

CHAPTER 73
FLOODPLAIN ZONING ORDINANCE

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73.01 STATUTORY AUTHORIZATION. This Ordinance is adopted under the authority of Wis. Stat. §§ 59.69, 59.692, and 59.694 and the requirements of § 87.30.

73.02 FINDING OF FACT. Uncontrolled development and use of the floodplains and rivers in Sheboygan County would impair the public health, safety, convenience, general welfare, and tax base.

73.03 STATEMENT OF PURPOSE. This Ordinance is intended to regulate floodplain development to:

- (1) Protect life, health, and property;
- (2) Minimize expenditures of public funds for flood control projects;
- (3) Minimize rescue and relief efforts undertaken at the expense of the taxpayers;
- (4) Minimize business interruptions and other economic disruptions;
- (5) Minimize damage to public facilities in the floodplain;
- (6) Minimize the occurrence of future flood blight areas in the floodplain;
- (7) Discourage the victimization of unwary land and home buyers;
- (8) Prevent increases in flood heights that could increase flood damage and result in conflicts between property owners; and
- (9) Discourage development in a floodplain if there is any practicable alternative to locate the activity, use, or structure outside of the floodplain.

73.04 TITLE. This Ordinance shall be known as the **FLOODPLAIN ZONING ORDINANCE, SHEBOYGAN COUNTY, WISCONSIN.**

73.05 GENERAL PROVISIONS.

- (1) AREAS TO BE REGULATED. This Ordinance regulates all areas that would be covered by the regional flood or base flood.
- (2) OFFICIAL MAPS & REVISIONS. The boundaries of all floodplain districts are designated as floodplains or A-Zones on the maps listed below and the revisions in the Sheboygan County Floodplain Appendix. Any change to the Base Flood Elevations (BFE) in the Flood Insurance Study (FIS) or on the Flood Insurance Rate Map (FIRM) must be reviewed and approved by the Wisconsin Department of Natural Resources (DNR) and Federal Emergency Management Agency (FEMA) before it is effective. No changes to Regional Flood Elevations (RFEs) on non-FEMA maps shall be effective until approved by the DNR. These maps and revisions are on file in the office of the Sheboygan County Planning and Resources Department (the Department). If more than one map or revision is referenced, the most restrictive information shall apply.
 - (a) OFFICIAL MAPS BASED ON THE FLOOD INSURANCE SURVEY. The boundary of the floodplain districts, including floodway, floodfringe, and other floodplain districts designated as floodplains or A-Zones on the Flood Insurance Rate Maps (FIRMs) for Sheboygan County (Community Number 550424) prepared by the Federal Emergency Management Agency (FEMA) shall be as located on the following panels:

55117C0020F	55117C0040F	55117C0045F	55117C0063F*	55117C0064F
55117C0068F	55117C0069F*	55117C0090F	55117C0095F	55117C0115F
55117C0135F	55117C0145F	55117C0155F	55117C0160F	55117C0165F
55117C0167F	55117C0170F	55117C0180F	55117C0181F	55117C0182F
55117C0183F	55117C0184F	55117C0186F	55117C0188F	55117C0190F
55117C0191F	55117C0192F	55117C0193F	55117C0194F	55117C0201F
55117C0202F	55117C0203F	55117C0204F	55117C0210F	55117C0211F*

55117C0212F	55117C0213F	55117C0214F	55117C0216F	55117C0217F
55117C0218F	55117C0219F	55117C0230F	55117C0236F	55117C0237F
55117C0238F	55117C0260F	55117C0270F*	55117C0280F*	55117C0285F
55117C0290F	55117C0292F	55117C0294F	55117C0295F	55117C0301F
55117C0302F	55117C0305F	55117C0306F	55117C0307F	55117C0308F*
55117C0309F	55117C0311F*	55117C0313F	55117C0315F	55117C0320F
55117C0326F	55117C0327F	55117C0328F	55117C0329F	55117C0331F
55117C0332F	55117C0333F	55117C0334F	55117C0337F	55117C0339F
55117C0340F	55117C0341F	55117C0342F*	55117C0343F	55117C0344F
55117C0351F	55117C0353F	55117C0354F	55117C0362F	55117C0365F
55117C0385F	55117C0395F	55117C0405F	55117C0406F	55117C0407F
55117C0408F	55117C0409F	55117C0415F	55117C0416F	55117C0417F
55117C0430F	55117C0435F	55117C0440F	55117C0445F*	55117C0455F
55117C0456F*	55117C0458F	55117C0460F	55117C0465F	55117C0470F
55117C0480F				

Based on the Flood Insurance Study (FIS) No. 55117CV000A dated April 2, 2009, these panels have been approved by FEMA and the Wisconsin Department of Natural Resources and are on file in the Office of the Planning and Resources Department. Asterisked panels have not been printed by FEMA.

- (b) OFFICIAL MAPS BASED ON OTHER STUDIES. In addition to the districts set forth in (a) above, any district shown on the following individual property studies from 1999 to the date of enactment which have been approved by the Wisconsin Department of Natural Resources (and in some cases FEMA) and which are on file in the office of the Planning and Resources Department are districts for purposes of this Ordinance. To the extent that boundaries shown on these individual property studies conflict with boundaries shown on the FIRMs set forth in (a) above, these individual studies shall be considered "best available information" in the approximate Zone A floodplains.

Individual property studies from 1999 to the date of enactment where floodplains were expressly identified and which take precedence over approximations shown on the maps set forth in (a), above.

PROPERTY OWNER	TOWN	PERMIT NUMBER
Greenlawn Memorial Park Study date is August 24, 1999; WDNR approval date is March 23, 2000	Sheboygan	SHP-86-99
Sunset Hills Golf Course Study date is March 24, 2000; WDNR approval date is September 2000	Sheboygan Falls	SHP-47-00
Joe Van Horn Chevrolet Study date is September 8, 2000; WDNR approval date is October 12, 2000	Plymouth	SHP-117-00
Kenneth and Amy Van Wyk Study date is January 8, 2002; WDNR approval date is April 30, 2002	Lyndon	SHP-43-04
Hidden Creek Subdivision Study date is August 2001; WDNR approval date is January 15, 2003	Sheboygan	SHP-25-03
Green Meadows Subdivision Study date is March 2004; WDNR approval date is April 23, 2004	Sheboygan	SHP-62-05
Justin Fink Study date is date February 1, 2006; WDNR approval date is April 13, 2006	Plymouth	SHP-44-06
Brett Hoffmann Study date is July 14, 2006; WDNR approval date is August 17, 2006	Lima	SHP-82-06

Dorothy Quasius	Rhine	SHP-29-07
Study date is February 28, 2007; WDNR approval date is April 19, 2007		
Mark Kleinhans	Plymouth	
Miller HEC-RAC study date is December 2007; WDNR approval date is December 4, 2007; FEMA approval date is April 24, 2008		
Cindy Borland	Scott	SHP-01-08
Study date September 2007; WDNR approval date is December 12, 2007		
Barr Creek culvert replacement under Sauk Trail Road	Holland (West)	
Study date is September 29, 2006; WDNR approval date is August 25, 2008; FEMA approval date is January 19, 2009		

- (3) ESTABLISHMENT OF DISTRICTS. The regional floodplain areas are divided into three (3) districts as follows:
- (a) The Floodway District (FW) is the channel of a river or stream and those portions of the floodplain adjoining the channel required to carry the regional floodwaters.
 - (b) The Floodfringe District (FF) is that portion of the floodplain between the regional flood limits and the floodway.
 - (c) The General Floodplain District (GFD) is those areas that have been or may be covered by floodwater during the regional flood.
- (4) LOCATING FLOODPLAIN BOUNDARIES. Discrepancies between boundaries on the official floodplain zoning map and actual field conditions shall be resolved using the criteria in Subsections (a) or (b), below. If a significant difference exists, the map shall be amended according to Section 73.22 of this Code. The Department can rely on a boundary derived from a profile elevation to grant or deny a land use permit whether or not a map amendment is required. The Department shall be responsible for documenting actual pre-development field conditions and the basis upon which the district boundary was determined and for initiating any map amendments required under this Section. Disputes between the Department and an applicant over the district boundary line shall be settled according to Section 73.18(3) of this Code and the criteria in Subsections (a) and (b), below.
- (a) If flood profiles exist, the map scale and the profile elevations shall determine the district boundary. The regional or base flood elevations shall govern if there are any discrepancies.
 - (b) Where flood profiles do not exist, the location of the boundary shall be determined by the map scale, visual on-site inspection and any information provided by the DNR.
- Note:** Where the flood profiles are based on established base flood elevations from a FIRM, FEMA must also approve any map amendment pursuant to Section 73.22(1)(f) of this Code.
- (5) REMOVAL OF LANDS FROM FLOODPLAIN. Compliance with the provisions of this Ordinance shall not be grounds for removing land from the floodplain unless it is filled at least two feet (2') above the regional or base flood elevation, the fill is contiguous to land outside the floodplain, and the map is amended pursuant to Section 73.22 of this Code.
- Note:** This procedure does not remove the requirements for the mandatory purchase of flood insurance. The property owner must contact FEMA to request a Letter of Map Change (LOMC).
- (6) COMPLIANCE. Any development or use within the areas regulated by this Ordinance shall be in compliance with the terms of this Ordinance and other applicable local, state, and federal regulations.
- (7) MUNICIPALITIES AND STATE AGENCIES REGULATED. Unless specifically exempted by law, all cities, villages, towns, and counties are required to comply with this Ordinance and obtain all necessary permits. State agencies are required to comply subject to Wis. Stat.

