

CHAPTER 20

FLOODPLAIN ZONING

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<i>Section Number</i>	<i>Title</i>	<i>Ordinance Number</i>	<i>Date of Ordinance</i>
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20.01 AUTHORIZATION AND STATEMENT OF PURPOSE.

This chapter is adopted pursuant to authorization contained in §§61.35, 62.23 and 87.30, Wis. Stats. The purpose of this section is to comply with §87.30, Wis. Stats., and to provide a uniform basis for the preparation, implementation and administration of sound floodplain management to protect life, health and property; minimize expenditures of public moneys for costly flood control projects; minimize rescue and relief efforts, generally undertaken at the expense of the general public; minimize business interruption; minimize damage to public facilities on the floodplains such as water mains, sewer lines, streets and bridges; minimize the occurrence of future blight areas on floodplains; and discourage the victimization of unwary land and home buyers.

20.02 GENERAL PROVISIONS. (Am. #098-36)

- (1) **DISTRICT BOUNDARIES.** (Am. #97-5) The boundaries of the floodplain districts are those areas designated as being within the regional flood limits on the Floodplain Map of the Village of Sturtevant dated October, 1998. Waxdale Creek (east of the Soo Line/Canadian Pacific Railroad) and Chickory Creek regional flood limits and water surface profile elevations are based on maps provided by the Southeastern Wisconsin Regional Planning Commission that were developed as part of the Pike River Watershed Plan as heretofore adopted and amended by SEWRPC (SEWRPC Planning Report No. 35, A Comprehensive Plan for the Pike River Watershed, adopted in June 1983 and amendments thereto adopted in June 1987 and March 1996). Waxdale Creek regional flood limits and water surface profile elevations west of the Soo Line/Canadian Pacific Railroad are based on values referenced in a letter from Crispell-Snyder, Inc. to the Department of Natural Resources dated November 7, 1997, requesting review and approval of floodplain modification.
- (2) **ESTABLISHMENT OF DISTRICTS.** The floodplain areas within the jurisdiction of this section are hereby divided into 3 districts: the Floodway District, Flood Fringe District and Floodplain District, defined as follows:
 - (a) The Floodway District consists of the channel of a river or stream and those portions of the floodplain adjoining the channel that are required to carry and discharge the flood waters of flood flows of any river or stream associated with the regional flood.
 - (b) The Floodfringe District consists of that portion of the floodplain outside of the floodway which is covered by floodwater during the regional flood. The term “floodfringe” is generally associated with standing water rather than flowing water.

- (c) The Floodplain District consists of the land which has been or may be covered by floodwater during the regional flood. The Floodplain includes the floodings, floodfringe, shallow depth flooding, flood storage and coastal floodplain areas.
 - (d) The floodplain boundary lines on the map shall be determined by the use of the scale appearing on the map. Where there is a conflict between the floodplain boundary illustrated on the map and actual field conditions, the dispute shall be settled according to Section 20.07(5) hereof.
 - (e) Compliance with the provisions of this section shall not be grounds for the removal of lands from the floodplain district unless such lands are filled to a height of at least 2' above the elevation of the regional flood for the particular area and are contiguous to other lands lying outside the floodplain district, and approval has been granted by the Department of Natural Resources pursuant to Section 20.08, and the Village Engineer.
- (3) EFFECT OF FLOODPLAIN DISTRICT REGULATIONS. The regulations set forth in this section for floodplain, floodfringe and floodway districts shall apply to all floodplains, floodfringes and floodways mapped on the official floodplain zoning map.
- (4) COMPLIANCE. No new use or change in use of any structure, land or water shall be located, extended, converted or structurally altered and no development as defined in this chapter shall commence without full compliance with the terms of this section and other applicable regulations.
- (5) ABROGATION AND GREATER RESTRICTIONS. This section supersedes provisions of any zoning ordinance relating to floodplains. However, any underlying zoning shall remain in full force and effect to the extent that its provisions are more restrictive. It is not otherwise intended by this section to repeal, abrogate or impair any existing deed restrictions. However, where this chapter imposes greater restrictions, the provisions of this section shall prevail.
- (6) WARNING AND DISCLAIMER OF LIABILITY. The degree of flood protection intended to be provided by this section is considered reasonable for regulatory purposes and is based on engineering and scientific methods of study. Larger floods may occur on occasion or the flood height may be increased by man-made or natural causes, such as ice jams and bridge openings restricted by debris. This section does not imply that areas outside floodplain zoning boundaries or land uses permitted within such districts will be totally free from flooding or flood damages. The boundaries of the floodplain district may not coincide with federally mapped A

