3 cm.), in the height of the regional flood; and
 - (e) Any upgrading of floodplain zoning ordinances required by Section NR 116.05(4), Wisconsin Administrative Code, or otherwise required by law.
- 2) AMENDMENT PROCEDURES.
 - (a) Amendments to this Chapter may be made upon petition of any interested party in accordance with the provisions of Section 62.23, Wis. Stats. Such petitions shall include any necessary data required by this Chapter.

- (b) Copies of any amendment proposed to the Village Board shall be referred to the Plan Commission, described herein², for a public hearing and recommendation to the Village Board. Copies of the proposed amendment and notice of the public hearing shall be submitted to the appropriate District office of the Department of Natural resources. The amendment procedure shall comply with the provisions of Section 62.23, Wis. Stats.
- (c) No amendment to the maps or text of this ordinance shall become effective until reviewed and approved by the department of Natural Resources.
- (d) All persons petitioning for a map amendment which involves an increase in the height of the regional flood of 0.1 (3 cm.) or more shall obtain flooding basements, or other appropriate legal arrangements, from all affected local units of government and property owners before the municipality may approve an amendment which would result in such an increase to the regional flood elevation.
- (e) When considering amendments to the official floodplain zoning map, in areas where not water surface profiles exist, the zoning agency shall consider data submitted by the Department, the zoning Administrator's visual on-site inspections and other available information.

Sec. 20.10 Enforcement And Penalties

Enforcement and Penalties: Any violation of the provisions of this Chapter by any person, firm, association, corporation (including building contractors) or his or their agent, shall be unlawful and shall be forwarded to the Village attorney, who shall expeditiously prosecute all such violators. A violator shall, upon conviction, forfeit to the Village a forfeiture of not less than Two Hundred (\$200.00) Dollars and not more than One Thousand (\$1,00.00) Dollars, together with a taxable cost of such action. Each day during within such violation exists shall constitute a separate offense. Every violation of this Chapter is a public nuisance, the creation thereof may be enjoined, and the maintenance thereof may be abated by action at suit of the Village, the State or any citizen thereof pursuant to Section 87.30, Wis. Stats.

Sec. 20.11 Definitions

- 1) Unless specifically defined below, words or phrases used in this Chapter shall be interpreted so as to give them the same meaning as they have at common law and to give this Chapter its most reasonable application. Words used in the present tense include the future. Words used in the singular number include the plural and words in the plural number include the singular. The word "may" is permissive. The word "shall" is mandatory and not discretionary.
 - (a) Zones—are those areas shown on a community's "Official Floodplain Zoning Map" (see definition 34) which would be inundated by the "base flood" or "regional flood" as defined herein. These areas may be numbered as A0, A1 to A30, A99, or be unnumbered A zones. The A Zones may or may not be reflective of flood profiles, depending on the availability of data for a given area.
 - (b) Accessory Structure or Use—A detached subordinate structure or a use which is clearly incidental to and customarily found in connection with the principal structure or use to which it is related, and which is located on the same lot as that of the principal structure or use.
 - (c) Base Flood. A flood having a one (1%) percent chance of being equaled or exceeded in any given year. (See also Regional Flood.)
 - (d) Base Flood Elevation. An elevation equal to that which reflects the height of the base flood as defined in above.
 - (e) Board of Appeals/Adjustment. The body established under Chapter 62.23, Wis. Stats., for cities or villages and designated "board of appeals." Or as established under Chapter 59.99, Wis. Stats., for counties and designated "board of adjustment."
 - (f) Bulkhead Line. A geographic line along a reach of navigable body of water that has been adopted by a municipal ordinance and approved by the Department of Natural Resources pursuant to Section 30.11, Wis. Stats., and prohibited by the floodway provisions of this Chapter.
 - (g) Certificate of Compliance—A certification by the Zoning Administrator stating that the use of land or a building, the elevation of sill or the first floor of a structure is in compliance with all of the provisions of this Chapter.
 - (h) Channel—a channel is a natural or artificial watercourse with definite bed and banks to confine and conduct the normal flow of water.
 - (i) Department—the Wisconsin Department of Natural Resources.
 - (j) Development—Any man-made change to improved or unimproved real estate, including but not limited to construction of buildings, structures or accessory structures; the construction of additions or

