

**PART III**

**LAND USE  
LEGISLATION**

**Chapter 346**  
**COMPREHENSIVE PLAN**

**§ 346-1. Authority.**

**§ 346-4. Public hearing.**

**§ 346-2. Public participation.**

**§ 346-5. Plan adopted.**

**§ 346-3. Plan Commission  
recommendation.**

**[HISTORY: Adopted by the Village Board of the Village of Ontario 7-12-2004.  
Amendments noted where applicable.]**

**GENERAL REFERENCES**

Subdivision of land — See Ch. 364.

Zoning — See Ch. 370.

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**§ 346-1. Authority.**

Pursuant to § 62.23(2) and (3), Wis. Stats., the Village of Ontario is authorized to prepare and adopt a Comprehensive Plan as defined in § 66.1001(1)(a) and (2), Wis. Stats.

**§ 346-2. Public participation.**

The Village Board of the Village of Ontario, Wisconsin, has adopted written procedures designed to foster public participation in every stage of the preparation of a Comprehensive Plan as required by § 66.1001(4)(a), Wis. Stats.

**§ 346-3. Plan Commission recommendation.**

The Plan Commission of the Village of Ontario, by a majority vote of the entire Commission recorded in its official minutes, has adopted a resolution recommending to the Village Board the adoption of the document titled "Comprehensive Plan of the Village of Ontario," containing all of the elements specified in § 66.1001(2), Wis. Stats.

**§ 346-4. Public hearing.**

The Village has held at least one public hearing on this chapter, in compliance with the requirements of § 66.1001(4)(d), Wis. Stats.

**§ 346-5. Plan adopted.**

The Village Board of the Village of Ontario, Wisconsin, does, by enactment of this chapter, formally adopt the document titled "Comprehensive Plan of the Village of Ontario," pursuant to § 66.1001(4)(c), Wis. Stats.

**Chapter 350**  
**FLOODPLAIN ZONING**

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## § 350-35. Violations and penalties.

[HISTORY: Adopted by the Village Board of the Village of Ontario 7-7-1986 as Title 10, Ch. 2 of the 1986 Code. Amendments noted where applicable.]

## GENERAL REFERENCES

Building construction — See Ch. 135.  
Comprehensive Plan — See Ch. 346.

Subdivision of land — See Ch. 364.  
Zoning — See Ch. 370.

ARTICLE I  
Introduction

## § 350-1. Statutory authority.

This chapter for floodplain protection is adopted pursuant to the authorization contained in §§ 61.35, 62.23 and 87.30, Wis. Stats.

## § 350-2. Findings.

The uncontrolled use of the floodplains, rivers or streams of the Village of Ontario, Wisconsin, would adversely affect the public health, safety, convenience and general welfare and impair its tax base.

## § 350-3. Purpose.

The purpose of this chapter is to provide a uniform basis for the preparation, implementation and administration of sound floodplain regulations for all Ontario floodplains within the Village of Ontario to:

- A. Protect life, health and property;
- B. Minimize expenditures of public monies for costly flood-control projects;
- C. Minimize rescue and relief efforts, generally undertaken at the expense of the general public;
- D. Minimize business interruptions which usually result in the loss of local incomes;
- E. Minimize damage to public facilities on the floodplains, such as water mains, sewer lines, streets and bridges;
- F. Minimize the occurrence of future flood blight areas on floodplains; and

G. Discourage the victimization of unwary land and home buyers.

**§ 350-4. Title.**

This chapter shall be known as the "Floodplain Zoning Ordinance for the Village of Ontario, Vernon County, Wisconsin."

**ARTICLE II  
General Provisions**

**§ 350-5. Areas to be regulated.**

Areas regulated by this chapter include all lands within the corporate limits of the Village of Ontario, Wisconsin, that would be inundated by the regional flood defined in § 350-36, Definitions, of this chapter.

**§ 350-6. District boundaries.**

- A. Official Map. The boundary of the floodplain districts and, where shown, the floodway and flood-fringe districts shall be those areas designated as floodplains on the Flood Insurance Survey Maps and corresponding profiles contained in the Flood Insurance Study. This map, dated May 28, 1976, is the Official Floodplain Zoning Map for the community and has been approved by the Department of Natural Resources and the Federal Emergency Management Agency (FEMA) and is on file in the office of the Village Clerk-Treasurer. If more than one map is referenced, the most restrictive shall apply.
- B. Districts. The floodplain areas within the jurisdiction of this chapter are hereby divided into three districts: the floodway district (FW), flood-fringe district (FF), and general floodplain district (GFP), defined as follows:
- (1) The floodway district (FW) consists of the channel of a stream and those portions of the floodplain adjoining the channel that are required to carry and discharge the floodwaters or flood flows of any river or stream associated with the regional flood.
  - (2) The flood-fringe district (FF) consists of that portion of the floodplain between the regional flood limits and the floodway area.
  - (3) The general floodplain district (GFP) consists of the land which has been or may be hereafter covered by floodwater during the regional flood and encompasses both the floodway and flood-fringe districts.

**§ 350-7. Locating floodplain boundaries.**

- A. Where an apparent discrepancy exists between the location of the outermost boundary of the flood-fringe district or general floodplain district shown on the Official Floodplain Zoning Map and actual field conditions, the location of the district boundary line shall be

initially determined by the Zoning Administrator using the criteria set forth in Subsection B or C below. Where the Zoning Administrator finds that there is a significant difference between the district boundary shown on the map and the actual field conditions, the map shall be amended using the procedures established in Article VIII. Disputes between the Zoning Administrator and an applicant on the location of the district boundary line shall be settled according to § 350-30.

- B. Where flood profiles exist, the location of the district boundary line shall be determined by the Zoning Administrator using both the scale appearing on the map and the elevations shown on the water surface profile of the regional flood. Where a discrepancy exists between the boundary line location shown on the map and the location indicated by the regional flood elevations and actual field conditions, the regional flood elevations shall govern. A map amendment is required where there is a significant discrepancy between the boundary line shown on the map and the location indicated by the regional flood elevations. The Zoning Administrator shall have the authority to immediately grant or deny a land use permit on the basis of a district boundary derived from the elevations shown on the water surface profile of the regional flood, whether or not a map amendment is required. The Zoning Administrator shall be responsible for initiating any map amendments required under this section within a reasonable period of time.
- C. Where flood profiles do not exist, the location of the district boundary line shall be determined by the Zoning Administrator using the scale appearing on the map, visual on-site inspection and any available information provided by the Department. Where there is a significant difference between the district boundary line shown on the map and actual field conditions, the map shall be amended. Where a map amendment has been approved by both the Village Board and the Department, the Zoning Administrator shall have the authority to grant or deny a land use permit.