Zones as issued by the Federal Insurance Administration. Property owners desiring to develop properties within federally mapped A Zones may wish to apply for an Official Letter of Map Amendment from the Federal Insurance Administrators.

- (7) **SEVERABILITY.** If any clause, provision or portion of this section is adjudged unconstitutional or invalid by a court of competent jurisdiction, the remainder of this section shall not be affected thereby.
- (8) **INTERPRETATION.** In their interpretation and application, the provisions of this section shall be held to be minimum requirements and shall be liberally construed in favor of the governing body and shall not be deemed a limitation or repeal of any other powers granted by the Wisconsin Statutes.
- (9) **DEFINITIONS.** Unless specifically defined below, words or phrases used in this chapter shall be interpreted so as to give them the same meaning as they have at common law to give this chapter its most reasonable application.

A Zones. Those areas shown on the Flood Insurance Study Map prepared for the Federal Flood Insurance Administration which would be inundated by the “base flood” or “regional flood” as defined by the Federal Emergency Management Agency. These areas may be numbered as AO, AI to A30, A99, or be unnumbered A Zones.

Accessory Use. Any facility, structure, building or use which is accessory or incidental to the principal use of a property, structure or building.

Base Flood. A flood having one percent chance of being equalled or exceeded in any given year.

Base Flood Elevation. An elevation of equal to that which reflects the height of the base flood.

Board of Appeals. The body established under §62.23, Wis. Stats., for cities or villages and designated “board of appeal.”

Bulkhead Line. A geographic line along a reach of navigable body of water that has been adopted by a municipal ordinance and approved by the Department of Natural Resources pursuant to §30.11, Wis. Stats., and which allows complete filling on the landward side except where such filling is prohibited by the floodway provisions of this chapter.

Certificate of Compliance. A certification by the Building Inspector that a structure, use of land or a building, or development is in compliance with all provisions of this chapter.

Channel. The portion of a natural or artificial watercourse within the definite bed and banks which confine and conduct the normal flow of water.

Development. Any artificial change to improved or unimproved real estate, including, but not limited to, construction of or additions or substantial improvements to buildings, other structures or accessory uses, the placement of buildings or structures, mining, dredging, filling, grading, paving, excavation or drilling operations, and the deposition, storage or extraction of materials.

Encroachment. Any fill, structure, building, accessory use, use or development in the floodway.

Encroachment/Floodway Lines. The limits of obstruction to flood flows. These lines are on both sides of and generally parallel to the stream.

Equal Degree of Hydraulic Encroachment. A concept whereby the effect of any encroachment into the floodway is computed by assuming an equal degree of hydraulic encroachment on the other side of a river or stream for a significant hydraulic reach to property owners up, down or across the river or stream will have the same rights of hydraulic encroachment. Encroachments are analyzed on the basis of the effect upon hydraulic conveyance, and not upon the distance the encroachment extends into the floodway.

Existing Mobile Home Park or Mobile Home Subdivision. A parcel or contiguous parcels of land divided into 2 or more mobile home lots for rent or sale for which the construction of facilities for servicing the lot on which the mobile home is to be affixed (including, at a minimum, the installation of utilities, either final site grading or the pouring of concrete pads, and the construction of streets) is complete before the effective date of floodplain management regulations adopted by a community.

Flood or Flooding. A general and temporary condition of partial or complete inundation of normally dry land areas from the overflow or rise of inland waters or the rapid accumulation or runoff of surface waters from any source.

