

94.194	OIP	Institutional and public service overlay Planned	c	b	b	b	c	c	c	c	c	c	a	b	a&c	b	b	b		
94.195	OPD	development project overlay	See section 94.147 for most requirements.																	
94.196	OAH	Airport height overlay	b	b	b	b	b	b	b	b	b	b	b	b	(See district regulations)	c	b	b	b	
94.197	OWC	Woodlands conservation overlay	b	b	b	c	c	c	c	c	c	c	c	c	b	b	a&c	b	b	b
94.198	OWP	Wellhead protection overlay	b	b	b	b	b	b	b	b	b	b	b	b	b	b	b	b	b	b
94.199	OME	Mineral extraction overlay	See district for all regulations.																	
94.200	OFD	Floodplain overlay	a&c	a&c	a&c	b	b	b	b	b	b	a&c	a&c	b	b	a&c	c	c	c	
94.223 et seq.	OCS	County shoreland jurisdiction	a&b	a&b	a&c	a&b	a&b	a&b	a&b	a&b	a&b	a&c	a&c	b	b	a&c	c	c	c	
For further information consult section:			94.126(c)1—4		94.126(d)	94.126(e)	94.125(b)		94.125(c)			94.125(c)			94.125	94.127(b)(2)	94.127(b)			

FOOTNOTES:

- (*) See section 94.175(b)2.
- (c) Use underlying district as guide.
- (d) If common wall construction approved, see section 94.134 et seq.
- (e) Farm building yards must at least equal building height, see section 94.128(e).
- (f) Greater setback required in some cases, see section 94.125(b)(2), (5).
- (g) First two feet of eave overhang exempted, section 94.125(b)(3), (c).
- (h) Minimum parking lot landscaping area, see section 94.153(a)(4).
- (j) If no basement of at least 200 square feet/unit add 100 square feet/DU.
- (k) May substitute for 400 square feet, an attached garage of at least 400 square feet, if 1,100 square feet or more required.
- (m) 20 feet if abutting lot with B-1, B-2, B-3, B-4 or M-1 Zoning
- (n) See Sec. 94.135(e)

(Ord. of 12-6-1999, § 1; Ord. of 7-17-2000; Ord. of 9-23-2003; Ord. of 4-28-2005; Ord of 1-22-2009)

DIVISION 2. BASIC HOLDING DISTRICTS

Sec. 94.175. AG agriculture district.

(a) *Statement of intent.* The AG district provides either a holding function, which is somewhat of a temporary use function but extending to decades rather than months or years; or a development or conservation district function, which means a fairly permanent end-use, depending upon the direction given by the village plan.

- (1) As a holding district this district permits continued agricultural uses as well as new residential development at a low density, which low density is intended to be compatible with farming uses while also providing a reasonable non-farm-income economic use of the land, until more intensive urban development takes place, if such development is anticipated in the village plan. The low density also precludes an overly high level of interim economic investment which could otherwise discourage permanent urban uses anticipated in the village plan.
- (2) As a development/conservation district this district functions to preserve the agriculture, hobby farming, and rural residential parts of the village, for which there is no realistic urban development potential as anticipated in the village plan.
- (3) Permitted uses consistent with these alternative possibilities, range from broadly diverse agriculture activities (prohibiting only those farm uses which, under section 94.128, are found to be incompatible with a partly urban village), to rural residential properties where the emphasis is on being able to keep some farm animals and enjoy small scale or hobby farming, rather than on attaining a strongly residential atmosphere.

(b) *Permitted uses by right are:*

- (1) Agriculture, including as illustrative but not limited to, crop raising, dairying, horticulture including commercial greenhouses, livestock and poultry raising, tree farming; excepting those and similar uses as prohibited in section 94.128.
- (2) Single-family residences, including the right to also conduct agriculture and animal husbandry as regulated in section 94.128.
- (3) Existing cemeteries, churches/temples/synagogues, and religious retreat facilities, but expansions shall only be by conditional use per article VI, or by application of the appropriate overlay districts as suggested in subsection (d) of this section.

(4) Existing public or private parks or recreational fields, including grass aviation landing strips, golf courses, unlighted golf driving ranges and athletic fields and similar uses requiring only nominal accessory structures; but expansions, principal buildings, or night use lighting shall only be by conditional use per article VI or by application of appropriate overlay districts as set forth in subsection (d) of this section.

(5) Public utility transmission and distribution lines, poles or pipes, and related accessories, provided that when a utility proposes a main intercity transmission facility, it shall give notice to the planning commission of such intention and of the date of hearing before the public service commission regulating such use, and before beginning construction of a specific route shall file with the planning commission the mapped description of the route.

(c) *Permitted accessory uses are:*

(1) Uses, buildings and structures normally accessory and incident to the permitted uses.

(2) Quarters for year round household or farm employees.

(3) Home occupations and residential businesses, as defined in section 94.113.

(4) Agricultural signs as regulated in article IX of this chapter.

(5) Residential signs as regulated in article IX of this chapter.

(6) One roadside produce sale stand per farm, for the sale principally of products produced by that farm and subject to the following:

a. Off-street parking for a minimum of four vehicles shall be provided.

b. Stand setback of 30 feet to the existing road right-of-way line and 20 feet from any other lot line shall be provided.

c. Located where the stand would not require vehicles to back onto the highway and not be creating any other traffic hazard, and where the permitted driveways shall be so designed and located as to minimize interference with normal highway traffic flow.

(7) The spreading of treated municipal sewage sludge, or the composting of municipal yard wastes, provided the planning commission first approves such spreading or composting area and plan of operations under article V of this chapter, attaching such conditions as the commission shall deem appropriate.

(8) Family day care home

(d) *Uses permitted by conditional grant are:*

- (1) Expansions of existing cemeteries, religious facilities or recreation fields, including addition of night lighting, as listed under subsection (b)(3), (4) of this section. (See also OIP and OCR districts for alternate regulation.)
- (2) New religious or recreation fields listed in subsection (b)(3), (4) of this section. Recreation uses involving principal buildings shall be processed under the OIP or OCR overlay districts.
- (3) Educational facilities, whether public or private, boarding or nonboarding, including Large group day care center, preschool, elementary, secondary, and post-secondary. (See also OIP overlay district.)
- (4) Seasonal farm labor housing, provided county or state sanitary regulations can be met.
- (5) Conversion of existing farm houses to two-family residences.
- (6) Boarding and riding stables for horses, commercial dog kennels or veterinary clinics.
- (7) Public fire stations or utility transmission substations. (See also PUL or OIP district.)
- (8) Parking of nonagricultural trucks and construction equipment.
- (9) Communications broadcasting and relay towers.
- (10) Motor vehicle salvage yards.

(Ord. of 11-18-1991; Ord. of 4-28-2005; Ord. of 9-19-2008)

Sec. 94.176. RR rural residential district.

(a) *Statement of intent.* The RR district, as with the AG district, provides either a holding or a development-conservation function, depending upon the village plan and upon the wishes of the owner.

- (1) As a holding district this district permits residential development at a low, rural density, thereby also making possible the enjoyment of hobby farming and the keeping of some farm livestock, as regulated in section 94.128, until public sewers arrive and resubdivision takes place, if the owner so wishes, to

more urban sized residential lots as provided for in this chapter. (See section 94.214.)

- (2) As a development/conservation district this district can also provide for permanent rural residential living at the low density, larger lot size provided for in section 94.174, where sewers are not available for the foreseeable future, or where owners wish to maintain the large lot after installation of public sewers.

(b) *Permitted uses by right are:*

- (1) Single-family residences, including the right to also conduct agriculture and animal husbandry as regulated in section 94.128.
- (2) Existing cemeteries, churches/temples/synagogues and religious retreat facilities, but expansions shall only be by conditional use per article VI of this chapter, or by application of appropriate overlay districts as suggested in subsection (d) of this section.
- (3) Existing public or private parks or recreational fields, including grass aviation landing strips, golf courses, unlighted golf driving ranges and athletic fields and similar uses requiring only nominal accessory structures; but expansions, principal buildings, or night use lighting shall only be by conditional use per article VI of this chapter or by application of appropriate overlay districts as set forth in subsection (d).
- (4) Public utility transmission and distribution lines, poles or pipes, and related accessories, provided that when a utility proposes a main intercity transmission facility, it shall give notice to the planning commission of such intention and of the date of hearing before beginning construction of a specific route shall file with the planning commission the mapped description of the route.

(c) *Permitted accessory uses are:*

- (1) Uses, buildings and structures normally accessory and incident to the permitted uses.
- (2) Quarters for year round household or farm employees.
- (3) Home occupations and residential businesses, as defined in section 94.113.
- (4) Agricultural signs as regulated in article IX of this chapter.
- (5) Residential signs as regulated in article IX of this chapter.

(6) One roadside produce sale stand per farm, for the sale principally of products produced by that farm and subject to the following:

- a. Off-street parking for a minimum of four vehicles shall be provided.
- b. Stand setback of 30 feet to the existing road right-of-way line and 20 feet from any other lot line shall be provided.
- c. Located where the stand would not require vehicles to back onto the highway and not be creating any other traffic hazard, and where the permitted driveways shall be so designed and located as to minimize interference with normal highway traffic flow.

(7) Family day care home

(8) The composting of municipal yard wastes and recycling of natural materials provided the plan commission first approves such composting area and plan of operations under article V of this chapter, attaching such conditions as the commission shall deem appropriate.

(d) *Uses permitted by conditional grant are:*

(1) Expansions of existing cemeteries, religious facilities, or recreation fields, including addition of night lighting, as listed under subsection (b)(2), (3) of this section. (See also OIP and OCR districts for alternate regulation.)

(2) New religious or recreation fields listed in subsection (b)(2), (3) of this section. Recreation uses involving principal buildings shall be processed under the OIP or OCR overlay districts.

(3) Educational facilities, whether public or private, boarding or nonboarding, including Large group day care center, preschool, elementary, secondary and postsecondary. (See also OIP overlay district.)

(4) Boarding and riding stables for horses, commercial dog kennels, or veterinary clinics.

(5) Public fire stations or utility transmission substations. (See also PUL or OIP districts.)

(6) Communications broadcasting and relay towers.

(Ord. of 11-18-1991; Ord. of 4-28-2005; Ord. of 9-24-2009)

DIVISION 3. BASIC DEVELOPMENT AND CONSERVATION DISTRICTS

Sec. 94.177. S/R suburban/residence district. (Formerly the A/R agriculture/residence district)

(a) *Statement of intent.* The S/R district is intended to be applied over existing subdivisions developed without public sewer according to the previous regulations of this district, which called for a lot width wide enough for on-site soil absorption sewage treatment but too narrow to be resubdivided to accommodate the cost of public sewer installation, through sale of a vacant lot for development. For these existing situations and very limited new adjacent or intervening situations not capable of meeting the regulations for new subdivisions with sewers the previous lot width and area regulations of this district are continued under section 94.174.

(b) *Permitted uses by right* are all uses as permitted by right in the R-E district.

(c) *Permitted accessory uses* are all accessory uses as permitted in the R-E district.

(d) *Uses permitted by conditional grant* are all conditional uses permitted in the R-E district.

(Ord. of 11-18-1991)

Sec. 94.178. R-E residential estate district.

(a) *Statement of intent.* The R-E district is intended to provide spacious homesites for residential development of a suburban character, limited to single-family homes on individual lots. In keeping with a peaceful single-family environment, other uses that provide service to residential areas such as schools, churches, high-activity parks, and certain institutional uses, but which can also stress a peaceful atmosphere, are permitted only on a conditional use basis.

(b) *Permitted uses by right* are:

- (1) Single-family detached residences.
- (2) Public or private parks and recreation areas, but not including facilities for organized athletics except as permitted as a conditional use.
- (3) Public utility transmission and distribution lines, poles or pipes, and related accessories, provided that when a utility proposes a main intercity transmission facility, it shall give notice to the planning commission of such intention and of the date of hearing before the public service commission

regulating such use, and before beginning construction of a specific route shall file with the town planning commission the mapped description of the route.

(c) *Permitted accessory uses* are:

- (1) Private garages, carports and paved parking areas, when located on the same lot and not involving the conduct of a business, except as a permitted home occupation, residential business, or conditional use, provided that no such garage shall be erected prior to the erection of the principal building to which it is accessory. (See also section 94.154.)
- (2) Quarters for household employees, provided that such quarters shall be occupied only by individuals employed full time on the premises and their families.
- (3) Home occupations and residential businesses as defined in section 94.113.
- (4) Signs as regulated in article IX of this chapter, except that residential business signs may be as defined in section 94.113.
- (5) Home gardening and horticulture not involving greenhouses in excess of 500 square feet in area.
- (6) Service buildings and facilities normally incident to the use of public park or recreation area.
- (7) Husbandry. The keeping or raising of domestic livestock for show, breeding or other use incidental to the principal use of the premises subject to the following:
 - a. The keeping or raising of hogs or fur-bearing animals shall not be permitted.
 - b. Not more than one head of livestock and 20 fowl shall be permitted per 40,000 square feet of lot area, nor shall any such livestock or fowl be permitted on a lot less than 120,000 square feet in area exclusive of street right-of-way.
 - c. Stables, barns, poultry houses, or similar structures not in excess of 1,000 square feet, are permitted; provided that no building housing domestic livestock or poultry shall be closer than 50 feet to any lot line.
- (8) Family day care home

(d) *Uses permitted by conditional grant* are:

- (1) Recreational and social facilities, such as athletic fields involving organized teams and leagues; golf courses (but not including separate golf driving ranges or miniature golf); grounds, courts and fields for noncommercial recreation clubs and lodges; noncommercial recreation and community centers and swimming pools. (See alternate of OCR and OIP overlay districts.)
- (2) Schools, public and private. (See also OIP district.)
- (3) Religious facilities such as churches/temples/synagogues; convents, rectories and parsonages, retreat houses; cemeteries. (See also OIP district.)
- (4) Care centers such as nursing and convalescent homes; Large group day care centers; hospices but not hospitals or clinics; community living arrangements as regulated in Wis. Stats. § 62.23. (See also OIP overlay district.)
- (5) Public utility offices and installations and substations, municipal and community water towers, pump stations. (See also OIP and PUL districts.)
- (6) Two-family residences where the second unit does not exceed 60 percent of the floor area of the principal unit, its occupancy is intended for a family member related by blood, adoption or marriage to the occupants of the principal unit, at least one entrance to the second unit is through the principal unit, and where the overall appearance of the structure resembles that of a single-family residence.

