

## CHAPTER 8

### Floodplain Regulations

<i>Section Number</i>	<i>Title</i>	<i>Ordinance Number</i>	<i>Date of Ordinance</i>
16-8-1	Floodplain Regulations		

Publisher's Note: The Village Floodplain regulations are found in two documents: Chapter 20 of the Racine County Code of Ordinances and this Section 16-8-1.

#### SEC. 16-8-1 FLOODPLAIN REGULATIONS.

Pursuant to Section 16-1-1, the Village adopted Chapter 20 of the Racine County Code of Ordinances ("Ch. 20 of the RCCO"), as such was in effect at the time of the Village's incorporation, and the following subsections shall modify the currently existing floodplain requirements of Ch. 20 of the RCCO to meet minimum federal and state floodplain requirements:"

- (a) **Amend Section 20-1 Definitions.** Include the following in their proper alphabetical sequence, replacing any previous definitions for such words:

“Add: *Accessory structure or use* shall mean a facility, structure, building or use which is accessory to or incidental to the principle use of a property, structure, or building.

Replace: *Base flood* shall mean 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.

Replace: *Basement* shall mean any enclosed area of a building having its floor sub-grade (i.e., below ground level, on all sides).

Replace: *Bulkhead line* shall mean 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 high-water mark, except where such filling is prohibited by the floodway provisions of this ordinance.

Add: *Campground* shall mean any parcel of land which is designed, maintained, intended, or used for the purpose of providing sites for nonpermanent overnight use by four (4) or more camping units, or which is advertised or represented as a camping area.

Add: *Camping unit* shall mean any portable device, no more than four hundred (400) square feet in area, used as a temporary shelter, including but not limited to, a camping trailer, motor home, bus, van, pick-up truck, tent or other mobile recreational vehicle.

Add: *Certificate of Compliance* shall mean 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.

Replace: *Channel* shall mean a natural or artificial watercourse with definite bed and banks to confine and conduct normal flow of water.

Add: *Crawlways or crawlspace* shall mean an enclosed area below the first usable floor of a building, generally less than five (5) feet in height, used for limited access to plumbing and electrical utilities.

Add: *Deck* shall mean an unenclosed exterior structure that has no roof or sides, but has a permeable floor which allows the infiltration of precipitation.

Replace: *Development* shall mean 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.

Add: *Existing manufactured home park or subdivision* shall mean 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.

Add: *Expansion to existing manufactured home park* shall mean 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.

Add: *Flood insurance rate map (FIRM)* shall mean 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.

Replace: *Flood or flooding* shall mean a general and temporary condition of partial or complete inundation of normally dry land areas caused by one of the following:

- (1) the overflow or rise of inland waters;
- (2) the rapid accumulation of runoff of surface waters from any source;
- (3) the inundation caused by waves or currents of water exceeding anticipated cyclical levels along the shore of Lake Michigan or Lake Superior; or

- (4) 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.

Add: *Flood hazard boundary map* shall mean a map designating approximate flood hazard areas. Flood hazard areas are designated as un-numbered A-Zones and do not contain floodway lines or regional flood elevations. This map forms the basis for both the regulatory and insurance aspects of the National Flood Insurance Program (NFIP) until superseded by a flood insurance study and a Flood Insurance Rate Map.

Add: *Floodplain* shall mean 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.

Add: *Floodplain island* shall mean a natural geologic land formation within the Floodplain that is surrounded, but not covered, by floodwater during the regional flood.

Add: *Floodplain management* shall mean policy and procedures to ensure wise use of Floodplains, including mapping and engineering, mitigation, education, and administration and enforcement of Floodplain regulations.

Add: *Floodplain nonconforming structure* shall mean 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.)

Add: *Floodplain nonconforming use* shall mean 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.

Add: *Flood profile* shall mean 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.

Add: *Flood protection elevation* shall mean an elevation of two (2) feet of freeboard above the water surface profile elevation designated for the regional Flood (Also see: *freeboard*)

Add: *Flood storage* shall mean those Floodplain areas where storage of floodwaters has been taken into account during analysis in reducing the regional flood discharge.

Add: *Habitable structure* shall mean any structure or portion thereof used or designed for human habitation.

Add: *Land Use for floodplain management purposes* shall mean any nonstructural or improved real estate.

Add: *High flood damage potential* shall mean 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.

Add: *Lowest floor* shall mean the lowest floor of the lowest enclosed area (including Basement). An unfinished or Flood resistant enclosure, usable solely for parking of vehicles, building access or storage in an area other than a Basement area is not considered a building's lowest floor; provided that such enclosure is not built so as to render the structure in violation of the applicable non-elevator design requirements of this ordinance.