Floodfringe. That portion of the floodplain outside of the floodway, which is covered by flood waters during the regional flood. The term “floodfringe” is generally associated with standing water rather than flowing water.

Flood Hazard Boundary Map. A map prepared by the U.S. Department of Housing and Urban Development, designating areas of special flood hazard within a given community. Flood hazard areas are designated as A Zones.

Flood Insurance Study Map. A map prepared by the Federal Emergency Management Agency designating areas of special flood hazard and flood insurance rate zones for a given community. Flood hazard and insurance rate zones are designated as A Zones.

Floodplain. The land which has been or may be hereafter covered by floodwater during the regional flood. The floodplain includes the floodway and the floodfringe, shallow depth flooding, flood storage and coastal floodplain areas.

Flood Profile. A graph or a longitudinal profile showing the relationship of the water surface elevation of a flood event to locations along a stream or river.

Floodproofing. Any combination of structural provisions, changes or adjustments to properties and structures, water and sanitary facilities, structures and contents of buildings subject to flooding, for the primary purpose of reducing or eliminating flood damage.

Flood Protection Elevation. An elevation with 2' of freeboard above the water surface profile associated with the regional flood and the official floodway lines.

Floodway. The channel of a river or stream and those portions of the floodplain adjoining the channel required to carry and discharge the flood water or flood flows associated with the regional flood.

Freeboard. A flood protection elevation requirement designed as a safety factor which is usually expressed in terms of a specified number of feet above a calculated flood level. Freeboard compensates for the effects of many factors that contribute to flood heights greater than those calculated. These factors include, but are not limited to, ice jams, debris accumulation, wave action, obstruction of bridge openings and floodways, the effects of urbanization on the hydrology of the watershed, loss of flood storage areas due to development and aggradation of the river or stream bed.

Land Use. Any “development.”

Mobile Home. A structure transportable in one or more sections, which is built on a permanent chassis and designed to be used with or without a permanent foundation when connected to the required utilities. For the purpose of this chapter, it does not include recreational vehicles or travel trailers.

Nonconforming Use. An existing lawful use or accessory use of a structure, building or development which is not in conformity with the provisions of this chapter for the area of the floodplain which it occupies.

Official Floodplain Zoning Maps. Those maps, adopted and made part of this chapter as described in Section 20.02(1), which have been approved by the Department of Natural Resources.

Official Letter of Map Amendment. Official notification from the Federal Insurance Administration of HUD that Flood Hazard Boundary Map or Flood Insurance Study Map has been amended.

Reach, Hydraulic. That portion of the river or stream extending from one significant change in the hydraulic character of the river or stream to the next significant change.

Regional Flood. A flood determined to be representative of larger floods known to have generally occurred in Wisconsin or which may be expected to occur on a particular lake, river or stream once in every 100 years. This means that in any given year there is a 1% chance that the regional flood may occur or be exceeded.

Storage Capacity of a Floodplain. The volume of space above an area of floodplain land that can be occupied by a flood water of a given stage at a given time, regardless of whether the water is moving.

Structure. Anything constructed or erected, the use of which requires a permanent or temporary location on or in the ground, river bed, stream bed or lake bed which includes, but is not limited to, objects such as buildings, factories, sheds and cabins, mobile homes, gas or liquid storage tanks, bridges or culverts.

Substantial Improvement. Any repair, reconstruction or improvement of a structure, the cost of which equals or exceeds 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 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 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, such as internal and external painting, decorating, paneling and the replacement of doors, windows and other nonstructural components are not considered structural repairs, modifications or additions.

Utilities. Any public or private water supply or waste collection and/or disposal system including, but not limited to, septic systems, private and public wells and their attendant facilities, public sewage collection systems and treatment facilities.