#### **§ 350-8. Removal of lands from floodplain.**

Compliance with the provisions of this chapter shall not be grounds for removing lands from the floodplain district, unless they are removed by filling to a height of at least two feet above the regional flood elevation, the fill is contiguous to land lying outside the floodplain district, and the map is amended pursuant to Article VIII. To remove the land from flood insurance requirements, FEMA must first revise the Flood Insurance Rate Map.

#### **§ 350-9. Compliance required.**

The use or development of any land or water, a change in the use of any land or water, and the use, change of use, construction, reconstruction, remodeling or expansion of any structure within the areas to be regulated by this chapter shall be in compliance with the terms of this chapter and other applicable local, state and federal regulations.

**§ 350-10. Abrogation and greater restrictions; interpretation.**

- A. Greater restrictions. This chapter supersedes provisions of any zoning ordinance relating to floodplains. However, any underlying zoning shall remain in full force and effect to the extent that its provisions are more restrictive.
- B. Abrogation. It is not otherwise intended by this chapter to repeal, abrogate, or impair any existing deed restrictions; however, where this chapter imposes greater restrictions, the provisions of this chapter shall prevail.
- C. Interpretation. In their interpretation and application, the provisions of this chapter shall be held to be minimum requirements liberally construed in favor of the governing body and shall not be deemed a limitation on or repeal of any other powers granted by the Wisconsin Statutes. Where a provision of this chapter is required by a standard in Ch. NR 116, Wis. Adm. Code, and where the meaning of the chapter provision is unclear, the provision shall be interpreted in light of the Ch. NR 116, Wis. Adm. Code, standards in effect on the date of the adoption of this chapter or in effect on the date of the most recent text amendment to this chapter.

**§ 350-11. Warning and disclaimer of liability.**

This degree of flood protection intended to be provided by this chapter is considered reasonable for regulatory purposes and is based on engineering and scientific methods of study. Larger floods may occur on rare occasions, or the flood height may be increased by man-made or natural causes, such as ice jams and bridge openings restricted by debris. This chapter does not imply that areas outside of the delineated floodplain or permitted land uses within the floodplain will be totally free from flooding and associated flood damages, nor shall this chapter create a liability on the part of or a cause of action against the Village of Ontario or any officer or employee thereof for any flood damage that may result from reliance on this chapter.

**§ 350-12. General standards applicable to all floodplain districts.**

- A. Except as provided in Subsection B below, no development shall be allowed in the floodplain which, acting in combination with existing or future similar works, will cause an increase equal to or greater than 0.1 foot (three centimeters) in the height of the regional flood or will adversely affect existing drainage courses or facilities.
- B. Increases equal to or greater than 0.1 foot (three centimeters) may be permitted, but only if amendments are made to this chapter, the Official Floodplain Zoning Maps (including floodway lines) and water surface profiles in accordance with Article VIII and only if the total cumulative effect of the proposed development will not increase the height of the regional flood more than 1.0 foot for the affected hydraulic reach of the stream.
- C. For the purpose of this section, increases in the regional flood elevation shall be calculated based upon:
  - (1) An equal degree of hydraulic encroachment from the original hydraulic floodway lines for a hydraulic reach on both sides of the river or stream; and

- (2) An equal degree of hydrologic encroachment throughout a hydrologic reach of a river or stream to determine the volume of storage area which is lost.
- D. Owners or operators of all existing mobile home parks and mobile home subdivisions located in the regional floodplain (in A Zones on Flood Hazard Boundary Maps or Flood Insurance Study Maps) shall file an evacuation plan indicating alternate vehicular access and escape routes, including mobile home hauler routes, with the appropriate local disaster preparedness authorities and shall provide for adequate surface drainage to minimize flood damage.
- E. All mobile homes to be placed on a site located in the regional floodplain (in A Zones on Flood Hazard Boundary Maps or Flood Insurance Study Maps) shall be anchored so they do not float, collapse or move laterally during a flood. Such mobile homes shall be anchored according to the following specifications:
- (1) Over-the-top ties shall be provided at each of the four corners of the mobile home, with two additional ties per side at intermediate locations, and mobile homes less than 50 feet long shall require one additional tie per side;
  - (2) Frame ties shall be provided at each corner of the mobile home, with five additional ties per side at intermediate points, and mobile homes less than 50 feet long shall require four additional ties per side;
  - (3) All components of the anchoring system shall be capable of carrying a force of 4,800 pounds; and
  - (4) Any additions to the mobile home shall be similarly anchored.
- F. The placement of all new mobile homes, in addition to the standards listed above, must also meet the residential development standards in the flood-fringe as found in § 350-20.
- G. For all subdivision proposals, as "subdivision" is defined in § 236.02(12), Wis. Stats., and other proposed developments exceeding five acres in area or where the estimated cost of the proposed development exceeds \$75,000, the applicant shall provide all computations which are required to show the effects of the proposal on flood heights, velocities and floodplain storage. Further, the applicant shall provide within such proposals regional flood elevation data and the means to provide adequate surface drainage and to minimize flood damage. In those instances where the applicant is not required to provide computations and where inadequate data exists, the available information may be transmitted to the Department of Natural Resources' district office for a determination of the flood protection elevations and for an evaluation of the effects of the proposal on flood heights, velocities and floodplain storage. Additional information, such as valley cross sections or survey data, may be required by the Department to determine the effects of the proposal. This information shall be obtained from the applicant or the applicant's agent by the Village. The provisions of § 350-31 shall apply hereto. The applicant shall provide all data and calculations for any development which would require an amendment to the district boundaries or regional flood profiles.



- H. Prior to any alteration or relocation of a watercourse and prior to the issuance of any land use permit which may be required for the alteration or relocation of a watercourse, the Zoning Administrator shall notify adjacent municipalities, the appropriate district office of the Department of Natural Resources and the appropriate office of FEMA and shall require the applicant to secure all necessary state and federal permits. The flood-carrying capacity within the altered or relocated portion of any watercourse shall be maintained.
- I. Development which requires a permit from the Department of Natural Resources pursuant to Chs. 30 and 31, Wis. Stats., such as docks, piers, wharves, bridges, culverts, dams and navigational aids, may be allowed, provided that the necessary Village permits are obtained and necessary amendments to the official floodway lines, water surface profiles, Floodplain Zoning Maps or this chapter are made according to Article VIII.

ARTICLE III  
Floodway District (FW)

**§ 350-13. Applicability.**

The provisions of this article shall apply to all areas within the floodway district, as shown on the Official Floodplain Zoning Maps, and to the floodway portion of the general floodplain district, as determined pursuant to § 350-31 of this chapter.

**§ 350-14. Description.<sup>1</sup>**

The floodway district shall include mapped floodway areas so designated on the Official Floodplain Zoning Map showing the regional flood limits, which are based on the Flood Hazard Boundary Maps or Flood Insurance Study Maps prepared by the Federal Emergency Management Agency. All such maps shall be approved by the Department of Natural Resources.