Add: *Manufactured home park or subdivision* shall mean a parcel (or contiguous parcels) of land divided into two or more manufactured home lots for rent or sale.

Replace: *Manufactured Home* shall mean a structure, transportable in one or more sections, which is built as a permanent chassis and is designed for use with or without a permanent foundation when attached to the required utilities. The term "manufactured home" does not include a "recreational vehicle."

Add: *Mobile recreational vehicle* shall mean a vehicle which is built on a single chassis four hundred (400) square feet or less when measured at the largest horizontal projection, designed to be self-propelled, carried or permanently towable by a licensed, light-duty vehicle, is licensed for highway use if registration is required and is designed primarily not for use as a permanent dwelling, but as temporary living quarters for recreational, camping, travel or seasonal use. Manufactured homes that are towed or carried onto a parcel of land, but do not remain capable of being towed or carried, including park model homes, do not fall within the definition of mobile recreational homes.

Add: *NGVD or National Geodetic Vertical Datum* shall mean elevations referenced to mean sea level datum, 1929 adjustment.

Add: *New construction*, for Floodplain Management purposes, shall mean 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.

Add: *Obstruction to flow* shall mean any Development which blocks the conveyance of Flood waters such that this Development alone or together with any future Development will cause an increase in regional Flood heights.

Add: *Official floodplain zoning map* shall mean that map, adopted and made part of this ordinance, as described in Sec. 20-213.5, which has been approved by the WI-DNR Department and FEMA.

Add: *Open space use for floodplain management purposes* shall mean those uses having a relatively low Flood damage potential and not involving structures.

Add: *Private sewage system* shall mean 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 shall mean 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.

Add: *Reasonably safe from flooding* shall mean 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.

Replace: *Regional flood* shall mean a Flood determined to be representative of large floods known to have occurred in Wisconsin. A regional flood is a Flood with a one percent (1%) chance of being equaled or exceeded in any given year, and if depicted on the FIRM, the RFE is equivalent to the BFE.

Add: *Special Flood Hazard Area* (also SFHA) shall mean the land in the floodplain within the Village subject to a one (1) percent or greater chance of Flooding in any given year.

Add: *Start of construction* shall mean 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.

Replace: *Structure* shall mean 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. Additionally, in the APO district, a structure also includes a mobile object such as a crane, earthworks and overhead transmission lines.

Add: *Violation* shall mean 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.

Add: *Watershed* shall mean the entire region contributing runoff or surface water to a watercourse or body of water.

Add: *Water surface profile* shall mean 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.

Add: *Well* shall mean an excavation opening in the ground made by digging, boring, drilling, driving or other methods, to obtain groundwater regardless of its intended use.”

(b) **Amend Section 20-2 Authority to read as follow:**

“This chapter is adopted under the authority granted by Sections 62.23, 87.30(2) and 281.31, Wis. Stats. Uncontrolled Development and use of the Floodplains and rivers of the Village of Caledonia will impair the public health, safety, convenience, general welfare, and tax base.”

(c) **Create Section 20-4(c) Intent to read as follows:**

“Sec. 20-4(c) Intent.

This chapter is intended to regulate Floodplain Development to:

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

(d) **Amend Section 20-6 Interpretation By Deleting The Last Sentence As Follows:**

~~“The effective dates of these codes as they apply to the county are October 1980 (NR115) and July 1977 (NR116).”~~

(e) **Amend Section 20-10 Compliance By Adding Paragraph (d) to read as Follows:**

“(d) Require permits for all proposed construction or other Development in the community, including the placement of manufactured homes, so that it may determine

whether such construction or other Development is proposed within SFHA or flood-prone areas or within Zone A on the Village's Flood Hazard Boundary Map or Flood Insurance Rate Map. Any Development or use within the Floodplain areas regulated by this chapter shall be in compliance with the Floodplain provisions of this chapter, and other applicable local, state, and federal regulations.”

(f) **Amend Section 20-10.5 Municipalities And State Agencies Regulated to read as follows:**

“Sec. 20-10.5 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 required permits. State agencies are required to comply if Sec. 13.48(13), Wis. Stats. applies. The construction, reconstruction, maintenance and repair of state highways and bridges by the Wisconsin Department of Transportation are exempt from compliance when Sec. 30.2022, Wis. Stats., applies.”

(g) **Create Section 20-16 Severability to read as follows:**

“Sec. 20-16 Severability.