20.03 SPECIAL PROVISIONS APPLICABLE TO ALL FLOODPLAIN DISTRICTS. (Am. #098-36)

- (1) No developments shall be allowed in floodway areas which, acting alone or in combination with existing or future similar uses, cause an increase equal to or greater than 0.01' in height of the regional flood for any main stem, tributaries to the main stem of any stream, drainage ditches or any other drainage facilities. Such increase shall be calculated using an equal degree of hydraulic encroachment from the hydraulic floodway lines for a hydraulic reach on both sides of a river or stream. Increases equal to or greater than 0.01' may be permitted, but only if amendments are made to this section, the official floodway lines, water surface profile and floodplain zoning maps pursuant to Section 20.08 hereof; provided further that the total cumulative allowable increase in height of the regional flood for any given hydraulic reach of a stream shall not exceed one foot.
- (2) No developments in floodfringe areas shall materially affect the storage capacity of floodplains, based upon an equal degree of hydrologic encroachment (volume of the storage area which is lost). For the purpose of this subsection, "materially" is defined as any increase in discharge of the regional flood which causes a rise in the water surface profile of 0.01'. Such developments may be permitted only if amendments are made to this chapter pursuant to Section 20.08 hereof; provided further that the total cumulative allowable increase in height of the regional flood for any given reach of a stream shall not exceed one foot.
- (3) Owners or operators of all mobile home parks and mobile home subdivisions located in the floodplain district shall file adequate evacuation plans indicating vehicular access and escape routes, including mobile home hauler routes, with the appropriate disaster preparedness authorities and shall provide for adequate surface drainage to minimize flood damage.
- (4) Mobile home replacement in existing parks or subdivisions. All mobile homes to be placed on a site located in the floodplain district on the official Floodplain Zoning Map of the Village shall be placed to prevent the flotation, collapse or lateral movement of the structure due to flooding. Such mobile home shall be anchored according to the following specifications.

- (a) Over-the-top ties shall be provided at each of the 4 corners of a mobile home with 2 additional ties per side at intermediate locations, and mobile homes less than 50' long shall require one additional tie per side.
 - (b) Frame ties shall be provided at each corner of the mobile home with 5 additional ties per side at intermediate points, and mobile homes less than 50' long shall require 4 additional ties per side.
 - (c) All components of the anchoring system shall be capable of carrying 4,800 lbs.
 - (d) Any additions to the mobile home shall be similarly anchored.
- (5) All subdivision proposals and other proposed new developments greater than 50 lots or 5 acres, whichever is the lesser, shall include within such proposals regional flood elevation data, and the means to provide adequate surface drainage and to minimize flood damage. Where the estimated cost of such development exceeds \$75,000 and for all subdivision proposals the applicant shall provide all necessary computations to show the effects of the proposals on flood heights, velocities and floodplain storage.
- (6) Utility district facilities such as dams, flowage areas, transmission lines, pipelines and water monitoring devices are permitted subject to regulations pursuant to Ch. 30, Wis. Stats., and applicable federal regulations.
- (7) Navigational and drainage aids such as channels, channel markers, buoys and other such devices are permitted, provided that prior to any alteration or relocation of a watercourse, the Village Clerk/Treasurer shall notify adjacent communities and the Department of Natural Resources and require the applicant to secure necessary permits. The flood carrying capacity within the altered or relocated portion of any watercourse shall be maintained.
- (8) Other water related uses such as docks, piers, wharves, bridges, culverts and river crossings of transmission lines are permitted subject to any pier or dockline regulations or any other regulations that are required pursuant to Ch. 30, Wis. Stats., and applicable federal regulations.

20.04 FLOODWAY DISTRICT. (Am. #098-36)

- (1) **APPLICABILITY.** The provisions of this section shall apply to all areas within the Floodway District as shown on the official Floodplain Zoning Map and to the floodway portion of the Floodplain District.