§ 13.48(13). Activities that are carried out under the direction of the Department of Transportation in connection with highways, bridges, or other transportation project design, location, construction, reconstruction, maintenance, and repair are not subject to the provisions of this Ordinance provided the requirements of Wis. Stat. § 30.2022 are complied with. Notwithstanding the above, the permit and hearing fees set may be waived for such governmental applicants or agencies thereof, including special purpose units of government (e.g. sanitary and utility districts, lake management districts, school districts, housing authorities, and/or public utilities).

(8) ABROGATION AND GREATER RESTRICTIONS.

(a) This Ordinance supersedes all the provisions of any prior ordinance enacted under Wis. Stat. §§ 59.69, 59.692, or 59.694 which relate to floodplains. If another ordinance is more restrictive than this Ordinance, that Ordinance shall control to the extent of the greater restrictions and not otherwise.

(b) This Ordinance is not intended to repeal, abrogate, or impair any existing deed restrictions, covenants, or easements. If this Ordinance imposes greater restrictions, the provisions of this Ordinance shall prevail.

(9) INTERPRETATION. In their interpretation and application, the provisions of this Ordinance are the minimum requirements liberally construed in favor of Sheboygan County and are not a limitation on or repeal of any other powers granted by the Wisconsin Statutes. If a provision of this Ordinance required by Wis. Admin. Code Ch. NR 116 is unclear, the provision shall be interpreted in light of the standards in effect on the date of the adoption of this Ordinance or in effect on the date of the most recent text amendment to this Ordinance.

(10) WARNING AND DISCLAIMER OF LIABILITY. The flood protection standards in this Ordinance are based on engineering experience and scientific research. Larger floods may occur or the flood height may be increased by man-made or natural causes. This Ordinance does not imply or guarantee that non-floodplain areas or permitted floodplain uses will be free from flooding and flood damages. Nor does this Ordinance create liability on the part of or a cause of action against Sheboygan County or any officer or employee thereof for any flood damage that may result from reliance on this Ordinance.

(11) SEVERABILITY. Should any portion of this Ordinance be declared unconstitutional or invalid by a court of competent jurisdiction, the remainder of this Ordinance shall not be affected.

(12) ANNEXED AREAS FOR CITIES AND VILLAGES. The Sheboygan County Floodplain Zoning provisions in effect on the date of annexation shall remain in effect and shall be enforced by the municipality for all annexed areas until the municipality adopts and enforces an ordinance which meets the requirements of Wis. Admin. Code Ch. NR 116 and the National Flood Insurance Program (NFIP). These annexed lands are described on the municipality's official zoning map. County floodplain zoning provisions are incorporated by reference for the purpose of administering this Section and are to be on file in the office of the municipality's zoning administrator. All plats or maps of annexation shall show the regional flood elevation and the location of the floodway.

(13) GENERAL DEVELOPMENT STANDARDS. The Department shall review all permit applications to determine whether proposed building site is in a flood-prone area, all new construction and substantial improvements shall be designed or modified and adequately anchored to prevent flotation, collapse, or lateral movement of the structure resulting from hydrodynamic and hydrostatic loads; be constructed with materials resistant to flood damage; be constructed by methods and practices that minimize flood damages; and be constructed with electrical, heating, ventilation, plumbing, and air conditioning equipment and other service facilities designed and/or located so as to prevent water from entering or accumulating with the components during conditions of flooding. Subdivisions shall be reviewed for compliance with the above standards. All subdivision proposals (including manufactured/mobile home parks) shall include regional flood elevation and floodway data for any development that meets the subdivision definition of this Ordinance.

- (1) HYDRAULIC AND HYDROLOGIC ANALYSES.
- (a) Except as allowed in Subsection (3), below, no floodplain development shall:
1. Obstruct flow, defined as development which blocks the conveyance of floodwaters by itself or with other development, increasing regional flood height; or
 2. Increase regional flood height due to floodplain storage area lost which equals or exceeds 0.01 foot.
- (b) The Department shall deny permits if it is determined the proposed development will obstruct flow or increase regional flood heights 0.01 foot or more, based on the officially adopted FIRM unless the provisions of Subsection (3) are met.
- (c) 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, floodway lines and water surface profiles in accordance with Section 73.22 of this Code.
- Note:** This Section refers to obstructions or increases in base flood elevations as shown on the officially adopted FIRM or other adopted map. Any such alterations must be reviewed and approved by FEMA and the DNR.
- (2) WATERCOURSE ALTERATIONS. No land use permit to alter or relocate a watercourse in a mapped floodplain shall be issued until the Department has notified in writing all adjacent municipalities, the DNR, and FEMA regional offices and required the applicant to secure all necessary state and federal permits. The flood carrying capacity of any altered or relocated watercourse shall be maintained. As soon as it is practicable, but not later than six (6) months after the date of the watercourse alteration or relocation, the Department shall notify FEMA of the changes by submitting appropriate technical or scientific data in accordance with NFIP guidelines that shall be used to revise the FIRM, risk premium rates, and floodplain management regulations as required.
- (3) WIS. STAT. § 30.31 DEVELOPMENT. Development which requires a permit from the DNR under Wis. Stat. chs. 30 and 31 such as docks, piers, wharves, bridges, culverts, dams, and navigational aids may be allowed if the necessary permits are obtained and amendments to the floodway lines, water surface profiles, BFEs established in the FIS, or other data from the officially adopted FIRM or other floodplain zoning maps or the Floodplain Zoning Ordinance are made according to Section 73.22 of this Code.
- (4) PUBLIC OR PRIVATE CAMPGROUNDS. Public or private campgrounds shall have a low flood damage potential and shall meet the following provisions:
- (a) The campground is approved by the State Department of Health and Family Services;
 - (b) A Shoreland/Floodplain Zoning Permit for the campground is issued by the Planning Department;
 - (c) The character of the river system and the elevation of the campground is such that a seventy-two- (72-) hour warning of an impending flood can be given to all campground occupants.
 - (d) There is an adequate flood warning procedure for the campground that offers the minimum notice required under this Section to all persons in the campground. This procedure shall include a written agreement between the campground owner, County Emergency Management, and the Sheriff which specifies the flood elevation at which evacuation shall occur, personnel responsible for monitoring flood elevations, types of warning systems to be used and the procedures for notifying at-risk parties, and the methods and personnel responsible for conducting the evacuation.

- (e) This Agreement shall be for no more than one (1) calendar year, at which time the Agreement shall be reviewed and updated by the officials identified in Subsection (4), above, to remain in compliance with all applicable regulations including those of the State Department of Health and Family Services and all other applicable regulations.
- (f) Only camping units are allowed.
- (g) The camping units may not occupy any site in the campground for more than one hundred eighty (180) consecutive days, at which time the camping unit must be removed from the floodplain for a minimum of twenty-four (24) hours.
- (h) All camping units that remain on-site for more than thirty (30) days shall be issued a limited authorization by the campground operator, a written copy of which is kept on file at the campground. Such authorization shall allow placement of a camping unit for a period not to exceed one hundred eighty (180) days and shall ensure compliance with all the provisions of this Section.
- (i) The Department shall monitor the limited authorizations issued by the campground operator to assure compliance with the terms of this Section.
- (j) All camping units that remain in place for more than one hundred eighty (180) days must meet the applicable requirements in either Sections 73.07 or 73.10 of this Code for the floodplain district in which the structure is located.
- (k) The campground shall have signs clearly posted at all entrances warning of the flood hazard and the procedures for evacuation when a flood warning is issued.
- (l) All service facilities, including but not limited to refuse collection, electrical service, natural gas lines, propane tanks, sewage systems, and wells shall be properly anchored and placed at or floodproofed to the flood protection elevation.

73.07 FLOODWAY DISTRICT (FW).

- (1) **APPLICABILITY.** This Section applies to all floodway areas on the official floodplain maps and those identified pursuant to Sections 73.05(2) and 73.11(4) of this Code.
- (2) **PERMITTED USES.** The following open space uses are allowed in the floodway district and the floodway areas of the general floodplain district if:
 - they are not prohibited by any other ordinance;
 - they meet the standards in Sections 72.08 and 73.09 of this Code; and
 - all permits or certificates have been issued according to Section 73.15 of this Code:
 - (a) Agricultural uses, such as farming, outdoor plant nurseries, horticulture, viticulture, and wild crop harvesting.
 1. A buffer strip meeting the minimum standards as determined by the County Land & Water Conservation Department shall be established and maintained between the farmed area and the edge of the waterway; waterway crossings shall be permitted for livestock and shall be of a design deemed appropriate by the County Land & Water Conservation Department. An agricultural producer may be exempt from this Section if soil and water conservation practices are deemed sufficient and no pollution is occurring in the opinion of the County Land & Water Conservation Department.
 2. If there is a pollution problem resulting from the grazing or pasturing of livestock, the agricultural producer will be required to erect a fence or otherwise abate the pollution in such a manner as may be determined by the County Land & Water Conservation Department and the Department. If a fence is erected, provision will be allowed for watering the livestock in the waterway.

- (b) Nonstructural industrial and commercial uses, such as loading areas, parking areas, and airport landing strips.
- (c) Nonstructural recreational uses, such as golf courses, tennis courts, archery ranges, picnic grounds, boat ramps, swimming areas, parks, wildlife and nature preserves, game farms, fish hatcheries, shooting, trap, and skeet activities, hunting and fishing areas, and hiking and horseback riding trails, subject to the fill limitations of Section 73.08(4) of this Code.
- (d) Uses or structures accessory to open space uses or classified as historic structures that comply with Sections 73.08 and 73.09 of this Code.
- (e) Extraction of sand, gravel, or other materials that comply with Section 73.08(4) of this Code, and Chapter 78, Non-Metallic Mining Reclamation Regulations, if applicable.
- (f) Functionally water-dependent uses, such as docks, piers, or wharves; dams; flowage areas; culverts; navigational aids and river crossings of transmission lines; and pipelines that comply with Wis. Stat. chs. 30 and 31.
- (g) Public utilities, streets, and bridges that comply with Section 73.08(3) of this Code.