**§ 350-15. Permitted uses.**

- A. The following open space uses are permitted within the floodway district and in the floodway portion of the general floodplain district, provided that they are not prohibited by any other ordinance and provided further that they meet all of the standards contained in § 350-16 and a land use permit has been issued by the Zoning Administrator under § 350-28A:
- (1) Agricultural uses, such as general farming, pasture, grazing, outdoor plant nurseries, horticulture, viticulture, truck farming, forestry, sod farming and wild crop harvesting.
  - (2) Nonstructural, industrial, and commercial uses, such as loading areas, parking areas, and airport landing strips.

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1. Editor's Note: Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. II).

- (3) Private and public recreational uses, such as golf courses, tennis courts, driving ranges, archery ranges, picnic grounds, boat-launching ramps, swimming areas, parks, wildlife and nature preserves, game farms, fish hatcheries, shooting preserves, target ranges, trap and skeet ranges, hunting and fishing areas, and hiking and horseback riding trails.
  - (4) Uses or structures accessory to open space uses or essential for historical areas, provided that they are not in conflict with the provisions in § 350-16.
  - (5) Extraction of sand, gravel or other materials.
  - (6) Docks, piers or wharves, including docks, piers or wharves used as part of a marina, and other water-related uses, such as dams, flowage areas, culverts, navigational aids and river crossings of transmission lines, and pipelines.
  - (7) Public utilities, streets and bridges.
- B. All uses not listed as permitted uses in Subsection A above are prohibited within the floodway district and in the floodway portion of the general floodplain district.

**§ 350-16. Standards for developments in floodway areas.**

- A. General requirements. Any development in floodway areas shall:
- (1) Meet all of the provisions of § 350-12;
  - (2) Not obstruct flood flows; and
  - (3) Have a low flood damage potential.
- B. Structures. Only structures which are accessory to permitted open space uses or are essential for historical areas may be allowed by permit, provided that the structures meet all of the following criteria:
- (1) The structures are not designed for human habitation;
  - (2) The structures are to be constructed and placed on the building site so as to offer minimum obstruction to the flow of floodwaters; whenever possible, structures will be constructed with the longitudinal axis parallel to the direction of flow of floodwaters and will be placed with their longitudinal axes approximately on the same line as those of adjoining structures;
  - (3) The structures are firmly anchored to prevent them from floating away and restricting bridge openings or other restricted sections of the stream or river; and
  - (4) The structures have all service facilities, such as electrical and heating equipment, at or above the flood protection elevation for the particular area.
- C. Public utilities, streets and bridges may be permitted, provided that:

- (1) Adequate floodproofing measures are provided to the flood protection elevation;
  - (2) Construction shall not cause any increase of 0.1 foot or greater in the height of the regional flood, except that reasonable increases up to 1.0 foot may be approved if the amendment procedures and all conditions of § 350-34 are met; and
  - (3) The Village amends its water surface profiles, Floodplain Zoning Maps and this chapter, as needed, to reflect any changes resulting from such construction.
- D. Fills or deposition of materials may be permitted, provided that:
- (1) The provisions of § 350-12A, B and C are met;
  - (2) Fill or deposition of materials does not encroach on the channel area between the ordinary high-water mark on each bank of the stream unless a permit has been granted by the Department of Natural Resources pursuant to Ch. 30, Wis. Stats., and a permit pursuant to § 404 of the Federal Water Pollution Control Act, Amendments of 1972, 33 U.S.C. § 1334 has been issued, if applicable, and the other requirements of this section are met;
  - (3) The fill or other materials will be protected against erosion by riprap, vegetative cover, sheet piling and/or bulkheading sufficient to prevent erosion and leachate; and
  - (4) Such fills are not associated with private or public solid waste disposal.
- E. Storage of any materials that are buoyant, flammable, explosive, or injurious to human, animal, plant, fish or other aquatic life is prohibited.
- F. Uses which are not in harmony with or which may be detrimental to the uses permitted in the adjoining districts are prohibited.
- G. Private or public on-site sewage disposal systems are prohibited, with the exception of portable latrines that are removed during flooding and systems associated with public recreational areas and Department-approved campgrounds that meet the applicable provisions of Ch. COMM 83, Wis. Adm. Code, which may be permitted in floodway areas.
- H. Wells, whether public or private, which are used to obtain water for ultimate human consumption are prohibited.
- I. Solid waste disposal sites, whether public or private, are prohibited.

ARTICLE IV  
Flood-Fringe District (FF)

**§ 350-17. Applicability.**

The provisions of this article shall apply to all areas within the flood-fringe district, as shown on the Official Floodplain Zoning Maps, and to those portions of the general floodplain district that are determined to be in the flood-fringe area pursuant to § 350-31 of this chapter.

**§ 350-18. Description.**<sup>2</sup>

The regional flood-fringe district shall include the A Zones so designated on the Official Floodplain Zoning Map showing the regional flood limits, which are based on the Flood Hazard Boundary Maps prepared by the Federal Emergency Management Agency. All such maps shall be approved by the Department of Natural Resources.

**§ 350-19. Permitted uses.**

Any structures, land use, or development, including accessory structures and uses, is allowed within the flood-fringe district and flood-fringe portions of the general floodplain district, provided that the standards contained in § 350-20 are met, that the use is not prohibited by this chapter or any other ordinance or any other local, state or federal regulation and that all permits or certificates required have been issued by the Zoning Administrator.

**§ 350-20. Standards for development in flood-fringe areas.**

- A. Standards. All of the provisions of § 350-12 shall apply hereto.
- B. Residential uses. Any structure or building used for human habitation which is to be erected, constructed, reconstructed, altered, or moved into the flood-fringe area shall meet or exceed the following standards:
- (1) The lowest floor, including the basement, except where Subsection B(2) is applicable, shall be placed on fill at or above the flood protection elevation, which is a point two feet above the regional flood elevation. The fill elevation shall be one foot or more above the regional flood elevation and shall extend at such elevation at least 15 feet beyond the limits of any such structure or building erected thereon.
  - (2) The basement floor may be placed at the regional flood elevation, provided that it is floodproofed to the flood protection elevation. Where a community-wide exception allowing the floodproofing of basements has been granted by FEMA, the basement floor may be placed at an elevation lower than the regional flood elevation, provided that it is floodproofed to the flood protection elevation in compliance with § 350-32. If a community-wide exception has not been granted by FEMA, requests to construct the basement floor below the regional flood elevation must be considered as a variance, thereby requiring action by the Board of Appeals as specified in § 350-30E.
  - (3) Except as provided in Subsection B(4), contiguous dry-land access shall be provided from a structure or building to land which is outside of the floodplain, so that any such structure shall be accessible by rescue and relief vehicles during periods of regional flooding. "Contiguous dry-land access" means a road with a surface at or above the regional flood elevation and wide enough for rescue and relief vehicles.