- (2) **DESCRIPTION OF DISTRICT.** (Am. #97-5) The Floodway District shall include mapped floodway areas so designated on the official Floodplain Zoning Maps showing the regional flood limits, as set forth in Section 20.02(1).
- (3) **PERMITTED USES.** The following open space uses having a low flood damage potential and non-obstruction flood flows, shall be permitted within the Floodway District, provided that they are not prohibited by any other ordinance and provided further that they meet all of the standards contained in sub. (4) hereof and a land use permit has been issued by the Building Inspector.
- (a) Agricultural uses such as: general farming, pasture, grazing, outdoor plant nurseries, horticulture, viticulture, truck farming, forestry, sod farming and wild crop harvesting.
 - (b) Nonstructural, industrial, commercial uses such as: loading areas, parking areas, airport landing strips.
 - (c) Private and public recreational uses such as: golf courses, tennis courts, driving ranges, archery ranges, picnic grounds, boat launching ramps, swimming areas, parks, wildlife and nature preserves, game farms, fish hatcheries, shooting preserves, target ranges, trap and skeet ranges, hunting and fishing areas, hiking and horseback riding trails.
 - (d) Uses or structures accessory to open space uses.
 - (e) Extraction of sand, gravel and/or other materials.
 - (f) Railroads, streets, bridges, pipelines and other water related uses such as culverts and river crossings of transmission lines and any uses.
- (4) **STANDARDS FOR DEVELOPMENTS IN FLOODWAY DISTRICTS.** The following standards shall apply to developments in floodway districts:
- (a) All of the provisions of Section 20.03 hereof.
 - (b) Structures which are accessory to permitted open space uses may be permitted, providing the structures:
 - 1. Are not designed for human habitation.
 - 2. Have a low flood damage potential.

3. Are to be constructed and placed on the building site so as to offer minimum obstruction to the flow of flood waters. Whenever possible, structures will be constructed with the longitudinal axis parallel to the direction of flow of flood waters and will be placed with their longitudinal axis approximately on the same line as those of adjoining structures.
 4. Are firmly anchored to prevent them from floating away and restricting bridge openings or other restricted sections of the stream or river.
 5. Have all service facilities, such as electrical and heating equipment at or above the flood protection elevation for the particular area.
- (c) Uses permitted by the Department of Natural Resources pursuant to Chs. 30 and 31, Wis. Stats., provided that the necessary permits are obtained and amendments are approved by the Village to the official floodway lines, water surface profiles, floodplain zoning maps and this chapter.
- (d) Public utilities, streets and bridges provided that:
1. Adequate floodproofing measures are provided to the flood protection elevation.
 2. Construction shall not cause any increase of 0.01' or greater in the height of the regional flood, except that reasonable increases up to 1.0' may be approved if the amendment procedures and all conditions of Section 20.08(3) are met.
 3. The Village amends its water surface profiles, floodplain zoning maps and floodplain zoning ordinances to reflect any changes resulting from such construction.
- (e) Filling or depositing of materials may be permitted provided that:
1. The provisions of Section 20.03(1) are met.
 2. Filling or depositing of materials does not encroach on the channel area between the ordinary high watermark on each bank of the stream unless a permit has been granted by the Department of Natural Resources pursuant to Ch. 30, Wis. Stats., and a permit pursuant to §404 of the Federal Water Pollution Control Act, Amendments of 1972, 33 U.S.C. 1334 has been issued, if applicable, and the other requirements of this section are met.

3. The fill or other materials will be protected against erosion by riprap, vegetative cover, sheet piling and/or bulkheading sufficient to prevent erosion and leachate.