73.08 STANDARDS FOR DEVELOPMENT IN FLOODWAY AREAS.

(1) GENERAL.

- (a) Any development in floodway areas shall comply with Section 73.06 of this Code and have a low flood damage potential.
- (b) Applicants shall provide the following data to determine the effects of the proposal according to Section 73.06(1) of this Code:
 1. A cross-section elevation view of the proposal perpendicular to the watercourse showing if the proposed development will obstruct flow; or
 2. An analysis calculating the effects of this proposal on regional flood height.
- (c) The Department shall deny the permit application if the project will increase flood elevations upstream or downstream 0.01 foot or more based on the data submitted for Subsection (b), above.

(2) Structures accessory to permanent open space uses classified as historic structures or functionally dependent on a waterfront location may be allowed by permit if the structures comply with the following criteria:

- (a) The structures are not designed for human habitation and do not have a high flood damage potential;
- (b) The structures are constructed and placed on the building site so as to increase flood heights less than 0.01 foot and minimally obstruct the flow of floodwaters. Structures shall be constructed with the long axis parallel to the flow of floodwaters and on the same line as adjoining structures;
- (c) The structures are properly anchored to prevent them from floating away and restricting bridge openings or other restricted sections of the stream or river; and
- (d) The structures have all service facilities at or above the flood protection elevation.

(3) Public utilities, streets, and bridges may be allowed by permit if:

- (a) Adequate floodproofing measures are provided to the flood protection elevation; and
- (b) Construction meets the development standards of Section 73.06(1) of this Code.

- (4) Fills or deposition of materials may be allowed by permit if:
 - (a) The requirements of Section 73.06(1) of this Code are met;
 - (b) No material is deposited in the navigable channel unless a permit is issued by the DNR pursuant to Wis. Stat. ch. 30 and a permit pursuant to Section 404 of the Federal Water Pollution Control Act, Amendments of 1972, 33 U.S.C. 1344 has been issued, if applicable, and the other requirements of this Section are met;
 - (c) The fill or other materials will be protected against erosion by riprap, vegetative cover, sheet piling, or bulkheading; and
 - (d) The fill is not classified as a solid or hazardous waste material.

73.09 PROHIBITED USES. All uses not listed as permitted uses in Section 73.07(2) of this Code are prohibited, including the following uses:

- (1) Habitable structures, structures with high flood damage potential, or those not associated with permanent open-space uses;
- (2) Storing materials that are buoyant, flammable, explosive, injurious to property, water quality, or human, animal, plant, fish, or other aquatic life;
- (3) Uses not in harmony with or detrimental to uses permitted in the adjoining districts;
- (4) Any private or public sewage systems except portable latrines that are removed prior to flooding and systems associated with recreational areas and DNR-approved campgrounds that meet the applicable provisions of local ordinances and Wis. Admin. Code Ch. Comm 83.
- (5) Any public or private wells which are used to obtain potable water, except those for recreational areas that meet the requirements of local ordinances and Wis. Admin. Code Chs. NR 811 and NR 812.
- (6) Any solid or hazardous waste disposal sites;
- (7) Any wastewater treatment ponds or facilities except those permitted under Wis. Admin. Code § NR 110.15(3)(b).
- (8) Any sanitary sewer or water supply lines except those to service existing or proposed development located outside the floodway which complies with the regulations for the floodplain area occupied.

73.10 FLOODFRINGE DISTRICT (FF).

- (1) APPLICABILITY. This Section applies to all floodfringe areas shown on the official floodplain zoning maps described in Section 73.05(2)(a) and those identified pursuant to Section 73.11(4) of this Code.
- (2) PERMITTED USES. Any structure, land use, or development is allowed in the floodfringe district if the standards in Section 73.10(3) of this Code are met, the use is not prohibited by this or any other Ordinance or regulation, and all permits or certificates specified in Section 73.15 of this Code have been issued.
- (3) STANDARDS FOR DEVELOPMENT IN FLOODFRINGE AREAS.
 - (a) All of the provisions of Section 73.06(1) of this Code shall apply. In addition, the following requirements shall apply according to the use requested.
 - (b) Residential Uses. Any habitable structure including a manufactured/mobile home which is to be erected, constructed, reconstructed, altered, or moved into the floodfringe area shall meet or exceed the following standards:

1. The elevation of the lowest floor, excluding the basement or crawlway, shall be at or above the flood protection elevation on fill. The fill shall be one foot (1') or more above the regional flood elevation extending at least fifteen feet (15') beyond the limits of the structure. The Department may authorize other floodproofing measures if the elevations of existing streets or sewer lines makes compliance impractical and the Board of Adjustments grants a variance;
2. The basement or crawlway floor may be placed at the regional flood elevation if it is floodproofed to the flood protection elevation. No basement or crawlway floor is allowed below the regional flood elevation;
3. Contiguous dryland access shall be provided from a structure to land outside of the floodplain except as provided in Subsection (d), below.
4. In developments where existing street or sewer line elevations make compliance with Subsection (c), below, impractical, the municipality may permit new development and substantial improvements where access roads are at or below the regional flood elevation if:
 - A. The municipality has written assurance from police, fire, and emergency services that rescue and relief will be provided to the structure(s) by wheeled vehicles during a regional flood event, or
 - B. The municipality has a natural disaster plan approved by Wisconsin Emergency Management and the DNR.

(c) Accessory Structures or Uses.

1. Except as provided in Subsection 2, below, an accessory structure which is not connected to a principal structure may be constructed with its lowest floor at or above the regional flood elevation.
2. An accessory structure which is not connected to the principal structure and which is less than six hundred (600) square feet in size and valued at less than Ten Thousand Dollars (\$10,000.00) may be constructed with its lowest floor no more than two feet (2') below the regional flood elevation if it is subject to flood velocities of no more than two feet (2') per second and it meets all the provisions of Sections 73.08(2)(a), (b), (c), (d), and 73.10(3)(f), below.

(d) Commercial Uses. Any commercial structure which is erected, altered, or moved into the floodfringe area shall meet the requirements of Section 73.10(3)(b) of this Code. Subject to the requirements of Subsection (3)(f), below, storage yards, surface parking lots, and other such uses may be placed at lower elevations if an adequate warning system exists to protect life and property.

(e) Manufacturing and Industrial Uses. Any manufacturing or industrial structure which is erected, altered, or moved into the floodfringe area shall be protected to the flood protection elevation using fill, levees, floodwalls, or other flood proofing measures in Section 73.20 of this Code. Subject to the requirements of Subsection (3)(f), below, storage yards, surface parking lots, and other such uses may be placed at lower elevations if an adequate warning system exists to protect life and property.

(f) Storage of Materials. Materials that are buoyant, flammable, explosive, or injurious to property, water quality, or human, animal, plant, fish, or aquatic life shall be stored at or above the flood protection elevation or floodproofed in compliance with Section 73.20 of this Code. Adequate measures shall be taken to ensure that such materials will not enter the water body during flooding.

(g) Public Utilities, Streets, and Bridges. All utilities, streets, and bridges shall be designed to be compatible with comprehensive floodplain development plans; and

1. When failure of public utilities, streets, and bridges would endanger public health or safety, or where such facilities are deemed essential, construction of and substantial improvements to such facilities may only be permitted if they are floodproofed in compliance with Section 73.20 of this Code to the flood protection elevation;
 2. Minor roads or nonessential utilities may be constructed at lower elevations if they are designed to withstand flood forces to the regional flood elevation.
- (h) Sewage Systems. All on-site sewage disposal systems shall be floodproofed pursuant to Section 73.20 of this Code to the flood protection elevation and shall meet the provisions of all local ordinances and Wis. Admin. Code Ch. Comm 83.
- (i) Wells. All wells shall be floodproofed pursuant to Section 73.20 of this Code to the flood protection elevation and shall meet the provisions of Wis. Admin. Code Ch. NR 811 and NR 812.
- (j) Solid Waste Disposal Sites. Disposal of solid or hazardous waste is prohibited in floodfringe areas.
- (k) Deposition of Materials. Any deposited material must meet all the provisions of this Ordinance.
- (l) Manufactured/Mobile Homes.
1. Owners or operators of all manufactured/mobile home parks and subdivisions shall provide adequate surface drainage to minimize flood damage and prepare, secure approval, and file an evacuation plan indicating vehicular access and escape routes with local emergency management authorities.
 2. In existing manufactured/mobile home parks, all new homes, replacement homes on existing pads, and substantially improved homes shall:
 - A. have the lowest floor elevated to the flood protection elevation; and
 - B. be anchored so they do not float, collapse, or move laterally during a flood.
 3. Outside of existing manufactured/mobile home parks, including new manufactured home parks and all single units outside of existing parks, all new, replacement, and substantially improved manufactured/mobile homes shall meet the residential development standards for the floodfringe in Section 73.10(3)(b) of this Code.
- (m) Mobile Recreational Vehicles. All mobile recreational vehicles that are on site for one hundred eighty (180) consecutive days or more or are not fully licensed and ready for highway use shall meet the elevation and anchoring requirements in Section 73.10(3)(l)2 and 3 of this Code. A mobile recreational vehicle is ready for highway use if it is on its wheels or jacking system, is attached to the site only by quick-disconnect utilities and security devices, and has no permanently attached additions.

73.11 GENERAL FLOODPLAIN DISTRICT (GFD).

- (1) APPLICABILITY. The provisions for this district shall apply to all floodplains for which flood profiles are not available or where flood profiles are available but floodways have not been delineated. Floodway and floodfringe districts shall be delineated when adequate data is available.
- (2) PERMITTED USES. Pursuant to Section 73.11(4) of this Code, it shall be determined whether the proposed use is located within a floodway or floodfringe area. Those areas permitted in floodway [Section 73.07(2) of this Code] and floodfringe areas [Section 73.10(2)

of this Code] are allowed within the general floodplain district according to the standards of Section 73.11(3) of this Code provided that all permits or certificates required under Section 73.15 of this Code have been issued.