(Ord. of 11-18-1991; Ord. of 4-28-2005)

Sec. 94.179. R-1 residential single-family district.

(a) *Statement of intent.* The R-1 district is intended to provide for the same peaceful single-family environment as the R-E district, at somewhat higher density, which translates to smaller required minimum lots and home sizes.

(b) *Permitted uses by right* are all uses as permitted by right in the R-E district.

(c) *Permitted accessory uses* are all accessory uses as permitted in the R-E district.

(d) *Uses permitted by conditional grant* are all conditional uses permitted in the R-E district.

(Ord. of 11-18-1991)

Sec. 94.180. R-2 residential single-family district.

(a) *Statement of intent.* The R-2 district is intended to provide for the same peaceful single-family environment as the R-E district but at a higher density than the R-E and R-1 districts, in order to permit such development at urban densities.

(b) *Permitted uses by right* are all uses as permitted by right in the R-E district.

(c) *Permitted accessory uses* are all accessory uses as permitted in the R-E district.

(d) *Uses permitted by conditional grant* are all conditional uses permitted in the R-E district.

(Ord. of 11-18-1991)

Sec. 94.181. RTF residential two-family district.

(a) *Statement of intent.* The RTF district is intended to provide for two-family dwellings on spacious lots compatible in size with the R-1 through R-E districts, since this district is shown in the village plan to be used in transitional situations between single-family districts and other development.

(b) *Permitted uses by right* are:

(1) Two-family residences (also called duplex residences, attached residences, semidetached dwellings, and townhouses or townhomes).

(2) All uses as permitted by right in the R-E district.

(c) *Permitted accessory uses* are all accessory uses as permitted in the R-E district, excepting husbandry.

(d) *Uses permitted by conditional grant* are all conditional uses permitted in the R-E district.

(Ord. of 11-18-1991)

Sec. 94.182. R-3 residential multiple-family district, garden apartments.

(a) *Statement of intent.* The R-3 district is intended to provide for multiple-family dwellings constructed at the lowest end of the urban multiple-family density range, where the emphasis on unit design is toward fewer units per building, and few units per entrance. The emphasis on lower mass of the structure requires limiting the dwellings per building; and this limitation of the total bulk of the structure makes the units more compatible with single- and two-family residences, which are often going to be in close proximity to this district under the village plan.

(1) *Garden apartments and townhouses.* The low density of this district is intended to produce sufficient open space to allow room for patio and gardening areas, hence the term "garden apartments" to signify the intended close kinship of this district to single-family residential living. The attached or row form of dwellings, called "townhouses or townhomes" is especially characteristic of this district.

(2) *Condominium.* While the majority of the units constructed will likely be for rental housing, this district is also intended to be used for more spacious higher quality units to be sold as condominiums, to be located in areas of very high residential appeal, and intended to provide service to those residing in nearby detached dwellings who, especially in the retirement years, may seek housing not requiring personal responsibility for maintenance.

(b) *Permitted uses by right are:*

(1) Multiple-family dwellings of not less than two nor more than eight dwellings per structure, subject to approval by the planning commission of building, site, and operational plans per article V of this chapter.

(2) Public parks and recreation areas, but not including facilities for organized athletics except as a permitted conditional use.

(3) Public utility transmission and distribution lines, poles and other accessories provided that when a utility proposes a main intercity transmission facility, they shall give notice to the planning commission of such intention and of the date of hearing before the public service commission, and before beginning construction of a specific route shall file with the planning commission a mapped description of the route of such transmission line.

(4) Existing single-family dwellings. Any lot to be created for such dwellings within this district shall be approved by the planning commission as to the setbacks and offsets that will result, but shall, in any case, at least meet the R-2 standards.

(c) *Permitted accessory uses are:*

(1) Garages, carports and paved parking areas, when located on the same lot and not involving the conduct of a business, except as a permitted home occupation, residential business or conditional use, serving exclusively the occupants of the premises, their guests and service employees.

(2) Home occupations and residential businesses, as defined in section 94.113.

(3) Signs as regulated in article IX of this chapter.

(4) Recreational and service building incident to the permitted uses.

(5) Family day care home

(d) *Permitted uses by conditional grant* are all uses as permitted by conditional grant in the RTF district.

(e) *Special regulations.*

(1) The planning commission shall not approve building plans that do not treat all exterior walls of all structures permitted in this section with acceptable materials that present an equally finished facade to all sides.

(2) Buildings not to exceed 12 units per structure may be approved by the planning commission provided the specific architectural design and site treatment is not at variance with the statement of intent of this district.

(Ord. of 11-18-1991; Ord. of 4-28-2005)

Sec. 94.183. R-4 residential multiple-family district, apartments.

(a) *Statement of intent.*

(1) *Generally.* The R-4 district is intended to provide for multiple-family dwellings constructed at the lower to moderate end of the urban multiple-family density range, with the lower density imposed to preserve adequate open space if surface parking is utilized, and the higher density permitted where underground parking is involved in the basement of the structures.

(2) *Occupancy and bulk.* This district will typically serve individuals and childless couples who do not require single-family or two-family space. This lower space need translates to a smaller minimum required floor area and less land per dwelling unit. Since this district according to village plan guidelines will typically occur near principal traffic arteries, shopping facilities and work opportunities, the permissible bulk of the structures can be larger in relation to the mass of such commercial and industrial structures than the permissible bulk in the R-3 district, where single-family compatibility is important. Nevertheless, given the transitional role that this district will provide between single-family residential and nonresidential areas, some restriction on the bulk of this district is still necessary to relate to single-family dwellings, which will frequently be nearby.

(b) *Permitted uses by right are:*

- (1) Multiple-family dwellings of not less than two nor more than 12 dwellings per structure, subject to approval by the planning commission of building, site and operational plans per article V of this chapter.
- (2) Public parks and recreation areas, but not including facilities for organized athletics except as a permitted conditional use.
- (3) Public utility transmission and distribution lines, poles and other accessories; provided that when a utility proposes a main intercity transmission facility, they shall give notice to the planning commission of such intention and of the date of hearing before the public service commission, and before beginning construction of a specific route shall file with the planning commission mapped description of the route of such transmission line.
- (4) Existing single-family dwellings. Any lot to be created for such dwellings within this district shall be approved by the planning commission as to the setbacks and offsets that will result, but shall, in any case, at least meet the R-2 standards.

(c) *Permitted accessory uses* are:

- (1) Garages, carports and paved parking areas, when located on the same lot and not involving the conduct of a business, except as a permitted home occupation, residential business or conditional use, serving exclusively the occupants of the premises, their guests and service employees.
- (2) Home occupations and residential businesses, as defined in section 94.113.
- (3) Signs as regulated in article IX of this chapter.
- (4) Recreational and service buildings incident to the permitted uses.
- (5) Family day care home

(d) *Permitted uses by conditional grant* are all uses as permitted by conditional grant in the RTF district.

(e) *Special regulations*.

- (1) The planning commission shall not approve building plans that do not treat all exterior walls of all structures permitted in this section with acceptable materials that present an equally finished facade to all sides.
- (2) Buildings, not to exceed 24 units per structure, may be approved by the planning commission provided the specific architectural design and site treatment is not at variance with the statement of intent of this district.

(Ord. of 11-18-1991; Ord. of 4-28-2005)

Sec. 94.184. R-5 residential manufactured/mobile home park district.

(a) *Statement of intent.* The R-5 district is intended to provide for single-family detached housing that is totally assembled off the site and then transported to its place of occupancy (the "mobile" or "manufactured" home) for utility hookup, producing the similar livable floor area as an apartment unit in the R-3 or R-4 district, but at a density midway between those districts and the RTF district.

(1) *Separate subdivisions.* The nonstandard architectural appearance of the units permitted in this district, as well as varying practices involving site leasing rather than individual unit lot ownership, and the use of private rather than public streets, make it impractical to provide for such units in the other districts of this chapter, requiring instead this separate regulatory district to be applied only to planned manufactured/mobile home parks.

(2) *Existing versus new developments.* Given the adverse experience in this and other communities over the long term with leased occupancy sites on private streets, resulting in lower than desirable levels of pride and maintenance of the private streets, it is the intent of this district to permit new developments only where lots are sold and where the street system is public, and where any common facilities are jointly owned by occupants of the subdivision. Existing developments containing leased sites and private streets may continue as conforming uses, but may not be expanded without bringing the existing portions into conformance with the requirements of this district.

(b) *Permitted uses by right* are the following, subject to approval by the planning commission of building, site and operational plans as set forth in article V of this chapter, giving special attention to the items identified under subsection (e) of this section:

(1) Mobile or manufactured home detached dwelling units in planned manufactured/mobile home parks.

(2) Public or private parks and recreation areas, but not including facilities for organized athletics.

(c) *Permitted accessory uses:*

(1) All accessory uses as permitted in the R-E district except detached greenhouses unless located in common open areas and husbandry.

(2) Community building for social gatherings, Large Group day care center, crafts, laundry or similar common usage for the benefit of the park occupants.

(d) *Uses permitted by conditional grant* are:

- (1) Public utility installations and substations.
- (2) Municipal and community water towers.
- (3) Pump stations.

(See also OIP overlay district.)

(e) *Special regulations.* In reviewing and approving building, site and operational plans under article V of this chapter as required in subsection (b) of this section, the commission shall give particular attention to:

- (1) Landscape screening of the perimeter, which area shall be no less than 20 feet wide.
- (2) Typical individual lot landscape and paving standards, which the commission may require be enforceable through covenants recorded on the title of each lot.
- (3) Landscaping and development of any common areas.
- (4) Whether a nonthrough traffic pattern would warrant public street rights-of-way less than the standard required width, but not less than 50 feet, if approved by the village board.

(Ord. of 11-18-1991; Ord. of 4-28-2005)

Sec. 94.185. B-1 neighborhood convenience retail and service district.

(a) *Statement of intent.*

- (1) *Generally.* The B-1 district is intended to provide for individual or small groups of retail and customer service establishments serving primarily the convenience of a local neighborhood; and the character, appearance and operation of these establishments are compatible with the surrounding or adjacent area, which in most cases will be residential.
- (2) *Limitations.* The expected close proximity of this district to residential areas makes it necessary to regulate uses, structures and their placement on their lots within this district so as to:
 - a. Limit the bulk of buildings to a mass similar to residential buildings as permitted in this article;

- b. Limit the amount of land area at any one location placed within this district;
 - c. Limit certain deleterious aspects of some businesses as a precondition to their locating in this district; and
 - d. Treat as conditional uses certain other uses which, without substantial modification, would otherwise constitute an incompatible use to existing or planned nearby residential development.
- (b) *Permitted Uses.* The following uses are permitted in the B-1 District subject to approval by the Planning Commission of building, site and operational plans (see Article V of this chapter):
- (1) Art and school supply stores.
 - (2) Barbershops.
 - (3) Bakeries -- where product produced is sold on the premises and at retail.
 - (4) Beauty shops.
 - (5) Branch banks.
 - (6) Candy and ice cream stores.
 - (7) Clothing stores.
 - (8) Convenience stores.
 - (9) Drugstores.
 - (10) Dry cleaning and laundry receiving stations, processing to be done elsewhere.
 - (11) Food stores, grocery stores, meat markets, fish markets, bakeries, and delicatessens.
 - (12) Hair styling salons.
 - (13) Hardware, domestic appliance, and paint and wallpaper stores.
 - (14) Laundromats, automatic, self-service only, or hand laundries - employing not more than two persons in addition to one owner or manager.

- (15) Liquor stores, package goods only.
- (16) Newspaper distribution agencies for home delivery and retail trade.
- (17) Restaurants, not including entertainment, dancing, and serving of alcoholic beverages.
- (18) Shoe stores.
- (19) Signs, as regulated herein.
- (20) Studios.
- (21) Telephone booths and coin telephones.
- (22) Temporary buildings for construction purposes, for a period not to exceed the duration of such construction.
- (23) Variety stores.
- (24) Wearing apparel shops.
- (25) Single-family dwellings
- (26) Accessory uses, incidental to, and on the same zoning lot as a principal use.

Provided, however, the following classes of uses including those of the foregoing permitted uses are permitted uses by right, but subject to the following restrictions and approval by the Planning Commission of building site and operational plans (see Article V of this chapter):

- (i) Retail stores and shops offering convenience goods and personal services, provided that they individually do not exceed 3,200 square feet of primary floor area.
- (ii) Business, professional or public service offices providing they do not exceed 2,400 square feet of primary floor area.
- (iii) Customer service establishments such as financial services, shoe repair, barber shops and beauty shops, studios and similar uses, providing each does not exceed 1,600 square feet of primary floor area, and not offering drive-through facilities.

- (iv) Public utility transmission and distribution lines, poles and other accessories; provided that when a utility proposes a main intercity transmission facility, it shall give notice to the Planning Commission of such intention and of the date of hearing before the Public Service Commission, and before beginning construction of a specific route shall file with the Planning Commission a mapped description of the route of such transmission line.

(c) *Permitted accessory uses* are the following, subject to approval by the planning commission of building, site and operational plans (see article V of this chapter):

- (1) Garages for storage of vehicles used in conjunction with the operation of the business.
- (2) Off-street parking and loading areas. (See article VIII of this chapter.)
- (3) Signs subject to the provisions of article IX of this chapter.
- (4) Residential quarters for the owner, proprietor, commercial tenant, employee or caretaker located in the same building as the business.

Any other structure or use normally accessory to the principal uses permitted.

- (5) Family day care home

(d) *Permitted uses by conditional grant* are:

- (1) Automobile fuel sales.
- (2) Rental apartments as a secondary use of a commercial building, and on other than the ground floor level.
- (3) Restaurants, taverns, bars, etc., not offering live entertainment.
- (4) Small animal veterinary clinics and accessory indoor boarding kennels.
- (5) Large group day care center, nursing or convalescent centers, including hospices but not hospitals. (See Large group day care center)

(e) *Special regulations.*

- (1) This district should not normally be applied to parcels or groups of parcels whose primary floor area would total as a group more than 20,000 square feet.

- (2) Outside storage uses such as travel-moving vehicle or trailer rental, sale of motor vehicles, outside display of merchandise or goods storage are not permitted.
- (3) Outdoor sound systems, cooking odors from food preparation, high-intensity site lighting, drive-through facilities, and late hours of operation each pose special stress to nearby residential uses and should not be ordinarily approved in this district as part of permitted uses unless the commission is satisfied in the specific circumstances that the degree of such aspects would be reduced below stress levels, or that mitigation measures would adequately protect nearby residential areas.

