

## NOTICE OF MEETING

### SHEBOYGAN COUNTY EXECUTIVE COMMITTEE

**June 24, 2024**

**3:00 P.M.**

Administration Building  
508 New York Ave  
Sheboygan WI 53081  
Room 302

**Remote Access:** +1 316-512-3279

**Meeting ID:** 619 762 021#

**Virtual:** [meet.google.com/eon-bhrp-tqz](https://meet.google.com/eon-bhrp-tqz)

Members of the Committee may be appearing remotely. Persons wanting to observe the meeting are encouraged to listen remotely.

### **\*AGENDA\***

Call to Order

Certification of Compliance with Open Meeting Law

Correspondence

Approval of Minutes for the May 30, 2024 Executive Committee Meeting

Consideration of Resolution No. 03 - Authorizing Sheboygan County to Enter Into the Settlement Agreement with Kroger Co., related to the Opioid Class Action Litigation

Consideration of Ordinance No. 03 - Repealing and Recreating Chapter 73 - Floodplain Ordinance

Consideration of Supervisors Requesting to Attend the Wisconsin Counties Association Conference

County Administrator's Report

*(The County Administrator's Report is a summary of key activities. No action will be taken by the Executive Committee resulting from the report, unless it is a specific item on the agenda.)*

Consideration and Approval of Attendance at Other Meetings/Functions

Review and Approve Vouchers

Next Meeting Date: To Be Determined

Adjournment

Prepared by:  
Peggy Osthelder  
Recording Secretary

Keith Abler  
Committee Chairperson

*Posted on 6/20/2024 at 3:30 pm*

NOTE: Members of the public are invited to offer comments on topics which may or may not appear on the Agenda, and Committee members may discuss such matters, but no action may be taken by the Committee on non-Agenda topics. Individual speakers may be limited to no more than five minutes.

A majority of the members of the County Board of Supervisors or any of its committees may be present at this meeting, and it is likely that a majority of the Finance committee will be present, at this meeting to listen, observe and participate. If a majority of any such body is present, their presence constitutes a "meeting" under the Open Meeting Law as interpreted in State ex rel. Badke v. Greendale Village Board, 173 Wis. 2d 553 (1993), even though the visiting body will take no action at this meeting.

If listed as an agenda item, the "Administrator's Report" is a summary of key activities for the previous month and planned for upcoming months including performance evaluations, liaison committee issues and County Board issues. No action will be taken by the Executive committee resulting from the report unless it is a specific item on the agenda.

Persons with disabilities needing assistance to attend or participate are asked to notify the County Board Chairman/County Administrator's Office at 920-459-3103 prior to the meeting so that accommodations may be arranged.

## SHEBOYGAN COUNTY EXECUTIVE COMMITTEE MINUTES

Administration Building  
508 New York Ave  
Sheboygan, WI 53081  
Room 302

**May 30, 2024**

**Called to Order: 3:00 PM**

**Adjourned: 3:58 PM**

**MEMBERS PRESENT:**     **In Person:** Keith Abler, William Goehring, Curt Brauer, Edward Procek, and Kathleen Donovan

**Remote:** None

**ALSO PRESENT:**       **In Person:** Gerald Jorgensen (arriving at 3:05 pm), Alayne Krause, Emily Stewart, Crystal Fieber, Dave Loomis, Captain Jason Liermann, and Peggy Osthelder

**Remote:** None

Chairman Abler called the meeting to order at 3:00 PM. Peggy Osthelder certified compliance with the open meeting law. The meeting notice was posted at 8:15 AM on May 29, 2024.

There was no correspondence to present to the Committee.

Supervisor Brauer made a motion to approve the minutes of the May 16, 2024 Executive Committee Meeting. Motion seconded by Supervisor Goehring. Motion carried.

The Committee discussed Ordinance No. 1 – Amending Pay Scale for Certain County Positions. Human Resources Director Dave Loomis gave an overview and answered questions. Supervisor Brauer made a motion to approve the ordinance. Motion seconded by Supervisor Procek. Motion carried.

The Committee discussed Ordinance No. 2 – Amending Section 92.02, County Communications Council Membership. Captain Jason Liermann and Corporation Counsel Crystal Fieber gave an overview and answered questions. Supervisor Brauer made a motion to approve the ordinance. Motion seconded by Supervisor Goehring. Motion carried.

The Committee reviewed the 2023-2024 Per Diem Report. Supervisor Brauer made a motion to approve the report. Motion seconded by Supervisor Donovan. Motion carried.

County Administrator Alayne Krause reported on the progress of the 2025 budget development process. Administrator Krause then reported on recent efforts by the Wisconsin Counties Association and the Wisconsin County Executives and Administrators Association to establish a taskforce to address the court system funding disparity. Additionally, Administrator Krause reported on a recent Heads of Local Government meeting to discuss the kick off of a fire/ems study in Sheboygan County. Administrator Krause also provided an update on the Sheboygan County Historical Museum and efforts to formalize a County Board appointment to their Board of Directors. Additionally, Administrator Krause noted that Monday, June 3<sup>rd</sup> is Sheriff Roeseler's last day before retirement. Undersheriff Matt Spence will take over the duties until the Governor formally appoints a new Sheriff. Administrator Krause then reported that the Courthouse renovation project is ahead of schedule, and we have received positive feedback from the community about the visual improvements to the building. Administrator Krause

then reported on a recent cybersecurity training program rolled out by the Information Technology Department and noted that there have been significant improvements in the outcomes of phishing tests since the completion of the training. Administrator Krause then provided an overview of a campaign proposal submitted by Discover Wisconsin to highlight Sheboygan County. Finally, Administrator Krause and Deputy Administrator Stewart provided an overview of another proposed program, UniverCity, delivered by University of Wisconsin- Madison. This program connects local governments with graduate students who will research, analyze, and make recommendations to solve issues and/or implement programs.

The Committee discussed attendance at special meetings. Supervisor Brauer requested approval for Committee Chairpersons to attend the Committee Chairpersons meeting on Thursday, June 20, 2024. Supervisor Procek made a motion to approve the request. Motion seconded by Supervisor Goehring. Motion carried.

Vouchers were reviewed. Supervisor Brauer made a motion to approve the vouchers. Motion seconded by Supervisor Donovan. Motion carried.

The next Executive Committee meeting is scheduled for Monday, June 24, 2024 at 3 pm.

Supervisor Brauer made a motion to adjourn. Motion seconded by Supervisor Procek. Motion carried.

Peggy Osthelder, Recording Secretary

William Goehring, Secretary

1 SHEBOYGAN COUNTY RESOLUTION NO. 03 (2024/25)  
2

3 Re: **Authorizing Sheboygan County to Enter Into the Settlement Agreement with Kroger**  
4 **Co., related to the Opioid Class Action Litigation.**  
5

6  
7 **WHEREAS**, the County Board of Supervisors previously authorized the County to enter into an  
8 engagement agreement with von Briesen & Roper, s.c., Crueger Dickinson LLC and Simmons Hanly  
9 Conroy LLC (the "Law Firms") to pursue litigation against certain manufacturers, distributors, and retailers  
10 of opioid pharmaceuticals (the "Opioid Defendants") in an effort to hold the Opioid Defendants financially  
11 responsible for the County's expenditure of vast money and resources to combat the opioid epidemic;  
12

13 **WHEREAS**, on behalf of the County, the Law Firms filed a lawsuit against the Opioid Defendants;  
14

15 **WHEREAS**, the Law Firms filed similar lawsuits on behalf of 66 other Wisconsin counties and all  
16 Wisconsin cases were coordinated with thousands of other lawsuits filed against the same or substantially  
17 similar parties as the Opioid Defendants in the Northern District of Ohio, captioned *In re: Opioid Litigation*,  
18 MDL 2804 (the "Litigation");  
19

20 **WHEREAS**, four (4) additional Wisconsin counties (Milwaukee, Dane, Waukesha, and Walworth)  
21 hired separate counsel and joined the Litigation;  
22

23 **WHEREAS**, since the inception of the Litigation, the Law Firms have coordinated with counsel from  
24 around the country (including counsel for Milwaukee, Dane, Waukesha, and Walworth Counties) to prepare  
25 the County's case for trial and engage in extensive settlement discussions with the Opioid Defendants;  
26

27 **WHEREAS**, the settlement discussions with The Kroger Co. (the "Settling Defendant") resulted in  
28 a tentative agreement as to settlement terms pending agreement from the County and other plaintiffs  
29 involved in the Litigation;  
30

31 **WHEREAS**, copies of the settlement agreement relating to the Settling Defendant ("Settlement  
32 Agreement") representing the terms of the tentative settlement agreement with the Settling Defendant has  
33 been made available at [https://nationalopioidsettlement.com/wp-content/uploads/2024/05/Kroger-](https://nationalopioidsettlement.com/wp-content/uploads/2024/05/Kroger-Multistate-Settlement-Agreement-Circulated-to-States-March-25-2024.pdf)  
34 [Multistate-Settlement-Agreement-Circulated-to-States-March-25-2024.pdf](https://nationalopioidsettlement.com/wp-content/uploads/2024/05/Kroger-Multistate-Settlement-Agreement-Circulated-to-States-March-25-2024.pdf);  
35

36 **WHEREAS**, the Settlement Agreement provides, among other things, for the payment of certain  
37 sums to Participating Subdivisions (as defined in the Settlement Agreement) upon the occurrence of certain  
38 events detailed in the Settlement Agreement;  
39

40 **WHEREAS**, the County is a Participating Subdivision in the Settlement Agreement and has the  
41 opportunity to participate in the benefits associated with the Settlement Agreement provided the County (a)  
42 approves the Settlement Agreement; (b) approves the Addendum Two to the Memorandum of  
43 Understanding allocating proceeds from the Settlement Agreement ("MOU") among the various Wisconsin  
44 Participating Subdivisions, a copy of which is attached to this Resolution ("Addendum Two"); and (c) the  
45 Legislature's Joint Committee on Finance approves the terms of the Settlement Agreement;  
46

47 **WHEREAS**, pursuant to Section 12 of the State-Local MOU entered into between the Wisconsin  
48 Participating Subdivisions and the Attorney General of the State of Wisconsin ("State-Local MOU"), the  
49 Attorney General has provided notice that the terms of the State-Local MOU shall apply to the Settlement  
50 Agreement and all proceeds of such Settlement Agreement;  
51