- (3) STANDARDS FOR DEVELOPMENT IN THE GENERAL FLOODPLAIN DISTRICT. Section 73.07 of this Code applies to floodway areas; Section 73.10 of this Code applies to floodfringe areas. The rest of this Ordinance applies to either district.
- (4) DETERMINING FLOODWAY AND FLOODFRINGE LIMITS. Upon receiving an application for development within the general floodplain district, the Department shall:
 - (a) Require the applicant to submit two (2) copies of an aerial photograph or a plan which shows the proposed development with respect to the general floodplain district limits, stream channel, and existing floodplain developments, along with a legal description of the property, fill limits and elevations, building floor elevations, and flood proofing measures;
 - (b) Require the applicants to furnish any of the following information deemed necessary by the DNR to evaluate the effects of the proposal upon flood height and flood flows, regional flood elevation, and to determine floodway boundaries:
 1. A typical valley cross-section showing the stream channel, the floodplain adjoining each side of the channel, the cross-sectional area to be occupied by the proposed development, and all historic high water information;
 2. Plan (surface view) showing elevations or contours of the ground; pertinent structure, fill, or storage elevations; size, location, and layout of all proposed and existing structures on the site; location and elevation of streets, water supply, and sanitary facilities, soil types, and other pertinent information.
 3. Profile showing the slope of the bottom of the channel or flow line of the stream;
 4. Specifications for building construction and materials, floodproofing, filling, dredging, channel improvement, storage, water supply, and sanitary facilities.
 - (c) Transmit one (1) copy of the information described in Subsections (4)(a) and (b), above, to the DNR district office along with a written request for technical assistance to establish regional flood elevations and, where applicable, floodway data. Where the provisions of Section 73.16(3) of this Code apply, the applicant shall provide all required information and computations to delineate floodway boundaries and the effects of the project on flood elevations.

73.12 GENERAL PROVISIONS FOR NONCONFORMING USES.

- (1) APPLICABILITY. These standards conform with Wis. Stat. § 59.69(10) and apply to all modifications or additions to any nonconforming use or structure and to the use of any structure or premises which was lawful before the passage of this Ordinance or any amendment thereto or a previous version thereof.
- (2) The existing lawful use of the structure or its accessory use which is not in conformity with the provisions of this Ordinance may continue subject to the following conditions:
 - (a) No modifications or additions to a nonconforming use or structure shall be permitted unless they comply with this Ordinance. The words "modification" and "addition" include but are not limited to any alteration, addition, modification, structural repair, rebuilding or replacement of any such existing use, structure, or accessory structure or use. Ordinary maintenance repairs are not considered an extension, modification, or addition; these include painting, decorating, paneling, and the replacement of doors, windows, and other nonstructural components and the maintenance, repair, or replacement of existing private sewage or water supply systems or connections to

public utilities. Ordinary maintenance repairs do not include any costs associated with the repair of a damaged structure.

The construction of a deck that does not exceed two hundred (200) square feet and that is adjacent to the exterior wall of a principal structure is not an extension, modification, or addition. The roof of the structure may extend over a portion of the deck in order to provide safe ingress and egress to the principal structure.

- (b) If a nonconforming use or the use of a nonconforming structure 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 conform to the applicable requirements of this Ordinance.
- (c) The Department shall keep a record which lists all nonconforming uses and nonconforming structures, their present equalized assessed value, the cost of all modifications or additions which have been permitted, and the percentage of the structure's total current value those modifications represent.
- (d) No modification or addition to any nonconforming structure or any structure with a nonconforming use which over the life of the structure would equal or exceed fifty percent (50%) of its present equalized assessed value shall be allowed unless the entire structure is permanently changed to a conforming structure with a conforming use in compliance with the applicable requirements of this Ordinance. Contiguous dry land access must be provided for residential and commercial uses in compliance with Section 73.10(3)(b) of this Code. The costs of elevating a nonconforming building or a building with a nonconforming use to the flood protection elevation are excluded from the fifty percent (50%) provisions of this Subsection.
- (e) Except as provided in the following paragraphs, if a nonconforming structure or any structure with a nonconforming use is destroyed or is substantially damaged, it cannot be replaced, reconstructed, or rebuilt unless the use and the structure meet the current Ordinance requirements. A structure is considered substantially damaged if the total cost to restore the structure to its pre-damaged condition equals or exceeds fifty percent (50%) of the structure's present equalized assessed value.

For nonconforming buildings that are damaged or destroyed by a nonflood disaster, the repair or reconstruction of any such nonconforming building may be permitted in order to restore it after the nonflood disaster provided that the nonconforming building will meet all of the minimum requirements under 44 CFR Part 60 or under the regulations promulgated thereunder.

Notwithstanding the foregoing, any non-conforming structure whose damage or destruction was caused by violent wind, vandalism, fire, flood, ice, snow mold, infestation or any whole damage or destruction occurring after March 1, 2006, may be restored to the size, location, and use that it had immediately before the damage or destruction occurred without limitation on the costs of the repair, reconstruction, or improvement. If applicable, State or federal requirements necessitate that the size of the structure be larger than the size it was immediately before the damage or destruction, such larger size shall be allowed.

- (f) A nonconforming historic structure may be altered if the alteration will not preclude the structure's continued designation as a historic structure, the alteration will comply with Section 73.08(1) of this Code, flood-resistant materials are used, and construction practices and floodproofing methods that comply with Section 73.20 of this Code are used.

73.13 SPECIAL PROVISIONS FOR NONCONFORMING USES IN FLOODWAY AREAS.

- (1) No modification or addition shall be allowed to any nonconforming structure or any structure with a nonconforming use in a floodway area unless such modification or addition:
 - (a) Has been granted a permit or variance which meets all Ordinance requirements;

- (b) Meets the requirements of Section 73.12, above;
 - (c) Will not increase the obstruction to flood flows or regional flood height;
 - (d) Any addition to the existing structure shall be floodproofed pursuant to Section 73.20 of this Code by means other than the use of fill to the flood protection elevation;
 - (e) Mechanical and utility equipment must be elevated or floodproofed to or above the regional flood elevation;
 - (f) It must not obstruct the flow of flood waters or cause any increase in flood levels during the occurrence of the regional flood; and
 - (g) Its use must be limited to parking and/or limited storage.
- (2) No new on-site sewage disposal system or addition to an existing on-site sewage disposal system, except where an addition has been ordered by a government agency to correct a hazard to public health, shall be allowed in a floodway area. Any replacement, repair, or maintenance of an existing on-site sewage disposal system in a floodway area shall meet the applicable requirements of all municipal ordinances and Wis. Admin. Code Ch. Comm 83.
 - (3) No new well or modification to an existing well used to obtain potable water shall be allowed in a floodway area. Any replacement, repair, or maintenance of an existing well in a floodway area shall meet the applicable requirements of all municipal ordinances and Wis. Admin. Code Chs NR811 and NR 812.

73.14 FLOODFRINGE AREAS.

- (1) No modification or addition shall be allowed to any nonconforming structure or any structure with a nonconforming use unless such modification or addition has been granted a permit or variance by the Department and the modification or addition shall be placed on fill or floodproofed to the flood protection elevation in compliance with the standards for that particular use in Section 73.10(3) of this Code except where Section 73.14(2) of this Code is applicable.
- (2) Where compliance with the provisions of Subsection (1), above, would result in unnecessary hardship and only where the structure will not be used for human habitation or be associated with a high flood damage potential, the Board of Adjustments, using the procedures established in Section 73.18 of this Code, may grant a variance from those provisions of Subsection (1), above, for modifications or additions using the criteria listed below. Modifications or additions which are protected to elevations lower than the flood protection elevation may be permitted if:
 - (a) No floor is allowed below the regional flood elevation for residential or commercial structures;
 - (b) Human lives are not endangered;
 - (c) Public facilities, such as water or sewer, will not be installed;
 - (d) Flood depths will not exceed two feet (2');
 - (e) Flood velocities will not exceed two feet (2') per second; and
 - (f) The structure will not be used for storage of materials as described in Subsection 73.10(3)(f) of this Code.
- (3) If neither the provisions of Subsections (1) or (2), above, can be met, one (1) addition to an existing room in a nonconforming building or a building with a nonconforming use may be allowed in a floodfringe, if the addition:
 - (a) Meets all other regulations and will be granted by permit or variance;

- (b) Does not exceed sixty (60) square feet in area; and
 - (c) In combination with other previous modifications or additions to the building does not equal or exceed fifty percent (50%) of the present equalized assessed value of the building.
- (4) All new private sewage disposal systems or additions to, replacement, repair, or maintenance of a private sewage disposal system shall meet all the applicable provisions of all local ordinances and Wis. Admin. Code Ch. Comm 83.
 - (5) All new wells or additions to, replacement, repair, or maintenance of a well shall meet the applicable provisions of this Ordinance and Wis. Admin. Code Chs. NR 811 and NR 812.

73.15 ADMINISTRATION.

- (1) The Department, through its zoning staff and under the supervision of the Resources Committee, is authorized to administer this Ordinance and shall have the following duties and powers to:
 - (a) Advise applicants of the Ordinance provisions, assist in preparing permit applications and appeals, and assure that the regional flood elevation for the proposed development is shown on all permit applications.
 - (b) Issue permits and inspect properties for compliance with provisions of this Ordinance and issue certificates of compliance where appropriate.
 - (bm) Inspect all damaged floodplain structures and perform a substantial damage assessment to determine if substantial damage to the structures has occurred.
 - (c) Keep records of all official actions such as:
 - 1. All permits issued, inspections made, and work approved;
 - 2. Documentation of certified lowest floor and regional flood elevations for floodplain development;
 - 3. Records of water surface profiles, floodplain zoning maps and ordinances, nonconforming uses and structures including changes, appeals, variances, and amendments.
 - 4. All substantial damage assessment reports for floodplain structures.
 - (d) Submit copies of the following items to the DNR district office:
 - 1. Within ten (10) days of the decision, a copy of any decision on variances, appeals for map or text interpretations, and map or text amendments;
 - 2. Copies of any case-by-case analyses and any other information required by the DNR including an annual summary of the number and types of floodplain zoning actions taken.
 - 3. Copies of substantial damage assessments performed and all related correspondence concerning the assessments.