(Ord. of 11-18-1991; Ord. of 4-28-2005; Ord. of 5-19-2005; Ord. 5-3-2006)

Sec. 94.186. B-2 community business district.

(a) *Statement of intent.*

- (1) *Generally.* The B-2 district is intended to provide for the orderly and attractive grouping at appropriate locations of retail stores, offices and service establishments serving the needs of the larger community area. The size and location of such districts shall be based upon evidence of justifiable community need, of adequate customer potential, and of satisfactory relationship to the arterial highway system, and other related facilities. The impact on adjacent residential uses because of traffic, size of buildings, hours of operation and the need for some arrangement of the uses within the district with respect to compatibility and interchange of customer traffic will require planning commission approval of specific development plans.
- (2) *Limitations.* Uses that depend upon a substantial amount of outdoor storage of their product such as building supply yards, motor vehicle equipment sales and service, or that present other types of characteristics such as an outdoor theater, trucking terminal, motor vehicle body repair, and similar uses, tend to be incompatible with the retail shopping center and office developments that form the core of the permitted uses of this district. Consequently such uses are prohibited as uses of right in this district.

(b) *Permitted Uses.* Any use permitted in the B-1 DISTRICT, shall be permitted in the B-2 DISTRICT; and, in addition the following uses shall be permitted subject to the approval by the Planning Commission of building, site and operational plans (see Article V of this chapter):

- (1) Antique shops.
- (2) Art shops or galleries, but not including auction rooms.

- (3) Automobile accessory stores.
- (4) Banks and financial institutions.
- (5) Bicycle sales, rental, and repair stores.
- (6) Business service centers.
- (7) Business, professional and public service offices.
- (8) Book and stationary stores.
- (9) Business machine sales and service.
- (10) Camera and photographic supply stores.
- (11) Carpet and rug stores, retail sales only.
- (12) Catering establishments.
- (13) China and glassware stores.
- (14) Clubs and lodges, non-profit and fraternal.
- (15) Coin and philatelic stores.
- (16) Craft and fabric supply stores.
- (17) Custom dressmaking.
- (18) Department stores.
- (19) Dry cleaning establishments.
- (20) Dry goods stores.
- (21) Electrical and household appliance stores, including radio, computer and television sales.
- (22) Employment agencies.
- (23) Fast food establishments.
- (24) Furniture stores, including upholstering when conducted as part of the retail operations and secondary to the principal use.

- (25) Furrier shops, including the incidental storage and conditioning of furs.
- (26) Garden supply, tool, hardware and seed stores.
- (27) Gift shops.
- (28) Hobby shops, for retail or items to be assembled or used away from the premises.
- (29) Hotels and motels.
- (30) Interior decorating shops, including upholstering and making of draperies, slipcovers, and other similar articles, when conducted as part of the retail operations and secondary to the principal use.
- (31) Jewelry stores, including watch repair.
- (32) Leather goods and luggage stores.
- (33) Locksmith shops.
- (34) Medical and dental clinics.
- (35) Meeting halls.
- (36) Millinery shops.
- (37) Musical instrument sales and repair.
- (38) Office machine sales and servicing.
- (39) Office supply stores.
- (40) Optician sales, retail.
- (41) Orthopedic and medical appliance stores.
- (42) Pawnshops.
- (43) Pet shops.
- (44) Music stores.
- (45) Photography studios, including the developing of film and pictures when conducted as part of the retail business on the premises.

- (46) Physical fitness and health services facilities and health and fitness facilities.
- (47) Picture framing, when conducted for retail trade on the premises only.
- (48) Plumbing and heating sales shop.
- (49) Post offices.
- (50) Produce markets.
- (51) Radio, computer and television service, sales, and repair shops.
- (52) Restaurants -- including the serving of alcoholic beverages if incidental to the serving of food as a principal activity, but not including live entertainment or dancing.
- (53) Sewing machine sales and service -- household appliances only.
- (54) Shoe stores.
- (55) Sporting goods stores.
- (56) Tailor shops.
- (57) Taverns, but not including live entertainment or dancing.
- (58) Taxidermists.
- (59) Theaters, indoor.
- (60) Ticket agencies, amusement.
- (61) Tobacco shops.
- (62) Toy stores.
- (63) Travel bureaus and transportation ticket offices.
- (64) Undertaking establishments and funeral parlors.

(c) *Permitted accessory uses* are the following, subject to approval by the planning commission of building, site and operational plans (see article V of this chapter):

- (1) All accessory uses as permitted in the B-1 district.
- (2) Signs as regulated in article IX of this chapter.
- (d) *Uses permitted by conditional grant* are:
 - (1) Rental apartments as a secondary use of a commercial building on other than a ground level floor.
 - (2) Large group day care center, nursing or convalescent centers, including hospices but not hospitals. (See Large group day care center).
 - (3) Any use permitted by right in the B-3 district but not so permitted in this district.

(Ord. of 11-18-1991; Ord. of 4-28-2005; Ord. 5-3-2006)

Sec. 94.187. B-3 general business district.

(a) *Statement of intent.* The B-3 district is intended to provide space for a widely diversified range of commercial uses, including those retail or service uses with a wholesale aspect and those businesses, both small and large, not suited to the B-1 or B-2 districts, including those with extensive outdoor product storage or display.

- (1) *Site characteristics.* The uses to be located in this district traditionally need individually owned sites near other major commercial activity and facing or near important traffic arterials, but relying much less upon interchange of customers between adjacent uses as found among B-1 and B-2 uses. To discourage the stripping of B-3 uses along the principal arterial highways, thereby damaging the capacity of such arterials to move traffic safely as set forth in section 94.152, wherever possible uses should be arranged in general business parks. Where stripping is unavoidable, the traffic management measures set forth in section 94.152 will need to be carefully followed.
- (2) *Site regulation.* While this district is intended to be quite broad in its permissiveness within the general range of commercial enterprise, the potential is so high among some of the allowable uses for creating a damaging image for their neighborhood (especially where outside storage/display is involved) it is necessary for the planning commission to be especially vigilant in exercising its power of approval of building, site and operational plans under article V of this chapter.

(b) *Permitted Uses.* Any use permitted by right or by conditional use in the B-1 or B-2 Districts shall be permitted in the B-3 DISTRICT; and in addition, the

following uses shall be permitted subject to approval by the Planning Commission of building, site and operational plans as set forth in Article V of this chapter:

- (1) Amusement establishments including: bowling alleys, pool halls, dance halls, swimming pools, skating rinks, archery ranges, shooting galleries, and similar amusement facilities.
- (2) Animal hospitals.
- (3) Auction rooms.
- (4) Automobile service stations.
- (5) Boat showrooms.
- (5) Building materials and product sales.
- (6) Car washes.
- (7) Contractor or construction offices, excluding shops and yards.
- (8) Exterminating shops.
- (9) Farm implement sales.
- (10) Feed and seed stores.
- (11) Fuel and ice sales.
- (12) Garages -- for storage, repair and servicing of motor vehicles, including body repair, painting, and engine rebuilding. No outdoor storage of salvage vehicles or parts of vehicles shall be permitted.
- (13) Greenhouses and nurseries.
- (14) Laboratories -- medical, dental and indoor testing facilities.
- (15) Laundries -- room or rooms containing the laundering process (washing, drying, ironing, and wrapping) shall not exceed a total of 2,400 square feet in area.
- (16) Model homes and garage displays.
- (17) Motor cycle and recreational vehicle shops.

- (18) Motor vehicle, recreational vehicle, motorcycle and mobile home sales.
- (19) Parking garages or structures.
- (20) Restaurants and taverns - live entertainment and dancing permitted.
- (21) Schools -- music, dance, business, commercial or trade.

(c) *Permitted accessory uses* are any accessory uses, including signs, as permitted in the B-1 and B-2 districts, as well as any others customarily associated with the permitted uses of this district.

(d) *Uses permitted by conditional grant* are retail or service uses involving related indoor manufacturing (cabinet shops, heating and cooling equipment sales and service with on-site ductwork fabrication, etc.), where the manufacturing floor area does not exceed 5,000 square feet. (See M-1 district for floor areas over 5,000 square feet.)

(Ord. of 11-18-1991; Ord. 5-19-2005; Ord. 5-3-2006)

Sec. 94.188. B-4 office district.

(a) *Statement of intent.* The B-4 district is intended to provide for individual sites, or for planned groupings on single larger sites or on subdivided larger sites, of office buildings and related service uses serving the needs of both the neighborhood and of the larger community area. Planning commission approval of the building, site and operational plans of each such building proposal will be necessary to achieve a satisfactory relationship of the office use and its operating characteristics to possible adjacent residential uses, to the arterial highway system, and in some cases to adjacent retail and customer service uses where shared parking is likely and some interchange may occur between these various uses.

(b) *Permitted uses by right* are offices, whether for single- or multiple-tenant use, including business, professional, governmental or other institutional occupancy as well as for medical and dental clinics, subject to approval by the planning commission of building, site and operational plans (see article V of this chapter).

(c) *Permitted accessory uses* are the following, subject to approval by the planning commission of building, site and operational plans (see article V of this chapter):

- (1) Incidental service uses such as product or service display area, warehousing and repair service, customer or employee services, including restaurants, cafeterias, Large group day care centers, studios or instructional areas, provided

that these uses are accessory or subordinate to the principal office use by not comprising cumulatively more than 30 percent of the floor area.

(2) Off-street parking or loading areas. (See article VIII of this chapter.)

(3) Signs subject to the regulations of article IX of this chapter.

(4) Any other structure or use normally accessory to the principal permitted uses.

(d) *Permitted uses by conditional grant* are:

(1) Banks, savings and loans, credit unions and similar financial service facilities having drive-up window service.

(2) Rental apartments as a secondary use on other than the ground floor level.

(3) Large group day care centers not accessory to a principal office use.

(Ord. of 11-18-1991; Ord. of 4-28-2005)

Sec. 94.189. B-P business park district.

(a) *Statement of intent.* The B-P district is intended to provide space where office, retail and customer service uses may be mixed with industrial uses in a highly landscaped setting free of outside storage or display, where the setting is highly visible to one or more main traffic arteries, all of the uses seek or require such exposure, and all are willing to adhere to a higher standard of architectural and grounds appearance to maximize the benefit of such visibility.

(b) *Permitted Uses.* Permitted uses by right are subject to approval by the Planning Commission of building, site and operational plans as set forth in Article V of this chapter.

1. Any use permitted by right or conditional use in the B-1 through B-4 Districts shall be permitted in the B-P DISTRICT except dwellings and rental apartments as a secondary use and further excepting those uses with outside storage or display;
2. Uses permitted in M-1 may be considered by conditional grant and such uses may not utilize outside storage or display.

(c) *Permitted accessory uses* are any accessory uses, including signs, permitted in the B-1 through B-4, as well as any others customarily associated with the permitted uses of this district, but excluding those involving outside storage or display, subject to approval by the planning commission of building, site and operational plans under article V of this chapter.

(d) *Uses permitted by conditional grant* are uses permitted by right in M-1 or uses which at the time of zoning permit application are questionable as to compliance with one or more of the performance standards of article IV of this chapter, which agree to a grant for specific time period as provided for under section 94.142(j) in order to allow for site-specific testing of the questionable standard.

(e) *Special regulations.*

- (1) The planning commission shall not approve building plans that do not treat all exterior walls of all structures permitted in this district with acceptable materials that present an equally finished facade to all sides.
- (2) Necessary loading docks and enclosed waste storage awaiting pickup must be especially well treated in terms of site placement and landscape and other suitable screening.

(Ord. of 11-18-1991; Ord. of 5-3-2006)

Sec. 94.190. M-1 manufacturing and warehousing district.

(a) *Statement of intent.* The M-1 district is intended to provide for all industrial uses that would not violate the performance standards of article IV of this chapter. In the context of this district, "industrial" is intended to mean those activities that make or add value to goods through various manufacturing processes.

- (1) *Related functions.* This district also provides for warehousing and transportation activities, both as ancillary activities of manufacturing, and as independent facilities and services. Warehousing is also intended to encompass inside or outside storage of raw materials or finished goods, as well as of equipment used on or off the premises.
- (2) *Industrial service functions.* Retail and service functions providing direct service to industry are also permitted, as well as those having extensive outside storage which are not industrial or serving industry but which are also permitted in this district on the basis of visual and functional impact compatibility rather than similarity of use.

(b) *Permitted Uses.* Permitted uses by right are subject to approval by the Planning Commission of building, site and operational plans as set forth in Article V of this chapter. Subject thereto the following uses are permitted in the M-1 District.

- (1) Bakeries -- commercial for off premises sales.
- (2) Bedding manufacturing.

- (3) Boot and shoe manufacturing.
- (4) Bottling companies.
- (5) Building materials sales and storage.
- (6) Carpet manufacturing.
- (7) Cartage and express facilities.
- (8) Cloth products manufacturing.
- (9) Contractors shops and yards.
- (10) Cosmetic production.
- (11) Dairy products.
- (12) Dwellings for watchmen and their families, located on the premises where they are employed in such capacity.
- (13) Electronic and scientific precision instruments – manufacture and sales.
- (14) Feed and seed sales.
- (15) Garages -- for storage, repair and servicing of motor vehicles.
- (16) General warehousing.
- (17) Glass products.
- (18) Graphite products manufacture.
- (19) Greenhouses -- wholesale.
- (20) Laboratories - research and testing.
- (21) Light machinery production - appliances, business machines, etc.
- (22) Lithographing.
- (23) Manufacturing, assembly, fabrication, and processing operations, including retail materials storage and warehousing.
- (24) Motor freight terminals.

- (25) Musical instruments manufacture.
- (26) Orthopedic and medical appliance manufacture.
- (27) Pottery and ceramics manufacture.
- (28) Printing and publishing.
- (29) Public utility and service uses.
- (30) Restaurants.
- (31) Rope, cord and twine manufacture.
- (32) Signs, as regulated hereunder.
- (33) Sporting goods manufacture.
- (35) Telecommunication towers.
- (36) Warehousing and storage.
- (37) Wearing apparel manufacture.
- (38) Weighing stations, operated by the State of Wisconsin.
- (39) Accessory uses, incidental to, and on the same lot as the principal use.
- (40) Other uses determined by the Plan Commission to be of the same general character as the uses permitted hereinabove, and not found to be obnoxious, unhealthful, or offensive by reason of the potential emission or transmission of noise, vibration, smoke, dust, odors, toxic or noxious matter, glare or heat, or fire or explosive hazards.