52 **WHEREAS**, 2021 Wisconsin Act 57 created Section 165.12 of the Wisconsin Statutes relating to  
53 the settlement of all or part of the Litigation;  
54

55           **WHEREAS**, pursuant to Wis. Stat. § 165.12(2), the Legislature's Joint Committee on Finance is  
56 required to approve the Settlement Agreement;  
57

58           **WHEREAS**, pursuant to Wis. Stat. § 165.12(2), the proceeds from any settlement of all or part of  
59 the Litigation are distributed 70% to local governments in Wisconsin that are parties to the Litigation and  
60 30% to the State;  
61

62           **WHEREAS**, Wis. Stat. § 165.12(4)(b)2. provides the proceeds from the Settlement Agreement  
63 must be deposited in a segregated account (the "Opioid Abatement Account") and may be expended only  
64 for approved uses for opioid abatement as provided in the Settlement Agreement;  
65

66           **WHEREAS**, Wis. Stat. § 165.12(7) bars claims from any Wisconsin local government against the  
67 Opioid Defendants filed after June 1, 2021;  
68

69           **WHEREAS**, the definition of Participating Subdivisions in the Settlement Agreement recognizes a  
70 statutory bar on claims such as that set forth in Wis. Stat. § 165.12(7) and, as a result, the only Participating  
71 Subdivisions in Wisconsin are those counties and municipalities that were parties to the Litigation (or  
72 otherwise actively litigating a claim against one, some, or all of the Opioid Defendants) as of June 1, 2021;  
73

74           **WHEREAS**, the Legislature's Joint Committee on Finance is not statutorily authorized or required  
75 to approve the allocation of proceeds of the Settlement Agreement among Wisconsin Participating  
76 Subdivisions;  
77

78           **WHEREAS**, the Wisconsin Participating Subdivisions previously negotiated and approved the  
79 allocation of proceeds among themselves, which allocation is reflected in Exhibit A to the MOU, which is  
80 an agreement between all of the entities identified in the Allocation MOU as to how the proceeds payable  
81 to those entities under the Settlement Agreements will be allocated;  
82

83           **WHEREAS**, the County and all other Wisconsin Participating Subdivisions agreed to and entered  
84 into that certain Addendum to the MOU ("Addendum One") that provided for allocation of settlement  
85 proceeds from previous settlements with certain pharmacies and manufacturers according to the same  
86 percentages as that provided in the MOU;  
87

88           **WHEREAS**, the County has been informed as to the deadlines related to the effective dates of the  
89 Settlement Agreement, the ramifications associated with the County's refusal to enter into the Settlement  
90 Agreement, the form of Addendum Two and an overview of the process for finalizing the Settlement  
91 Agreements and such information, together with additional resources related to the settlement can be found  
92 at <https://nationalopioidsettlement.com/kroger-co-settlement/>;  
93

94           **WHEREAS**, the County, by this Resolution, shall deposit the proceeds of the Settlement  
95 Agreement consistent with the terms of this Resolution and Wis. Stat. § 165.12(4)(b);  
96

97           **WHEREAS**, pursuant to the County's engagement agreement with the Law Firms, the County shall  
98 pay up to an amount equal to 25% of the proceeds from successful resolution of all or part of the Litigation,  
99 whether through settlement or otherwise, plus the Law Firms' costs and disbursements, to the Law Firms  
100 as compensation for the Law Firms' efforts in the Litigation and any settlement;  
101

102           **WHEREAS**, the Law Firms anticipate making application to the national fee fund established in the  
103 Settlement Agreement seeking payment, in whole or part, of the fees, costs, and disbursements owed the  
104 Law Firms pursuant to the engagement agreement with the County;  
105

106           **WHEREAS**, it is anticipated the amount of any award from the fee fund established in the  
107 Settlement Agreements will be insufficient to satisfy the County's obligations under the engagement  
108 agreement with the Law Firms;

109  
110       **WHEREAS**, the County, by this Resolution, and pursuant to the authority granted the County in the  
111 applicable Order emanating from the Litigation in relation to the Settlement Agreement and payment of  
112 attorney fees, shall authorize and direct the escrow agent responsible for the receipt and distribution of the  
113 proceeds from the Settlement Agreement to establish an account for the purpose of segregating funds to  
114 pay the fees, costs, and disbursements of the Law Firms owed by the County (the "Attorney Fees Account")  
115 in order to fund a local "backstop" for payment of the fees, costs, and disbursements of the Law Firms;  
116

117       **WHEREAS**, in no event shall payments to the Law Firms out of the Attorney Fees Account and the  
118 fee fund established in the Settlement Agreement exceed an amount equal to 25% of the amounts allocated  
119 to the County by virtue of the Addendum Two (Exhibit A to the MOU);  
120

121       **WHEREAS**, the intent of this Resolution is to authorize the County to enter into the Settlement  
122 Agreement, the Addendum Two, establish the County's Opioid Abatement Account, and establish the  
123 Attorney Fees Account; and  
124

125       **WHEREAS**, the County, by this Resolution, shall authorize the County's corporation counsel to  
126 finalize and execute any other document or agreement necessary to effectuate the Settlement Agreement  
127 and the other agreements referenced herein;  
128

129       **NOW, THEREFORE, BE IT RESOLVED:** the County Board of Supervisors hereby approves:  
130

- 131       1.       The execution of the Settlement Agreement and any and all documents ancillary thereto  
132               and authorizes the Board Chair or designee to execute same.  
133
- 134       2.       The final negotiation and execution of Addendum Two in form substantially similar to that  
135               presented with this Resolution and any and all documents ancillary thereto and authorizes  
136               the Board Chair or designee to execute same upon finalization provided the percentage  
137               share identified as allocated to the County is substantially similar to that identified in the  
138               Addendum Two provided to the Board with this Resolution.  
139
- 140       3.       The execution by the Board Chair or designee of any additional documents or agreements  
141               for the receipt and disbursement of the proceeds of the Settlement Agreement.  
142

143       **BE IT FURTHER RESOLVED:** all proceeds from the Settlement Agreement not otherwise directed  
144 to the Attorney Fees Account shall be deposited in the County's Opioid Abatement Account. The Opioid  
145 Abatement Account shall be administered consistent with the terms of this Resolution, Wis. Stat. §  
146 165.12(4), and the Settlement Agreement.  
147

148       **BE IT FURTHER RESOLVED:** the County hereby authorizes the establishment of an account  
149 separate and distinct from any account containing funds allocated or allocable to the County which shall be  
150 referred to by the County as the "Attorney Fees Account." An escrow agent shall deposit a sum equal to  
151 up to, but in no event exceeding, an amount equal to 20% of the County's proceeds from the Settlement  
152 Agreement into the Attorney Fees Account. If the payments to the County are not enough to fully fund the  
153 Attorney Fees Account as provided herein because such payments are made over time, the Attorney Fees  
154 Account shall be funded by placing up to, but in no event exceeding, an amount equal to 20% of the  
155 proceeds from the Settlement Agreement attributable to Local Governments (as that term is defined in the  
156 MOU) into the Attorney Fees Account for each payment. Funds in the Attorney Fees Account shall be  
157 utilized to pay the fees, costs, and disbursements owed to the Law Firms pursuant to the engagement  
158 agreement between the County and the Law Firms provided, however, the Law Firms shall receive no more  
159 than that to which they are entitled under their fee contract when considering the amounts paid the Law  
160 Firms from the fee fund established in the Settlement Agreement and allocable to the County. The Law  
161 Firms may make application for payment from the Attorney Fees Account at any time and the County shall


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cooperate with the Law Firms in executing any documents necessary for the escrow agent to make payments out of the Attorney Fees Account.


**BE IT FURTHER RESOLVED** that all actions heretofore taken by the Board of Supervisors and other appropriate public officers and agents of the County with respect to the matters contemplated under this Resolution are hereby ratified, confirmed and approved.

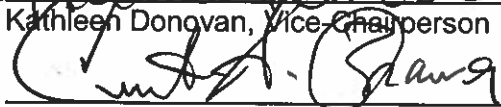
Respectfully submitted this 18th day of June, 2024.


**FINANCE COMMITTEE**

  
\_\_\_\_\_  
Vern Koch, Chairperson

  
\_\_\_\_\_  
William Goehring, Secretary

  
\_\_\_\_\_  
Kathleen Donovan, Vice Chairperson

  
\_\_\_\_\_  
Curt Brauer

  
\_\_\_\_\_  
Thomas Wegner

Opposed to Introduction:

\_\_\_\_\_

\_\_\_\_\_



**FISCAL NOTE**  
**June 2024**

**Resolution No. 03 (2024/25) RE: Authorizing Sheboygan County to Enter Into the Settlement Agreement with Kroger Co., related to the Opioid Class Action Litigation**

**Funding:**

No additional funding will be required from Sheboygan County to enter into the Settlement Agreement. By passing the resolution, the County will receive a portion of the \$1.2 billion anticipated from the Kroger settlement. The amount of the County's share is dependent on the number of other states and their subdivisions that adopt similar resolutions to participate in the settlement. If this follows prior Opioid settlements, Wisconsin will receive ~1.7% of the total or \$20.4 million. The State would retain 30% of this amount. The remaining \$14.3 million would be shared among participating Counties and Municipalities across Wisconsin.

Respectfully Submitted,



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Steve Hatton, Finance Director

June 18, 2024

1 SHEBOYGAN COUNTY ORDINANCE NO. 03 (2024/25)

2  
3 Re: Repealing and Re-creating Chapter 73 – Floodplain Ordinance

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5  
6 **WHEREAS**, The Sheboygan County Floodplain Ordinance promotes the public health, safety,  
7 convenience and welfare and promotes and protects against uncontrolled development in floodplain and  
8 riverine areas; and

9  
10 **WHEREAS**, the County Board has authority to adopt floodplain regulations pursuant to Wis. Stat.  
11 §§ 59.692, 59.694 and the requirements of 87.30; and

12  
13 **WHEREAS**, Sheboygan County staff has reviewed Sheboygan County Code Chapter 73-  
14 Floodplain Ordinance and has updated the same to reflect changes to terminology, practices and  
15 procedures; and

16  
17 **WHEREAS**, the Planning, Resources, Agriculture, and Extension Committee, pursuant to Wis.  
18 Stat. § 59.69(5)(e), held a public hearing regarding the proposed changes to the County's Floodplain  
19 Ordinance on June 11, 2024;

20  
21 **NOW, THEREFORE**, the County Board of Supervisors of the County of Sheboygan does ordain  
22 as follows:

23  
24 Section 1. **Repealing and Re-creating Chapter 73**. Chapter 73 of the Sheboygan  
25 County Code of Ordinances is hereby repealed and re-created as attached hereto.