Should any portion of this chapter be declared unconstitutional or invalid by a court of competent jurisdiction, the remainder of this ordinance shall not be affected.”

(h) **Create Section 20-17 Zoning Agency to read as follows:**

“Sec. 20-17 Zoning Agency.

(1) The Village of Caledonia Plan Commission shall:

- a) Oversee the functions of the office of the Zoning Administrator;
- b) Review and make recommendations to the Village Board on all proposed amendments to this ordinance, maps and text;
- c) Review and make recommendations to the Village Board on conditional uses and site plans; and
- d) Such other functions as established by the Village Board.

(2) This Commission shall not:

- a) Grant variances to the terms of the ordinance in place of action by the Board of Appeals; or
- b) Amend the text or zoning maps in place of official action by the Board of Trustees.”

(i) **Create Section 20-18 Zoning Administrator to read as follows.**

“Sec. 20-18 Zoning Administrator.

The Zoning Administrator is authorized to administer this chapter and shall have the following duties and powers:

- (1) Advise applicants of the chapter provisions, assist in preparing permit applications and appeals, and assure that the Regional Flood Elevation for any proposed Floodplain Development is shown on all such permit applications.
- (2) Issue permits and inspect properties for compliance with provisions of this chapter, 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) Assist owners of substantially damaged structures with Increased Cost of Compliance insurance claims in accordance with federal regulations.
- (5) Keep records of all official actions such as:
  - (a) All permits issued, inspections made, and work approved;
  - (b) Documentation of certified Lowest Floor after construction;
  - (c) Records of water surface profiles, Floodplain zoning maps and ordinances, nonconforming uses and structures including changes, appeals, variances and amendments;
  - (d) All substantial damage assessment reports for Floodplain structures.
  - (e) Where Base Flood elevation data are utilized, within the 1% annual chance Flood:
    - (i) Obtain the elevation (in relation to mean sea level) of the lowest floor (including Basement) of all new and substantially improved structures. and
    - (ii) Obtain, if the structure has been floodproofed in accordance with Sec. 20-1068 or Sec. 20-190 of this Chapter, the elevation (in relation to mean sea level) to which the structure was floodproofed, and
    - (iii) Maintain a record of all such information in the office of the Zoning Administrator.
- (6) Submit copies of the following items to the Department of Natural Resources Regional office:
  - (a) Within ten (10) days of the decision, a copy of any decisions on variances, appeals for map or text interpretations, and map or text amendments;
  - (b) Copies of any case-by-case analyses, and any other information required by the Department of Natural Resources, including an annual summary of the number and types of Floodplain zoning actions taken.
  - (c) Copies of substantial damage assessments performed and all related correspondence concerning the assessments.

NOTE: Information on conducting substantial damage assessments is available on the Department of Natural Resources (DNR) website <http://dnr.wi.gov/org/water/wm/dsfm/flood/title.htm>

- (7) Investigate, prepare reports, and report violations of this chapter to the Zoning

Administrator and Village Attorney for prosecution. Copies of the reports shall also be sent to the DNR Regional office.

- (8) Submit copies of text and map amendments and biennial reports to the FEMA Regional office.
  - (9) Conduct public information activities.
  - (10) Cause marks to be placed on structures to show the depth of inundation during the regional flood.
  - (11) Ensure that all maps, engineering data, and regulations shall be available and widely distributed.
  - (12) Encourage all real estate transfers to show within what Floodplain zoning district any real property is located.”
- (j) **Create Section 20-19 Data Requirements To Analyze Floodplain Developments to read as follows:**

“Sec. 20-19 Data Requirements to Analyze Floodplain Developments.

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. 236.02, Wis. Stats., and other proposed Developments exceeding five (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.”
- (k) **Create Section 20-169 Warning And Disclaimer Of Liability to read as follows:**

“Sec. 20-169 Warning and Disclaimer of Liability.

The Flood protection standards in this chapter 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 chapter does not imply or guarantee that non-Floodplain areas or permitted Floodplain uses will be free from Flooding and Flood damages, nor does

this chapter create liability on the part of, or a cause of action against, the Village or any officer or employee thereof for any Flood damage that may result from reliance on this chapter.”

(l) **Create Section 20-170 Annexed Areas For Cities And Villages to read as follows:**

“Sec. 20-170 Annexed Areas for Cities and Villages.

The Racine 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. NR116, Wis. Adm. Code, and the National Flood Insurance Program (NFIP). These annexed lands are described on the municipality's official zoning map. County Floodplain zoning provisions are incorporated by reference for the purpose of administering this section and are on file in the office of the municipal Zoning Administrator. All plats or maps of annexation shall show the Regional Flood Elevations and the location of the floodway. When an area is annexed, the Zoning Administrator will notify the State of Wisconsin and FEMA.”