20.05 FLOODFRINGE DISTRICT. (Am. #098-36)

- (1) **APPLICABILITY.** (Am. #97-5) The provisions of this section shall apply to all areas within the Floodfringe District, as shown on the official Floodplain Zoning Maps.
- (2) **DESCRIPTION OF DISTRICT.** (Am. #97-5) The Floodfringe Districts are designated on the official Floodplain Zoning Maps showing the regional flood limits, as set forth in Section 20.02(1).
- (3) **PERMITTED USES.** Any structures, land uses or development may be permitted to the extent that they are not prohibited by this or any other ordinance or any other federal, state or local regulations and provided that a land use permit has been issued by the Building Inspector.
- (4) **STANDARDS FOR DEVELOPMENT IN FLOODFRINGE AREAS.**
 - (a) Generally. All of the provisions of Section 20.03 shall apply hereto.
 - (b) Residential. All residential structures shall meet the following standards:
 1. The first floor of a structure to be erected, constructed or moved on the floodplain shall be constructed on fill at or above the flood protection elevation for the particular area. The fill shall not be less than one foot above the regional flood elevation for the particular area and the fill shall extend at such elevation at least 15' beyond the limits of any structure or building erected thereon.
 2. The basement floor shall be at or above the regional flood elevation.
 - (c) Commercial. In commercial areas, any structure or building which is to be erected, constructed, reconstructed, added to or moved into the floodfringe area shall meet the requirements of sub. (4)(b) above. Certain yards, parking lots and other accessory land uses may be at lower elevations. However, no such area in general use by the public shall be inundated to a depth greater than 2' or subjected to flood velocities greater than 4' per second upon the occurrence of the regional flood.
 - (d) Manufacturing and Industrial. (Am. #97-5) Manufacturing and industrial buildings, structures and accessory uses shall be elevated or floodproofed in accordance with

Section 20.07(9) to 2' above the regional flood elevation. Measures shall be taken to minimize interference with normal plant operations, especially for streams having protracted flood durations. Certain accessory land uses such as yards and parking lots may be at lower elevations, subject to requirements set out in sub. (4)(c).

- (e) Dangerous Materials. (Am. #97-5) The storage or processing of materials that are buoyant, flammable, explosive or which, in times of flooding, could be injurious to human, animal or plant life, shall be at or above the flood protection elevation for the particular area or floodproofed in compliance with Section 20.07(9).
- (f) Utilities. (Am. #97-5) Construction and substantial improvements to utilities may be permitted provided that they are floodproofed to the flood protection elevation in compliance with Section 20.07(9).
- (g) Accessory Uses. An accessory structure (not connected to a principal structure) shall meet the applicable provisions of Section 20.04(4)(b) hereof. A lesser degree of protection, compatible with these criteria and the criteria in sub. (4)(c) hereof may be permissible for any such accessory structure.

20.06 NONCONFORMING USES. (Am. #098-36)

- (1) **GENERAL**. Insofar as the standards in this section are not inconsistent with the provisions of §62.23(7)(h), Wis. Stats., they shall apply to all nonconforming uses. The existing lawful use of a structure or building or its accessory use, which is not in conformity with the provisions of this chapter, may be continued subject to the following conditions:
 - (a) No modifications or additions to a nonconforming use shall be permitted unless they are made in conformity with the provisions of this section. For the purposes of this section the words “modification” and “addition” shall include, but not be limited to, any alteration, addition, modification, rebuilding or replacement of any such existing structure or accessory use. Ordinary maintenance repairs are not considered structural repairs, modifications or additions.
 - (b) If a nonconforming use is discontinued for 12 consecutive months, any future use of the structure or building shall conform with the appropriate provisions of this chapter for floodway and floodfringe areas.

(2) FLOODWAY AREAS.

- (a) No modifications or additions shall be allowed to any existing structures which are not in compliance with permitted floodway standards or uses, unless such modifications or additions meet all of the following criteria:
 - 1. The modifications or additions to a structure will not increase the amount of obstruction to flood flows pursuant to Section 20.03(1) hereof.
 - 2. Any addition to a structure shall be floodproofed by means other than the use of fill to the flood protection elevation.
- (b) No new on-site sewage disposal system or additions to existing on-site sewage disposal system shall be allowed in a floodway area.
- (c) No new well used to obtain water for ultimate human consumption or modifications to an existing well shall be allowed in a floodway area.
- (d) No structural repairs, modifications or additions to a structure, which exceed over the life of the structure 50% of its present equalized assessed value, shall be allowed unless the entire structure is permanently changed to a conforming use.
- (e) If any nonconforming structure is destroyed or is so badly damaged that it cannot be practicably restored, it cannot be replaced, reconstructed or rebuilt unless permanently changed to a conforming use. For the purposes of this subsection, restoration is deemed impracticable where the total cost of such restoration would exceed 50% of the present equalized assessed value of the structure.