(c) *Permitted accessory uses* are, subject to approval by the planning commission of building, site and operational plans under article V of this chapter:

- (1) Office, storage, power and water supply and other such uses normally ancillary to the permitted principal uses.
- (2) Off-street parking and loading facilities as regulated in article VIII of this chapter, including garages and terminal docks.

- (3) Signs as regulated in article IX of this chapter.
- (4) Residential quarters for guard or caretaker. Any separate lot shall at least meet the R-2 district standards.
- (5) Any other accessory use normally ancillary to the permitted principal use.

(d) *Uses Permitted by Conditional Grant.* Uses permitted by conditional grant are uses that, at the time of the zoning permit application, are questionable as to compliance with one or more of the performance standards of Article IV of this chapter. Such uses include the following:

- (1) Abrasives manufacture.
- (2) Asphalt products manufacture.
- (3) Brick and structural clay products manufacture.
- (4) Chemical processing and manufacturing.
- (5) Concrete mixing plants.
- (6) Electroplating.
- (7) Feed mills.
- (8) Food manufacture, packaging and processing.
- (9) Foundries and forge plants.
- (10) Fur processing
- (11) Grain storage and processing.
- (12) Gypsum manufacture.
- (13) Heavy machinery production.
- (14) Insulating materials manufacture.
- (15) Junk yards and auto graveyards.
- (16) Leather tanning and processing.
- (17) Linoleum manufacturing.

- (18) Machine shop.
- (19) Meat packing.
- (20) Metal reduction and refinement.
- (21) Metal stamping.
- (22) Mining operations.
- (23) Paint products manufacture.
- (24) Paper products manufacture.
- (25) Petroleum products storage and processing.
- (26) Plastics manufacture.
- (27) Rubber processing or manufacture.
- (28) Sewage treatment plants, municipal.
- (29) Soap manufacture.
- (30) Steel manufacture.
- (31) Stone products manufacture.
- (32) Other manufacturing, processing, or storage uses determined by the Plan commission to be of the same general character as the uses permitted hereinabove and not found to be obnoxious, unhealthful, or offensive by reason of the potential emission or transmission of noise, vibration, smoke, dust, odors, toxic or noxious matter, glare or heat, or fire or explosive hazards.

(Ord. of 11-18-1991; Ord. of 4-28-2005; Ord. of 5-3-2006)

Sec. 94.191. WPD wetland protection district.

(a) *Statement of intent.* The WPD district is intended to preserve, protect and enhance wetlands, some of which lands under Wis. Stats. § 66.231 must be so protected by state mandate, and others of which are protected as called for in the village plan. (See definition of wetlands in section 94.113.)

(b) *Permitted uses by right* are:

- (1) Agricultural uses, provided they do not involve extensions of cultivated areas, extension of or creation of new drainage systems, and further provided that they do not substantially disturb or impair the natural fauna, flora, topography, or water regimen.
- (2) Fishing.
- (3) Grazing in dry conditions.
- (4) Hunting if permitted under other village laws.
- (5) Preservation of scenic, historic and scientific areas.
- (6) Public fish hatcheries.
- (7) Public or private parks, where left in a natural, undeveloped, open-space use.
- (8) Sustained yield forestry if conducted under a U.S. Soil Conservation Service management plan.
- (9) Stream, bank and lakeshore protection.
- (10) Water retention and wildlife preserves.

(c) *Permitted accessory uses* are structures accessory to principal uses, not intended for human habitation or the confined housing of animals or livestock.

(d) *Uses permitted by conditional grant.* No conditional uses shall be permitted in this district except:

- (1) Sod farming.
- (2) Utility facilities (except buildings and substations) such as underground watertight conduits, telephone and electric poles, etc., constructed in conformance with Wis. Admin. Code NR § 116.12.
- (3) Public road crossings of the wetland provided other routes have first been studied and discarded, and provided the construction technique and final roadway design used do not permanently impair the overall function of the wetland being crossed. Where some permanent damage appears unavoidable, the planning commission, if satisfied the crossing is in the public interest, may require compensating measures that create at least an equal amount of wetlands nearby or elsewhere, or which preserve an equal or larger area of wetland nearby or elsewhere that is otherwise not protected.

(e) *Special regulations.*

- (1) Where a lot or parcel of land is located partially within this district and partially within an adjoining district having minimum land area or open space requirements to meet the standards of that district as set forth in section 94.174, that portion of the lot or parcel which falls within this district may be counted toward the section 94.174 standard but not to exceed 40 percent of that standard, and provided the physical arrangement of the wetland does not preclude satisfactory positioning of the lot or parcel.
- (2) No private well used to obtain water for human consumption nor soil absorption sewage effluent treatment system or holding tank shall be placed within this district.

(Ord. of 11-18-1991)

Sec. 94.192. PUL public or utility lands.

(a) *Statement of intent.* The PUL district is intended to eliminate the ambiguity of maintaining an unrelated use district for areas that are under public or private utility ownership and where the use for public purpose is anticipated to be permanent. To qualify for this district, land must be owned by the municipal, county, state or federal government or any of their agencies, or by a public utility subject to the jurisdiction of such regulatory bodies as the public service commission or state aeronautics board.

(b) *Permitted uses by right* are the following, subject to approval by the planning commission of building, site and operation plans:

- (1) Public schools, libraries, museums, auditoriums, art galleries, concert halls or similar facility designed to serve the educational or cultural needs of the community.
- (2) Public administrative offices and public service buildings, including fire and police stations.
- (3) Public parks and recreational areas, but not including facilities for organized athletics except as a permitted conditional use.
- (4) Public parking lots.
- (5) Public utility offices, installations, transmission and distribution facilities.
- (6) Airports.

(c) *Permitted accessory uses* are:

- (1) Residential quarters for employes or caretaker.

- (2) Garages for storage of vehicles used in conjunction with the operation of the permitted facility.
 - (3) Parking and service areas and structures serving the employees or for the public using the permitted facility per article VIII of this chapter.
 - (4) Signs as regulated in article IX of this article.
 - (5) Service buildings and facilities normally accessory to the principal use permitted.
- (d) *Uses permitted by conditional grant are:*
- (1) Public service yards containing outside storage, or overnight outdoor parking.
 - (2) Public parking structures.
 - (3) Public penal, reform, disciplinary and mental institutions.
 - (4) Public hospitals or sanitariums. (See also OIP district.)
 - (5) Military installations.
 - (6) Public outdoor recreational facilities for organized athletics.

(Ord. of 11-18-1991)

DIVISION 4. OVERLAY DISTRICTS*

Sec. 94.193. OCR commercial and private recreation overlay district.

(a) *Statement of intent.* The OCR district is intended to provide for both indoor and outdoor nongovernmental recreational uses that exceed the scope of those permitted in association with residential districts, and that involve both commercial operations that do not fit within the commercial districts, such as outdoor drive-in theaters, and private operations, such as membership golf courses. The wide variation in the impact of uses permissible under this district on the surrounding pattern of land use and transportation facilities requires limiting uses by right to existing uses, requiring extensions of such uses, or new operations, to be processed as conditional grants.

(b) *Permitted uses by right* are existing private and commercial recreational uses, including but not limited by enumeration to golf courses, campgrounds, swimming and tennis clubs, athletic fields and stadiums, outdoor theaters, archery and firearm ranges, horse riding stables, etc., including the right to maintain and remodel the improvements involved with such uses; except that remodeling shall not involve a basic expansion of

the use and any activity requiring a zoning permit shall require approval by the planning commission of building, site and operational plans per article V of this chapter.

(c) *Permitted accessory uses* are the following, subject to approval by the planning commission of building, site and operational plans per article V of this chapter:

(1) Off-street parking and loading areas per article VIII of this chapter.

(2) Signs as regulated in article IX of this chapter.

(3) Residential quarters for the owner or caretaker.

(d) *Uses permitted by conditional grant* are:

(1) Expansion of uses. All continuation of present uses involving new construction or additions and remodeling that expand the use.

* **Cross References**--Businesses, ch. 18.

(2) New uses, including but not limited by enumeration to those listed under permitted uses by right, subsection (b) of this section.

Sec. 94.194. OIP institutional and public service overlay district.

(a) *Statement of intent.* The OIP district is intended to permit in those basic districts in which such uses are appropriate, specifically defined areas where churches, schools, libraries, and other uses of a public or institutional nature shall be permitted subject to such regulatory standards as will ensure compatibility with the underlying basic district uses, often residential.

(b) *Permitted uses by right* are the following uses, subject to approval by the planning commission of building, site and operational plans per article V of this chapter:

(1) Public and private schools.

(2) Churches and religious institutions other than hospitals.

(3) Nursing and convalescent homes, Large group day care centers, hospices but not hospitals or clinics.

(4) Cemeteries and mausoleums.

(5) Libraries, museums, art galleries and concert halls.

(6) Public administrative offices.

(7) Private lodges and clubs.

(c) *Permitted accessory uses* are the following, subject to approval by the planning commission of building, site and operational plans per article V of this chapter:

(1) Off-street parking and loading areas per article VIII of this chapter.

(2) Signs as regulated by article IX of this article.

(3) Bar, restaurant or other service facilities accessory to a permitted use, and intended solely for the convenience of members and guests and not operated as a business nor open to the general public. Where such facilities are accessory but are open to the public, they may be permitted as a conditional use.

(4) Any other structure or use normally incident or accessory to the permitted overlay use.

(d) *Uses permitted by conditional grant* are:

(1) Public service yards.

(2) Radio and television transmission and relay towers.

(3) Hospitals.

(4) Bar, restaurant or other service facilities basically accessory to a permitted principal use, but open to the public and operated as a business.

(5) Penal, reform, disciplinary and mental institutions.

(Ord. of 11-18-1991; Ord. of 4-28-2005)

Sec. 94.195. OPD planned development overlay district.

(a) *Statement of intent.* The OPD district is intended to provide for the zoning map implementation of the special regulations authorized by Wis. Stats. § 62.23(7)(b) and incorporated into this chapter as article VII.

(b) *Permitted uses by right* are any use permitted in the underlying basic or overlay districts subject to the regulation as to the manner in which permitted as provided in section 94.145.

(c) *Permitted accessory uses* are any accessory use permitted in the underlying zoning districts, but subject to the regulations as to the manner in which permitted as provided in section 94.145.

(d) *Uses permitted by conditional grant* are, subject to all of the regulations of articles VI and VII of this chapter:

- (1) Any conditional use permitted in any district.
- (2) Any use permitted by right in any district.
- (3) Any accessory use permitted in any district.

(Ord. of 11-18-1991)

Sec. 94.196. OAH airport height overlay district.

(a) *Statement of intent.* The OAH district is intended to restrict the otherwise permissible height of buildings, structures and landscaping or other natural growth in the path of airport runways regulated by the state aeronautical function within the department of transportation so as to minimize restrictions to the free and safe flight of aircraft taking off or landing upon the runways. This district also restricts certain land uses that act as hazards to aircraft flying at low levels, or that interfere with the navigational aspects of airport operation; and this district may prohibit or discourage land uses which might be adversely affected by airport operations.

(b) *Definitions.* The following words, terms and phrases, when used in this section, shall have the meanings ascribed to them in this subsection, except where the context clearly indicates a different meaning:

Airport owner means that municipal, county, state or private owner or combination which owns an approved airport.

Airport runway affected zone means that area contiguous to the ends of existing or planned runways extending outward five times the length of the existing or planned runway, and extending to one-half mile on either side of said runway corridor.

Approved airport means that existing or proposed airport that has been approved as an airport site by appropriate state and federal aeronautical regulatory agencies, and that has:

- (1) Been included on the state airport system plan.
- (2) Its fee simple title vested in the airport owner.

Height restriction maps means maps prepared as part of the airport development plan that are approved by appropriate state and federal aeronautical regulatory authorities and the planning commission, which maps show allowable heights for obstructions to air traffic within the airport affected runway zone.

Land use restriction maps means maps and text prepared in the airport development plan, which set forth uses to be prohibited or modified within the airport affected runway zone so as to minimize interference with safe flight or navigation of aircraft. These maps and text may also recommend land uses to be prohibited or discouraged by the undue danger or annoyance of aircraft operations, particularly noise.

(c) *Permitted uses by right* are all uses as permitted by the basic and overlay districts lying within this OAH overlay district, subject to the height or land use modifications as may be adopted by the board upon recommendation of the planning commission as an amendment to this district in connection with adoption of any approved airport development plan.

(d) *Permitted accessory uses* are all accessory uses as permitted by the basic and overlay districts lying within this OAH overlay district, subject to the height or land use modifications as may be adopted by the board upon recommendation of the planning commission as an amendment to this district in connection with adoption of any approved airport development plan.

(e) *Uses permitted by conditional grant* are all uses as permitted by basic and overlay districts lying within this OAH overlay district, subject to the height or land use modifications as may be adopted by the board upon recommendation of the planning commission as an amendment to this district in connection with adoption of any approved airport development plan.

(f) *Special regulations:*

- (1) Application of this district shall be by petition of the airport owner, following the procedures set forth under article XIV of this chapter.
- (2) Prior to petition or prior to scheduling of any public hearing on the petition, the airport owner shall cause to be prepared an airport development plan, which provides the information described in subsection (a) of this section, and any related information required by the state aeronautical board responsible for approval of such plans. The village shall be provided with a copy of the plan no later than the owner's filing of the plan with the state.
- (3) Following adoption of the airport development plan in its original or amended form by the board, after recommendation of the planning commission, and preparation of specific restrictions to be enforced under the terms of this district, the petition shall proceed to public hearing and consideration for action as set forth in article XIV of this chapter.

- (4) Application of the OAH overlay district to the official zoning map as described in section 94.172 shall implement the restrictions found in the adopted airport development plan as if they were part of this chapter and this district. The zoning administrator may prepare excerpts from the plan to aid his office and owners of affected property to understand the regulations being implemented by this district.
- (5) Amendments to this district once in place shall not be effective until such time as the airport owner has been notified by the village and given a reasonable opportunity to comment upon the proposed amendment.

(Ord. of 11-18-1991)

Sec. 94.197. OWC woodlands conservation district.

(a) *Statement of intent.* The OWC district is intended to protect and enhance the remaining significant woodlands in the village in order to preserve one of the important scenic elements of the village's character, to sustain the remaining wildlife that depends upon such woodlands, to help protect steep topography in some cases and to retard soil erosion in other cases, and to retain some natural diversity in the man-affected environment of urban development and farmed rural areas.