26  
27 Section 2. **Effective Date**. The herein Ordinance shall take effect upon enactment  
28 and upon approval as may be required from the Wisconsin Department of Natural Resources.

29  
30 Respectfully submitted this 18th day of June, 2024.

31  
32  
33 **PLANNING, RESOURCES, AGRICULTURE, AND EXTENSION COMMITTEE\***

34  
35   
36 \_\_\_\_\_  
37 Rebecca Clarke, Chairperson

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39 \_\_\_\_\_  
40 Henry Nelson, Vice-Chairperson

41   
42 \_\_\_\_\_  
43 John Nelson, Secretary

44   
45 \_\_\_\_\_  
46 Stanley Lammers

47 \_\_\_\_\_  
48 Keith Abler, Chairperson

49   
50 \_\_\_\_\_  
51 Joe Liebau

**FISCAL NOTE**  
**June 2024**

**Ordinance No. 03 (2024/25) RE: Repealing and Recreating Chapter 73 - Floodplain Ordinance**

**Funding:**

No additional funding needs are anticipated as a result of the proposed amendments.

Respectfully Submitted,



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Steve Hatton, Finance Director  
June 18, 2024

CHAPTER 73  
FLOODPLAIN ZONING ORDINANCE

- 73.01 STATUTORY AUTHORIZATION
- 73.02 FINDING OF FACT
- 73.03 STATEMENT OF PURPOSE
- 73.04 TITLE
- 73.05 GENERAL PROVISIONS
  - (1) Areas to be Regulated
  - (2) Official Maps & Revisions
  - (3) Establishment of Floodplain Zoning Districts
  - (4) Locating Floodplain Boundaries
  - (5) Removal of Lands from Floodplain
  - (6) Compliance
  - (7) Municipalities and State Agencies Regulated
  - (8) Abrogation and Greater Restrictions
  - (9) Interpretation
  - (10) Warning and Disclaimer of Liability
  - (11) Severability
  - (12) Annexed Areas for Cities and Villages
  - (13) General Development Standards
- 73.06 GENERAL STANDARDS APPLICABLE TO ALL FLOODPLAIN DISTRICTS
  - (1) General Development Standards
  - (2) Hydraulic and Hydrologic Analyses
  - (3) Watercourse Alterations
  - (4) Wis. Stat. Chapters 30 and 31 Development
  - (5) Public or Private Campgrounds
- 73.07 FLOODWAY DISTRICT (FW)
  - (1) Applicability
  - (2) Permitted uses
- 73.08 STANDARDS FOR DEVELOPMENT IN FLOODWAY AREAS
  - (1) General
- 73.09 PROHIBITED USES
- 73.10 FLOODFRINGE DISTRICT (FF)
  - (1) Applicability
  - (2) Permitted Uses
  - (3) Standards for Development in Floodfringe Areas
- 73.11 GENERAL FLOODPLAIN DISTRICT (GFD)
  - (1) Applicability
  - (2) Floodway Boundaries
  - (3) Permitted Uses
  - (4) Standards for Development in the General Floodplain District
  - (5) Determining Floodway and Floodfringe Limits
- 73.12 FLOOD STORAGE DISTRICT (FSD)
  - (1) Applicability
  - (2) Permitted Uses
  - (3) Standards for Development in Flood Storage Districts
- 73.13 COASTAL FLOODPLAIN DISTRICT (CFD)
- 73.14 GENERAL PROVISIONS FOR NONCONFORMING USES
- 73.15 NONCONFORMING USES AND STRUCTURES IN FLOODWAY DISTRICT
- 73.16 NONCONFORMING USES AND STRUCTURES IN FLOODFRINGE
- 73.17 NONCONFORMING STRUCTURES IN FLOOD STORAGE DISTRICTS
- 73.18 NONCONFORMING STRUCTURES IN Coastal Floodplain District
- 73.19 ADMINISTRATION
- 73.20 SHORELAND/FLOODPLAIN ZONING PERMIT
  - (1) General Information
  - (2) Site Development Plan

- (3) Hydraulic and Hydrologic Studies to Analyze Developments
- (4) Expiration
- (5) Fee
- (6) Certificate of Compliance
- (7) Other Permits
- 73.21 PRAE COMMITTEE
- 73.22 BOARD OF ADJUSTMENT
  - (1) Powers and Duties
  - (2) Appeals to the Board of Adjustment
  - (3) Boundary Disputes
  - (4) Variance
- 73.23 TO REVIEW APPEALS OF PERMIT DENIALS
- 73.24 FLOODPROOFING
- 73.25 PUBLIC INFORMATION
- 73.26 AMENDMENTS
  - (1) Obstructions or increases
  - (2) General
  - (3) Procedures
- 73.27 ENFORCEMENT AND PENALTIES
- 73.28 DEFINITIONS
  
- 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 of special flood hazard identified as zones A, AO, AH, A1-30, AE, VE, V1-30, or V on the Flood Insurance Rate Map (FIRM). Additional areas identified on maps approved by the Department of Natural Resources (DNR) and local community may also be regulated under the provisions of this ordinance, where applicable.
  - (2) OFFICIAL MAPS & REVISIONS
 

Special Flood Hazard Areas (SFHA) are designated as zones A, A1-30, AE, AH, AO, VE, V1-30, or V on the (FIRMs) based on flood hazard analyses summarized in the

Flood Insurance Study (FIS) listed in subsection (a) below. Additional flood hazard areas subject to regulation under this ordinance are identified on maps based on studies approved by the DNR and listed in subsection (b) below. These maps and revisions are on file in the office of the Sheboygan County Planning and Conservation Department (the "Department"), 508 New York Avenue, Sheboygan, WI.

(a) OFFICIAL MAPS: Based on the Flood Insurance Study (FIS):

1. Flood Insurance Rate Map (FIRM), panel numbers 55117C0020F, 55117C0040F, 55117C0045F, 55117C0063F, 55117C0064F, 55117C0068F, 55117C0069F, 55117C0090F, 55117C0095F, 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, 55117C0260F, 55117C0270F, 55117C0280F, 55117C0285F, 55117C0301F, 55117C0302F, 55117C0305F, 55117C0306F, 55117C0307F, 55117C0308F, 55117C0309F, 55117C0311F, 55117C0320F, 55117C0326F, 55117C0327F, 55117C0328F, 55117C0329F, 55117C0331F, 55117C0332F, 55117C0333F, 55117C0334F, 55117C0337F, 55117C0339F, 55117C0340F, 55117C0341F, 55117C0342F, 55117C0343F, 55117C0344F, 55117C0351F, 55117C0353F, 55117C0408F, 55117C0445F, 55117C0456F, dated 04/02/2009;
2. Flood Insurance Rate Map (FIRM), panel numbers 55117C0113G, 55117C0226G, 55117C0228G, 55117C0236G, 55117C0237G, 55117C0238G, 55117C0290G, 55117C0292G, 55117C0294G, 55117C0295G, 55117C0313G, 55117C0315G, 55117C0354G, 55117C0361G, 55117C0362G, 55117C0363G, 55117C0385G, 55117C0395G, 55117C0405G, 55117C0406G, 55117C0407G, 55117C0409G, 55117C0415G, 55117C0416G, 55117C0417G, 55117C0430G, 55117C0435G, 55117C0440G, 55117C0455G, 55117C0457G, 55117C0458G, 55117C0459G, 55117C0465G, 55117C0466G, 55117C0476G dated 08/28/2024
3. Flood Insurance Study (FIS) Volumes 55117CV001B, 55117CV002B for Sheboygan County, dated 08/28/2024, and approved by the Federal Emergency Management Agency (FEMA) and the DNR.
4. Letter of Map Revision (LOMR) 12-05-4154P-550424 Effective December 21, 2012 Mullet River from downstream of County Highway C to State Highway 23.
5. Letter of Map Revision (LOMR) 19-05-0048P Effective May 14, 2019 Mullet River at Spring Valley Rd.
6. Letter of Map Revision (LOMR) 22-05-2161P Effective February 10, 2023 Silver Creek at 690 Wolf Road and 800 Krier Lane.
7. Letter of Map Revision (LOMR) 22-05-1328P Effective April 8, 2024 Mullet River from Meyer Dam to Plymouth Dam.

(b) OFFICIAL MAPS: Based on other studies. Any maps referenced in this section must be approved by the DNR and be more restrictive than those based on the FIS at the site of the proposed development.

1. Sheboygan Marsh Dam Failure analysis approved by the Department of Natural Resources on January 5, 2016, including:

- A. Map titled "Hydraulic Shadow Map Appendix I" dated December 10, 2015.
- B. Floodway data table titled "FLOODWAY DATA (Sheboygan Marsh Dam Failure under 100-year Flood)" dated December 10, 2015.
- C. Flood profile titled "Sheboygan Marsh Dam Hydraulic Shadow Profile" dated December 10, 2015.

2. Hingham Mill Pond Dam Failure analysis approved by the Department of Natural Resources on January 16, 2019, including:

- A. Map titled "Hingham Dam Failure Analysis".
- B. Floodway data table titled "Hydraulic Shadow Floodway Data".
- C. Flood profiles titled "Dam Failure (Hydraulic Shadow) Profile".

3. Brickbauer Dam Failure analysis approved by the Department of Natural Resources in May, 2019 including:

- A. Map titled "Brickbauer Dam. Hydraulic shadow Map".
- B. Floodway data table titled "Floodway Data Table".
- C. Flood profiles titled "Brickbauer Dam. Hydraulic shadow Profiles".

4. Flood Storage: Unincorporated Sheboygan County: Sheboygan County and Incorporated Areas Flood Storage Districts Panels 9, 13 and 14, effective 8/24/2024.