- substantial improvements to buildings, structures or accessory structures; the placement of mobile homes; mining, dredging, filling, grading, paving, excavation or drilling operations; and the deposition or extraction of materials.
- (k) Encroachment—any fill, structure, building, accessory use, use or development in the floodway.
 - (l) Equal Degree of Hydraulic Encroachment—the effect of any encroachment into the floodway is computed by assuming an equal degree of hydraulic encroachment on the opposite side of a river or stream for a significant hydraulic reach. This computation assures that property owners up, down or across the river or stream will have the same rights of hydraulic encroachment. (Also see: Hydraulic Reach and Floodway Lines.)
 - (m) Equal Degree of Hydrologic Encroachment—the effect of any development on the storage capacity of a floodplain area, particularly upstream from urban areas, is analyzed assuming an equal loss of flood storage for all property owners and subdivided lots in the storage area of a floodplain on both sides of a river or stream for a significant hydrologic reach.
 - (n) Existing Mobile Home Park or Mobile Home Subdivision—A parcel (or continuous parcels) of land divided into two (2) or more mobile home lots for rent or sale for which the construction of facilities for servicing the lot on which the mobile home is to be affixed (including, at a minimum, the installation of utilities, either final site grading or the pouring of concrete pads, and the construction of streets) is completed before the effective date of this Municipal Code.
 - (o) Federal Emergency Management Agency (FEMA)—the federal agency that administers the National Flood Insurance Program. This agency was previously known as the Federal Insurance Administration (FIA). The Division of Insurance and Mitigation is contained within FEMA. (Should it be necessary to contact Emergency Management Agency’s Division of Insurance and Mitigation.)
 - (p) Flood or Flooding—A general and temporary condition of partial or complete inundation of normally dry land areas from the overflow of inland waters, or the unusual and rapid accumulation or runoff of surface waters from any source.
 - (q) Flood Fringe—the flood fringe is that portion of the floodplain outside of the floodway, which is covered by flood waters during the regional flood; it is generally associated with standing water rather than rapidly flowing water.
 - (r) Flood Hazard Boundary Map—a map prepared for the village by FEMA, designating approximate flood hazard areas. Flood hazard areas are designated aspects of the National Flood Insurance Program.
 - (s) Flood Insurance Study—A technical engineering examination, evaluation, and determination of the Village flood hazard areas. It provides maps designating those areas affected by the regional flood and provide flood insurance rate zones and regional flood elevations as well as floodway lines. The flood hazard areas are designated as numbered A-Zones. Flood insurance study maps form the basis for both the regulatory and the insurance aspects of the National Flood Insurance Program.
 - (t) Floodplain—that land which has been or may be hereafter covered by floodwater during the regional flood. The floodplain includes the floodway and the flood fringe.
 - (u) Flood Profile—A graph or a longitudinal profile showing the relationship of the water surface elevation of a flood event to locations of land surface elevations along a stream or river.
 - (v) Flood Proofing—Any combination of structural and non-structural additions, changes, or adjustments to reduce or eliminate flood damage to unimproved or improved real estate, water and sanitary facilities, structures and their contents.
 - (w) Flood Protection Elevation—an elevation that corresponds to a point two (2) feet of freeboard above the water surface profile associated with the regional flood. (Also see: Freeboard.)
 - (x) Floodway—The channel of a river or stream and those portions of the floodplain adjoining the channel required to carry and discharge the flood water or flood flows associated with the regional flood without cumulatively increasing the water surface elevation more than 0.1 foot (3cm.) Flooding Encroachment Lines—Represent the limits of obstruction to flood flows. These lines are designated on both sides of, and generally parallel to, the channel of a river or stream. They are established by assuming that the area landward (outside of the encroachment lines) will ultimately be developed in such a way that it will not convey flood flows, but the development will not cause an increase to regional flood elevations upstream. It is assumed that any development riverward of those lines will cause an obstruction and will require a detailed analysis (equal degree of hydraulic encroachment) to determine its effect on the regional flood elevations upstream.
 - (y) Freeboard—“Freeboard” is a factor of safety usually expressed in terms of a certain amount of feet above a calculated flood level. Freeboard compensates for the many unknown factors that contribute to flood heights greater than the height calculated. These unknown factors include, but are not limited to,