Note: Information on conducting substantial damage assessments is available on the DNR website — <http://dnr.wi.gov/org/water/wm/dsfm/flood/title.htm>

- (e) Investigate, prepare reports, and report violations of this Ordinance to the Resources Committee and the Corporation Counsel for prosecution. Copies of the records shall also be sent to the DNR district office.

- (f) Submit copies of text and map amendments and biennial reports to the FEMA regional office.

73.16 SHORELAND/FLOODPLAIN ZONING PERMIT. A Shoreland/Floodplain Zoning Permit shall be obtained before any new development or any repair or change in the use of a building or structure, including sewer and water facilities, may be initiated. The application to the Department for the Shoreland/Floodplain Zoning Permit shall include:

(1) GENERAL INFORMATION.

- (a) Name and address of the applicant, property owner, and contractor;
- (b) Legal description, proposed use, and whether it is new construction or a modification;

(2) SITE DEVELOPMENT PLAN. A site plan drawn to scale shall be submitted with the permit application form and shall contain:

- (a) Location, dimensions, area, and elevation of the lot;
- (b) Location of the ordinary high water mark of any abutting navigable waterways;
- (c) Location of any structures with distances measured from the lot lines and street center lines;
- (d) Location of any existing or proposed on-site sewage systems or private water supply systems;
- (e) Location and elevation of existing or future access roads;
- (f) Location of floodplain and floodway limits as determined from the official floodplain zoning maps;
- (g) The elevation of the lowest floor of proposed buildings and any fill using National Geodetic and Vertical Datum (NGVD);
- (h) Data sufficient to determine the regional flood elevation in NGVD at the location of the development and to determine whether or not the requirements of Sections 73.07 through 73.10 of this Code are met;
- (i) Data to determine if the proposed development will cause an obstruction to flow or an increase in regional flood height or discharge according to Section 73.06(1) of this Code. This may include any of the information noted in Section 73.08(1) of this Code.

(3) DATA REQUIREMENTS TO ANALYZE DEVELOPMENTS.

- (1) The applicant shall provide all survey data and computations required to show the effects of the project on flood heights, velocities, and floodplain storage for all subdivision proposals, as "subdivision" is defined in Wis. Stat. ch. 236 and other proposed developments exceeding five (5) acres in area or where the estimated cost exceeds One Hundred Twenty-five Thousand Dollars (\$125,000.00). The applicant shall provide:
 - (a) An analysis of the effect of the development on the regional flood profile, velocity of flow, and floodplain storage capacity;
 - (b) A map showing location and details of vehicular access to lands outside the floodplain; and
 - (c) A surface drainage plan showing how flood damage will be minimized.

The estimated cost of the proposal shall include all structural development, landscaping, access and road development, utilities, and other pertinent items, but need not include land costs.

(4) EXPIRATION. All permits issued under the authority of this Ordinance shall expire one (1) year after the date of issue and the work permitted shall be completed prior to the expiration date extension for additional periods of up to one (1) year may be granted by the Department subject to the following conditions:

- (a) Extension requests shall be made in writing to the Department at least thirty (30) days prior to the expiration date.
- (b) Permits shall be reviewed by the Department for compliance with current local, county, state, and federal requirements. If not in compliance, the extension shall be denied.

(5) FEE. All persons, upon filing an application for permits, changes, or amendments, or Board of Adjustments reviews required pursuant to this Ordinance shall pay a fee to the Department according to the following schedule:

- Shoreland Zoning Permit - New Construction.....	\$250.00
- Shoreland Zoning Permit	\$150.00
- Conditional Use Permit	\$300.00
- Board of Adjustments Hearing Fee.....	\$500.00
- Zoning District Changes & Amendments Hearing Fee	\$300.00

If in the determination of the Department a permit applicant contemplates construction in an amount of no more than Five Hundred dollars (\$500.00) and the Department determines that the expense related to the issuance of the permit does not require the full fee, the Department, in its discretion, may waive all but Seventy-five Dollars (\$75.00) of the fee.

A double fee may be charged if work is started before a permit is applied for and issued.

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

- (a) The Certificate of Compliance shall show that the building or premises or part thereof and the proposed use conform to the provisions of this Ordinance.
- (b) Application for such Certificate shall be concurrent with the application for a permit.
- (c) If all Ordinance provisions are met, the Certificate of Compliance shall be issued within ten (10) days after written notification that the permitted work is completed;
- (d) The applicant shall submit a certification signed by a registered professional engineer or registered land surveyor that the fill, lowest floor, and floodproofing elevations are in compliance with the permit issued. Floodproofing measures also require certification by a registered professional engineer or registered architect that floodproofing measures meet the requirements of Section 73.20 of this Code.

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

73.17 RESOURCES COMMITTEE.

(1) The County Board through its Resources Committee, shall:

- (a) Oversee the functions of the Planning and Zoning Department staff; and

- (b) Review and advise the County Board on all proposed amendments to this Ordinance, maps, and text.
- (2) This Resources Committee shall not:
- (a) Grant variances to the terms of the Ordinance in place of action by the Board of Adjustments; or
 - (b) Amend the text or zoning maps which may only be done by the County Board.

73.18 BOARD OF ADJUSTMENTS. The Board of Adjustments (or "Board") created under Wis. Stat. § 59.694 and pursuant to Chapter 76 of this Code is hereby authorized and shall be appointed to act for the purposes of this Ordinance. The Board shall exercise the powers conferred by Wisconsin Statutes and adopt rules for the conduct of business. Department staff shall provide secretarial services to the Board but shall not serve as an officer of the Board.

- (1) POWERS AND DUTIES. The Board of Adjustments shall:
- (a) Appeals. Hear and decide appeals where it is alleged there is an error in any order, requirement, decision, or determination made by an administrative official in the enforcement or administration of this Ordinance, including permit denials.
 - (b) Boundary Disputes. Hear and decide disputes concerning the district boundaries shown on the official floodplain zoning map.
 - (c) Variances. Hear and decide upon appeal variances from the Ordinance standards.
- (2) APPEALS TO THE BOARD OF ADJUSTMENTS.
- (a) Appeals to the Board of Adjustments may be taken by any person aggrieved or by any officer or department of a municipality affected by any decision of the Department. Such appeal shall be taken within thirty (30) days unless otherwise provided by the rules of the Board by filing with the Department and with the Board a notice of appeal specifying the reasons for the appeal. The Department shall transmit to the Board all records regarding the matter appealed.
 - (b) Notice and Hearing for Appeals Including Variances.
 1. Notice. The Board shall:
 - A. Fix a reasonable time for the hearing;
 - B. Publish adequate notice pursuant to Wisconsin Statutes, specifying the date, time, place, and subject of the hearing;
 - C. Assure that notice shall be mailed to the parties in interest and the DNR district office at least ten (10) days in advance of the hearing.
 2. Hearing. Any party may appear in person or by agent or attorney. The Board shall:
 - A. Resolve boundary disputes according to Section 73.18(3) of this Code.
 - B. Decide variance applications according to Section 73.18(4) of this Code.
 - C. Decide appeals of permit denials according to Section 73.19 of this Code.
 - (c) Decision. The final decision regarding the appeal or variance application shall:
 1. Be made within a reasonable time;

2. Be sent to the DNR district office within ten (10) days of the decision;
 3. Be a written determination signed by the chairperson or secretary of the Board.
 4. State the specific facts which are the basis for the Board's decision;
 5. Either affirm, reverse, vary, or modify the order, requirement, decision, or determination appealed in whole or in part, dismiss the appeal for lack of jurisdiction, or grant or deny the variance application;
 6. Include the reasons for granting an appeal, describing the hardship demonstrated by the applicant in the case of a variance, clearly stated in the recorded minutes of the Board proceedings.
- (3) BOUNDARY DISPUTES. The following procedure shall be used by the Board in hearing disputes concerning floodplain district boundaries:
- (a) If a floodplain district boundary is established by approximate or detailed floodplain studies, the flood elevations or profiles shall prevail in locating the boundary. If none exist, other evidence may be examined.
 - (b) In all cases, the person contesting the boundary location shall be given a reasonable opportunity to present arguments and technical evidence to the Board.
 - (c) If the boundary is incorrectly mapped, the Board should inform the Department or the person contesting the boundary location to petition the County Board for a map amendment according to Section 73.22 of this Code.
- (4) VARIANCE.
- (a) The Board may upon appeal grant a variance from the standards of this Ordinance if an applicant convincingly demonstrates that:
 1. Literal enforcement of the Ordinance provisions will cause unnecessary hardship;
 2. The hardship is due to adoption of the Floodplain Ordinance and unique property conditions not common to adjacent lots or premise. In such case the Ordinance or map must be amended;
 3. The variance is not contrary to the public interest; and
 4. The variance is consistent with the purposes of this Ordinance as stated in Section 73.03 of this Code.
 - (b) In addition to the criteria in Subsection (a), above, to qualify for a variance under FEMA regulations, the following criteria must be met:
 1. The variance may not cause any increase in the regional flood elevation;
 2. Variances can only be granted for lots that are less than one-half acre and are contiguous to existing structures constructed below the RFE;
 3. Variances shall only be granted upon a showing of good and sufficient cause, shall be the minimum relief necessary, shall not cause increased risks to public safety or nuisances, shall not increase costs for rescue and relief efforts, and shall not be contrary to the purpose of the Ordinance.
 - (c) A variance shall not:
 1. Grant, extend, or increase any use prohibited in the zoning district;

2. Be granted for a hardship based solely on an economic gain or loss;
 3. Be granted for a hardship which is self-created;
 4. Damage the rights or property values of other person in the area;
 5. Allow actions without the amendments to this Ordinance or map(s) required in Section 73.22(1) of this Code.
 6. Allow any alteration of a historic structure including its use which would preclude its continued designation as a historic structure.
- (d) When a floodplain variance is granted, the Board shall notify the applicant in writing that it may increase flood insurance premiums and risks to life and property. A copy shall be maintained with the variance record.