(3) FLOODFRINGE AREA.

- (a) All modifications or additions to any nonconforming structure, which do not exceed 50% of its present equalized value, shall be protected by floodproofing measures. No structural modification or addition to any nonconforming structure, which over the life of the structure exceed 50% of its present equalized assessed value shall be allowed unless the entire structure is permanently changed to a conforming use.
- (b) Where compliance with the provisions of par. (a) above would result in unnecessary hardship, and only where the structure will not be either used for human habitation or be associated with a high flood damage potential, the Board of Appeals, using the procedure in Section 20.07(6) hereof, may grant a

variance from those provisions, using the criteria listed below. Modifications or additions to structures or buildings which are protected to elevations lower than flood protection elevation may be permitted if:

1. Human lives are not endangered.
 2. Public facilities, such as water or sewer, are not to be installed.
 3. Flood depths will not exceed 4'.
 4. Flood velocities will not exceed 2' per second.
 5. The structure will not be used for storage of materials described in Section 20.05(4)(e).
- (c) No new on-site sewage disposal system or additions to existing on-site sewage disposal systems shall be allowed in a floodfringe area.
- (d) No new well used to obtain water for ultimate human consumption or modifications to an existing well shall be allowed in a floodfringe area.

20.07 ADMINISTRATION. (Am. #098-36)

- (1) **LAND USE PERMIT.** A land use permit shall be obtained from the Building Inspector before any new land use, change in use or development may be initiated in the floodplain. An application for a land use permit shall be made to the Building Inspector upon forms furnished and shall include, for the purpose of proper enforcement of these regulations, the following:
- (a) Name and address of the applicant and property owner.
 - (b) Legal description of the property and type of proposed development and use.
 - (c) A sketch showing the dimensions of the lot and locations of buildings from lot line, centerline of abutting highways and high watermark of any abutting watercourse.
 - (d) Plat or survey prepared by a registered land surveyor showing all information required by the Building Inspector and the following: mean and historic high water lines on and within 40' of the subject property and existing and proposed landscaping.

- (e) Where floodproofing is required, a plan or document certified by a registered professional engineer that the floodproofing measures are consistent with flood velocities, forces, depths and other factors associated with the regional flood level, with the soil conditions for the area and with the requirements of the Federal Insurance Administration.
 - (f) Such additional information as the Building Inspector or the Village Board may require.
- (2) **CERTIFICATE OF COMPLIANCE.** No development as defined in this chapter shall take place, no vacant land in the floodplain shall be occupied or used and no building hereafter erected, altered or moved shall be occupied until the applicant obtains a certificate of compliance from the Building Inspector. The Building Inspector shall require that the applicant submit a certification by a registered professional engineer that the finished fill and building floor elevations and other floodplain regulatory factors were accomplished in compliance with appropriate floodplain zoning provisions and other floodplain regulations. The applicant shall submit such certification for all new construction and substantial improvements.
- (3) **OTHER PERMITS.** (Cr. #97-5) It is the responsibility of the applicant to secure all other necessary permits from all appropriate federal, state and local agencies, including those required under Section 404 of the Federal Water Pollution Control Act amendments of 1972, 33 U.S.C. 1334.
- (4) **APPEALS TO THE BOARD.** (Cr. #97-5) Appeals to the Board of Appeals may be taken by a person aggrieved or by an officer, department, board or bureau of the municipality affected by any decision of the Building Inspector. Such appeal shall be taken within a reasonable time, as provided by the rules of the Board, by filing with the Building Inspector and with the Board of Appeals a notice of appeal specifying the grounds thereof. The Building Inspector shall forthwith transmit to the Board all the papers constituting the record upon which the action appealed from was taken.
- (a) The Board of Appeals shall fix a reasonable time for the hearing of the appeal, give public notice thereof by publishing a class 2 notice pursuant to Ch. 985, Wis. Stats., specifying the date, time and place of hearing and the matters to come before the Board, and mail notices to the parties at interest.
 - (b) A decision regarding the appeal shall be made as soon as practicable.
 - (c) The final disposition of an appeal or application to the Board of Appeals shall be made in the form of a written resolution or order signed by the Secretary of the Board. Such resolution shall state the specific facts which are the basis for

the Board's determination and shall either affirm, reverse, vary or modify the order, requirement, decision or determination appealed, in whole or in part, dismiss the appeal for lack of jurisdiction or prosecution, or grant the application.