- (1) Economic value to be retained. Preservation of the village's remaining woodlands is not intended to unfairly penalize the economic value of the properties on which the woodlands occur. Accordingly, this district provides for a variety of techniques that both preserve woodlands while allowing for economic value of land to be realized.
- (2) Variety of preservation methods. Subject to approval by the planning commission of building, site, and operational plans under article V of this chapter, the examples under subsection (e) of this section may be used alone or in combination to retain the village's remaining quantity of woodlands while providing the owner with fair economic value.

(b) *Permitted uses by right* are any use as permitted in the basic or overlay districts falling within this district; except that all uses, whether required or not by the other district regulations, if located within this district, shall be subject to approval by the planning commission of building, site and development plans as set forth in article V of this chapter for the purpose of woodlands preservation. Once having established a basic plan to preserve woodlands in an area being subdivided, the commission may delegate to the zoning administrator the review of individual plans within each lot to assure conformance with the overall subdivision preservation plan.

(c) *Permitted accessory uses* are any accessory uses as permitted in the basic or overlay district falling within this district, subject to the same requirement for principal

uses of subsection (b) of this section that they be processed under article V of this chapter.

(d) *Uses permitted by conditional grant* are any use as permitted by conditional grant in the basic or overlay districts falling within this district; except that the existence of this district shall be weighed as part of the criteria of article VI of this chapter whether or not to grant the petitioned use, and the conditions established under article VI of this chapter may substitute for a separate processing under article V of this chapter.

(e) *Special regulations*. In application of any or all of the following methods of woodlands preservation and enhancement, the planning commission, under its powers of building, site and operational plan review and approval of article V of this chapter, or as appropriate article VI of this chapter, shall always require that covenants be placed upon the deed of the property describing protected areas so that subsequent owners are informed of the tree zone to be protected and managed for preservation. The commission may, in consultation with the U.S. Forest Service, U.S. Soil Conservation Service or state department of natural resources, provide tree management guidelines for use by owners with protective covenants.

- (1) *Minimized destruction*. In cases where all or a high percentage of the property is wooded, leaving in the commission's judgment no alternative to some woodland destruction, the commission shall seek to limit the destruction to the smallest amount possible by requiring limited construction areas around buildings and other improvements, narrower drives and roadways, and building and road levels that least cause tree loss from grading.
- (2) *Clustering-repositioning*. In cases where woodlands are in groups mixed with open space, the commission shall seek to encourage and allow alternative arrangements of the roadway and subdivision plan, including modification of lot size or shapes and of the location of buildings and parking lots within those lots or within the tract if subdividing is not involved, so as to cause the least destruction of woodlands, for example arranging that the trees fall in required yard areas rather than in the buildable portions of lots. Where necessary, the commission shall encourage application of the OPD planned development project overlay district to effect any necessary modifications in lot size, building placement or substitution of other building types to accomplish the tree preservation plan.
- (3) *Replacement*. In cases where in the commission's judgment some tree loss is unavoidable, the commission shall require replanting on the same or nearby properties as the petitioner is able to arrange. Replanting shall be at the ratio of two acres of new plantings for each acre of lost mature woodlot. The commission may prepare tree planting plans in anticipation of such reforestation planting so that isolated tree groups become connected, bare steep slopes become tree planted, and other objectives of woodland preservation are achieved.

(Ord. of 11-18-1991)

Sec. 94.198. OWP wellhead protection district.

(a) *Statement of intent.* The OWP district is intended to protect from contamination the groundwater recharge zone of the village's existing and planned municipal groundwater wells, which wells supply the potable water to the village's many residential, business, institutional and other utility customers. This district is necessary because the water utility by geological necessity must draw its water from the ground levels lying closest to the surface, which grounds contain soil types that rapidly transmit pollutants, thereby threatening the entire groundwater supply being drawn upon by the municipal wellhead.

- (1) *Supremacy of this district.* The choice of regulation employed via this overlay district is to entirely prohibit certain uses that otherwise may be permitted by basic and other overlay districts falling within the confines of this overlay district. The regulations of this district shall supersede the regulations of all other such districts occupying the same geographic area.
- (2) *Uses prohibited.* The uses prohibited by this district have been identified in geologic surveys as risks for groundwater contamination. This method of regulation by complete prohibition is employed to provide the greatest assurance that inadvertent discharge of pollutants into the groundwater supply will not occur, since groundwater cleanup is often prohibitively expensive, and liability for such cleanup is often hard or impossible to establish.
- (3) *Use list not exhaustive.* The uses prohibited by this district represent the state of present knowledge and most common description of such uses. As other polluting uses are discovered, or other terms of description become necessary, it is the intention to add them to the list of uses prohibited by this district. To screen for such other uses or terms for uses, no use shall be permitted in this district without first submitting its building, site and operational plans for planning commission review and approval under article V of this chapter.
- (4) *Changing technology.* The uses prohibited by this district are prohibited based upon the combined pollution experience of many individual uses, and the technology generally employed by that class of uses, which technology causes the uses as a class to be groundwater pollution risks. As the technology of identified use classes changes to nonrisk materials or methods, upon petition from such a use, and after conferring with expert geological and other opinion, it is the intention to delete from the prohibited list, or allow conditionally, uses that demonstrate convincingly that they no longer pose a pollution hazard.
- (5) *Substitution of hazards prohibited.* In dealing with uses or classes of uses that attempt to become permissible, under the terms of this district, by continuing

to utilize pollutant materials but altering their methods of storage or handling, for example transferring materials storage from leak prone but explosion-resistant underground tanks, to leak-resistant but explosion-vulnerable aboveground vessels, it is not the intention to accept such alternate hazards as the basis for making a use permissible. It is the intention to continue the ban on such uses until the technology of the class of uses removes reliance upon the pollutant materials or processes.

(b) *Permitted uses by right.* All uses permitted by underlying basic or other overlay zones are permitted, subject to review of the building, site and operational plans of such uses by the planning commission pursuant to article V of this chapter, whether required or not by the underlying and other overlay districts, except the following uses, which are specifically prohibited by this district:

List of Prohibited Uses

- (1) Animal waste storage areas and facilities.
- (2) Asphalt ingredients storage or processing plants.
- (3) Automobile or truck fuel sales or service stations.
- (4) Cemeteries.
- (5) Chemical storage, sales, processing or manufacturing plants.
- (6) Dry cleaning establishments.
- (7) Electronic circuit manufacture or assembly plants.
- (8) Electroplating operations.
- (9) Exterminating supply, storage or application shops.
- (10) Fertilizer manufacturing or storage operations.
- (11) Foundries and forge plants.
- (12) Garages for repair and servicing of motor vehicles, including body repair, painting or engine rebuilding if not on village sewer and water systems.
- (13) Industrial liquid waste storage areas.
- (14) Junk/recycling yards, motor vehicle salvage yards.

- (15) Landfills, areas for dumping or disposal of garbage, refuse, trash or demolition material.
- (16) Metal reduction and refinement plants.
- (17) Mining operations.
- (18) Motor and machinery service and assembly shops if not on village water and sewer systems.
- (19) On-site soil absorption sewage treatment systems on new lots under 40,000 square feet.
- (20) Paint products manufacturing.
- (21) Petroleum products storage or processing.
- (22) Photography studios, involving the developing of film or pictures.
- (23) Plastics manufacturing.
- (24) Printing and publishing establishments.
- (25) Pulp and paper manufacturing.
- (26) Septage and municipal sewage sludge disposal sites.
- (27) Storage, manufacturing or disposal of toxic or hazardous materials.
- (28) Underground petroleum products storage tanks for industrial, commercial, residential or other uses.

(c) *Permitted accessory uses.* All accessory uses permitted by the underlying basic or other overlay zones are permitted, subject to review of the building, site and operational plans of such uses by the planning commission pursuant to article V of this chapter, whether required or not by the underlying and other overlay districts, except those uses prohibited in subsection (a) of this section, which are hereby prohibited whether judged to be principal or accessory uses.

(d) *Uses permitted by conditional grant.* Any class of uses prohibited by this district may become a use permitted by right, or an individual use within a class potentially may be permitted by conditional grant pursuant to subsection (a)(4) of this section. However, the planning commission shall not favorably recommend to the board a petition to remove a use from the prohibited list of this district, nor favorably process a petition for conditional use status, notwithstanding any of the provisions of article VI of this chapter, without being sure beyond a reasonable doubt that the action will not

materially violate the intent of this district, resulting in exposure of the public water supply to pollution.

(Ord. of 11-18-1991)

Sec. 94.199. OME mineral extraction overlay district.

(a) *Statement of intent.* The OME district is intended as the regulatory method for establishing minimal controls for existing operations, and for permitting proposed new operations, involving either removal of earth materials or for filling, the regulations in this district being particularly oriented to assuring safe, nuisance-free operations leading systematically to a restored site having future usefulness, either for agriculture where so basically zoned, or for urban uses where so planned or zoned.

(b) *Permitted uses by right* are the following, subject to approval by the planning commission of building, site and operation plans (see article V of this chapter), new uses involving:

- (1) Quarrying and removal of sand and gravel, including washing, crushing and similar processing, provided that all excavations shall be at least 200 feet from any right-of-way or property line; and all accessory uses such as office, parking areas, or stockpiles shall be at least 100 feet from right-of-way and property lines.
- (2) Stripping of topsoil.
- (3) Mining of minerals.

(c) *Permitted accessory uses* are the following, subject to approval by the planning commission of building, site and operational plans per article V of this chapter:

- (1) Office, outside storage of machinery and equipment.
- (2) Stockpiling of extracted materials or soil covering material.
- (3) Power supply and other such uses normally auxiliary to the permitted uses.
- (4) Signs as permitted in the underlying district.
- (5) Residential quarters for the guard or caretaker.

(d) *Uses permitted by conditional grant* are:

- (1) Existing extractive operations as enumerated under permitted uses by right or existing filling operations may apply for legal conforming status under this section.

(2) New site filling operations greater than can be handled under a developer's agreement under chapter 74.

(3) The following only in conjunction with a permitted use by right, which shall cease upon completion of the principal operations:

- a. Concrete mixing.
- b. Cement-concrete products manufacturing.
- c. Asphalt paving production.

(e) *Special regulations:*

(1) *Existing operations.* Whether intending to conform to this chapter or to remain legal nonconforming, within 180 days after adoption of this chapter, all such uses shall be required to file with the planning commission data showing:

- a. The present operations, including boundaries of the ownership and of the areas and depths of the actual operation, a full and adequate description of all phases of the operation and the specific mention of type of machinery and equipment that are necessary to carry on the operation. Where the operation is to include the washing of sand and gravel, the estimated daily quantity of water required, its source and its disposition, shall be made a part of this description.
- b. The restoration plan for the site. Such existing operations shall be required to modify their operations, procedures and their restoration plans in conformance with those minimum requirements imposed by the planning commission to assure safety, minimization of nuisances, and restoration of the site, provided that such requirements shall not be economically and engineeringly unreasonable with respect to existing conditions.

(2) *Proposed operations operational plan.* Application for rezoning to this district, or for a conditional use under this district, shall augment the data required under articles V, XIV and, where appropriate, article VI of this chapter by supplying at least the following:

- a. A written description of the nature of the proposed operation, including type and amount of machinery and equipment to be used; the source, quantity and disposition of water to be used; and the nature of proposed fill materials, if any.

- b. A map showing existing contours at vertical intervals of at least five feet, plus existing trees.
- c. The depth, by area, of proposed excavations or filling.
- d. Proposed visual screening method, including earth berms, fences, plantings.
- e. Drainage plan during operations.

(3) *Proposed operations restoration plan.* The restoration plan shall include:

- a. Proposed stages of excavation and filling by area.
- b. Estimated timetable for commencement and restoration.
- c. Proposed contours of the land after completion.
- d. General use plan such as proposed roads and lots for future urban development if so zoned or planned.
- e. Depth of restored topsoil and location of proposed planting or reforestation.

(4) Existing and new operations performance guarantees. Guarantees in the form of a surety bond or other such method acceptable to the board and approved by the village attorney, and planning commission upon advice of the village engineer must be included.

- a. The applicant in designing a plan of operation shall give consideration to operating in compact stages to minimize the required amount of performance guarantee in any one guarantee period.
- b. Such guarantees shall be for periods not to exceed two years, with renewals allowable. With each renewal, the village engineer shall advise the village on the proper amount of guarantee to cover restoration of operations existing and proposed for the next period.

(5) *Approval of rezoning.* Rezoning to this district, or other actions under this section, shall be premised on concern for:

- a. The effect of the proposed operation on existing roads and traffic movement in terms of adequacy, safety and efficiency.
- b. The effect of the proposed operation on drainage and water supply, and the possibility of soil erosion as a result of the proposed operation.

- c. The practical possibility of restoration of the site, in keeping with probable land use after restoration.

(Ord. of 11-18-1991)

Sec. 94.200. OFP Floodplain overlay district.

(a) *Statutory authorization, finding of fact, statement of purpose, title and general provisions.*

- (1) *Statutory authorization.* This ordinance is adopted pursuant to the authorization in ss. 61.35 and 62.23, for villages and cities; and the requirements in s. 87.30, Stats.
- (2) *Finding of fact.* Uncontrolled development and use of the floodplains and rivers of this municipality would impair the public health, safety, convenience, general welfare and tax base.
- (3) *Statement of purpose.* This ordinance is intended to regulate floodplain development to:
 - a. Protect life, health and property;
 - b. Minimize expenditures of public funds for flood control projects;
 - c. Minimize rescue and relief efforts undertaken at the expense of the taxpayers;
 - d. Minimize business interruptions and other economic disruptions;
 - e. Minimize damage to public facilities in the floodplain;
 - f. Minimize the occurrence of future flood blight areas in the floodplain;
 - g. Discourage the victimization of unwary land and homebuyers;
 - h. Prevent increases in flood heights that could increase flood damage and result in conflicts between property owners; and
 - i. Discourage development in a floodplain if there is any practicable alternative to locate the activity, use or structure outside of the floodplain.
- (4) *Title.* This ordinance shall be known as the Floodplain Zoning Ordinance for the Village of Weston, Wisconsin.

(5) *General Provisions.*

- a. *Areas to be regulated.* This ordinance regulates all areas that would be covered by the regional flood or base flood.