(3) ESTABLISHMENT OF FLOODPLAIN ZONING DISTRICTS.

The flood hazard areas regulated by this ordinance are divided into 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, within AE Zones as shown on the FIRM, or within A Zones shown on the FIRM when determined according to Section 73.11 (5).
- (b) The Floodfringe District (FF) is that portion of a riverine special flood hazard area outside the floodway within AE Zones on the FIRM, or, when floodway limits have been determined according to Section 73.11(5), within A Zones shown on the FIRM.
- (c) The General Floodplain District (GFD) is those riverine areas that may be covered by floodwater during the regional flood in which a floodway boundary

has not been delineated on the FIRM and also includes shallow flooding areas identified as AH and AO zones on the FIRM.

- (d) The Coastal Floodplain District (CFP) is an area of special flood hazard extending from offshore to the inland limit of a primary frontal dune along an open coast, and any other area subject to high velocity wave action from storms, including areas identified as zone V, V1-30, or VE on the FIRM. Where a riverine AE floodway extends into the CFP district, development within the floodway must comply with the regulations for both the FW and CFP districts. Where a riverine A zone or AE zone with no floodway determination abuts the CFP district, the riverine study's floodway limit must be determined based on standard floodway expansion principles within the CFP district and development within the floodway must comply with the standards for both the FW and CFP districts.
  - (e) The Flood Storage District (FSD) is that area of the floodplain where storage of floodwaters is calculated to reduce the regional flood discharge.
- (4) LOCATING FLOODPLAIN BOUNDARIES. Discrepancies between the exterior boundaries of zones A1-30, AE, AH, or A on the official floodplain zoning map and actual field conditions may be resolved using the criteria in subsections (a) or (b), below. If a significant difference exists, the map shall be amended according to Section 73.26 of this Code. The Department can rely on a boundary derived from a profile elevation to grant or deny a Shoreland/Floodplain Zoning 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. Disputes between the Department and an applicant over the district boundary line shall be settled according to Section 73.22(3) of this Code, and the criteria in subsections (a) and (b), below. Where the flood profiles are based on established base flood elevations from a FIRM, FEMA must approve any map amendment or revision pursuant to Section 73.26 of this code.
- (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, including any boundary of zone A or AO, the location of the boundary shall be determined by the map scale.
- (5) REMOVAL OF LANDS FROM FLOODPLAIN.
- (a) Compliance with the provisions of this ordinance shall not be grounds for removing land from the floodplain unless it is filled at least two (2) feet above the regional or base flood elevation, the fill is contiguous to land outside the floodplain, and the map is amended pursuant to Section 73.26 of this Code.
  - (b) The delineation of any of the Floodplain Districts may be revised by the Department where natural or man-made changes have occurred and/or where more detailed studies have been conducted. However, prior to any such change, approval must be obtained from the DNR and FEMA. A completed Letter of Map Revision is a record of this approval. The Department shall not sign a community acknowledgement form unless all criteria set forth in the following paragraphs are met:
    - 1. The land and/or land around the structure must be filled at least two (2) feet above the regional or base flood elevation;





- (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 a 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. Adequate drainage shall be provided to reduce exposure to flood hazards and all public utilities and facilities, such as sewer, gas, electrical, and water systems are located and constructed to minimize or eliminate flood damages.

#### 73.06 GENERAL STANDARDS APPLICABLE TO ALL FLOODPLAIN DISTRICTS.

- (1) GENERAL DEVELOPMENT STANDARDS. The Department shall review all permit applications to determine whether proposed building sites will be reasonably safe from flooding and assure that all necessary permits have been received from those governmental agencies whose approval is required by federal or state law.

- (a) If a proposed building site is in a flood-prone area, all new construction and substantial improvements shall:
  - 1. be designed and anchored to prevent flotation, collapse, or lateral movement of the structure resulting from hydrodynamic and hydrostatic loads, including the effects of buoyancy;
  - 2. be constructed with flood-resistant materials;
  - 3. be constructed by methods and practices that minimize flood damages; and
  - 4. have mechanical and utility equipment elevated to or above the flood protection elevation.
  
- (b) If a subdivision or other proposed new development is in a flood-prone area, the Department shall assure that:
  - 1. such proposed subdivision or other proposed new development is consistent with the need to minimize flood damage within the flood-prone area;
  - 2. public utilities and facilities such as sewer, gas, electrical, and water systems are located and constructed to minimize or eliminate flood damage; and
  - 3. adequate drainage is provided to reduce exposure to flood hazards.

All subdivision proposals (including manufactured home parks) shall include regional flood elevation and floodway data for any development that meets the subdivision definition of this ordinance and all other requirements in Section 73.20 of this Code.

(2) HYDRAULIC AND HYDROLOGIC ANALYSES.

- (a) 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. Cause any increase in the regional flood height due to floodplain storage area lost.
  
- (b) The Department shall deny permits if it is determined the proposed development will obstruct flow or cause any increase in the regional flood height, based on the officially adopted FIRM or other adopted map, unless the map is amended under the provisions of Section 73.26 of this Code.

(3) WATERCOURSE ALTERATIONS. No Shoreland/Floodplain Zoning 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 standards of Section 73.06(1) of this Code must be met and 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 apply for a Letter of Map

Revision (LOMR) from FEMA. Any such alterations must be reviewed and approved by FEMA and the DNR through the Letter of Map Change (LOMC) process.

(4) WIS. STAT. CHAPTERS 30 and 31 DEVELOPMENT.

Development which requires a permit from the Department, 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 floodplain zoning ordinance are made according to Section 73.26 of this Code.

(5) 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 Department of Agriculture, Trade and Consumer Protection;
- (b) A Shoreland/Floodplain Zoning Permit for the campground is issued by the Department;
- (c) The character of the river system and the campground elevation are such that a 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, the Department, 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, 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 calendar year, at which time the agreement shall be reviewed and updated - by the officials identified in subsection (d)., above, to remain in compliance with all applicable regulations, including those of the state Department of Agriculture, Trade and Consumer Protection and all other applicable regulations;
- (f) All mobile recreational vehicles placed on site must meet one of the following:
  - 1. Be fully licensed, if required, and ready for highway use; or
  - 2. Not occupy any site in the campground for more than 180 consecutive days, at which time the recreational vehicle must be removed from the floodplain for a minimum of 24 hours; or
  - 3. Meet the requirements in either Sections 73.07, 73.10, 73.11 or 73.13 of this code, for the floodplain district in which the structure is located.

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.

- (g) 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 consistent with Section 73.06(5)(f) and shall ensure compliance with all the provisions of this section;

- (h) The Department shall monitor the limited authorizations issued by the campground operator to assure compliance with the terms of this section;
- (i) 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; and
- (j) All service facilities, including but not limited to refuse collection, electrical service, gas lines, propane tanks, sewage systems and wells shall be properly anchored and placed at or floodproofed to the flood protection elevation; and
- (k) Standards for structures in a campground:
  - 1. All structures must comply with Section 73.06(5) or meet the applicable requirements in Sections 73.07, 73.10, 73.11 or 73.13 of this Code for the floodplain district in which the structure is located;
  - 2. A portable deck or landing may be allowed for a camping unit for each entry provided that the landing is not permanently attached to the ground or camping unit, is no more than 200 square feet in size, shall be portable, contain no walls or roof, and can be removed from the campground by a truck or trailer. Sections of such portable landings may be placed together to form a single deck not greater than 200 square feet at one entry point. Provisions for the removal of these temporary landings during flood events must be addressed within the written agreement with the Department compliant with Section 73.06(5)(d). Any such structure may be constructed at elevations lower than the flood protection elevation but must not obstruct flow of flood waters or cause any increase in flood levels during the occurrence of the regional flood.
  - 3. Decks or patios that are constructed completely at grade may be allowed but must also comply with the Sheboygan County Shoreland Ordinance.
  - 4. Camping equipment and appurtenant equipment in the campground may be allowed provided that the equipment is not permanently attached to the ground or camping unit, is not used as a habitable structure, and must not obstruct flow of flood waters or cause any increase in flood levels during the occurrence of the regional flood. Provisions for the removal of this equipment during flooding events shall be addressed within the written agreement with the Department under Section 73.06(5)(d) of this Code.
  - 5. Once a flood warning has been issued for the campground, the campground owner or the designated operator shall ensure that all persons, camping units, decks, camping equipment and appurtenant equipment in the campground shall be evacuated within the timelines specified within the written agreement with the Department under Section 73.06(5)(d) of this Code.
- (l) A Shoreland/Floodplain Zoning Permit shall be obtained as provided under

Section 73.20 before any development; repair, modification, or addition to an existing structure; or change in the use of a building or structure, including sewer and water facilities, may be initiated.

#### 73.07 FLOODWAY DISTRICT (FW).

- (1) **APPLICABILITY.** This Section applies to all floodway areas on the floodplain zoning 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 73.08 and 73.09 of this Code; and
  - all permits or certificates have been issued according to Section 73.19 of this Code:
  - (a) Agricultural uses, such as farming, outdoor plant nurseries, horticulture, viticulture, and wild crop harvesting.
  - (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.
  - (h) Portable latrines that are removed prior to flooding and systems associated with recreational areas and Department-approved campgrounds that meet the applicable provisions of local ordinances and Wis Admin. SPS 383.
  - (i) Public or private wells used to obtain potable water for recreational areas that meet the requirements of local ordinances and Wis. Admin. chs. NR 811 and NR 812.
  - (j) Wastewater treatment ponds or facilities permitted under ~~s.~~ Wis. Admin. Code § NR 110.15(3)(b).
  - (k) Sanitary sewer or water supply lines to service existing or proposed development located outside the floodway that complies with the regulations for the floodplain area occupied.

## 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 cause any increase in flood elevations upstream or downstream 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, do not have a high flood damage potential, and are constructed to minimize flood damage;
  - (b) The structures shall have a minimum of two openings on different walls having a total net area not less than one square inch for every square foot of enclosed area, and the bottom of all such openings being no higher than one foot above grade. The openings shall be equipped with screens, louvers, or other coverings or devices provided that they permit the automatic entry and exit of floodwaters;
  - (c) The structures must be anchored to resist flotation, collapse, and lateral movement;
  - (d) Mechanical and utility equipment must be elevated or flood proofed to or above the flood protection elevation; and
  - (e) The structures shall not obstruct flow of flood waters or cause any increase in flood levels during the occurrence of the regional flood.
- (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. SPS 383;
- (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 73.19 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. Any existing structure in the floodfringe must also meet the requirements of Section 73.14 of this Code.