- (d) A copy of all decisions by the Board of Appeals shall be mailed to the appropriate District Office of the Department of Natural Resources.
- (5) **MAPPING DISPUTES.** (Cr. #97-5) The following procedure shall be followed by the Board of Appeals in disputes of a flood plain zoning district boundary:
- (a) When the location of the flood plain or floodway district boundary is established by experience flood maps or engineering studies pursuant to Sections 20.04(2) and 20.05(2) hereof, the flood elevations or "flood profiles" for the point in question shall be the governing factor in locating the district boundary. If no elevation or profiles are available to the Board, any other available evidence may be examined.
 - (b) In all cases, the person contesting the location of the district boundary shall be given a reasonable opportunity to present his case to the Board of Appeals and if he chooses, submit his own technical evidence. The Board shall not allow deviations from the boundary line as mapped unless the evidence clearly and conclusively establishes that the mapped location of the line is incorrect and an approval has been granted by the Department of Natural Resources.
- (6) **VARIANCE.** (Cr. #97-5) Any deviation from the standards of this chapter, for which a permit has been denied by the Building Inspector, may be allowed only upon written request for a variance submitted to the Building Inspector, public hearing and issuance of a variance from the Board of Appeals. The board may authorize in specific cases such variance from the terms of this chapter as will not be contrary to the public interest where, owing to special conditions, a literal enforcement of the provisions of this ordinance would result in unnecessary hardship. A variance:
- (a) Shall be consistent with the spirit and intent of this flood plain zoning ordinance.
 - (b) Shall not permit any change in established flood elevations or profiles.
 - (c) Shall not be granted for a use that is common to a group of adjacent lots or premises.

- (d) Shall not be granted unless it is shown that the variance will not be contrary to the public interest or damaging to the rights of other persons or property values in the area.
- (e) Shall not be granted for actions which require an amendment to the flood plain zoning ordinance.
- (f) Shall not have the effect of allowing or expanding a use or structure which is prohibited in that zoning district by the flood plain zoning ordinance.
- (g) Shall not be granted solely on the basis of economic gain or loss.
- (h) Shall not be granted for a self-created hardship.

20.08 AMENDMENTS. (Cr. #97-5; Am. #098-36)

- (1) **GENERAL.** The Village Board may from time to time, alter, supplement or change the boundaries of use districts and the regulations contained in this section in the manner provided by law. Official amendments are required for any changes in the official floodway lines, water surface profiles, flood plain zoning maps or flood plain zoning ordinance. Actions which require an amendment include, but are not limited to, the following: any change in the official floodway lines or in the boundary of the flood plain area; settlement of conflicts between the water surface profiles and flood plain zoning maps, in accordance with Section 20.07(5); any fill or encroachment into the floodway which will result in raising the elevation of an area in the floodway to a height at or above the elevation of the regional flood; any fill or encroachment that will cause a change equal to or greater than 0.01 foot in the water surface profiles in the regional flood; and any upgrading of flood plain zoning ordinances required by law.
- (2) **INITIATION.** Amendments to this section may be initiated by the Village Board or upon petition of any interested party in accordance with the provisions of §62.23, Wis. Stats.
- (3) **AMENDMENT PROCEDURE.** Copies of any proposed amendment shall be referred to the Plan Commission which shall be forwarded by the Village Clerk together with the first notice of the public hearing thereon, to the main office and appropriate district office of the Department of Natural Resources. The amendment procedure shall comply with the provisions of §62.23, Wis. Stats. No amendment to the text or maps shall become effective until approved by the Department of Natural Resources and the Village Engineer.