- ice jams, debris accumulation wave action, obstruction of bridge openings and floodways, the effects of urbanization on the hydrology of the watershed, loss of flood storage areas due to development and the sedimentation of a river or stream bed.
- (z) High Flood Damage Potential—any danger to human life or public health or the potential for any significant economic loss to a structure or its contents.
 - (aa) Historic Structure-Any structure that is:
 - 1) Listed individually in the National Register of Historic Places or preliminarily determined by the Secretary of the Interior as meeting the requirements for individual listing on the National Register.
 - 2) 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 which have been approved by the Secretary of the Interior; or
 - 3) Individually listed on a local inventory of historic places in communities with historic preservation programs that have been certified either by an approved state program, as determined by the Secretary of the Interior; or directly by the Secretary of the Interior in states without approved programs qualify as a registered historic district;
 - 4) Individually listed on a state inventory of historic places in states with historic preservation programs
 - (bb) Hydraulic Reach—that portion of the river or stream extending from one significant change in the hydraulic character of the river or stream to the next significant change. These changes are usually associated with breaks in the slope of the water surface profile, and may be caused by bridges, dams, expansions and contraction of the water flow, and changes in streambed slope or vegetation.
 - (cc) Hydrological Reach—a designated length of river, stream or lake where the storage of floodwaters therein has been taken into account to reduce the regulatory flood discharge. Major man-made or natural changes in the river character, limits of political jurisdiction, or a change in the flood-routing technique used to determine the storage and translation of a flood wave through the area of interest may be used to define the end of hydrologic reach (e.g., a dam may be considered a major man-made change in the river character or a change from channel routing to reservoir routing may be considered a major change in the flood-routing technique.)
 - (dd) Land Use—any nonstructural use made of unimproved or improved real estate. (Also see Development.)
 - (ee) Mobile Home or Manufactured Home. A structure transportable in one or more sections, which is built on a permanent chassis and is designed to be used with or without a permanent foundation when connected to required utilities. For the purpose of this ordinance, it does not include recreational vehicles or travel trailers which remain licensed and ready for highway use and remain on site less than 180 days.
 - (ff) Nonconforming Structure—an existing lawful structure or building which is not in conformity with the dimensional or structural requirements of this Ordinance for the area of floodplain which it occupies. (For example, an existing residential structure in the flood fringe district is a conforming use. However, if the first floor is lower than the flood protection elevation, the structure is nonconforming.)
 - (gg) Nonconforming Use—a nonconforming use is an existing lawful use of a structure, building or accessory use which is not in conformity with the provisions of this Chapter for the area of the floodplain which it occupies.
 - (hh) Official Floodplain Zoning Map—That map, adopted and made part of this Chapter, which has been approved by the Department of Natural Resources and FEMA.
 - (ii) Open Space Use—those uses having relatively low flood damage potential and not involving structures.
 - (jj) Person—an individual, or group of individuals, corporation, partnership, association, municipality or state agency.
 - (kk) Regional Flood—the regional flood is a flood determined to be representative of large floods known to have generally occurred in Wisconsin and which may be expected to occur on a particular stream because of like physical characteristics. The flood frequency of the regional flood is once in every one (1%) percent chance that the regional flood may occur or be exceeded. During a typical thirty (30) year mortgage period, the regional flood has a twenty-six (26%) percent chance of occurrence. The regional flood is based upon a statistical analysis of stream flow records available for the watershed or an analysis of rainfall and runoff characteristics in the general watershed region.
 - (ll) Storage Capacity of a Floodplain—The volume of space above an area of floodplain land that can be occupied by flood water of a given stage at a given time, regardless of whether the water is moving.

- (mm) Structure—Any man-made object with form, shape and utility, either permanently or temporarily attached to, placed upon or set into the ground, stream bed or lake bed, which includes, but is not limited to, such objects as roofed and walled buildings, gas or liquid storage tanks, bridges, dams and culverts.
- (nn) Substantial Improvement—any structural repair, reconstruction, or improvement of a structure, the cost of which equals or exceeds fifty (50%) percent of the present equalized assessed value of the structure either before the improvement or repair is started, or if the structure has been damaged, and is being restored, before the damage occurred. 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 designated historical (see definition) structure or site documented as deserving preservation by the Wisconsin State Historical Society, or listed on the National Register of Historic Places provided the alteration will not preclude the structure's continued designation and historical structure. Ordinary maintenance repairs are not considered structural repairs, modifications or additions; such ordinary maintenance repairs include internal and external painting, decorating, paneling and the replacement of doors, windows, and other nonstructural components. For purposes 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 structures.
- (oo) Unnecessary Hardship—Any unique and extreme inability to conform to the provisions of this Chapter due to special conditions affecting a particular property which were not self-created and are not solely related to economic gain or loss. Unnecessary hardship is present only where, in the absence of a variance, no feasible use can be made of the property.
- (pp) Utilities—Any public or private water supply, waste collection or disposal system, including but not limited to, private and public wells and their attendant facilities, septic systems and public sewage collection systems.
- (qq) Variance—An authorization by the Board of Appeals to construct, alter or use a structure in a manner which is inconsistent with the dimensional standards contained in this Chapter.