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2. Editor's Note: Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. II).

- (4) In existing developments where existing streets or sewer lines are at elevations which make compliance with Subsection B(3) impractical, the municipality may, after obtaining prior written Department approval, authorize access at an elevation lower than the regional flood elevation. Where the Village has applied for and obtained Department approval, the Zoning Administrator shall issue a permit authorizing such access as is allowed under the Department approval.<sup>3</sup>
- C. Accessory structures or uses. An accessory structure or use (not connected to a principal structure) shall meet all the applicable provisions of § 350-16A, B and D. A lesser degree of protection, compatible with these criteria and the criteria in Subsection D, may be permissible for an accessory structure or use, provided that the site is not inundated to a depth greater than two feet or subjected to flood velocities greater than four feet per second upon the occurrence of the regional flood.
- D. Commercial areas. In commercial areas, any structure or building which is to be erected, constructed, reconstructed, altered or moved into the flood-fringe area shall meet the requirements of Subsection B above. Storage yards, parking lots and other accessory land uses may be at lower elevations, subject to the requirements of Subsection F. However, no such area in general use by the public shall be inundated to a depth greater than two feet or subjected to flood velocities greater than four feet per second upon the occurrence of the regional flood.
- E. Manufacturing, agricultural and industrial uses. Any manufacturing, agricultural or industrial structure or building which is to be erected, constructed, reconstructed, altered or moved into the flood-fringe area shall be protected to the flood protection elevation utilizing fill, levees, flood walls, adequate floodproofing measures in accordance with § 350-32, or any combination thereof. On streams or rivers having prolonged flood durations, greater protection may be required to minimize interference with normal plant operations. A lesser degree of protection, compatible with the criteria in Subsections D and F, may be permissible for storage yards, parking lots and other similar uses.
- F. Storage or processing of materials. The storage or processing of materials that are buoyant, flammable, or explosive or which in times of flooding could be injurious to human, animal, or plant life shall be at or above the flood protection elevation for the particular area or floodproofed in compliance with § 350-32. Adequate measures shall be taken to assure that said materials will not enter the river or stream during flooding.
- G. Public utilities, streets and bridges.
- (1) When failure or interruption of public utilities, streets and bridges would result in danger to the public health or safety or where such facilities are essential to the orderly functioning of the area, construction of and substantial improvements to such facilities may only be permitted if they are floodproofed, in compliance with § 350-32, to the flood protection elevation; minor or auxiliary roads or nonessential utilities may be constructed at lower elevations, provided that they withstand flood forces to the regional flood elevation.

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3. Editor's Note: Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. II).

- (2) Public utilities, streets and bridges in flood-fringe areas should be designed to be compatible with the local comprehensive floodplain development plans.
- H. Sewage systems. All on-site sewage disposal systems shall be floodproofed to the flood protection elevation and shall meet the applicable provisions of all local ordinances and Ch. COMM 83, Wis. Adm. Code.
- I. Wells. All wells, whether public or private, shall be floodproofed to the flood protection elevation pursuant to § 350-32 and shall meet the applicable provisions of Chs. NR 811 and NR 812, Wis. Adm. Code.
- J. Solid waste disposal sites. All solid waste disposal sites, whether public or private, are prohibited in flood-fringe areas.

#### ARTICLE V

#### General Floodplain District (GFP)

##### **§ 350-21. Applicability.**

The provisions for this district shall apply to all floodplains in the Village for which regional flood data, as defined in § 350-36, Definitions, is not available or where regional flood data is available but floodways have not been delineated. As adequate regional flood data becomes available and floodways are delineated for portions of this district, such portions shall be placed in the flood-fringe or floodway district, as appropriate.

##### **§ 350-22. Permitted uses.**

Those uses permitted in §§ 350-15 and 350-19 are allowed within the general floodplain district, provided that the procedures of § 350-23 below are met and all permits or certificates required have been issued by the Zoning Administrator.

##### **§ 350-23. Standards for development in floodplain.**

The general floodplain district encompasses both floodway and flood-fringe areas. Therefore, a determination shall be made pursuant to § 350-31 to determine whether the proposed use is located within a floodway or flood-fringe area. If it is determined that a proposed use is located within a floodway, the provisions of §§ 350-15 and 350-16 of this chapter shall apply. If it is determined that the proposed use is located within the flood-fringe, the provisions of §§ 350-19 and 350-20 shall apply.

#### ARTICLE VI

#### Nonconforming Uses

##### **§ 350-24. Applicability; conditions for continued use.**

Insofar as the standards in this article are not inconsistent with the provisions of §§ 59.69(10) and 62.23(7)(h), Wis. Stats., they shall apply to all nonconforming structures and

nonconforming uses. These regulations apply to the modification of, or addition to, any structure and to the use of any structure or premises which was lawful before passage of this chapter or any amendment thereto. The existing lawful use of a structure or building or its accessory use which is not in conformity with the provisions of this chapter may be continued subject to the following conditions:

- A. No modifications or additions to a nonconforming use shall be permitted unless they are made in conformity with the provisions of this article. For the purposes of this article the words "modification" and "addition" shall include, but not be limited to, any alteration, addition, modification, structural repair, rebuilding or replacement of any such existing use, structure or accessory structure or use. Ordinary maintenance repairs are not considered structural repairs, modifications or additions; such ordinary maintenance repairs include internal and external painting, decorating, paneling and the replacement of doors, windows and other nonstructural components;
- B. If a nonconforming use is discontinued for 12 consecutive months, it is no longer permitted, and any future use of the property, and any structure or building thereon, shall be made to conform to the applicable requirements of this chapter;
- C. As requests are received for modifications or additions to nonconforming uses or nonconforming structures in the floodway, a record shall be kept which lists the nonconforming uses and nonconforming structures, their present equalized assessed value, and the cost of those additions or modifications which have been permitted; and
- D. No modification or addition to any nonconforming structure or any structure with a nonconforming use which over the life of the structure would exceed 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 chapter and contiguous dry-land access is provided in compliance with § 350-20B(3) or (4).

**§ 350-25. Floodway areas.**

- A. No modifications or additions shall be allowed to any nonconforming structure or any structure with a nonconforming use in a floodway area unless such modification or addition has been granted a permit or variance and meets all of the following criteria:
  - (1) The modification or addition to the existing structure will not increase the amount of obstruction to flood flows as provided in § 350-12A, B and C;
  - (2) Any addition to the existing structure shall be floodproofed, pursuant to § 350-32, by means other than the use of fill, to the flood protection elevation; and
  - (3) If any nonconforming structure or any structure with a nonconforming use is destroyed or is so badly damaged that it cannot be practically restored, it cannot be replaced, reconstructed or rebuilt unless the provisions of Article III are met. For the purposes of this subsection, restoration is deemed impractical where the total cost of such restoration would exceed 50% of the present equalized assessed value of said structure.