Note: Base flood elevations are derived from the flood profiles in the Flood Insurance Study. Regional flood elevations may be derived from other studies. Areas covered by the base flood are identified as A-Zones on the Flood Insurance Rate Map.

- b. *Official maps and revisions.* The boundaries of all floodplain districts are designated as floodplains or A-Zones on the maps listed below and the revisions in the Village of Weston Floodplain Appendix. Any change to the base flood elevations (BFE) in the Flood Insurance Study (FIS) or on the Flood Insurance Rate Map (FIRM) must be reviewed and approved by the DNR and FEMA before it is effective. No changes to regional flood elevations (RFE's) on non-FEMA maps shall be effective until approved by the DNR. These maps and revisions are on file in the office of the zoning administrator, Village of Weston. If more than one map or revision is referenced, the most restrictive information shall apply.

Official maps. Based on the FIS:

Flood Insurance Rate Map (FIRM), panel numbers 55073C0411F, 55073C0412F, 55073C0413F, 55073C0416F, 55073C0417F, 55073C0418F, 55073C0419F, 55073C0438F, 55073C0652F, 55073C0660F, 55073C0700F of 1000, community panel number 550323, dated July 22, 2010; with corresponding profiles that are based on the Flood Insurance Study (FIS) dated July 22, 2010, Volume number 55073CV000A

Approved by: The DNR and FEMA

- c. *Establishment of districts.* The regional floodplain areas are divided into three districts as follows:
1. 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.
 2. The Floodfringe District (FF) is that portion of the floodplain between the regional flood limits and the floodway.

3. The General Floodplain District (GFP) is those areas that have been or may be covered by floodwater during the regional flood.

d. *Locating floodplain boundaries.* Discrepancies between boundaries on the official floodplain zoning map and actual field conditions shall be resolved using the criteria in paragraphs 1. or 2. below. If a significant difference exists, the map shall be amended according to s. (h). The zoning administrator can rely on a boundary derived from a profile elevation to grant or deny a land use permit, whether or not a map amendment is required. The zoning administrator shall be responsible for documenting actual pre-development field conditions and the basis upon which the district boundary was determined and for initiating any map amendments required under this section. Disputes between the zoning administrator and an applicant over the district boundary line shall be settled according to s. (g)(3)c. and the criteria in 1. and 2. below.

1. 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.

2. Where flood profiles do not exist, the location of the boundary shall be determined by the map scale, visual on-site inspection and any information provided by the Department.

Note: Where the flood profiles are based on established base flood elevations from a FIRM, FEMA must also approve any map amendment pursuant to s. (h)(1)f.

e. *Removal of lands from floodplain.* Compliance with the provisions of this ordinance shall not be grounds for removing land from the floodplain unless it is filled at least two feet above the regional or base flood elevation, the fill is contiguous to land outside the floodplain, and the map is amended pursuant to s. (h).

Note: This procedure does not remove the requirements for the mandatory purchase of flood insurance. The property owner must contact FEMA to request a Letter of Map Change (LOMC).

f. *Compliance.* Any development or use within the areas regulated by this ordinance shall be in compliance with the terms of this

ordinance, and other applicable local, state, and federal regulations.

- g. *Municipalities and state agencies regulated.* Unless specifically exempted by law, all cities, villages, towns, and counties are required to comply with this ordinance and obtain all necessary permits. State agencies are required to comply if s. 13.48(13), Stats., applies. The construction, reconstruction, maintenance and repair of state highways and bridges by the Wisconsin Department of Transportation is exempt when s. 30.2022, Stats., applies.
- h. *Abrogation and greater restrictions.*
 - 1. This ordinance supersedes all the provisions of any municipal zoning ordinance enacted under s. 61.35 for villages; or s. 87.30, Stats., which relate to floodplains. If another ordinance is more restrictive than this ordinance, that ordinance shall continue in full force and effect to the extent of the greater restrictions, but not otherwise.
 - 2. This ordinance is not intended to repeal, abrogate or impair any existing deed restrictions, covenants or easements. If this ordinance imposes greater restrictions, the provisions of this ordinance shall prevail.
- i. *Interpretation.* In their interpretation and application, the provisions of this ordinance are the minimum requirements liberally construed in favor of the governing body 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 ch. NR 116, Wis. Adm. Code, 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.
- j. *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, the municipality or any officer or employee thereof for any flood damage that may result from reliance on this ordinance.
- k. *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.

- l. *Annexed areas for cities and villages.* The Marathon 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 ch. NR 116, Wis. Adm. Code and the National Flood Insurance Program (NFIP). These annexed lands are described on the Village's official zoning map. County floodplain zoning provisions are incorporated by reference for the purpose of administering this section and are on file in the office of the municipal zoning administrator. All plats or maps of annexation shall show the regional flood elevation and the location of the floodway.
- m. *General development standards.* The Village shall review all permit applications to determine whether proposed building sites will be reasonably safe from flooding. If 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 within the components during conditions of flooding. Subdivisions shall be reviewed for compliance with the above standards. 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.
 - (b) *General standards applicable to all floodplain districts.*
 - (1) *Hydraulic and hydrologic analyses.*
 - a. Except as allowed in par. c. below, no floodplain development shall:
 1. Obstruct flow, defined as development which blocks the conveyance of floodwaters by itself or with other development, increasing regional flood height; or

2. Increase regional flood height due to floodplain storage area lost, which equals or exceeds 0.01 foot.
 - b. The zoning administrator shall deny permits if it is determined the proposed development will obstruct flow or increase regional flood heights 0.01 foot or more, based on the officially adopted FIRM or other adopted map, unless the provisions of sub. c. are met.
 - c. Obstructions or increases equal to or greater than 0.01 foot may only be permitted if amendments are made to this ordinance, the official floodplain zoning maps, floodway lines and water surface profiles, in accordance with s. (h).

Note: This section refers to obstructions or increases in base flood elevations as shown on the officially adopted FIRM or other adopted map. Any such alterations must be reviewed and approved by FEMA and the DNR.

- (2) *Watercourse alterations.* No land use permit to alter or relocate a watercourse in a mapped floodplain shall be issued until the local official has notified in writing all adjacent municipalities, the Department and FEMA regional offices and required the applicant to secure all necessary state and federal permits. The flood carrying capacity of any altered or relocated watercourse shall be maintained.

As soon as is practicable, but not later than six months after the date of the watercourse alteration or relocation, the zoning administrator shall notify FEMA of the changes by submitting appropriate technical or scientific data in accordance with NFIP guidelines that shall be used to revise the FIRM, risk premium rates and floodplain management regulations as required.

- (3) *Chapter 30, 31, Wis. Stats., Development.* Development which requires a permit from the Department, under chs. 30 and 31, Wis. Stats., such as docks, piers, wharves, bridges, culverts, dams and navigational aids, may be allowed if the necessary permits are obtained and amendments to the floodway lines, water surface profiles, BFE's established in the FIS, or other data from the officially adopted FIRM, or other floodplain zoning maps or the floodplain zoning ordinance are made according to s. (h).
- (4) *Public or private campgrounds.* Public or private campgrounds shall have a low flood damage potential and shall meet the following provisions:
 - a. The campground is approved by the Department of Health Services.

- b. A land use permit for the campground is issued by the zoning administrator.
- c. The character of the river system and the elevation of the campground is 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 municipal emergency government coordinator and the chief law enforcement official which specifies the flood elevation at which evacuation shall occur, personnel responsible for monitoring flood elevations, types of warning systems to be used and the procedures for notifying at-risk parties, and the methods and personnel responsible for conducting the evacuation.
- e. This agreement shall be for no more than one calendar year, at which time the agreement shall be reviewed and updated - by the officials identified in sub. d. - to remain in compliance with all applicable regulations, including those of the state Department of Health Services and all other applicable regulations.
- f. Only camping units are allowed.
- g. The camping units may not occupy any site in the campground for more than 180 consecutive days, at which time the camping unit must be removed from the floodplain for a minimum of 24 hours.
- h. All camping units that remain on site for more than 30 days shall be issued a limited authorization by the campground operator, a written copy of which is kept on file at the campground. Such authorization shall allow placement of a camping unit for a period not to exceed 180 days and shall ensure compliance with all the provisions of this section.
- i. The municipality shall monitor the limited authorizations issued by the campground operator to assure compliance with the terms of this section.
- j. All camping units that remain in place for more than 180 consecutive days must meet the applicable requirements in either s. (c) or s. (d) for the floodplain district in which the structure is located.

- k. The campground shall have signs clearly posted at all entrances warning of the flood hazard and the procedures for evacuation when a flood warning is issued.
 - l. All service facilities, including but not limited to refuse collection, electrical service, natural gas lines, propane tanks, sewage systems and wells shall be properly anchored and placed at or floodproofed to the flood protection elevation.
- (c) *Floodway district (FW).*
- (1) *Applicability.* This section applies to all floodway areas on the floodplain zoning maps and those identified pursuant to s. (e)(4).
 - (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 s. (c)(3) and (c)(4); and
 - All permits or certificates have been issued according to (g)(1).
- 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 s. (c)(3)d.
 - d. Uses or structures accessory to open space uses, or classified as historic structures that comply with ss. (c)(3) and (c)(4).
 - e. Extraction of sand, gravel or other materials that comply with s. (c)(3)d.
 - 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 chs. 30 and 31, Stats.

- g. Public utilities, streets and bridges that comply with s. (c)(3)c.

(3) *Standards for developments in floodway areas.*

a. *General.*

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

b. *Structures.* Structures accessory to permanent open space uses or functionally dependent on a waterfront location may be allowed by permit if the structures comply with the following criteria:

1. The structure is not designed for human habitation and does not have a high flood damage potential.
2. It must be anchored to resist flotation, collapse, and lateral movement;
3. Mechanical and utility equipment must be elevated or flood proofed to or above the flood protection elevation; and
4. It must not obstruct flow of flood waters or cause any increase in flood levels during the occurrence of the regional flood.

- c. *Public utilities, streets and bridges.* Public utilities, streets and bridges may be allowed by permit, if:
 - 1. Adequate floodproofing measures are provided to the flood protection elevation; and
 - 2. Construction meets the development standards of s. (b)(1).
 - d. *Fill or deposition of materials.* Fills or deposition of materials may be allowed by permit, if:
 - 1. The requirements of s. (b)(1) are met;
 - 2. No material is deposited in the navigable channel unless a permit is issued by the Department pursuant to ch. 30, Stats., and a permit pursuant to s. 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;
 - 3. The fill or other materials will be protected against erosion by riprap, vegetative cover, sheet piling or bulkheading; and
 - 4. The fill is not classified as a solid or hazardous material.
- (4) *Prohibited uses.* All uses not listed as permitted uses in s. (c)(2) are prohibited, including the following uses:
- a. Habitable structures, structures with high flood damage potential, or those not associated with permanent open-space uses;
 - b. Storing materials that are buoyant, flammable, explosive, injurious to property, water quality, or human, animal, plant, fish or other aquatic life;
 - c. Uses not in harmony with or detrimental to uses permitted in the adjoining districts;
 - d. Any private or public sewage systems, except 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 ch. COMM 83, Wis. Adm. Code;

- e. 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 chs. NR 811 and NR 812, Wis. Adm. Code;
- f. Any solid or hazardous waste disposal sites;
- g. Any wastewater treatment ponds or facilities, except those permitted under s. NR 110.15(3)(b), Wis. Adm. Code;
- h. 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.

(d) *Floodfringe district (FF).*

- (1) *Applicability.* This section applies to all floodfringe areas shown on the floodplain zoning maps and those identified pursuant to s. (e)(4).
- (2) *Permitted uses.* Any structure, land use, or development is allowed in the floodfringe district if the standards in s. (d)(3) are met, the use is not prohibited by this or any other ordinance or regulation and all permits or certificates specified in s. (g)(1) have been issued.
- (3) *Standards for development in floodfringe areas.* S. (b)(1) shall apply in addition to the following requirements according to the use requested.
 - a. *Residential uses.* Any habitable structure, including a manufactured home, which is to be erected, constructed, reconstructed, altered, or moved into the floodfringe area, shall meet or exceed the following standards;
 - 1. The elevation of the lowest floor, excluding the basement or crawlway, shall be at or above the flood protection elevation on fill. The fill shall be one foot or more above the regional flood elevation extending at least 15 feet beyond the limits of the structure. The Department may authorize other floodproofing measures if the elevations of existing

streets or sewer lines makes compliance with the fill standards impractical;

2. The basement or crawlway floor may be placed at the regional flood elevation if it is floodproofed to the flood protection elevation. No basement or crawlway floor is allowed below the regional flood elevation;
3. Contiguous dryland access shall be provided from a structure to land outside of the floodplain, except as provided in par. 4.
4. In developments where existing street or sewer line elevations make compliance with par. 3. impractical, the municipality may permit new development and substantial improvements where access roads are at or below the regional flood elevation, if:
 - i. 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
 - ii. The municipality has a natural disaster plan approved by Wisconsin Emergency Management and the Department.

b. *Accessory structures or uses.*

1. Except as provided in par. 2., an accessory structure which is not connected to a principal structure may be constructed with its lowest floor at or above the regional flood elevation.
2. An accessory structure which is not connected to the principal structure and which is less than 600 square feet in size and valued at less than \$10,000 may be constructed with its lowest floor no more than two feet below the regional flood elevation if it is subject to flood velocities of no more than two feet per second and it meets all of the provisions of Sections (c)(3)b.1., 2, 3., and 4. and (d)(3)e. below.

- c. *Commercial uses.* Any commercial structure which is erected, altered or moved into the floodfringe area shall meet the requirements of s. (d)(3)a. Subject to the requirements of s. (d)(3)e., 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.
- d. *Manufacturing and industrial uses.* Any manufacturing or industrial structure which is erected, altered or moved into the floodfringe area shall be protected to the flood protection elevation using fill, levees, floodwalls, or other flood proofing measures in s. (g)(5). Subject to the requirements of s.(d)(3)e, 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. *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 s. (g)(5). Adequate measures shall be taken to ensure that such materials will not enter the water body during flooding.
- f. *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 s. (g)(5) to the flood protection elevation;
 2. Minor roads or non-essential utilities may be constructed at lower elevations if they are designed to withstand flood forces to the regional flood elevation.
- g. *Sewage systems.* All on-site sewage disposal systems shall be floodproofed, pursuant to s. (g)(5), to the flood protection elevation and shall meet the provisions of all

local ordinances and ch. COMM 83, Wis. Adm. Code.