73.19 TO REVIEW APPEALS OF PERMIT DENIALS

- (1) The Board of Adjustments shall review all data related to the appeal. This may include:
 - (a) Permit application data listed in Section 73.16 of this Code.
 - (b) Floodway/floodfringe determination data in Section 73.11(6).
 - (c) Data listed in Section 73.08(1)(b)2 of this Code where the applicant has not submitted this information to the Department.
 - (d) Other data submitted with the application or submitted to the Board with the appeal.
- (2) For appeal of all denied permits the Board shall:
 - (a) Follow the procedures of Section 73.18 of this Code;
 - (b) Consider Department recommendations; and
 - (c) Either uphold the denial or grant the appeal.
- (3) For appeals concerning increases in regional flood elevation the Board shall:
 - (a) Uphold the denial where the Board agrees with the data showing an increase in flood elevation. Increases equal to or greater than 0.01 foot may only be allowed after amending the flood profile and map and all appropriate legal arrangements are made with all adversely affected property owners.
 - (b) Grant the appeal where the Board agrees that the data properly demonstrates that the project does not cause an increase equal to or greater than 0.01 foot provided no other reasons for denial exist.

73.20 FLOODPROOFING.

- (1) No permit or variance shall be issued until the applicant submits a plan certified by a registered professional engineer or architect that the floodproofing measures will protect the structure or development to the flood protection elevation.
- (2) Floodproofing measures shall be designed to:
 - (a) Withstand flood pressures, depths, velocities, uplift and impact forces, and other regional flood factors;
 - (b) Protect structures to the flood protection elevation;
 - (c) Anchor structures to foundations to resist flotation and lateral movement; and

- (d) Ensure that structural walls and floors are watertight so the flood protection elevation and the interior remains completely dry during flooding without human intervention.
- (3) Floodproofing measures could include:
- (a) Reinforcing walls and floors to resist rupture or collapse caused by water pressure or floating debris.
 - (b) Adding mass or weight to prevent flotation.
 - (c) Placing essential utilities above the flood protection elevation.
 - (d) Installing surface or subsurface drainage systems to relieve foundation wall and basement floor pressures.
 - (e) Constructing water supply wells and waste treatment systems to prevent the entry of flood waters.
 - (f) Putting cut-off valves on sewer lines or eliminating gravity flow basement drains.

73.21 PUBLIC INFORMATION. The Department shall endeavor to:

- (1) Place marks on structures to show the depth of inundation during the regional flood.
- (2) Make all maps, engineering data, and regulations available and widely distributed.
- (3) Encourage all real estate transfers to show what floodplain zoning district any real property is in.

73.22 AMENDMENTS.

- (1) GENERAL. The County Board may change or supplement the floodplain zoning district boundaries and this Ordinance in the manner provided by law. Actions which require an amendment include but are not limited to the following:
 - (a) Any change to the official floodplain zoning map, including the floodway line or boundary of any floodplain area.
 - (b) Correction of 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 floodplain encroachment that obstructs flow, increasing regional flood height 0.01 foot or more.
 - (e) Any upgrade to a floodplain zoning ordinance text required by Wis. Admin. Code Ch. NR 116.05 or otherwise required by law or for changes by the municipality.
 - (f) All channel relocations and changes to the maps to alter floodway lines or to remove an area from the floodway or the floodfringe that is based on a base flood elevation from a FIRM requires prior approval by FEMA.

Note: Consult the FEMA web site – www.fema.gov – for a current map change fee schedule.

- (2) PROCEDURES. Ordinance amendments may be made upon petition of any interested party according to the provisions of Wis. Stat. § 59.69. Such petitions shall include all necessary data required by Sections 73.11(4) and 73.16 of this Code.

- (a) The proposed amendment shall be referred to the Department for a public hearing and recommendation to the County Board. The amendment and notice of public hearing shall be submitted to the DNR district office for review prior to the hearing. The amendment procedure shall comply with the provisions of Wis. Stat. § 59.69.
- (b) No amendments shall become effective until reviewed and approved by the DNR.
- (c) All persons petitioning for a map amendment that obstructs flow, increasing regional flood height 0.01 foot or more shall obtain flooding easements or other appropriate legal arrangements from all adversely affected property owners and notify local units of government before the amendment can be approved by the County Board.
- (d) For amendments in areas with no water surface profiles, the Department or Board shall consider data submitted by the DNR, the Department's visual on-site inspections, and other available information. [See Section 73.05(4).]

73.23 ENFORCEMENT AND PENALTIES. Any violation of the provisions of this Ordinance by any person shall be unlawful and shall be referred to the Corporation Counsel for appropriate enforcement action. A violator shall upon conviction forfeit to the Sheboygan County a penalty of not less than Twenty Dollars (\$20.00) and not more than Two Thousand Dollars (\$2,000.00) together with the taxable cost of such action. Each day of continued violation shall constitute a separate offense. Every violation of this Ordinance is a public nuisance and the creation may be enjoined and the maintenance may be abated by action at suit of the County, the State, or any citizen thereof pursuant to Wis. Stat. § 87.30.

73.24 DEFINITIONS. Unless specifically defined below, words, terms, or phrases used in this Ordinance shall be as defined in Chapters 70, 71, and 73 of the Code of Ordinances, Wis. Stat. chs. 29, 30, 31, 144, 236; Wis. Stat. § 59.69, 59.692, and 87.30; and Wis. Admin. Code Chs. NR 115, NR 116, Comm 83, and Comm 85, or, if not defined therein, shall be interpreted so as to give them the same meaning as they have at common law and to give this Ordinance its most reasonable application. Words used in the present tense include the future, words in the singular number include the plural numbers. The word "shall" is mandatory, not permissive. All distances, unless specified otherwise, shall be measured horizontally.

- (1) **A ZONES.** Those areas shown on the Official Floodplain Zoning Map which would be inundated by the regional flood. These areas may be numbered or 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.
- (2) **ACCESSORY BUILDING.** A subordinate structure on the same lot as the principal building or use and devoted to a use incidental to the principal use or structure. (See **PRINCIPAL STRUCTURE** and **PRINCIPAL USE**.)
- (3) **ACCESSORY STRUCTURE or USE.** A facility, structure, building, or use which is accessory or incidental to the principal use of a property, structure, or building.
- (4) **ARBOR.** A frame structure consisting of vertical posts having beams attached to and connecting the posts at the top of the structure, supporting a roof composed of open joists. Roof or wall enclosures other than lattice or trellis are prohibited.
- (5) **BASE FLOOD.** A flood having a one percent (1%) chance of being equaled or exceeded in any given year as published by FEMA as part of an FIS and depicted on a FIRM.
- (6) **BASE FLOOD ELEVATION.** An elevation equal to that which reflects the height of the base flood.
- (7) **BASEMENT.** Any enclosed area of a building having its floor sub-grade, i.e., below ground level on all sides.
- (8) **BUILDING.** See **STRUCTURE**.
- (9) **BULKHEAD.** An upright structure to dissipate wave energy or retard erosion which can be placed against the base of a dune or bluff or stand free to have fill placed behind it.

- (10) **BULKHEAD LINE.** A geographic line along a reach of navigable water that has been adopted by a municipal ordinance and approved by the DNR pursuant to Wis. Stat. § 30.11 and which allows limited filling between this bulkhead line and the original ordinary high water mark except where such filling is prohibited by the floodway provisions of this Ordinance.
- (11) **CAMPGROUND.** Any parcel of land which is designed, maintained, intended, or used for the purpose of providing sites for nonpermanent overnight use by four (4) or more camping units or which is advertised or represented as a camping area.
- (12) **CAMPING UNIT.** Any portable device, no more than four hundred (400) square feet in area, used as a temporary shelter, including but not limited to a camping trailer, motor home, bus, van, pick-up truck, tent, or other mobile recreational vehicle.
- (13) **CERTIFICATE OF COMPLIANCE.** A certification that the construction and the use of land or a building, the elevation of fill, or the lowest floor of a structure is in compliance with all of the provisions of this Ordinance.
- (14) **CHANNEL.** A natural or artificial watercourse with definite bed and banks to confine and conduct normal flow of water.
- (15) **CLASS II PUBLIC NOTICE.** Publication of a public hearing notice under Wis. Stat. ch. 985 in a newspaper of circulation in the affected area. Publication is required on two (2) consecutive weeks, the last at least seven (7) days prior to the hearing or event noticed.
- (16) **CONDITIONAL USE.** A use permitted in a particular zoning district only upon showing that such use in a specified location will comply with all the conditions and standards for the location or operation of such use, as specified in this Ordinance and authorized by the Resources Committee. (Also called "special exception.")
- (17) **CRAWLWAYS or CRAWL SPACE.** An enclosed area below the first usable floor of a building, generally less than five feet (5') in height used for limited access to plumbing and electrical utilities.
- (18) **CRITICAL USE FACILITY.** A facility used for an activity for which flooding may pose an unacceptable risk. For purposes of this Ordinance, the term "critical use facility" is limited to the following: hazardous waste disposal facilities as defined in Wis. Admin. Code Ch. NR 181.04(26) public water supply or public water treatment facilities, hospitals, group homes for the mentally or physically handicapped or impaired, prisons, nursing homes, and police, fire, and emergency service operations.
- (19) **DECK.** An unenclosed exterior structure that has no roof or sides but has a permeable floor which allows the infiltration of precipitation.
- (20) **DEPARTMENT.** The Sheboygan County Planning and Resources Department, employing a full-time professional planner, and his/her duly appointed professional planning and zoning staff, charged with the duties of administering this Ordinance and other planning and zoning legislation, operating under the jurisdiction of the Resources Committee of the Sheboygan County Board of Supervisors.
- (21) **DEVELOPMENT.** Any artificial change to improved or unimproved real estate, including but not limited to the construction of buildings, structures, or accessory structures, the construction of additions or alterations to buildings, structures, or accessory structures; the repair of any damaged structure, or the improvement or renovation of any structure, regardless of percentage of damage or improvement; the placement of buildings or structures; subdivision layout and site preparation; mining, dredging, filling, grading, paving, excavation, or drilling operations; the storage, deposition, or extraction of materials or equipment; and the installation, repair, or removal of public or private sewage disposal systems or water supply facilities.
- (22) **DNR.** The Wisconsin Department of Natural Resources.