- (b) Residential Uses. Any habitable structure including a manufactured/ home which is to be newly constructed or moved into the floodfringe area shall meet or exceed the following standards.
1. All new construction including placement of a manufactured home and substantial improvement of residential structures shall have the lowest floor elevated to at or above the flood protection elevation on fill. The fill around the structure shall be one foot (1') or more above the regional flood elevation extending at least fifteen feet (15') beyond the limits of the structure; No area may be removed from the floodfringe district unless it can be shown to meet Section 73.05(5) of this code.
  2. Notwithstanding section 73.10(3)(a) a basement or crawlspace floor may be placed at the regional flood elevation if it is designed to make all portions of the structure below the flood protection elevation watertight with walls substantially impermeable to the passage of water and with structural components having the capability of resisting hydrostatic and hydrodynamic loads and effects of buoyancy. No floor of any kind 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 (4), below.
  4. In developments where existing street or sewer line elevations make compliance with Subsection (3) 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 DNR approved emergency evacuation plan that follows acceptable mitigation planning guide lines.
- (c) Accessory Structures or Uses. Substantial improvements of accessory structures and new construction shall be constructed on fill with the lowest floor at or above the regional flood elevation.
- (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 have the lowest floor elevated to or above the flood protection level or meet the floodproofing standards in Section 73.24 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 73.24 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 73.24 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 sewage disposal systems shall be designed to minimize or eliminate infiltration of flood water into the system pursuant to Section 73.24 of this Code to the flood protection elevation and shall meet the provisions of all local ordinances and Wis. Admin. Code Ch. SPS 383.
- (i) Wells. All wells shall be designed to minimize or eliminate infiltration of flood water into the system pursuant to Section 73.24 of this Code to the flood protection elevation and shall meet the provisions of Wis. Admin. Code Chs. 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 Homes.
  - 1. Owners or operators of all manufactured 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 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 home parks, including new manufactured home parks and all single units outside of existing

parks, all new, replacement, and substantially improved manufactured 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 must be on site for less than one hundred eighty (180) consecutive days and be fully licensed and ready for highway use or 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 mapped as A, AO, AH, and in AE zones within which the floodway is not delineated on the Flood Insurance Rate Maps identified in Section 73.05(2).
- (2) FLOODWAY BOUNDARIES. For proposed development in Zone A, or in zone AE within which a floodway is not delineated on the Flood Insurance Rate Map identified in Section 73.05(2), the boundaries of the regulatory floodway shall be determined pursuant to Section 73.11(5) of this code. If the development is proposed to encroach upon the regulatory floodway, the development is subject to the standards of Section 73.07 of this code. If the development is located entirely within the floodfringe, the development is subject to the standards of Section 73.10 of this code.
- (3) 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 uses 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(4) of this Code provided that all permits or certificates required under Section 73.19 of this Code have been issued.
- (4) STANDARDS FOR DEVELOPMENT IN THE GENERAL FLOODPLAIN DISTRICT. Sections 73.07 through 73.09 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.
  - (a) New construction and substantial improvement of structures in zone AO shall have the lowest floor, including basement, elevated:
    - 1. To or above the depth, in feet, as shown on the FIRM above the highest adjacent natural grade; or
    - 2. If the depth is not specified on the FIRM, two (2) feet above the highest adjacent natural grade or higher.
  - (b) New construction and substantial improvement of structures in zone AH shall have the lowest floor, including basement, elevated to or above the flood protection elevation.
  - (c) In AO/AH zones, provide adequate drainage paths to guide floodwaters around structures.

- (d) All development in zones AO and zone AH shall meet the requirements of Section 73.10 of this code.
- (5) 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 and the flood zone as shown on the FIRM;
  - (b) Require the applicant 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 Hydrologic and Hydraulic Study as specified in Section 73.20(3) of this Code;
    - 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. Specifications for building construction and materials, floodproofing, filling, dredging, channel improvement, storage, water supply and sanitary facilities.

#### 73.12 FLOOD STORAGE DISTRICT (FSD).

The flood storage district delineates that portion of the floodplain where storage of floodwaters has been taken into account and is relied upon to reduce the regional flood discharge. The district protects the flood storage areas and assures that any development in the storage areas will not decrease the effective flood storage capacity which would cause higher flood elevations.

##### (1) APPLICABILITY.

The provisions of this section apply to all areas within the Flood Storage District (FSD), as shown on the official floodplain zoning maps.

##### (2) PERMITTED USES.

Any use or development which occurs in a flood storage district must meet the applicable requirements in Section 73.10(3) of this Code.

##### (3) STANDARDS FOR DEVELOPMENT IN FLOOD STORAGE DISTRICTS.

- (a) Development in a flood storage district shall not cause an increase equal or greater than 0.00 of a foot in the height of the regional flood.
- (b) No development shall be allowed which removes flood storage volume unless an equal volume of storage as defined by the pre-development ground surface and the regional flood elevation shall be provided in the immediate area of the proposed development to compensate for the volume

of storage, which is lost, (compensatory storage). Excavation below the groundwater table is not considered to provide an equal volume of storage.

- (c) If compensatory storage cannot be provided, the area may not be developed unless the entire area zoned as flood storage district – on this waterway – is rezoned to the floodfringe district. This must include a revision to the floodplain study and map done for the waterway to revert to the higher regional flood discharge calculated without floodplain storage, as per Section 73.26, Amendments, of this code.
- (d) No area may be removed from the flood storage district unless it can be shown that the area has been filled to the flood protection elevation and is contiguous to other lands lying outside of the floodplain.

### 73.13 COASTAL FLOODPLAIN DISTRICT (CFD).

#### (1) APPLICABILITY.

The provisions of this section apply to all Coastal Floodplain Districts (CFD) shown on the floodplain zoning maps, which includes zones V, V1-30, and VE. Where a floodway shown on the floodplain zoning maps, or a floodway determined under in Section 73.05(3)(e) or a regulatory floodway identified pursuant to Section 73.11, extends into a Coastal Floodplain District, development shall comply with the standards of Sections 73.07 and this Section.

#### (2) STANDARDS FOR DEVELOPMENT IN THE COASTAL FLOODPLAIN DISTRICT.

Development in the CFD district shall meet the requirements of Section 73.06, as well as the following:

- (a) New construction shall be located landward of the ordinary high-water mark.
- (b) Bulkheads, seawalls, revetments, and other erosion control measures shall not be connected to the foundation or superstructure of a building and shall be designed and constructed so as not to direct floodwaters or increase flood forces or erosion impacts on the foundation or superstructure of any building.
- (c) Man-made alterations of sand dunes are prohibited unless an engineering report documents that the alterations will not increase potential flood damage by reducing the wave and flow dissipation characteristics of the sand dunes.
- (d) The use of fill for structural support of buildings is prohibited. Non-structural fill shall be permitted only if an engineering report demonstrates that the fill will not cause runup, ramping, or deflection of floodwaters that cause damage to buildings.
- (e) New construction and substantial improvement of buildings shall be elevated, consistent with Wis. Admin. Code § SPS 321.34, on pilings or columns so that the bottom of the lowest horizontal structural member of the lowest floor (excluding the pilings or columns) is elevated to or above the flood plain elevation.
  - 1. The pile or column foundation and structure attached thereto shall be anchored to resist flotation, collapse, and lateral movement due to the effects of wind and water loads acting simultaneously on all building components. Water loading values shall be those

associated with the base flood. Wind loading values shall be those defined according to American Society of Civil Engineers 7-16 *Minimum design loads and associated criteria for buildings and other structures*, or other equivalent standard.

2. A registered professional engineer or architect shall develop or review the structural design, specifications, and plans for the construction, and shall certify that the design and methods of construction to be used are in accordance with accepted standards of practice for meeting the provisions of this subsection (e).

(f) New construction and substantial improvement of buildings shall have the space below the lowest floor either free of obstruction or constructed with non-supporting breakaway walls, open wood latticework, or insect screening intended to collapse without causing collapse, displacement, or other structural damage to the elevated portion of the building or supporting foundation system.

1. For the purpose of this subsection, a breakaway wall shall have a design safe loading resistance of not less than ten (10) and not more than twenty (20) pounds per square foot.
2. Use of breakaway walls which exceed a design safe loading resistance of twenty (20) pounds per square foot (either by design or where so required by local or state codes) may be permitted only if a registered professional engineer or architect certifies that the designs proposed meet all of the following conditions:
  - A. Breakaway wall collapse shall result from a water load less than that which would occur during the base flood; and
  - B. The elevated portion of the building and supporting foundation system shall not be subject to collapse, displacement, or other structural damage due to the effects of wind and water loads acting simultaneously on all building components (structural and non-structural). Water loading values shall be those associated with the base flood. Wind loading values shall be those defined according to American Society of Civil Engineers 7-16 *Minimum design loads and associated criteria for buildings and other structures*, or equivalent standard.
3. All space enclosed by breakaway walls, open wood latticework, or insect screening below the lowest floor shall be used solely for parking, building access, or storage.

(g) Requirements within flood-prone areas:

1. New and replacement water supply systems to be designed to minimize or eliminate infiltration of flood waters into the systems; and

2. New and replacement sanitary sewage systems to be designed to minimize or eliminate infiltration of flood waters into the systems and discharges from the systems into flood waters and onsite waste disposal systems to be located to avoid impairment to them or contamination from them during flooding.
- (h) All mobile recreation vehicles must be on site for less than 180 consecutive days and be either:
1. fully licensed and ready for highway use; or
  2. shall meet the standards of this Section 73.13 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 type utilities and security devices and has no permanently attached additions.

Manufactured homes placed or substantially improved within the Coastal Floodplain District shall meet the standards of Sections 73.13(2)(a) through 73.13(2)(h) of this Code.