- h. *Wells.* All wells shall be floodproofed, pursuant to s. (g)(5), to the flood protection elevation and shall meet the provisions of chs. NR 811 and NR 812, Wis. Adm. Code.
- i. *Solid waste disposal sites.* Disposal of solid or hazardous waste is prohibited in floodfringe areas.
- j. *Deposition of materials.* Any deposited material must meet all the provisions of this ordinance.
- k. *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:
 - i. have the lowest floor elevated to the flood protection elevation; and
 - ii. 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 s. (d)(3)a.
- l. *Mobile recreational vehicles.* All mobile recreational vehicles that are on site for 180 consecutive days or more or are not fully licensed and ready for highway use shall meet the elevation and anchoring requirements in s. (d)(3)k.2. and 3. 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.

(e) *General floodplain district (GFP).*

- (1) *Applicability.* The provisions for this district shall apply to all floodplains for which flood profiles are not available or where flood profiles are available but floodways have not been delineated. Floodway and floodfringe districts shall be delineated when adequate data is available.
- (2) *Permitted uses.* Pursuant to s. (e)(4), it shall be determined whether the proposed use is located within a floodway or floodfringe area.

Those uses permitted in floodway (s. (c)(2)) and floodfringe areas (s. (d)(2)) are allowed within the general floodplain district, according to the standards of s. (e)(3), provided that all permits or certificates required under s. (g)(1) have been issued.

- (3) *Standards for development in the general floodplain district.* S. (c) applies to floodway areas, s. (d) applies to floodfringe areas. The rest of this ordinance applies to either district
- (4) *Determining floodway and floodfringe limits.* Upon receiving an application for development within the general floodplain district, the zoning administrator shall:
 - a. Require the applicant to submit two copies of an aerial photograph or a plan which shows the proposed development with respect to the general floodplain district limits, stream channel, and existing floodplain developments, along with a legal description of the property, fill limits and elevations, building floor elevations and flood proofing measures;
 - b. Require the applicant to furnish any of the following information deemed necessary by the Department to evaluate the effects of the proposal upon flood height and flood flows, regional flood elevation and to determine floodway boundaries:
 1. A typical valley cross-section showing the stream channel, the floodplain adjoining each side of the channel, the cross-sectional area to be occupied by the proposed development, and all historic high water information;

2. Plan (surface view) showing elevations or contours of the ground; pertinent structure, fill or storage elevations; size, location and layout of all proposed and existing structures on the site; location and elevations of streets, water supply, and sanitary facilities; soil types and other pertinent information;
 3. Profile showing the slope of the bottom of the channel or flow line of the stream;
 4. Specifications for building construction and materials, floodproofing, filling, dredging, channel improvement, storage, water supply and sanitary facilities.
- c. Transmit one copy of the information described in pars. a. and b. to the Department Regional office along with a written request for technical assistance to establish regional flood elevations and, where applicable, floodway data. Where the provisions of s. (g)(1)b.3. apply, the applicant shall provide all required information and computations to delineate floodway boundaries and the effects of the project on flood elevations.

(f) *Nonconforming uses.*

(1) *General.*

- a. *Applicability.* If these standards conform with s. 59.69(10), Stats., for counties or s. 62.23(7)(h), Stats., for cities and villages, they 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.
- b. The existing lawful use of a structure or its accessory use which is not in conformity with the provisions of this ordinance may continue subject to the following conditions:
 1. No modifications or additions to a nonconforming use or structure shall be permitted unless they comply with this ordinance. The words "modification" and "addition" include, but are not limited to, any alteration, addition, modification,

structural repair, rebuilding or replacement of any such existing use, structure or accessory structure or use. Ordinary maintenance repairs are not considered an extension, modification or addition; these include painting, decorating, paneling and the replacement of doors, windows and other nonstructural components and the maintenance, repair or replacement of existing private sewage or water supply systems or connections to public utilities. Ordinary maintenance repairs do not include any costs associated with the repair of a damaged structure.

The construction of a deck that does not exceed 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.

2. If a nonconforming use or the use of a nonconforming structure 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 conform to the applicable requirements of this ordinance;
3. The municipality 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;
4. 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 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 s. (d)(3)a. The costs of elevating a nonconforming building or a

building with a nonconforming use to the flood protection elevation are excluded from the 50% provisions of this paragraph;

5. i. Except as provided in subd. ii., 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 50% of the structure's present equalized assessed value.

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

6. A nonconforming historic structure may be altered if the alteration will not preclude the structures continued designation as a historic structure, the alteration will comply with (c)(3)a., flood resistant materials are used, and construction practices and floodproofing methods that comply with (g)(5) are used.

(2) *Floodway areas.*

- a. No modification or addition shall be allowed to any nonconforming structure or any structure with a nonconforming use in a floodway area, unless such modification or addition:
 1. Has been granted a permit or variance which meets all ordinance requirements;
 2. Meets the requirements of s. (f)(1);
 3. Will not increase the obstruction to flood flows or regional flood height;

4. Any addition to the existing structure shall be floodproofed, pursuant to s. (g)(5), by means other than the use of fill, to the flood protection elevation;
5. If any part of the foundation below the flood protection elevation is enclosed, the following standards shall apply:
 - i. 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 openings must be provided with a minimum net area of at least one square inch for every one square foot of the enclosed area. The lowest part of the opening can be no more than 12 inches above the adjacent grade;
 - ii. The parts of the foundation located below the flood protection elevation must be constructed of flood-resistant materials.
 - iii. Mechanical and utility equipment must be elevated or floodproofed to or above the flood protection elevation; and
 - iv. The use must be limited to parking or limited storage.
- 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 requirements of all municipal ordinances and ch. COMM 83, Wis. Adm. Code.
- c. No new well or modification to an existing well used to obtain potable water shall be allowed in a floodway area. Any replacement, repair or maintenance of an existing well in a floodway area shall meet the applicable requirements of all municipal ordinances and chs. NR 811 and NR 812, Wis. Adm. Code.

(3) *Floodfringe areas.*

- a. 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 municipality, and the modification or addition shall be placed on fill or floodproofed to the flood protection elevation in compliance with the standards for that particular use in s. (d)(3), except where s. (f)(3)b. is applicable.
- b. Where compliance with the provisions of par. a. 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 Zoning Appeals, using the procedures established in s. (g)(3), may grant a variance from those provisions of par. a. 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:
 1. No floor is allowed below the regional flood elevation for residential or commercial structures;
 2. Human lives are not endangered;
 3. Public facilities, such as water or sewer, will not be installed;
 4. Flood depths will not exceed two feet;
 5. Flood velocities will not exceed two feet per second; and
 6. The structure will not be used for storage of materials as described in s. (d)(3)e.
- c. If neither the provisions of par. a. or b. above can be met, one addition to an existing room in a nonconforming building or a building with a nonconforming use may be allowed in the floodfringe, if the addition:
 1. Meets all other regulations and will be granted by permit or variance;

2. Does not exceed 60 square feet in area; and
 3. In combination with other previous modifications or additions to the building, does not equal or exceed 50% of the present equalized assessed value of the building.
- d. All new private sewage disposal systems, or addition to, replacement, repair or maintenance of a private sewage disposal system shall meet all the applicable provisions of all local ordinances and ch. COMM 83, Wis. Adm. Code.
 - e. All new wells, or addition to, replacement, repair or maintenance of a well shall meet the applicable provisions of this ordinance and ch. NR 811 and NR 812, Wis. Adm. Code.

(g) *Administration.* Where a zoning administrator, Plan Commission or a board of zoning appeals has already been appointed to administer a zoning ordinance adopted under ss. 59.69, 59.692 or 62.23(7), Stats., these officials shall also administer this ordinance.

(1) *Zoning Administrator.*

- a. The zoning administrator is authorized to administer this ordinance and shall have the following duties and powers:
 1. 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.
 2. Issue permits and inspect properties for compliance with provisions of this ordinance, and issue certificates of compliance where appropriate.
 3. Inspect all damaged floodplain structures and perform a substantial damage assessment to determine if substantial damage to the structures has occurred.
 4. Keep records of all official actions such as:
 - i. All permits issued, inspections made, and

work approved;

- ii. Documentation of certified lowest floor and regional flood elevations for floodplain development;
 - iii. Records of water surface profiles, floodplain zoning maps and ordinances, nonconforming uses and structures including changes, appeals, variances and amendments.
 - iv. All substantial damage assessment reports for floodplain structures.
5. Submit copies of the following items to the Department Regional office:
- i. Within 10 days of the decision, a copy of any decisions on variances, appeals for map or text interpretations, and map or text amendments;
 - ii. Copies of any case-by-case analyses, and any other information required by the Department including an annual summary of the number and types of floodplain zoning actions taken.
 - iii. Copies of substantial damage assessments performed and all related correspondence concerning the assessments.
6. Investigate, prepare reports, and report violations of this ordinance to the municipal Plan Commission, Village Board and attorney for prosecution. Copies of the reports shall also be sent to the Department Regional office.
7. Submit copies of text and map amendments and biennial reports to the FEMA Regional office.
- b. *Land use permit.* A land use permit shall be obtained before any new development or any structural repair or change in the use of a building or structure, including sewer and water facilities, may be initiated. Application to the

zoning administrator shall include:

1. *General information.*
 - i. Name and address of the applicant, property owner and contractor;
 - ii. 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:
 - i. Location, dimensions, area and elevation of the lot;
 - ii. Location of the ordinary highwater mark of any abutting navigable waterways;
 - iii. Location of any structures with distances measured from the lot lines and street center lines;
 - iv. Location of any existing or proposed on-site sewage systems or private water supply systems;
 - v. Location and elevation of existing or future access roads;
 - vi. Location of floodplain and floodway limits as determined from the official floodplain zoning map(s);
 - vii. The elevation of the lowest floor of proposed buildings and any fill using the vertical datum from the adopted study – either National Geodetic Vertical Datum (NGVD) or North American Vertical Datum (NAVD);
 - viii. 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 s. (c) or (d) are met; and

- ix. Data to determine if the proposed development will cause an obstruction to flow or an increase in regional flood height or discharge according to s. (b)(1). This may include any of the information noted in s. (c)(3)a.

3. *Data requirements to analyze developments.*

- i. The applicant shall provide all survey data and computations required to show the effects of the project on flood heights, velocities and floodplain storage, for all subdivision proposals, as "subdivision" is defined in s. 236, Stats., and other proposed developments exceeding 5 acres in area or where the estimated cost exceeds \$125,000. The applicant shall provide:

1. An analysis of the effect of the development on the regional flood profile, velocity of flow and floodplain storage capacity;
2. A map showing location and details of vehicular access to lands outside the floodplain; and
3. A surface drainage plan showing how flood damage will be minimized.

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

- 4. *Expiration.* All permits issued under the authority of this ordinance shall expire one year after issuance.

- c. *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 zoning administrator, except where no permit is required, subject to the following provisions:

1. 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;
 2. Application for such certificate shall be concurrent with the application for a permit;
 3. If all ordinance provisions are met, the certificate of compliance shall be issued within 10 days after written notification that the permitted work is completed;
 4. The applicant shall submit a certification signed by a registered professional engineer, architect or 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 architect that floodproofing measures meet the requirements of s. (g)(5).
- d. *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 s. 404 of the Federal Water Pollution Control Act, Amendments of 1972, 33 U.S.C. 1344.

(2) *Plan Commission.*

- a. The Plan Commission shall:
 1. oversee the functions of the office of the zoning administrator; and
 2. review and advise the Village Board on all proposed amendments to this ordinance, maps and text.
- b. This Plan Commission shall not

1. grant variances to the terms of the ordinance in place of action by the Board of Zoning Appeals; or
 2. amend the text or zoning maps in place of official action by the Village Board.
- (3) *Zoning Board of Appeals (ZBA)*. The Zoning Board of Appeals (ZBA), created under s. 62.23(7)(e), Stats., for villages, is hereby authorized or shall be appointed to act for the purposes of this ordinance. The ZBA shall exercise the powers conferred by Wisconsin Statutes and adopt rules for the conduct of business. The zoning administrator may not be the secretary of the ZBA .
- a. *Powers and duties*. The ZBA shall:
 1. 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.
 2. Boundary Disputes - Hear and decide disputes concerning the district boundaries shown on the official floodplain zoning map.
 3. Variances - Hear and decide, upon appeal, variances from the ordinance standards.
 - b. Appeals to the ZBA.
 1. Appeals to the ZBA may be taken by any person aggrieved, or by any officer or department of the municipality affected by any decision of the zoning administrator or other administrative officer. Such appeal shall be taken within 30 days unless otherwise provided by the rules of the ZBA, by filing with the official whose decision is in question, and with the ZBA, a notice of appeal specifying the reasons for the appeal. The official whose decision is in question shall transmit to the ZBA all records regarding the matter appealed.
 2. *Notice and hearing for appeals including variances*.
 - i. Notice - The ZBA shall:

1. Fix a reasonable time for the hearing;
 2. Publish adequate notice pursuant to Wisconsin Statutes, specifying the date, time, place and subject of the hearing;
 3. Assure that notice shall be mailed to the parties in interest and the Department Regional office at least 10 days in advance of the hearing.
- ii. Hearing - Any party may appear in person or by agent. The ZBA shall:
1. Resolve boundary disputes according to s. (g)(3)c.
 2. Decide variance applications according to s. (g)(3)d.
 3. Decide appeals of permit denials according to s. (g)(4).
3. *Decision.* The final decision regarding the appeal or variance application shall:
- i. Be made within a reasonable time;
 - ii. Be sent to the Department Regional office within 10 days of the decision;
 - iii. Be a written determination signed by the chairman or secretary of the ZBA;
 - iv. State the specific facts which are the basis for the ZBA's decision;
 - v. 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;
 - vi. 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 ZBA proceedings.

c. *Boundary disputes.* The following procedure shall be used by the ZBA in hearing disputes concerning floodplain district boundaries:

1. 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.
2. In all cases, the person contesting the boundary location shall be given a reasonable opportunity to present arguments and technical evidence to the ZBA.
3. If the boundary is incorrectly mapped, the ZBA should inform the Plan Commission or the person contesting the boundary location to petition the governing body for a map amendment according to s. (h).

d. *Variance.*

1. The ZBA may, upon appeal, grant a variance from the standards of this ordinance if an applicant convincingly demonstrates that:
 - i. Literal enforcement of the ordinance provisions will cause unnecessary hardship;
 - ii. The hardship is due to adoption of the floodplain ordinance and unique property conditions, not common to adjacent lots or premises. In such case the ordinance or map must be amended;
 - iii. The variance is not contrary to the public interest; and
 - iv. The variance is consistent with the purpose of this ordinance in s. (a)(3).