- B. No new on-site sewage disposal system or addition to an existing on-site sewage disposal system, except where an addition has been ordered by a government agency to correct a hazard to public health, shall be allowed in a floodway area. Any replacement, repair or maintenance of an existing on-site sewage disposal system in a floodway area shall meet the applicable provisions of local ordinances and Ch. COMM 83, Wis. Adm. Code.
- C. No new well used to obtain water for ultimate human consumption or modifications to an existing well shall be allowed in a floodway area. Any replacement, repair or maintenance of an existing well in a floodway area shall meet the applicable provisions of this chapter and Chs. NR 811 and NR 812, Wis. Adm. Code.

**§ 350-26. Flood-fringe areas.**

- A. No modification or addition shall be allowed to any nonconforming structure or any structure with a nonconforming use in the flood-fringe area unless such modification or addition has been granted a permit or variance and, except where Subsection B is applicable, the modification or addition is placed on fill or is floodproofed to the flood protection elevation in compliance with the applicable regulations for that particular use in a flood-fringe area as contained in § 350-20.
- B. Where compliance with the provisions of Subsection A above would result in unnecessary hardship, and only where the structure will not be either used for human habitation or associated with a high flood damage potential, the Board of Appeals, using the procedure in § 350-30E, may grant a variance from those provisions, using the criteria listed below. Modifications or additions which are protected to elevations lower than the flood protection elevation may be permitted if:
  - (1) Human lives are not endangered;
  - (2) Public facilities, such as water or sewer, are not to be installed;
  - (3) Flood depths will not exceed four feet;
  - (4) Flood velocities will not exceed two feet per second; and
  - (5) The structure will not be used for storage of materials as described in § 350-20F.
- C. Any new, addition to, replacement of, repair to or maintenance of an on-site sewage disposal system in a flood-fringe area shall meet all the applicable provisions of all local ordinances and Ch. COMM 83, Wis. Adm. Code.
- D. Any new, addition to, replacement of, repair to or maintenance of a well in a flood-fringe area shall meet the applicable provisions of this chapter and Chs. NR 811 and NR 812, Wis. Adm. Code.



**ARTICLE VII**  
**Administration**

**§ 350-27. Zoning Administrator.**

The Village Clerk-Treasurer shall be designated to serve as Village Zoning Administrator for the purpose of this chapter. The Village Zoning Administrator is hereby authorized to administer the provisions of this chapter. The Zoning Administrator shall have the following duties and powers; he shall:

- A. Advise applicants as to the provisions of this chapter, assist them in preparing permit applications and appeals, and ensure that the regional flood elevation for the proposed development is shown on all permit applications.
- B. Issue permits and inspect properties for compliance with this chapter and issue certificates of compliance when appropriate.
- C. Keep the official records of all water surface profiles, Floodplain Zoning Maps, floodplain zoning ordinances, nonconforming uses and changes thereto, permit applications, permits, appeals, variances and amendments related to this chapter.
- D. Submit copies of all decisions granting or denying variances and appeals, all map and text amendments, case-by-case analyses, annual reports, and any other required information to the appropriate district office of the Department of Natural Resources. An annual summary showing only the number and types of all floodplain zoning actions taken by the Village shall also be submitted to the Department by the Zoning Administrator.
- E. Investigate, prepare reports and report violations of this chapter to the Village Board and to the Village Attorney, with copies to the appropriate district office of the Department of Natural Resources.<sup>4</sup>
- F. Submit copies of map and text amendments and annual reports to the Federal Emergency Management Agency.<sup>5</sup>
- G. Maintain on file a list of all documentations of certified elevations.

**§ 350-28. Land use and other permits; certificate of compliance.**

- A. Land use permit. A land use permit shall be obtained from the Zoning Administrator before any new development, as defined in § 350-36, or any change in the use of an existing building or structure may be initiated. Application for a land use permit shall be made to the Zoning Administrator upon forms furnished and shall include, for the purpose of proper enforcement of these regulations, the following data:

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4. Editor's Note: Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. II).

5. Editor's Note: Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. II).

- (1) Name and address of the applicant, property owner, and contractor-builder;
  - (2) Legal description of the property, including the type of proposed use, and an indication as to whether new construction or a modification to an existing structure is involved;
  - (3) The elevation of the lowest floor using National Geodetic Vertical Datum (NGVD);
  - (4) A site development plan which accurately locates or describes the proposal with respect to the floodway and flood-fringe districts showing the dimensions of the lot and locations of all existing and proposed structures from lot lines, center lines of all abutting highways, and the ordinary high-water mark of any abutting or nearby watercourse;
  - (5) Information concerning all private water supply systems and on-site sewage disposal systems to be installed; the location of all existing wells, structures, and on-site sewage disposal systems; and the ordinary high-water mark of all streams and lakes within 100 feet of a proposed sewage disposal site; and
  - (6) Data sufficient to determine the regional flood elevation at the location of the development and to determine whether or not the requirements of § 350-12 are met. This may include any of the information noted in § 350-31B.
- B. Certificate of compliance. No vacant or developed land shall be occupied in the floodplain, and no building or structure hereafter erected, altered or moved into the floodplain shall be occupied or used, until the applicant obtains a certificate of compliance from the Zoning Administrator. The Zoning Administrator shall issue a certificate only after the applicant has submitted a certification signed by a registered professional engineer or registered land surveyor that the fill and lowest/basement floor elevations were placed in compliance with the development standards contained in this chapter. If floodproofing is required pursuant to § 350-32, the Zoning Administrator shall issue a certificate only after the applicant has submitted a certification signed by a registered professional engineer or architect that the structure is adequately constructed to comply with the provisions of § 350-32.
- C. Other permits. It is the responsibility of the applicant to secure all other necessary permits from all appropriate federal, state and local agencies, including those required by the U.S. Army Corps of Engineers under § 404 of the Federal Water Pollution Control Act, Amendments of 1972, 33 U.S.C. § 1334.

#### § 350-29. Zoning Committee. <sup>6</sup>

- A. A Zoning Committee shall have the following duties and powers:

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6. Editor's Note: Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. II).

- (1) To oversee the functions of the office of the Zoning Administrator;
  - (2) To review and act upon all proposed amendments to this chapter and the Floodplain Zoning Map;
  - (3) To maintain a complete public record of all its proceedings.
- B. For purposes of this chapter, a duly appointed standing committee of the Village Board shall serve as the Zoning Committee.