#### 73.14 GENERAL PROVISIONS FOR NONCONFORMING USES.

- (1) **APPLICABILITY.** The standards in this section shall apply to all uses and buildings that do not conform to the provisions contained within a floodplain zoning ordinance or with Wis. Stat. § 87.30, Wis. Admin. Code § 116.12-14 and 44 C.F.R 59-72; These standards shall apply to all modifications or additions to any nonconforming use or structure and to the use of any structure or premises which was lawful before the passage of this ordinance or any amendment thereto. A party asserting existence of a lawfully established nonconforming use or structure has the burden of proving that the use or structure was compliant with the floodplain zoning ordinance in effect at the time the use or structure was created.
- (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. Any costs associated with the repair of a damaged structure are not considered ordinary maintenance.

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) No maintenance on a per event basis to any nonconforming structure or any structure with a nonconforming use, the cost of which 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. Maintenance to any nonconforming structure, which does not exceed 50% of the present equalized assessed value on a per event basis, does not count against the cumulative calculations over the life of the structure for substantial improvement calculations.
- (f) If on a per event basis the total value of the work being done under (d) and (e) equals or exceeds fifty percent (50%) of the present equalized assessed value the work shall not be permitted unless the entire structure is permanently changed to a conforming structure with a conforming use in compliance with the applicable requirements of this Ordinance. Contiguous dry land access must be provided for residential and commercial uses in compliance with Section 73.10(3)(b) of this Code.
- (g) Except as provided in Subsection (h), if any nonconforming structure or any structure with a nonconforming use is destroyed or is substantially damaged, it cannot be replaced, reconstructed, or rebuilt unless the use and the structure meet the current Ordinance requirements. A structure is considered substantially damaged if the total cost to restore the structure to its pre-damaged condition equals or exceeds fifty percent (50%) of the structure's present equalized assessed value.
- (h) For nonconforming buildings that are substantially damaged or destroyed by a non-flood disaster, the repair or reconstruction of any such nonconforming building shall be permitted in order to restore it to the size and use in effect prior to the damage event, provided that the minimum requirements below are met and all required permits have been granted prior to the start of construction.



1. Residential Structures

- A. Shall have the lowest floor, including basement, elevated to or above the base flood elevation using fill, pilings, columns, posts or perimeter walls. Perimeter walls must meet the requirements of Section 73.24(2) of this Code.
- B. Shall be anchored to prevent flotation, collapse, or lateral movement of the structure resulting from hydrodynamic and hydrostatic loads, including the effects of buoyancy and shall be constructed with methods and materials resistant to flood damage.
- C. Shall be constructed with electrical, heating, ventilation, plumbing and air conditioning equipment and other service facilities that are designed and/or elevated so as to prevent water from entering or accumulating within the components during conditions of flooding.
- D. In A zones, obtain, review and utilize any flood data available from a federal, state or other source.
- E. In AO zones with no elevations specified, shall have the lowest floor, including basement, meet the standards in Section 73.11(4)(a) of this Code.
- F. In AO zones, shall have adequate drainage paths around structures on slopes to guide floodwaters around and away from the structure.

2. Nonresidential Structures

- A. Shall meet the requirements of Section 73.14(2)(h)1.A-F of this Code.
- B. Shall either have the lowest floor, including basement, elevated to or above the regional flood elevation; or, together with attendant utility and sanitary facilities, shall meet the standards in Section 73.24(1) or (2) of this Code.
- C. In AO zones with no elevation specified, shall have the lowest floor, including basement, meet the standards in Section 73.11(4)(a) of this Code.

- (3) 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 73.24 of this Code are used. Repair or rehabilitation of historic structures shall be exempt from the development standards of Section 73.14(2)(h)1 of this Code. If it is determined that the proposed repair or rehabilitation will not preclude the structure's continued designation as a historic structure and is the minimum necessary to preserve the historic character and design of the structure.

73.15 NONCONFORMING USES AND STRUCTURES IN FLOODWAY DISTRICT.

- (1) No modification or addition shall be allowed to any nonconforming structure or any structure with a nonconforming use in a floodway district unless such modification or addition:
  - (a) Has been granted a permit or variance which meets all Ordinance requirements;
  - (b) Meets the requirements of Section 73.14, 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 73.24 of this Code by means other than the use of fill to the flood protection elevation;
  - (e) If any part of the foundation below the flood protection elevation is enclosed, the following standards shall apply:
    1. The enclosed area shall be designated by a registered architect or engineer to allow for the efficient entry and exit of flood waters without human intervention. A minimum of two (2) openings must be provided with a minimum net area of at least one (1) square inch for every one (1) square foot of enclosed area. The lowest part of the opening can be no more than twelve (12) inches above the adjacent grade;
    2. The parts of the foundation located below the flood protection elevation must be constructed of flood-resistant materials;
    3. Mechanical and utility equipment must be elevated or floodproofed to or above the flood protection elevation; and
    4. The use must be limited to parking, building access, 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 district. Any replacement, repair, or maintenance of an existing on-site sewage disposal system in the floodway district shall meet the applicable requirements of all municipal ordinances and Wis. Admin. Code Ch. SPS 383.
- (3) No new well or modification to an existing well used to obtain potable water shall be allowed in the floodway district. Any replacement, repair, or maintenance of an existing well in a floodway area shall meet the applicable requirements of all municipal ordinances, Section 73.24(3) of this Code and Wis. Admin. Code Chs. NR811 and NR 812.

#### 73.16 NONCONFORMING USES AND STRUCTURES IN FLOODFRINGE DISTRICT.

- (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 meets the requirements of Section 73.10(3) of this Code except where subsection (2), below, 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 Adjustment, using the procedures established in Section 73.22 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) 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, Section 73.24(3) of this Code and Wis. Admin. Code Ch. SPS 383.
- (4) All new wells or additions to, replacement, repair, or maintenance of a well shall meet the applicable provisions of this Code and Wis. Admin. Code Chs. NR 811 and NR 812.

#### 73.17 NONCONFORMING STRUCTURES IN FLOOD STORAGE DISTRICTS.

No modifications or additions shall be allowed to any nonconforming structure in a flood storage area unless the standards outlined in 73.12 are met.

#### 73.18 NONCONFORMING STRUCTURES IN CFD.

- (1) New construction and substantial improvement shall meet the standards of Section 73.13 of this Code.
- (2) No structural repairs, modifications or additions to an existing building, the cost of which exceeds, over the life of the existing building, 50% of its present equalized assessed value, may be allowed in a coastal floodplain area unless the entire building is permanently changed to conform with the standards prescribed in Section 73.13 of this Code.

#### 73.19 ADMINISTRATION.

- (1) The Department, through its zoning staff and under the supervision of the Planning, Resources, Agriculture, and Extension (PRAE) 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.
- (c) Inspect and assess all damaged floodplain to determine if substantial damage to the structures has occurred.
- (d) 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.
  - 5. Floodproofing certificates.
  - 6. List of nonconforming structures and uses.
  - 7. In the Coastal Floodplain District, documentation of the certified elevation of the bottom of the lowest horizontal structural member of new construction and substantial improvements.
  - 8. In the Coastal Floodplain District, certification by a licensed professional engineer or architect where required for new construction and substantial improvement under Section 73.13 of this Code.
- (e) 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.
  - 3. Copies of substantial damage assessments performed and all related correspondence concerning the assessments.
- (f) Investigate, prepare reports, and report violations of this Ordinance to the PRAE Committee and the Corporation Counsel for prosecution. Copies of the records shall also be sent to the DNR district office.
- (g) Submit copies of text and map amendments to the FEMA regional office.

73.20 SHORELAND/FLOODPLAIN ZONING PERMIT. A Shoreland/Floodplain Zoning Permit shall be obtained before any new development, repair, modification, or addition to an existing structure 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 from the adopted study either National Geodetic and Vertical Datum (NGVD) or North American Vertical Datum (NAVD);
  - (h) Data sufficient to determine the regional flood elevation in NGVD or NAVD at the location of the development and to determine whether or not the requirements of 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) HYDRAULIC AND HYDROLOGIC STUDIES TO ANALYZE DEVELOPMENTS.
- (a) All hydraulic and hydrologic studies shall be completed under the direct supervision of a professional engineer registered in the State of Wisconsin. The study contractor shall be responsible for the technical adequacy of the study. All studies shall be reviewed and approved by the DNR. The following apply to zone A floodplains and in AE zones within which a floodway is not delineated.
    - 1. Hydrology. The appropriate method shall be based on the standards in Wis. Admin. Code § Ch. NR 116.07(3), *Hydrologic Analysis: Determination of Regional Flood Discharge*, or any subsequent amendment.
    - 2. Hydraulic Modeling. The regional flood elevation shall be based on the standards in Wis. Admin. Code § Ch. NR 116.07(4), *Hydraulic Analysis: Determination of Regional Flood Elevation*, or any subsequent amendment and the following:

- A. Determination of the required limits of the hydraulic model shall be based on detailed study information for downstream structures (dam, bridge, culvert) to determine adequate starting Water Surface Elevation for the study.
  - B. Channel sections must be surveyed.
  - C. Minimum four (4) foot contour data in the overbanks shall be used for the development of cross section overbank and floodplain mapping.
  - D. A maximum distance of five hundred (500) feet between cross sections is allowed in developed areas with additional intermediate cross sections required at transitions in channel bottom slope including a survey of the channel at each location.
  - E. The most current version of Hydrologic Engineering Center's River Analysis System (HEC-RAS) software shall be used.
  - F. A survey of bridge and culvert openings and the top of the road is required at each structure.
  - G. Additional cross-sections are required at the downstream and upstream limits of the proposed development and any necessary intermediate locations based on the length of the reach if greater than five hundred (500) feet.
  - H. Standard accepted engineering practices shall be used when assigning parameters for the base model such as flow, Manning's N values, expansion and contraction coefficients, or effective flow limits. The base model shall be calibrated to past flooding data such as high water marks to determine the reasonableness of the model results. If no historical data is available, adequate justification shall be provided for any parameters outside standard accepted engineering practices.
  - I. The model must extend past the upstream limit of the difference in the existing and proposed flood profiles in order to provide a tie-in to existing studies. The height difference between the proposed flood profile and the existing study profiles shall be no more than 0.00 feet.
3. Mapping. A work map of the reach studied shall be provided showing all cross-section locations, floodway/floodplain limits based on best available topographic data, geographic limits of the proposed development, and whether the proposed development is located in the floodway.
- A. If the proposed development is located outside the floodway, then it is determined to have no impact on the regional flood elevation.
  - B. If any part of the proposed development is in the floodway, it must be added to the base model to show the difference between existing and proposed conditions. The study must ensure that all coefficients remain the same as in the existing

model unless adequate justification based on standard accepted engineering practices is provided.