- (23) **DRAINAGE SYSTEM.** One (1) or more artificial ditches, tile drains, or similar devices which collect surface runoff or ground water and convey it to a point of discharge.
- (24) **DRYLAND ACCESS.** A vehicular access route which is above the regional flood elevation and which connects land located in the floodplain to land outside the floodplain, such as a road with its surface above regional flood elevation and wide enough for wheeled rescue and relief vehicles.
- (25) **ENCROACHMENT.** Any fill, structure, equipment, building, use, or development in the floodway.
- (26) **EXISTING MANUFACTURED HOME PARK OR SUBDIVISION.** A parcel of land, divided into two (2) or more manufactured home lots for rent or sale on which the construction of facilities for servicing the lots is completed before the effective date of this Ordinance. At a minimum, this would include the installation of utilities, the construction of streets, and either final site grading or the pouring of concrete pads.
- (27) **EXPANSION TO EXISTING MANUFACTURED/MOBILE HOME PARK.** The preparation of additional sites by the construction of facilities for servicing the lots on which the manufactured/mobile homes are to be affixed. This includes installation of utilities, construction of streets, and either final site grading or the pouring of concrete pads.
- (28) **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) or Department of Housing and Urban Development (HUD).
- (29) **FIVE HUNDRED-YEAR (500-YEAR) FLOOD.** A flood which may be expected to occur or be exceeded on a particular lake or waterway once in every five hundred (500) years.
- (30) **FIVE HUNDRED-YEAR (500-YEAR) FLOOD PROTECTION ELEVATION.** An elevation two (2) feet above the five hundred-year (500-year) flood elevation.
- (31) **FLOOD or FLOODING.** A general and temporary condition of partial or complete inundation of normally dry land areas caused by one of the following conditions:
- (a) The overflow or rise of inland waters;
 - (b) The rapid accumulation or runoff of surface waters from any source;
 - (c) The inundation caused by waves or currents of water exceeding anticipated cyclical levels along the shore of Lake Michigan; or
 - (d) The sudden increase caused by an unusually high water level in a natural body of water accompanied by a severe storm or by an unanticipated force of nature, such as a seiche, or by some similarly unusual event.
- (32) **FLOOD FREQUENCY.** The probability of a flood occurrence which is determined from statistical analyses. The frequency of a particular flood event is usually expressed as occurring on the average once in a specified number of years or as a percent chance of occurring in any given year.
- (33) **FLOODFRINGE.** That portion of the floodplain outside of the floodway which is covered by flood waters during the regional flood and associated with standing water rather than flowing water.
- (34) **FLOOD HAZARD BOUNDARY MAP.** A map designating approximate flood hazard areas. Flood hazard areas are designated as unnumbered A-Zones and do not contain floodway lines or regional flood elevations. This map forms the basis for both the regulatory and insurance aspects of the National Flood Insurance Program (NFIP) until superseded by a Flood Insurance Study and a Flood Insurance Rate Map.

- (35) **FLOOD INSURANCE RATE MAP (FIRM).** A map of a community on which the Federal Insurance Administration has delineated both special flood hazard areas (the floodplain) and the risk premium zones applicable to the community. This map can only be amended by the Federal Emergency Management Agency.
- (36) **FLOOD INSURANCE STUDY.** A technical engineering examination, evaluation, and determination of the local flood hazard areas. It provides maps designating those areas affected by the regional flood and provides both flood insurance rate zones and base flood elevations and may provide floodway lines. The flood hazard areas are designated as numbered and unnumbered A-Zones. Flood Insurance Rate Maps that accompany the Flood Insurance Study form the basis for both the regulatory and the insurance aspects of the National Flood Insurance Program.
- (37) **FLOODPLAIN.** Land which has been or may be covered by flood water during the regional flood. It includes the floodway and the floodfringe and may include other designated floodplain areas for regulatory purposes.
- (38) **FLOODPLAIN ISLAND.** A natural geologic land formation within the floodplain that is surrounded but not covered by floodwater during the regional flood.
- (39) **FLOODPLAIN MANAGEMENT.** Policy and procedures to ensure wise use of floodplains including mapping and engineering, mitigation, education, and administration and enforcement of floodplain regulations.
- (40) **FLOOD PROFILE.** A graph or a longitudinal profile line showing the relationship of the water surface elevation of a flood event to locations of land surface elevations along a stream or river.
- (41) **FLOODPROOFING.** Any combination of structural provisions, changes or adjustments to properties and structures, water and sanitary facilities, and contents of buildings subject to flooding for the purpose of reducing or eliminating flood damage.
- (42) **FLOOD PROTECTION ELEVATION.** An elevation of two feet (2') of freeboard above the water surface profile elevation designated for the regional flood. (Also see FREEBOARD.)
- (43) **FLOOD STORAGE.** Those floodplain areas where storage of floodwaters has been taken into account during analysis in reducing the regional flood discharge.
- (44) **FLOODWAY.** The channel of a river or stream and those portions of the floodplain adjoining the channel required to carry the regional flood discharge.
- (45) **FREEBOARD.** A safety factor expressed in terms of a specified number of feet above a calculated flood level. Freeboard compensates for any factors that cause flood heights greater than those calculated, including ice jams, debris accumulation, wave action, obstruction of bridge openings and floodways, the effects of watershed urbanization, loss of flood storage areas due to development and aggregation of the river or stream bed.
- (46) **GUESTHOUSE.** An accessory structure comprised only of a bedroom, bathroom, and sitting area but shall not be intended for more than occasional human occupancy.
- (47) **HABITABLE STRUCTURE.** Any structure or portion thereof used or designed for human habitation.
- (48) **HEARING NOTICE.** Publication or posting meeting the requirements of Wis. Stat. ch. 985. For appeals, a Class 1 notice published once, at least one (1) week [seven (7)] days before the hearing is required. For all zoning ordinances and amendments, a Class 2 notice published twice, once each week consecutively the last of which at least one (1) week [seven (7) days] before the hearing.
- (49) **HIGH FLOOD DAMAGE POTENTIAL.** Damage that could result from flooding that includes any danger to life or health or any significant economic loss to a structure or building and its contents.

- (50) **HISTORIC STRUCTURE.** Any structure that is either:
- (a) 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;
 - (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 either by an approved state program, as determined by the Secretary of the Interior or by the Secretary of the Interior in states without approved programs.
- (51) **INCREASE IN REGIONAL FLOOD HEIGHT.** A calculated upward rise in the regional flood elevation equal to or greater than 0.01 foot, based on a comparison of existing conditions and proposed conditions which is directly attributable to development in the floodplain but not attributable to manipulation of mathematical variables such roughness factors, expansion and contraction coefficients, and discharge.
- (52) **LAND USE.** Any development (see definition of).
- (53) **LEVEE.** A continuous dike or embankment of earth constructed parallel to a waterway to prevent flooding of certain areas of land.
- (54) **MANUFACTURED/MOBILE 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. The term "manufactured home" includes a mobile home but does not include a "mobile recreational vehicle."
- (55) **MOBILE RECREATIONAL VEHICLE.** A vehicle which is built on a single chassis four hundred (400) square feet or less when measured at the largest horizontal projection, designed to be self-propelled, carried or permanently towable by a licensed light-duty vehicle, is licensed for highway use if registration is required, and is designed primarily not for use as a permanent dwelling but as temporary living quarters for recreational, camping, travel, or seasonal use. Manufactured homes that are towed or carried onto a parcel of land but do not remain capable of being towed or carried including park model homes do not fall within the definition of "mobile recreational vehicles."
- (55m) **NAVD or NORTH AMERICAN VERTICAL DATUM.** Elevations referenced to mean sea level datum, 1988 adjustment.
- (56) **NGVD or NATIONAL GEODETIC VERTICAL DATUM.** Elevations referenced to mean sea level datum, 1929 adjustment.
- (57) **NAVIGABLE WATERS.** Lake Michigan, all natural inland lakes within Sheboygan County, Wisconsin, and all streams, ponds, sloughs, flowages, and other waters within the territorial limits of this County.

However, jurisdiction under this Chapter does not apply to lands adjacent to farm drainage ditches if:

- (a) Such lands are not adjacent to a natural navigable stream or river;
- (b) Those parts of such drainage ditches adjacent to such lands were non-navigable streams before ditching or had no previous stream history; and
- (c) Such lands are maintained in nonstructural agricultural use.