2. In addition to the criteria in par. 1., to qualify for a variance under FEMA regulations, the following criteria must be met:
 - i. The variance may not cause any increase in the regional flood elevation;
 - ii. Variances can only be granted for lots that are less than one-half acre and are contiguous to existing structures constructed below the RFE;
 - iii. Variances shall only be granted upon a showing of good and sufficient cause, shall be the minimum relief necessary, shall not cause increased risks to public safety or nuisances, shall not increase costs for rescue and relief efforts and shall not be contrary to the purpose of the ordinance.
3. A variance shall not:
 - i. Grant, extend or increase any use prohibited in the zoning district.
 - ii. Be granted for a hardship based solely on an economic gain or loss.
 - iii. Be granted for a hardship which is self-created.
 - iv. Damage the rights or property values of other persons in the area.
 - v. Allow actions without the amendments to this ordinance or map(s) required in s. (h)(1).
 - vi. Allow any alteration of a historic structure, including its use, which would preclude its continued designation as a historic structure.
4. When a floodplain variance is granted the ZBA shall notify the applicant in writing that it may increase flood insurance premiums and risks to life and property. A copy shall be maintained with the

variance record.

(4) *To review appeals of permit denials.*

- a. The Plan Commission (s. (g)(2)) or ZBA shall review all data related to the appeal. This may include:
 1. Permit application data listed in s. (g)(1)b.
 2. Floodway/floodfringe determination data in s. (e)(4).
 3. Data listed in s. (c)(3)a.2. where the applicant has not submitted this information to the zoning administrator.
 4. Other data submitted with the application, or submitted to the ZBA with the appeal.
- b. For appeals of all denied permits the ZBA shall:
 1. Follow the procedures of s. (g)(3);
 2. Consider zoning agency recommendations; and
 3. Either uphold the denial or grant the appeal.
- c. For appeals concerning increases in regional flood elevation the Board shall:
 1. Uphold the denial where the ZBA agrees with the data showing an increase in flood elevation. Increases equal to or greater than 0.01 foot may only be allowed after amending the flood profile and map and all appropriate legal arrangements are made with all adversely affected property owners.
 2. Grant the appeal where the Board agrees that the data properly demonstrates that the project does not cause an increase equal to or greater than 0.01 foot provided no other reasons for denial exist.

(5) *Floodproofing.*

- a. No permit or variance shall be issued until the applicant submits a plan certified by a registered professional

engineer or architect that the floodproofing measures will protect the structure or development to the flood protection elevation.

- b. Floodproofing measures shall be designed to:
 - 1. Withstand flood pressures, depths, velocities, uplift and impact forces and other regional flood factors;
 - 2. Protect structures to the flood protection elevation;
 - 3. Anchor structures to foundations to resist flotation and lateral movement; and
 - 4. Insure that structural walls and floors are watertight to the flood protection elevation, and the interior remains completely dry during flooding without human intervention.

- c. Floodproofing measures could include:
 - 1. Reinforcing walls and floors to resist rupture or collapse caused by water pressure or
 - 2. Adding mass or weight to prevent flotation.
 - 3. Placing essential utilities above the flood protection elevation.
 - 4. Installing surface or subsurface drainage systems to relieve foundation wall and basement floor pressures.
 - 5. Constructing water supply wells and waste treatment systems to prevent the entry of flood waters.
 - 6. Putting cutoff valves on sewer lines or eliminating gravity flow basement drains.

(6) *Public information.*

- a. Place marks on structures to show the depth of inundation during the regional flood.
- b. All maps, engineering data and regulations shall be

available and widely distributed.

- c. All real estate transfers should show what floodplain zoning district any real property is in.

(h) *Amendments.*

- (1) *General.* The Village Board may change or supplement the floodplain zoning district boundaries and this ordinance in the manner provided by law. Actions which require an amendment include, but are not limited to, the following:
 - a. Any change to the official floodplain zoning map, including the floodway line or boundary of any floodplain area.
 - b. Correction of discrepancies between the water surface profiles and floodplain zoning maps.
 - c. Any fill in the floodplain which raises the elevation of the filled area to a height at or above the flood protection elevation and is contiguous to land lying outside the floodplain.
 - d. Any fill or floodplain encroachment that obstructs flow, increasing regional flood height 0.01 foot or more.
 - e. Any upgrade to a floodplain zoning ordinance text required by s. NR 116.05, Wis. Adm. Code, or otherwise required by law, or for changes by the Village.
 - f. All channel relocations and changes to the maps to alter floodway lines or to remove an area from the floodway or the floodfringe that is based on a base flood elevation from a FIRM requires prior approval by FEMA.

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

- (2) *Procedures.* Ordinance amendments may be made upon petition of any interested party according to the provisions of s. 62.23, Stats., for cities and villages. Such petitions shall include all necessary data required by ss. (e)(4) and (g)(1)b.
 - a. The proposed amendment shall be referred to the zoning agency for a public hearing and recommendation to the

governing body. The amendment and notice of public hearing shall be submitted to the Department Regional office for review prior to the hearing. The amendment procedure shall comply with the provisions of s. 62.23, Stats., for cities and villages.

- b. No amendments shall become effective until reviewed and approved by the Department.
- c. All persons petitioning for a map amendment that obstructs flow, increasing regional flood height 0.01 foot or more, shall obtain flooding easements or other appropriate legal arrangements from all adversely affected property owners and notify local units of government before the amendment can be approved by the governing body.
- d. For amendments in areas with no water surface profiles, the Plan Commission or ZBA shall consider data submitted by the Department, the zoning administrator's visual on-site inspections and other available information. (See s. a(5)d.)

(i) *Enforcement and penalties.* Any violation of the provisions of this ordinance by any person shall be unlawful and shall be referred to the municipal attorney who shall expeditiously prosecute all such violators. A violator shall, upon conviction, forfeit to the municipality a penalty of not less than \$ 50 and not more than \$ 500, together with a 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 Village, the state, or any citizen thereof pursuant to s. 87.30, Stats.

(j) *Definitions.* Unless specifically defined, words and phrases in this ordinance shall have their common law meaning and shall be applied in accordance with their common usage. Words used in the present tense include the future, the singular number includes the plural and the plural number includes the singular. The word "may" is permissive, "shall" is mandatory and is not discretionary.

- (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 STRUCTURE OR USE" - A facility, structure, building or use which is accessory or incidental to the principal use of a property, structure or building.

- (3) "BASE FLOOD" - Means the flood having a one percent chance of being equaled or exceeded in any given year, as published by FEMA as part of a FIS and depicted on a FIRM.
- (4) "BASEMENT" - Any enclosed area of a building having its floor sub-grade, i.e., below ground level, on all sides.
- (5) "BUILDING" - See STRUCTURE.
- (6) "BULKHEAD LINE" - A geographic line along a reach of navigable water that has been adopted by a municipal ordinance and approved by the Department pursuant to s. 30.11, Stats., and which allows limited filling between this bulkhead line and the original ordinary highwater mark, except where such filling is prohibited by the floodway provisions of this ordinance.
- (7) "CAMPGROUND" - Any parcel of land which is designed, maintained, intended or used for the purpose of providing sites for nonpermanent overnight use by 4 or more camping units, or which is advertised or represented as a camping area.
- (8) "CAMPING UNIT" - Any portable device, no more than 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.
- (9) "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.
- (10) "CHANNEL" – A natural or artificial watercourse with definite bed and banks to confine and conduct normal flow of water.
- (11) "CRAWLWAYS" OR "CRAWL SPACE" - An enclosed area below the first usable floor of a building, generally less than five feet in height, used for access to plumbing and electrical utilities.
- (12) "DECK" – An unenclosed exterior structure that has no roof or sides, but has a permeable floor which allows the infiltration of precipitation.
- (13) "DEPARTMENT" - The Wisconsin Department of Natural Resources.
- (14) "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.

- (15) "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.
- (16) "ENCROACHMENT" - Any fill, structure, equipment, building, use or development in the floodway.
- (17) "EXISTING MANUFACTURED HOME PARK OR SUBDIVISION" - 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.
- (18) "EXPANSION TO EXISTING MOBILE/MANUFACTURED HOME PARK" - 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.
- (19) "FEDERAL EMERGENCY MANAGEMENT AGENCY (FEMA)" - The federal agency that administers the National Flood Insurance Program.
- (20) "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.

- (21) "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 Lake Superior, 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.
- (22) "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.
- (23) "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.
- (24) "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 (FIS) and a Flood Insurance Rate Map (FIRM).
- (25) "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 (FIRM), that accompany the Flood Insurance Study (FIS) , form the basis for both the regulatory and the insurance aspects of the National Flood Insurance Program (NFIP).

- (26) "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.
- (27) "FLOODPLAIN ISLAND" - A natural geologic land formation within the floodplain that is surrounded, but not covered, by floodwater during the regional flood.
- (28) "FLOODPLAIN MANAGEMENT" - Policy and procedures to insure wise use of floodplains, including mapping and engineering, mitigation, education, and administration and enforcement of floodplain regulations.
- (29) "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.
- (30) "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.
- (31) "FLOOD PROTECTION ELEVATION" - An elevation of two feet of freeboard above the water surface profile elevation designated for the regional flood. (Also see: FREEBOARD.)
- (32) "FLOOD STORAGE" - Those floodplain areas where storage of floodwaters has been taken into account during analysis in reducing the regional flood discharge.
- (33) "FLOODWAY" - The channel of a river or stream and those portions of the floodplain adjoining the channel required to carry the regional flood discharge.
- (34) "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.
- (35) "HABITABLE STRUCTURE" - Any structure or portion thereof

used or designed for human habitation.

- (36) "HEARING NOTICE" - Publication or posting meeting the requirements of Ch. 985, Stats. For appeals, a Class 1 notice, published once at least one week (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 at least a week (7 days) before the hearing. Local ordinances or bylaws may require additional notice, exceeding these minimums.
- (37) "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.
- (38) "HISTORIC STRUCTURE" - Any structure that is either:
 - a. Listed individually in the National Register of Historic Places or preliminarily determined by the Secretary of the Interior as meeting the requirements for individual listing on the National Register,
 - b. Certified or preliminarily determined by the Secretary of the Interior as contributing to the historical significance of a registered historic district or a district preliminarily determined by the Secretary to qualify as a registered historic district,
 - c. Individually listed on a state inventory of historic places in states with historic preservation programs which have been approved by the Secretary of the Interior, or
 - d. Individually listed on a local inventory of historic places in communities with historic preservation programs that have been certified either by an approved state program, as determined by the Secretary of the Interior; or by the Secretary of the Interior in states without approved programs.
- (39) "INCREASE IN REGIONAL FLOOD HEIGHT" - A calculated upward rise in the regional flood elevation, equal to or greater than 0.01 foot, based on a comparison of existing conditions and proposed conditions which is directly attributable to development in the floodplain but not attributable to manipulation of mathematical variables such as roughness factors, expansion and contraction coefficients and discharge.

- (40) "LAND USE" - Any nonstructural use made of unimproved or improved real estate. (Also see DEVELOPMENT.)
- (41) "MANUFACTURED HOME" - A structure transportable in one or more sections, which is built on a permanent chassis and is designed to be used with or without a permanent foundation when connected to required utilities. The term "manufactured home" includes a mobile home but does not include a "mobile recreational vehicle."
- (42) "MOBILE RECREATIONAL VEHICLE" - A vehicle which is built on a single chassis, 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."
- (43) "MUNICIPALITY" or "MUNICIPAL" - The county, city or village governmental units enacting, administering and enforcing this zoning ordinance.
- (44) "NAVD" or "NORTH AMERICAN VERTICAL DATUM" – Elevations referenced to mean sea level datum, 1988 adjustment.
- (45) "NGVD" or "NATIONAL GEODETIC VERTICAL DATUM" - Elevations referenced to mean sea level datum, 1929 adjustment.
- (46) "NEW CONSTRUCTION" - For floodplain management purposes, "new construction" means structures for which the start of construction commenced on or after the effective date of floodplain zoning regulations adopted by this community and includes any subsequent improvements to such structures. For the purpose of determining flood insurance rates, it includes any structures for which the "start of construction" commenced on or after the effective date of an initial FIRM or after December 31, 1974, whichever is later, and includes any subsequent improvements to such structures.
- (47) "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.)

- (48) "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 the area of the floodplain which it occupies. (Such as a residence in the floodway.)
- (49) "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.
- (50) "OFFICIAL FLOODPLAIN ZONING MAP" - That map, adopted and made part of this ordinance, as described in s. (a)(5)b., which has been approved by the Department and FEMA.
- (51) "OPEN SPACE USE" - Those uses having a relatively low flood damage potential and not involving structures.
- (52) "ORDINARY HIGHWATER MARK" - The point on the bank or shore up to which the presence and action of surface water is so continuous as to leave a distinctive mark such as by erosion, destruction or prevention of terrestrial vegetation, predominance of aquatic vegetation, or other easily recognized characteristic.
- (53) "PERSON" - An individual, or group of individuals, corporation, partnership, association, municipality or state agency.
- (54) "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.
- (55) "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.

- (56) "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.
- (57) "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 chance of being equaled or exceeded in any given year, and if depicted on the FIRM, the RFE is equivalent to the BFE.
- (58) "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 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.
- (59) "STRUCTURE" - Any manmade 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.
- (60) "SUBDIVISION" - Has the meaning given in s. 236.02(12), Wis. Stats.
- (61) "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 50 percent of the equalized assessed value of the structure before the damage occurred.

- (62) "UNNECESSARY HARDSHIP" - Where special conditions affecting a particular property, which were not self-created, have made strict conformity with restrictions governing areas, setbacks, frontage, height or density unnecessarily burdensome or unreasonable in light of the purposes of the ordinance.
- (63) "VARIANCE" - An authorization by the Zoning Board of Appeals (ZBA) 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.
- (64) "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.
- (65) "WATERSHED" - The entire region contributing runoff or surface water to a watercourse or body of water.
- (66) "WATER SURFACE PROFILE" - A graphical representation showing the elevation of the water surface of a watercourse for each position along a reach of river or stream at a certain flood flow. A water surface profile of the regional flood is used in regulating floodplain areas.
- (67) "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.

(Ord. No. 17-98-1, § 1(b), 11-16-1998, Ord. 4-21-2007; Ord. 4-22-2010)