(b) Zone AE Floodplains.

1. Hydrology. If the proposed hydrology will change the existing study, the appropriate method to be used shall be based on Wis. Admin. Code § Ch. NR 116.07(3), *Hydrologic Analysis: Determination of Regional Flood Discharge*, or any subsequent amendment.
2. Hydraulic Modeling. The regional flood elevation shall be based on the standards in Wis. Admin. Code § Ch. NR 116.07(4), *Hydraulic Analysis: Determination of Regional Flood Elevation*, or any subsequent amendment and the following:
  - A. Duplicate Effective Model. The effective model shall be reproduced to ensure correct transference of the model data and to allow integration of the revised data to provide a continuous FIS model upstream and downstream of the revised reach. If data from the effective model is available, models shall be generated that duplicate the FIS profiles and the elevations shown in the Floodway Data Table in the FIS report to within 0.1 foot.
  - B. Corrected Effective Model. The Corrected Effective Model shall not include any man-made physical changes since the effective model date, but shall import the model into the most current version of HEC-RAS for Department review.
  - C. Existing (Pre-Project Conditions) Model. The Existing Model shall be required to support conclusions about the actual impacts of the project associated with the Revised (Post-Project) Model or to establish more up-to-date models on which to base the Revised (Post-Project) Model.
  - D. Revised (Post-Project Conditions) Model. The Revised (Post-Project Conditions) Model shall incorporate the Existing Model and any proposed changes to the topography caused by the proposed development. This model shall reflect proposed conditions.
  - E. All changes to the Duplicate Effective Model and subsequent models must be supported by certified topographic information, bridge plans, construction plans and survey notes.
  - F. Changes to the hydraulic models shall be limited to the stream reach for which the revision is being requested. Cross-sections upstream and downstream of the revised reach shall be identical to those in the effective model and result in water surface elevations and top widths computed by the revised models matching those in the Effective Models upstream and downstream of the revised reach as required. The Effective Model shall not be truncated.
3. Mapping. Maps and associated engineering data shall be submitted to the DNR for review which meet the following conditions:

- A. Consistency between the revised hydraulic models, the revised floodplain and floodway delineations, the revised flood profiles, topographic work map, annotated FIRMs and/or Flood Boundary Floodway Maps (FBFMs), construction plans, and bridge plans.
  - B. Certified topographic map of suitable scale, contour interval, and a planimetric map showing the applicable items. If a digital version of the map is available, it may be submitted in order that the FIRM may be more easily revised.
  - C. Annotated FIRM panel showing the revised 1% and .2% annual chance floodplains and floodway boundaries.
  - D. If an annotated FIRM and/or FBFM and digital mapping data (Geographic Information System (GIS) or Computer Aided Design and Drafting (CADD)) system are used then all supporting documentation or metadata must be included with the data submission along with the Universal Transverse Mercator (UTM) projection and State Plan Coordinate System in accordance with FEMA mapping specifications.
  - E. The revised floodplain boundaries shall tie into the effective floodplain boundaries.
  - F. All cross-sections from the Effective Model shall be labeled in accordance with the effective map and a cross-section lookup table shall be included to relate to the model input numbering scheme.
  - G. Both the current and proposed floodways shall be shown on the map.
  - H. The stream centerline or profile baseline used to measure stream distances in the model shall be visible on the map.
- (4) EXPIRATION. All permits issued under the authority of this Ordinance shall expire one hundred eighty (180) days after the date of issue and the work permitted shall be completed prior to the expiration date. If the permitted work has not started within one hundred eighty (180) days of the permit date, the development must comply with any regulation, including any revision to the FIRM or FIS, that took effect after the permit date. Extension for additional periods of up to one hundred eighty (180) days 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 Adjustment reviews required pursuant to this Ordinance shall pay a fee to the Department according to the fee schedule on file in the Department.



If in the determination of the Department a permit applicant contemplates construction in an amount of no more than Two Thousand Dollars (\$2,000.00) 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 73.24 of this Code.
  - (e) Where applicable pursuant to 73.11(4), the applicant must submit a certification by a registered professional engineer or surveyor of the elevation of the bottom of the lowest horizontal structural member supporting the lowest floor (excluding pilings or columns), and an indication of whether the structure contains a basement.
  - (f) Where applicable pursuant to 73.11(4), the applicant must submit certifications by a registered professional engineer or architect that the structural design and methods of construction meet accepted standards of practice as required by s. 73.11(4).
- (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.

#### 73.21 PRAE COMMITTEE.

- (1) The County Board through its PRAE Committee, shall:
- (a) Oversee the functions of Department staff; and
  - (b) Review and advise the County Board on all proposed amendments to this Ordinance, maps, and text.

- (c) Publish adequate notice pursuant to Ch. 985, Stats., specifying the date, time, place, and subject of the public hearing or delegate such responsibility to Department Staff.
- (2) The PRAE Committee shall not:
- (a) Grant variances to the terms of the Ordinance in place of action by the Board of Adjustment; or
  - (b) Amend the text or zoning maps which may only be done by the County Board.

73.22 BOARD OF ADJUSTMENT. The Board of Adjustment (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 Adjustment 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 standards of this Chapter.
- (2) APPEALS TO THE BOARD OF ADJUSTMENT.
- (a) Appeals to the Board of Adjustment 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 73.22(3) of this Code.
  - B. Decide variance applications according to Section 73.22(4) of this Code.
  - C. Decide appeals of permit denials according to Section 73.23 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 73.26 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 applicant has shown good and sufficient cause for issuance of the variance;
  2. Failure to grant the variance would result in exceptional hardship;
  3. Granting the variance will not result in additional threats to public safety, extraordinary expense, create a nuisance, cause fraud on or victimization of the public, or conflict with existing local laws or ordinances;
  4. The variance granted is the minimum necessary, considering the flood hazard, to afford relief.
- (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 73.26(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 and flood insurance premiums could increase up to \$25.00 per \$100.00 of coverage. A copy shall be maintained with the variance record.

#### 73.23 TO REVIEW APPEALS OF PERMIT DENIALS.

- (1) The Board of Adjustment shall review all data related to the appeal. This may include:
  - (a) Permit application data listed in Section 73.20 of this Code.
  - (b) Floodway/floodfringe determination data in Section 73.11(5).
  - (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 73.22 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 may only be allowed after amending the flood profile and map and all appropriate legal arrangements are made with all adversely affected property owners as per the requirements of Section 73.26 of this Code.
  - (b) Grant the appeal where the Board agrees that the data properly demonstrates that the project does not cause an increase provided no other reasons for denial exist.

#### 73.24 FLOODPROOFING.

- (1) No permit or variance shall be issued for a non-residential structure designed to be watertight below the regional flood elevation unless the applicant first submits a plan certified by a registered professional engineer or architect that the floodproofing measures will protect the structure or development to the flood protection elevation and submits a FEMA Floodproofing Certificate. Floodproofing is not an alternative to the department standards in 73.06, 73.07, 73.08, 73.11, or 73.13.
- (2) For a structure designed to allow the entry of floodwater, no permit or variance shall be issued until the applicant submits a plan either:
  - (a) Certified by a registered professional engineer or architect; or
  - (b) Meets or exceed the following standards:
    - 1. A minimum of two (2) openings having a total net area of not less than one (1) square inch for every one (1) square foot of enclosed area subject to flooding;
    - 2. The bottom of all openings shall be no higher than one (1) foot above grade; and
    - 3. Openings may be equipped with screens, louvers, valves, or other coverings or devices provided that they permit the automatic entry and exit of floodwaters.
- (3) 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) Minimize or eliminate infiltration of flood waters.
- (e) Minimize or eliminate discharges into flood waters.
- (f) Placement of essential utilities to or above the flood protection elevation; and
- (g) If any part of the foundation below the flood protection elevation is enclosed, the following standards shall apply:
  - 1. The enclosed area shall be designed by a registered architect or engineer to allow for the efficient entry and exit of flood waters without human intervention. A minimum of two (2) openings must be provided with a minimum net area of at least one (1) square inch for every one (1) square foot of the enclosed area. The lowest part of the opening can be no more than twelve (12) inches above the adjacent grade;
  - 2. The parts of the foundation located below the flood protection elevation must be constructed of flood-resistant materials;
  - 3. Mechanical and utility equipment must be elevated or floodproofed to or above the flood protection elevation; and
  - 4. The use must be limited to parking, building access or limited storage.

73.25 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.

73.26 AMENDMENTS.

- (1) Obstructions or increases 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 73.26(2) of this Code.
  - (a) In AE zones with a mapped floodway, no obstructions or increases shall be permitted unless the applicant receives a Conditional Letter of Map Revision from FEMA and amendments are made to this Ordinance, the official zoning maps, floodway lines, and water surface profiles, in accordance with Section 73.26(2) of this Code. Any such alterations must be reviewed and approved by FEMA and DNR.
  - (b) In A zones, increases equal to or greater than 1.0 foot may only be permitted if the applicant receives a Conditional Letter of Map Revision from FEMA and amendments are made to this Ordinance, the official floodplain maps, floodway lines, and water surface profiles, in accordance with Section 73.26(2) of this Code.

- (2) 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 fill or floodway encroachment that obstructs flow causing any increase in the regional flood height;
  - (b) Any change to the floodplain boundaries and/or watercourse alterations on the FIRM;
  - (c) Any changes to any other officially adopted floodplain maps listed in Section 73.05(2)(b) of this Code;
  - (d) 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.
  - (e) Correction of discrepancies between the water surface profiles and floodplain maps;
  - (f) 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; and
  - (g) 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.
- (3) 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(5) and 73.20 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 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.

73.27 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 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.