**§ 350-30. Board of Appeals.**

- A. Statutory authorization. The Zoning Board of Appeals created under Chapter 370, Zoning, § 370-73 of this Code is authorized to act as Board of Appeals for the purposes of this chapter. The powers of the Board of Appeals shall be pursuant to § 62.23(7), Wis. Stats.<sup>7</sup>
- B. Appeals to the Board. Appeals to the Board of Appeals may be taken by any person aggrieved or by an officer, department, board or bureau of the municipality affected by any decision of the Zoning Administrator or other administrative officer. Such appeal shall be taken within a reasonable time, as provided by the rules of the Board, by filing with the Zoning Administrator and with the Board of Appeals a notice of appeal specifying whether an interpretation of the map or this chapter or a variance is sought and the grounds thereof. The Zoning Administrator or other officer shall forthwith transmit to the Board all the papers constituting the record upon which the action appealed from was taken.
- C. Hearing appeals.
- (1) The Board of Appeals shall fix a reasonable time for the hearing of the appeal, give public notice thereof by publishing, in the official newspaper of the municipality, a Class 2 notice pursuant to Ch. 985, Wis. Stats., specifying the date, time and place of hearing and the matters to come before the Board. The hearing notice shall be mailed to the parties in interest in advance of the hearing.
  - (2) A decision regarding the appeal shall be made within a reasonable time.
  - (3) The final disposition of an appeal to the Board of Appeals shall be in the form of a written determination or order signed by the Chairman or Secretary of the Board. The determination shall state the specific facts which are the basis for the Board's determination and shall either affirm, reverse, vary or modify the order, requirement, decision or determination appealed, in whole or in part; deny the appeal for lack of justification; or grant or deny the application for a variance. The reasons or justifications for granting an appeal, including a description of the hardship or practical difficulty which was demonstrated by the applicant in the case of a variance, shall be clearly stated in the recorded minutes of the Board of Appeals proceedings.

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7. Editor's Note: Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. II).

- (4) A copy of all decisions by the Board of Appeals shall be mailed to the appropriate district office of the Department of Natural Resources.
- D. Boundary or mapping disputes. The following procedure shall be used by the Zoning Board of Appeals in hearing disputes concerning the district boundaries shown on the Official Floodplain Zoning Map:
- (1) Where a floodplain district boundary is established by approximate or detailed floodplain studies, pursuant to § 350-6, the regional flood elevations or profiles for the point in question shall be the governing factor in locating the district boundary. If no regional flood elevations or profiles are available to the Board, other available evidence may be examined.
  - (2) In all cases, the person contesting the location of the district boundary shall be given a reasonable opportunity to present arguments and technical evidence to the Board of Appeals. Where it is determined that the district boundary is incorrectly mapped, the Board should either inform the Zoning Committee to proceed to petition the Village Board or inform the person contesting the location of the boundary to petition the Village Board for a map amendment pursuant to § 350-34.
- E. Variance. Any deviation from the standards of this chapter for which a permit has been denied by the Zoning Administrator may be allowed only upon written request for a variance submitted to the Zoning Administrator, after a public hearing and the issuance of a variance form by the Board of Appeals. The Board may authorize in specific cases such variance from the terms of the chapter as will not be contrary to the public interest where, owing to special conditions, a literal enforcement of the provisions of this chapter would result in unnecessary hardship. A variance:
- (1) Shall be consistent with the spirit and intent of this chapter as stated in § 350-3.
  - (2) Shall not permit a lower degree of flood protection in the floodway area than the flood protection elevation. In the flood-fringe area, a lower degree of flood protection than the flood protection elevation may only be allowed pursuant to § 350-26B.
  - (3) Shall not be granted because of conditions that are common to a group of adjacent lots or premises. (In such a case, this chapter would have to be amended through proper procedures.)
  - (4) Shall not be granted unless it is shown that the variance will not be contrary to the public interest and will not damage the rights of other persons or property values in the area.
  - (5) Shall not be granted for actions which require an amendment to this chapter or the maps.
  - (6) Shall not have the effect of granting or increasing a use of property which is prohibited in a particular zoning district by this chapter.
  - (7) Shall not be granted solely on the basis of economic gain or loss.

- (8) Shall not be granted for a self-created hardship.
- F. Notice. When a variance is granted, the applicant shall be notified in writing, by the Chairman or Secretary of the Board of Appeals, that increased flood insurance premiums may result. A copy of this notification shall be maintained with the variance appeal record.

**§ 350-31. Determining floodway and flood-fringe limits.**

- A. Applicability. When any development is proposed within the general floodplain district, a determination shall be made to establish the boundaries of the floodway, to allow the Zoning Administrator to determine whether floodway or flood-fringe uses apply, and, where required, to determine the regional flood elevation.
- B. Upon receiving an application for development within the general floodplain district, the Zoning Administrator shall:
  - (1) Require the applicant to submit, at the time of application, two copies of an aerial photograph or a plan which accurately locates the proposed development with respect to the general floodplain district limits, channel of stream and existing floodplain developments, together with all pertinent information such as the nature of the proposal, legal description of the property, fill limits and elevations, building floor elevations and floodproofing measures.
  - (2) Require the applicant to furnish any of the following additional information as is deemed necessary by the Department of Natural Resources for evaluation of the effects of the proposal upon flood flows, to determine the boundaries of the floodway and, where applicable, the regional flood elevation:
    - (a) A typical valley cross section showing the channel of the stream, the floodplain adjoining each side of the channel, the cross-sectional area to be occupied by the proposed development, and all historic high-water information.
    - (b) A plan (surface view) showing elevations or contours of the ground; pertinent structure, fill or storage elevations; the size, location and spatial arrangement of all proposed and existing structures on the site; the location and elevations of streets, water supply, and sanitary facilities; soil types; and other pertinent information.
    - (c) A profile showing the slope of the bottom of the channel or flow line of the stream.
    - (d) Specifications for building construction and materials, floodproofing, filling, dredging, channel improvement, storage of materials, water supply and sanitary facilities.
  - (3) Transmit one copy of the information described in Subsection B(1) and (2) to the Department of Natural Resources, along with a written request to have that agency provide technical assistance to establish regional flood elevations and, where

applicable, floodway data. Where the provisions of § 350-12G of this chapter apply, the applicant shall provide all required information and computations.

**§ 350-32. Floodproofing.**

- A. Where floodproofing measures are required, they shall be designed to withstand the flood pressures, depths, velocities, uplift and impact forces, and other factors associated with the regional flood, to assure protection to the flood protection elevation. In addition, all floodproofing measures shall provide anchorage of structures to foundations to resist flotation and lateral movement and shall ensure that the structural walls and floors are watertight (i.e., completely dry without human intervention during flooding) to the flood protection elevation. The applicant shall submit a plan or document certified by a registered professional engineer or architect that the floodproofing measures are adequately designed to protect the structure or development to the flood protection elevation for the particular area.
- B. Floodproofing measures could include:
- (1) Reinforcement of walls and floors to resist rupture or collapse caused by water pressure or floating debris.
  - (2) Addition of mass or weight to structures to prevent flotation.
  - (3) Placement of essential utilities above the flood protection elevation.
  - (4) Surface drainage systems, including pumping facilities, to relieve external foundation wall and basement floor pressures.
  - (5) Construction of water supply and waste treatment systems so as to prevent the entrance of floodwaters.
  - (6) Cutoff valves on sewer lines or the elimination of gravity flow basement drains.