(m) **Create Section 20-171 General Development Standards to read as follows:**

“Section 20-171 General Development Standards.

The Zoning Administrator shall review all permit applications to determine whether proposed building sites will be reasonably safe from Flooding and such applications shall meet the following standards.

- (1) If a proposed building site is in a Flood prone area, all new construction and substantial improvements, including manufactured homes, 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 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.
- (2) Within flood-prone areas new and replacement water supply systems shall be designed to minimize or eliminate infiltration of Flood waters into the systems; and require within flood-prone areas (i) new and replacement sanitary sewage systems to be designed to minimize or eliminate infiltration of Flood waters into the systems and discharges from the systems into Flood waters; and (ii) onsite waste disposal systems to be located to avoid impairment to them or contamination from them during Flooding.
- (3) Subdivisions, including Manufactured Home Parks or Subdivisions, shall be reviewed for compliance with the above standards. All subdivision proposals

(including Manufactured Home Parks) shall include Regional Flood Elevation, Base Flood elevations, and floodway data for any Development that meets the subdivision definition of this ordinance or greater than 50 lots or 5 acres, whichever is less, and shall be reviewed to assure that (i) all such proposals are consistent with the need to minimize Flood damage within the flood-prone area, (ii) all public utilities and facilities, such as sewer, gas, electrical, and water systems are located and constructed to minimize or eliminate Flood damage, and (iii) adequate drainage is provided to reduce exposure to Flood hazards.

- (4) All new construction and substantial improvements of residential structures within Zones A1-30, AE and AH zones on the Village's FIRM have the Lowest Floor (including Basement) elevated to or above the Base Flood level, unless the community is granted an exception by the Federal Insurance Administrator for the allowance of Basements in accordance with the 44 CFR 60.6(b) or (c).
- (5) All new construction and substantial improvements of residential structures within any AO zone on the Village's FIRM have the Lowest Floor (including Basement) elevated above the highest adjacent grade at least as high as the depth number specified in feet on the Village's FIRM (at least two feet if no depth number is specified).
- (6) All new construction and substantial improvements of non-residential structures within Zones A1-30, AE and AH zones on the Village's FIRM (i) have the lowest floor (including Basement) elevated to or above the Base Flood level or, (ii) together with attendant utility and sanitary facilities, be designed so that below the Base Flood level the structure is watertight with walls substantially impermeable to the passage of water and with structural components having the capability of resisting hydrostatic and hydrodynamic loads and effects of buoyancy.
- (7) All new construction and substantial improvements of nonresidential structures within an AO zone on the Village's FIRM (i) have the Lowest Floor (including Basement) elevated above the highest adjacent grade at least as high as the depth number specified in feet on the community's FIRM (at least two feet if no depth is specified), or (ii) together with attendant utility and sanitary facilities be completely floodproofed to that level to meet the floodproofing standard specified in subsection (6) above.
- (8) In Zones AH and AO, there shall be adequate drainage paths around structures on slopes, to guide floodwaters around and away from proposed structures.
- (9) All Manufactured Homes to be placed within the 1% annual chance Flood shall be installed using methods and practices which minimize Flood damage. For the purposes of this requirement, Manufactured Homes shall be elevated and anchored to resist flotation, collapse, or lateral movement. Methods of anchoring may include, but are not limited to, use of over-the-top or frame ties to ground anchors.

This requirement is in addition to applicable State and other requirements under this ordinance for anchoring to resist wind forces.