Wisconsin's Supreme Court has declared navigable bodies of water that have a bed differentiated from adjacent uplands and levels or flow sufficient, on an annually recurring basis, to support navigation by a recreational craft of the shallowest draft [*Muench v. Public Service Commission*, 261 Wis. 492 (1952) and *DeGayner & Co. v. Department of Natural Resources*, 70 Wis. 2d. 936 (1975)]. For example, a stream which is navigable by skiff or canoe during normal spring high water is navigable in fact under laws of this State though it may be dry during other seasons.

- (58) **NEW CONSTRUCTION.** For floodplain management purposes, "new construction" means structures for which the start of construction commenced on or after the effective date of floodplain zoning regulations adopted by this community and includes any subsequent improvements to such structures. For the purposes of determining flood insurance rates, it includes any structures for which the "start of construction" commenced on or after the effective date of an initial FIRM or after December 31, 1974, whichever is later, and includes any subsequent improvements to such structures.
- (59) **NONCONFORMING LOT.** A lot, the area, dimensions, or location of which was lawful prior to the adoption, revision, or amendment of this Ordinance, but which fails thereafter to conform to the requirements of the zoning district. (NOTE: A legally granted "variance" pursuant to Section 72.26 of this Code shall not be deemed to create a "nonconforming structure.")
- (60) **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 the floodplain which it occupies. (For example, an existing residential structure in the floodfringe district is a conforming use. However, if the lowest floor is lower than the flood protection elevation, the structure is nonconforming.)
- (61) **NONCONFORMING USE.** An existing lawful use or accessory use of a structure or building which is not in conformity with the provisions of this Ordinance for that area of the floodplain which it occupies. (Such as a residence in the floodway.)
- (62) **OBSTRUCTION TO FLOW.** Any development which blocks the conveyance of floodwaters such that this development alone or together with any future development will cause an increase in regional flood height.
- (63) **OFFICIAL FLOODPLAIN ZONING MAP.** That map adopted and made part of this Ordinance as described in Section 73.05(2) of this Code which has been approved by the DNR and FEMA.
- (64) **OFFICIAL LETTER OF MAP AMENDMENT (LOMA).** Official notification from the Federal Emergency Management Agency that a Flood Insurance Study Map or other adopted flood boundary map has been amended and that the property owner may or may not be exempt from the National Flood Insurance Program requirements.
- (65) **OPEN SPACE USE.** Those uses having a relatively low flood damage potential and not involving structure.
- (66) **ORDINARY HIGH WATER MARK.** The point on the bank or shore up to which the presence and action of water is so continuous as to leave a distinctive mark by erosion, destruction, or prevention of terrestrial vegetation, predominance of aquatic vegetation, or other easily recognized characteristics.
- (67) **PERSON.** An individual or group of individuals, corporations, partnership, association, municipality, or state agency.
- (68) **PIER.** A structure extending channelward, or more or less perpendicular out from the shore, with water on both sides, built or maintained for the purpose of providing a berth for watercraft or for loading or unloading cargo or passengers onto or from watercraft. (Generally any construction whose dimensions and accessories go beyond what is

reasonably necessary to berth watercraft or load or unload cargo or passengers is not authorized as a pier by statute; see Wis. Stat. ch. 30.)

- (70) **PRINCIPAL BUILDING.** A building in which the principal authorized use of the lot on which it is located is conducted. (See **ACCESSORY BUILDING.**)
- (71) **PRINCIPAL USE.** The primary or predominant use of any lot (e.g. residential, commercial, industrial, conservation, institutional, etc.
- (72) **PRIVATE SEWAGE SYSTEM.** A sewage treatment and disposal system serving one structure with a septic tank and soil absorption field located on the same parcel as the structure. It also means an alternative sewage system approved by the Department of Commerce, including a substitute for the septic tank or soil absorption field, a holding tank, a system serving more than one structure or a system located on a different parcel than the structure.
- (73) **PUBLIC UTILITIES.** Those utilities using underground or overhead transmission lines such as electric, telephone and telegraph, and distribution and collection systems such as water, sanitary sewer and storm sewer.
- (74) **REASONABLY SAFE FROM FLOODING.** Means base flood waters will not inundate the land or damage structures to be removed from the special flood hazard area and that any subsurface waters related to the base flood will not damage existing or proposed buildings.
- (75) **RECREATIONAL VEHICLE.** A vehicular-type portable structure without permanent foundation, which can be towed, hauled, or driven and primarily designed as temporary living accommodation for recreational, camping, and travel use and including but not limited to travel trailers, truck campers, camping trailers, and self-propelled motor homes.
- (76) **REGIONAL FLOOD.** A flood determined to be representative of large floods known to have occurred in Wisconsin. A regional flood is a flood with a one percent (1%) chance of being equaled or exceeded in any given year and if depicted on the FIRM, the RFE is equivalent to the BFE.
- (77) **SHORELAND DISTRICT.** Lands within the following distances from the ordinary high water mark (OHWM) of navigable waters: One thousand feet (1,000') from a lake, pond, or flowage, or where approved, to the outer perimeter of contiguous mapped wetlands, whichever distance is greater; and three hundred feet (300') from a river or stream, or to the landward side of the floodplain, or where approved, to the outer perimeter of contiguous mapped wetlands, whichever distance is greater.
- (78) **SIGN** Any device, display, or structure which is used to inform, advertise, identify, display, or direct attention to an object, person, institution, organization, business, product, service, event, or location by means of words, letters, figures, design, symbols, fixtures, colors, illumination, or projected images.
- (79) **START OF CONSTRUCTION.** The date the building permit was issued provided the actual start of construction, repair, reconstruction, rehabilitation, addition, placement, or other improvement was within one hundred eighty (180) days of the permit date. The actual start means either the first placement of permanent construction on a site such as the pouring of slab or footings, the installation of piles, the construction of columns, or any work beyond initial excavation, or the placement of a manufactured home on a foundation. Permanent construction does not include land preparation such as clearing, grading and filling, nor does it include the installation of streets and/or walkways, nor does it include excavation for a basement, footings, piers, or foundations or the erection of temporary forms, nor does it include the installation on the property of accessory buildings, such as garages or sheds not occupied as dwelling units or not part of the main structure. For an alteration, the actual start of construction means the first alteration of any wall, ceiling, floor, or other structural part of a building whether or not that alteration affects the external dimensions of the building.

- (80) **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.
- (81) **STRUCTURE.** Anything constructed, erected, or relocated from another premises that is permanently or temporarily attached to or resting on or in either the ground, stream, lake bed, or another structure. "**Structures**" shall include, but not be limited to, buildings (regardless of size or use); mobile homes and manufactured homes and dwellings; patios, stairways, walkways, parking lots, bridges, decks, and gazebos; swimming pools, hot tubs/spas, and playground apparatus; above-ground or underground storage tanks (excluding on-site private sewage disposal systems); and signs, masts, towers, and satellite dishes [greater than one (1) meter in diameter]. Such small, movable structures as birdhouses, bird feeders, planter boxes, picnic tables, lawn furniture, portable grills, and flagpoles shall be exempt from setback requirements.
- (82) **SUBDIVISION.** Has the meaning given in Wis. Stat. § 236.02(12).
- (83) **SUBSTANTIAL DAMAGE.** Damage of any origin sustained by a structure whereby the cost of restoring the structure to its pre-damaged condition would equal or exceed fifty percent (50%) of the equalized assessed value of the structure before the damage occurred.
- (84) **SUBSTANTIAL IMPROVEMENT.** Any repair, reconstruction, or improvement of a structure, the cost of which equals or exceeds fifty percent (50%) 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:
- (a) 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
 - (b) Any alteration of a structure or site documented as deserving preservation by the Wisconsin State Historical Society or listed on the National Register of Historic Places.
- Ordinary maintenance repairs are not considered structural repairs or alterations. 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 structure.
- (85) **UNNECESSARY HARDSHIP.** That circumstance where uniquely and extremely special conditions which were not self-created and which are not solely related to economic loss or gain so affect a particular property that no reasonable use can be made of it and that make strict conformity with restrictions governing area, setbacks, frontage, height, or density unnecessarily burdensome or unreasonable in light of the purposes of this Ordinance.
- (86) **UTILITIES.** Any public or private facilities, such as water wells, water and sewage pumping stations, waste water collection and/or treatment/disposal systems, and any facilities owned or operated by a public utility as defined by Wis. Stat. § 196.01.
- (87) **VARIANCE.** An authorization by the Board of Adjustments or appeals for the construction or maintenance of a building or structure in a manner which is inconsistent with dimensional standards (not uses) contained in the Floodplain Zoning Ordinance.
- (88) **VIOLATION.** The failure of a structure or other development to be fully compliant with the Floodplain Zoning Ordinance. A structure or other development without required permits, lowest floor elevation documentation, floodproofing certificates, or required floodway encroachment calculations is presumed to be in violation until such time as that documentation is provided.

- (89) **WATERSHED.** The entire region contributing runoff or surface water to a watercourse or body of water.
- (90) **WELL.** Means an excavation opening in the ground made by digging, boring, drilling, driving, or other methods to obtain groundwater regardless of its intended use.
- (91) **WETLANDS.** Those areas where water is at, near, or above the land surface long enough to be capable of supporting aquatic or hydrophytic vegetation and which have soils indicative of wet conditions.
- (92) **WHARF.** A structure extending along, and more or less parallel to, the shore and generally connected with the uplands throughout its length, built or maintained for the purpose of providing a berth for watercraft or for loading or unloading cargo or passengers onto or from watercraft. (Generally any construction whose dimensions or accessories go beyond what is reasonably necessary to berth watercraft or load or unload cargo or passengers is not authorized as a wharf by statute; see Wis. Stat. ch 30.)
- (93) **WISCONSIN ADMINISTRATIVE CODE.** The rules of administrative agencies having rule-making authority in Wisconsin published in a loose-leaf, continual revision system as directed by Wis. Stat. § 35.93 and Wis. Stat. ch. 227 including subsequent amendments to those rules.