**ARTICLE VIII  
Amendments**

**§ 350-33. Authority; actions requiring amendment.**

The Village Board of the Village of Ontario, Wisconsin, may, from time to time, alter, supplement or change the boundaries of the floodplain zoning districts and the regulations contained in this chapter in the manner provided by law. Official amendments are required for any changes in the official floodway lines, water surface profiles, Floodplain Zoning Maps or text of this chapter. Actions which require an amendment include, but are not limited to, the following:

- A. Any change in the official floodway lines or in the boundary of the general floodplain area;
- B. Correction of significant discrepancies between the water surface profiles and Floodplain Zoning Maps;

- C. Any fill in the floodplain which raises the elevation of the filled area to a height at or above the flood protection elevation and is contiguous to land lying outside the floodplain;
- D. Any fill or encroachment into the floodplain that will cause a change equal to or greater than 0.1 foot (three centimeters) in the height of the regional flood; and
- E. Any upgrading of floodplain zoning ordinances required by § NR 116.05(4), Wis. Adm. Code, or otherwise required by law.

**§ 350-34. Amendment procedure.**

- A. Amendments to this chapter may be made upon petition of any interested party in accordance with the provisions of § 62.23, Wis. Stats. Such petitions shall include any necessary data required by §§ 350-31B and 350-12G.
- B. Copies of any amendment proposed to the Village Board shall be referred to the Zoning Committee, described in § 350-29, for a public hearing and recommendation to the Village Board. Copies of the proposed amendment and notice of the public hearing shall be submitted to the appropriate district office of the Department of Natural Resources. The amendment procedure shall comply with the provisions of § 62.23, Wis. Stats.<sup>8</sup>
- C. No amendment to the maps or text of this chapter shall become effective until reviewed and approved by the Department of Natural Resources.
- D. All persons petitioning for a map amendment which involves an increase in the height of the regional flood of 0.1 foot (three centimeters) or more shall obtain flooding easements, or other appropriate legal arrangements, from all affected local units of government and property owners before the municipality may approve an amendment which would result in such an increase to the regional flood elevation.
- E. When considering amendments to the Official Floodplain Zoning Map, in areas where no water surface profiles exist, the Zoning Committee shall consider data submitted by the Department, the Zoning Administrator's visual on-site inspections and other available information.<sup>9</sup>

**ARTICLE IX  
Enforcement**

**§ 350-35. Violations and penalties.** <sup>10</sup>

Any violations of the provisions of this chapter by any person, firm, association, corporation (including building contractors) or his or its agent shall be unlawful and shall be forwarded to the Village Attorney, who shall expeditiously prosecute all such violators. A violator shall,

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8. Editor's Note: Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. II).

9. Editor's Note: Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. II).

10. Editor's Note: Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. II).

upon conviction, be subject to the penalty provided in Chapter 1, § 1-3 of this Code. Each day during which such violation exists shall constitute a separate offense. Every violation of this chapter is a public nuisance, and the creation thereof may be enjoined and the maintenance thereof may be abated by action at suit of the Village, the state or any citizen thereof pursuant to § 87.30, Wis. Stats.

## ARTICLE X Definitions

### § 350-36. Word usage and definitions.

Unless specifically defined below, words or phrases used in this chapter shall be interpreted so as to give them the same meaning as they have at common law and to give this chapter its most reasonable application. Words used in the present tense include the future. Words used in the singular number include the plural, and words in the plural number include the singular. The word "may" is permissive. The word "shall" is mandatory and not discretionary.

**ACCESSORY STRUCTURE OR USE** — A detached subordinate structure or a use which is clearly incidental to and customarily found in connection with the principal structure or use to which it is related and which is located on the same lot as that of the principal structure or use.

**A ZONES** — Those areas shown on a community's Official Floodplain Zoning Map (see the definition below) which would be inundated by the base flood or regional flood as defined herein. These areas may be numbered as A0, A1 to A30, or A99 or be unnumbered A Zones. The A Zones may or may not be reflective of flood profiles, depending on the availability of data for a given area.

**BASE FLOOD** — A flood having a one-percent chance of being equaled or exceeded in any given year. (See also "regional flood.")

**BASE FLOOD ELEVATION** — An elevation equal to that which reflects the height of the base flood, as defined above.

**BOARD OF APPEALS** — The Zoning Board of Appeals established under Chapter 370, Zoning, § 370-73 of this Code.<sup>11</sup>

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

**CERTIFICATE OF COMPLIANCE** — A certification by the Zoning Administrator stating that the use of land or a building, the elevation of fill or the first floor of a structure is in compliance with all of the provisions of this chapter.

**CHANNEL** — A natural or artificial watercourse with definite bed and banks to confine and conduct the normal flow of water.

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11. Editor's Note: Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. II).



DEPARTMENT — The Wisconsin Department of Natural Resources.

DEVELOPMENT — Any man-made change to improved or unimproved real estate, including but not limited to construction of buildings, structures or accessory structures; the construction of additions or substantial improvements to buildings, structures or accessory structures; the placement of mobile homes; mining, dredging, filling, grading, paving, excavation or drilling operations; and the deposition or extraction of materials.

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

EQUAL DEGREE OF HYDRAULIC ENCROACHMENT — The effect of any encroachment into the floodway is computed by assuming an equal degree of hydraulic encroachment on the opposite side of a river or stream for a significant hydraulic reach. This computation assures that property owners up, down or across the river or stream will have the same rights of hydraulic encroachment. (See also "hydraulic reach" and "floodway encroachment lines.")

EQUAL DEGREE OF HYDROLOGIC ENCROACHMENT — The effect of any development on the storage capacity of a floodplain area, particularly upstream from urban areas, is analyzed assuming an equal loss of flood storage for all property owners and subdivided lots in the storage area of a floodplain on both sides of a river or stream for a significant hydrologic reach.

EXISTING MOBILE HOME PARK OR MOBILE HOME SUBDIVISION — A parcel (or continuous parcels) of land divided into two or more mobile home lots for rent or sale for which the construction of facilities for servicing the lot on which the mobile home is to be affixed (including, at a minimum, the installation of utilities, either final site grading or the pouring of concrete pads, and the construction of streets) is completed before the effective date of this chapter.

FEDERAL EMERGENCY MANAGEMENT AGENCY (FEMA) — The federal agency that administers the National Flood Insurance Program. This agency was previously known as the Federal Insurance Administration (FIA). The Division of Insurance and Mitigation is contained within FEMA. (Should it be necessary to contact FEMA for information or assistance, the Region V Office of the Federal Emergency Management Agency's Division of Insurance and Mitigation should be contacted.)