73.28 **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) **ALTERATION.** An enhancement, upgrading, or substantial change or modification, other than an addition or repair, to a dwelling or to electrical, plumbing, heating, ventilating, air conditioning, and other systems within a structure.
- (5) **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.
- (6) **AREA OF SHALLOW FLOODING.** A designated AO, AH, AR/AO, or VO zone on a community's Flood Insurance Rate Map (FIRM) with a one percent (1%) or greater annual chance of flooding to an average depth of one (1) to three (3) feet where a clearly defined channel does not exist, where the path of flooding is unpredictable, and where velocity flood may be evident. Such flooding is characterized by ponding or sheet flow.
- (7) **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.
- (8) **BASE FLOOD ELEVATION (BFE).** An elevation equal to that which reflects the height of the base flood.
- (9) **BASEMENT.** Any enclosed area of a building having its floor sub-grade, i.e., below ground level on all sides.
- (10) **BREAKAWAY WALL.** A wall that is not part of the structural support of the building and is intended through its design and construction to collapse under specific lateral loading forces, without causing damage to the elevated portion of the building or supporting foundation system.
- (11) **BUILDING.** See **STRUCTURE**.
- (12) **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.



- (13) **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.
- (14) **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.
- (15) **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.
- (16) **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.
- (17) **CHANNEL.** A natural or artificial watercourse with definite bed and banks to confine and conduct normal flow of water.
- (18) **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.
- (19) **COASTAL FLOODPLAIN.** An area along the coast of Lake Michigan or Lake Superior which is inundated by the regional flood and which is also subject to additional hazard due to wave runup.
- (20) **COASTAL HIGH HAZARD AREA.** An area of special flood hazard extending from offshore to the inland limit of a primary frontal dune along an open coast, and any other area subject to high velocity wave action from storms.
- (21) **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 PRAE Committee. (Also called "special exception.")
- (22) **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.
- (23) **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.
- (24) **DECK.** An unenclosed exterior structure that has no roof or sides but has a permeable floor which allows the infiltration of precipitation.
- (25) **DEPARTMENT.** The Sheboygan County Planning and Conservation Department which employs 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 PRAE Committee of the Sheboygan County Board of Supervisors.

- (26) **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.
- (27) **DNR.** The Wisconsin Department of Natural Resources.
- (28) **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.
- (29) **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.
- (29) **ENCROACHMENT.** Any fill, structure, equipment, building, use, or development in the floodway.
- (30) **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.
- (31) **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.
- (32) **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).
- (33) **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.
- (34) **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.
- (35) **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.
- (36) **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.
- (37) **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.
- (38) **FLOOD INSURANCE STUDY (FIS).** 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.
- (39) **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.
- (40) **FLOODPLAIN ISLAND.** A natural geologic land formation within the floodplain that is surrounded but not covered by floodwater during the regional flood.
- (41) **FLOODPLAIN MANAGEMENT.** Policy and procedures to ensure wise use of floodplains including mapping and engineering, mitigation, education, and administration and enforcement of floodplain regulations.
- (42) **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.
- (43) **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.
- (44) **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.)

- (45) **FLOOD STORAGE.** Those floodplain areas where storage of floodwaters has been taken into account during analysis in reducing the regional flood discharge.
- (46) **FLOODWAY.** The channel of a river or stream and those portions of the floodplain adjoining the channel required to carry the regional flood discharge.
- (47) **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.
- (48) **GUESTHOUSE.** An accessory structure comprised only of a bedroom, bathroom, and sitting area but shall not be intended for more than occasional human occupancy.
- (49) **HABITABLE STRUCTURE.** Any structure or portion thereof used or designed for human habitation.
- (50) **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.
- (51) **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.
- (52) **HIGHEST ADJACENT GRADE.** The highest natural elevation of the ground surface prior to construction next to the proposed walls of a structure.
- (53) **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 preliminary 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.
- (54) **INCREASE IN REGIONAL FLOOD HEIGHT.** A calculated upward rise in the regional flood elevation equal to or greater than 0.00 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.

- (55) **LAND USE.** Any development (see definition of).
- (56) **LEVEE.** A continuous dike or embankment of earth constructed parallel to a waterway to prevent flooding of certain areas of land.
- (57) **LOWEST ADJACENT GRADE.** Elevation of the lowest grade surface that touches any of the exterior walls of a building.
- (58) **LOWEST FLOOR.** The lowest floor of the lowest enclosed area (including basement). An unfinished or flood resistant enclosure, usable solely for parking of vehicles, building access or storage in an area other than a basement area is not considered a building's lowest floor; provided that such enclosure is not built so as to render the structure in violation of the applicable non-elevation design requirements of 44 CFR 60.3. An enclosed space as provided in Section 73.13 is not considered the building's lowest floor.
- (59) **MAINTENANCE.** The act or process of restoring to original soundness, including redecorating, refinishing, non-structural repairs, or the replacement of existing fixtures, systems or equipment with equivalent fixtures, systems or structures.
- (60) **MOBILE/MANUFACTURED HOME PARK OR SUBDIVISION.** A parcel (or contiguous parcels) of land, divided into two or more manufactured home lots for rent or sale.
- (61) **MOBILE/MANUFACTURED HOME PARK OR SUBDIVISION, EXISTING.** A parcel of land, divided into two 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.
- (62) **MOBILE/MANUFACTURED HOME PARK, EXPANSION TO EXISTING.** The preparation of additional sites by the construction of facilities for servicing the lots on which the manufactured homes are to be affixed. This includes installation of utilities, construction of streets and either final site grading, or the pouring of concrete pads.
- (63) **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."
- (64) **MODEL, CORRECTED EFFECTIVE.** A hydraulic engineering model that corrects any errors that occur in the Duplicate Effective Model, adds any additional cross sections to the Duplicate Effective Model, or incorporates more detailed topographic information than that used in the current effective model.

- (65) **MODEL, DUPLICATE EFFECTIVE.** A copy of the hydraulic analysis used in the effective Flood Insurance Study and referred to as the effective model.
- (66) **MODEL, EFFECTIVE.** The hydraulic engineering model that was used to produce the current effective Flood Insurance Study.
- (67) **MODEL, EXISTING (PRE-PROJECT).** A modification of the Duplicate Effective Model or Corrected Effective Model to reflect any man-made modifications that have occurred within the floodplain since the date of the effective model but prior to the construction of the project for which the revision is being requested. If no modification has occurred since the date of the effective model, then this model would be identical to the Corrected Effective Model or the Duplicate Effective Model.
- (68) **MODEL, REVISED (POST-PROJECT).** A modification of the Existing or Pre-Project Conditions Model, Duplicate Effective Model or Corrected Effective Model to reflect revised or post-project conditions.
- (69) **MODERATE WAVE ACTION AREA (MoWA).** A special flood hazard area subject to the potential for breaking wave heights of greater than or equal to 1.5 feet, but less than 3 feet, where the primary source of flooding is astronomical tides, storm surges, seiches, and/or tsunamis. A MoWA is an area within zone AE on a FIRM that is between the inland limit of zone VE and a Limit of Moderate Wave Action, where identified. (Also known as "coastal A zone").
- (70) **NAVD or NORTH AMERICAN VERTICAL DATUM.** Elevations referenced to mean sea level datum, 1988 adjustment.
- (71) **NGVD or NATIONAL GEODETIC VERTICAL DATUM.** Elevations referenced to mean sea level datum, 1929 adjustment.
- (672) **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.

- (73) **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 Sheboygan County and includes any subsequent improvements to such structures.

- (74) **NON-FLOOD DISASTER.** A fire or an ice storm, tornado, windstorm, mudslide, or other destructive act of nature, but excludes a flood.
- (75) **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 72.22 of this Code shall not be deemed to create a "nonconforming structure.")
- (76) **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.)
- (77) **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.)
- (78) **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.
- (79) **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.
- (80) **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.
- (81) **OPEN SPACE USE.** Those uses having a relatively low flood damage potential and not involving structure.
- (82) **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.
- (83) **PERSON.** An individual or group of individuals, corporations, partnership, association, municipality, or state agency.
- (84) **PRIMARY FRONTAL DUNE.** A continuous or nearly continuous mound or ridge of sand with relatively steep seaward and landward slopes immediately landward and adjacent to the beach and subject to erosion and overtopping from high tides and waves during major coastal storms. The inland limit of the primary frontal dune occurs at the point where there is a distinct change from a relatively steep slope to a relatively mild slope.
- (85) **PRINCIPAL BUILDING.** A building in which the principal authorized use of the lot on which it is located is conducted. (See **ACCESSORY BUILDING**.)
- (86) **PRINCIPAL USE.** The primary or predominant use of any lot (e.g. residential, commercial, industrial, conservation, institutional, etc.

- (87) **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.
- (88) **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.
- (89) **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.
- (90) **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.
- (91) **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.
- (92) **SAND DUNES.** Naturally occurring accumulations of sand in ridges or mounds landward of the beach.
- (93) **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.
- (94) **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.
- (95) **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.



- (96) **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.
- (97) **STRUCTURE.** Any man-made object with form, shape, and utility, either permanently or temporarily attached to, placed upon or set into the ground, stream bed or lake bed, including, but not limited to, roofed and walled buildings, gas or liquid storage tanks, bridges, dams, and culverts.
- (98) **SUBDIVISION.** Has the meaning given in Wis. Stat. § 236.02(12).
- (99) **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.
- (100) **SUBSTANTIAL IMPROVEMENT.** Any repair, reconstruction, rehabilitation, addition or improvement of a building or structure, the cost of which equals or exceeds fifty (50) percent of the equalized assessed value of the structure before the improvement or repair is started. If the structure has sustained substantial damage, any repairs are considered substantial improvement regardless of the work performed. The term does not include either any project for the improvement of a building required to correct existing health, sanitary or safety code violations identified by the building official and that are the minimum necessary to assure safe living conditions; or any alteration of a historic structure provided that the alteration will not preclude the structure's continued designation as a historic structure.

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.

- (101) **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.
- (102) **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.
- (103) **VARIANCE.** An authorization by the Board of Adjustment 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.
- (104) **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.

- (105) **WATERSHED.** The entire region contributing runoff or surface water to a watercourse or body of water.
- (106) **WATER SURFACE PROFILE.** A graphical representation showing the elevation of the water surface of a watercourse for each position along a reach of a river stream at a certain flood flow. A water surface profile of the regional flood is used in regulating floodplain areas.
- (107) **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.
- (108) **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.
- (109) **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.)
- (110) **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.

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History: Ord. 9 (2006/07); Ord. 7 (2017/18); Ord. No. 5 (2019/20)