FLOOD-FRINGE — That portion of the floodplain outside of the floodway which is covered by floodwaters during the regional flood; it is generally associated with standing water rather than rapidly flowing water.

FLOOD HAZARD BOUNDARY MAP — A map prepared for the municipality by FEMA designating approximate flood hazard areas. Flood hazard areas are designated as A Zones. Said map forms the basis for both the regulatory and insurance aspects of the National Flood Insurance Program.

FLOOD INSURANCE STUDY — A technical engineering examination, evaluation, and determination of the Village flood hazard areas. It provides maps designating those areas affected by the regional flood and provides both flood insurance rate zones and regional flood

elevations, as well as floodway lines. The flood hazard areas are designated as numbered A Zones. Flood Insurance Study Maps form the basis for both the regulatory and the insurance aspects of the National Flood Insurance Program.

**FLOOD or FLOODING** — A general and temporary condition of partial or complete inundation of normally dry land areas from the overflow of inland waters, or the unusual and rapid accumulation or runoff of surface waters from any source.

**FLOODPLAIN** — The land which has been or may be hereafter covered by floodwater during the regional flood. The floodplain includes the floodway and the flood-fringe.

**FLOOD PROFILE** — A graph or a longitudinal profile showing the relationship of the water surface elevation of a flood event to locations along a stream or river.

**FLOODPROOFING** — Involves any combination of structural and nonstructural additions, changes, or adjustments to reduce or eliminate flood damage to unimproved or improved real estate, water and sanitary facilities, structures and their contents.

**FLOOD PROTECTION ELEVATION** — An elevation that corresponds to a point two feet of freeboard above the water surface profile associated with the regional flood. (See also "freeboard.")

**FLOODWAY** — The channel of a river or stream and those portions of the floodplain adjoining the channel required to carry and discharge the floodwater or flood flows associated with the regional flood without cumulatively increasing the water surface elevation more than 0.1 foot (three centimeters).

**FLOODWAY ENCROACHMENT LINES** — Represent the limits of obstruction to flood flows. These lines are designated on both sides of, and generally parallel to, the channel of a river or stream. They are established by assuming that the area landward (outside of the encroachment lines) will ultimately be developed in such a way that it will not convey flood flows, but the development will not cause an increase to regional flood elevations upstream. It is assumed that any development riverward of these lines will cause an obstruction and will require a detailed analysis (equal degree of hydraulic encroachment) to determine its effect on the regional flood elevations upstream.

**FREEBOARD** — A factor of safety usually expressed in terms of a certain amount of feet above a calculated flood level. Freeboard compensates for the many unknown factors that contribute to flood heights greater than the height calculated. These unknown factors include, but are not limited to, ice jams, debris accumulation, wave action, obstruction of bridge openings and floodways, the effects of urbanization on the hydrology of the watershed, loss of flood storage areas due to development and the sedimentation of a riverbed or streambed.

**HIGH FLOOD DAMAGE POTENTIAL** — Any danger to human life or public health or the potential for any significant economic loss to a structure or its contents.

**HYDRAULIC REACH** — That portion of the river or stream extending from one significant change in the hydraulic character of the river or stream to the next significant change. These changes are usually associated with breaks in the slope of the water surface profile and may be caused by bridges, dams, expansions and contractions of the water flow, and changes in streambed slope or vegetation.

**HYDROLOGIC REACH** — A designated length of river, stream or lake where the storage of floodwaters therein has been taken into account to reduce the regulatory flood discharge. Major man-made or natural changes in the river character, limits of political jurisdiction, or a change in the flood-routing technique used to determine the storage and translation of a flood wave through the area of interest may be used to define the end of a hydrologic reach (e.g., a dam may be considered a major man-made change in the river character, or a change from channel routing to reservoir routing may be considered a major change in the flood-routing technique).

**LAND USE** — Any nonstructural use made of unimproved or improved real estate. (See also "development.")

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

**NONCONFORMING STRUCTURE** — An existing lawful structure or building which is not in conformity with the dimensional or structural requirements of this chapter for the area of floodplain which it occupies. (For example, an existing residential structure in the flood-fringe district is a conforming use. However, if the first floor is lower than the flood protection elevation, the structure is nonconforming.)

**NONCONFORMING USE** — An existing lawful use of a structure, building or accessory use which is not in conformity with the provisions of this chapter for the area of the floodplain which it occupies.

**OFFICIAL FLOODPLAIN ZONING MAP** — That map, adopted and made part of this chapter, which has been approved by the Department of Natural Resources and FEMA.

**OPEN SPACE USE** — Those uses having a relatively low flood damage potential and not involving structures.

**PERSON** — An individual, or group of individuals, corporation, partnership, association, municipality or state agency.

**REGIONAL FLOOD** — A flood determined to be representative of large floods known to have generally occurred in Wisconsin and which may be expected to occur on a particular stream because of like physical characteristics. The flood frequency of the regional flood is once in every 100 years; this means that in any given year there is a one-percent chance that the regional flood may occur or be exceeded. During a typical thirty-year mortgage period, the regional flood has a twenty-six-percent chance of occurrence.

**STORAGE CAPACITY OF A FLOODPLAIN** — The volume of space above an area of floodplain land that can be occupied by floodwater of a given stage at a given time, regardless of whether the water is moving.

**STRUCTURE** — Any man-made object with form, shape and utility either permanently or temporarily attached to, placed upon or set into the ground, streambed or lake bed, which includes, but is not limited to, such objects as roofed and walled buildings, gas or liquid storage tanks, bridges, dams and culverts.

**SUBSTANTIAL IMPROVEMENT** — Any repair, reconstruction, or improvement of a structure, the cost of which equals or exceeds 50% of the present equalized assessed value of the structure either before the improvement or repair is started or, if the structure has been damaged and is being restored, before the damage occurred.

A. The term does not, however, include either:

- (1) Any project for improvement of a structure to comply with existing state or local health, sanitary or safety code specifications which are solely necessary to assure safe living conditions; or
- (2) Any alteration of a structure or site documented as deserving preservation by the Wisconsin State Historical Society or listed on the National Register of Historic Places.

B. Ordinary maintenance repairs are not considered structural repairs, modifications or additions; such ordinary maintenance repairs include internal and external painting, decorating, paneling and the replacement of doors, windows, and other nonstructural components.

**UNNECESSARY HARDSHIP** — Any unique and extreme inability to conform to the provisions of this chapter due to special conditions affecting a particular property which were not self-created and are not solely related to economic gain or loss. Unnecessary hardship is present only where, in the absence of a variance, no feasible use can be made of the property.

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

**VARIANCE** — An authorization granted by the Board of Appeals to construct, alter or use a structure in a manner which is inconsistent with the dimensional standards contained in this chapter.