- (10) All manufactured homes that are placed or substantially improved within Zones A1-30, AH, and AE on the Village's FIRM on sites (i) outside of a Manufactured Home Park or Subdivision, (ii) in a new Manufactured Home Park or Subdivision, (iii) in an Expansion to an Existing Manufactured Home Park or Subdivision, or (iv) in an Existing Manufactured Home Park or Subdivision on which a manufactured home has incurred "substantial damage" as a result of a flood, be elevated on a permanent foundation such that the Lowest Floor of the manufactured home is elevated to or above the Base Flood elevation and be securely anchored to an adequately anchored foundation system to resist flotation collapse and lateral movement.
- (11) All new construction and substantial improvements, with fully enclosed areas below the Lowest Floor that are useable solely for parking of vehicles, building access or storage in an area other than a Basement and which are subject to Flooding shall be designed to automatically equalize hydrostatic Flood forces on exterior walls by allowing for the entry and exit of floodwaters. Designs for meeting this requirement shall be certified by a registered professional engineer or architect and meet or exceed the following minimum criteria: A minimum of two openings having a total net area of not less than one square inch for every square foot of enclosed area subject to Flooding shall be provided. The bottom of all openings shall be no higher than one foot above grade. Openings may be equipped with screens, louvers, valves, or other coverings or devices provided that they permit the automatic entry and exit of floodwaters.
- (12) Until a regulatory floodway is designated, that no new construction, substantial improvements, or other Development (including fill) shall be permitted within Zones A1-A30 and AE on the Village's FIRM, unless it is demonstrated that the cumulative effect of the proposed Development, when combined with all other existing and anticipated Development, will not increase the water surface elevation of the Base Flood more than one foot at any point within the Village."
- (n) **Create Section 20-186(A)(5) under the Existing Nonconforming Uses Section to read as follows:**
  - "(5) The construction of a Deck that does not exceed two hundred (200) square feet and that is adjacent to the exterior wall of a principal structure is not an extension, modification or addition. The roof of the structure may extend over a portion of the Deck in order to provide safe ingress and egress to the principal structure."
- (o) **Amend Section 20-190 Floodplain Nonconforming Uses by adding language underlined below and to read as follows:**

"Sec. 20-190 Floodplain Nonconforming Uses.

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, and the replacement of 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.
- (2) Floodland Nonconforming Uses, including residential and non-residential uses, repaired or altered under the nonconforming use provisions of this chapter shall provide for floodproofing, in accordance with this Section and Section 20-1068, to those portions of the structures involved in such repair or alteration. Certification of floodproofing shall be made to the Zoning Administrator and shall consist of a plan or document certified by a registered professional engineer or architect that the floodproofing measures are consistent with the Flood velocities, forces, depths, and other factors associated with the one-hundred-year recurrence interval flood. Floodproofing residential will not meet FEMA compliance requirements and may not lower insurance premiums.
- (3) Nonconforming mobile homes, Mobile Home Parks, and Mobile Home Subdivisions shall comply with the requirements for nonconforming residential structures. Existing Mobile Homes in a floodland district that have been substantially damaged shall be elevated on a permanent foundation or pad such that the elevation of the foundation or pad is at or above the one-year recurrence interval Flood elevation; the first floor of the mobile home is at or above the Base Flood Elevation; and the mobile home shall be securely anchored to the foundation system to resist floatation, collapse, and lateral movement. Recreational vehicles shall not be considered to be mobile homes (manufactured homes).
- (4) 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 Village and the modification or addition shall be placed on fill or floodproofed to the Flood Protection Elevation in compliance with the standards of this chapter.
- (5) Where compliance with the provisions of par. (3) 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 Appeals, using the procedures established herein, may grant a variance from those provisions of par. (4) for modifications or additions, using the criteria listed below. Modifications or

additions which are protected to elevations lower than the Flood Protection Elevation may be permitted if:

- (a) no floor is allowed below the regional flood elevation for residential or commercial structures;
  - (b) human lives are not endangered;
  - (c) public facilities, such as water or sewer, will not be installed;
  - (d) Flood depths will not exceed two (2) feet;
  - (e) Flood velocities will not exceed two (2) feet per second; and
  - (f) the structure will not be used for storage of materials as described herein.
- (6) If neither the provisions of par. (3) or (4) 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:
- (a) meets all other regulations and will be granted by permit or variance;
  - (b) does not exceed sixty (60) square feet in area; and
  - (c) in combination with other previous modifications or additions to the building, does not equal or exceed fifty (50) percent of the equalized assessed value of the building.
- (7) 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.
- (8) All new wells, or addition to, replacement, repair or maintenance of a well shall meet the applicable provisions of this chapter and ch. NR 811 and NR 812, Wis. Adm. Code.
- (9) No modification to a Floodland Nonconforming Use or structure with a nonconforming use, shall be permitted that would, over the life of the nonconforming use or structure, equal or exceed fifty (50) percent of the current equalized value of the structure, unless the entire structure is permanently changed to a conforming structure with a conforming use in compliance with the applicable requirements of this ordinance. The Zoning Administrator shall maintain records of all floodland nonconforming uses and structures and modifications made to floodland nonconforming uses and structures. Records shall reflect the current equalized value of nonconforming structures, the costs of any modifications that are permitted, and the percentage of the structures' current value that those modifications represent. Illustration No. I reflects a method by which the Zoning Administrator may determine when modifications exceed the fifty (50) percent limit.

I. ILLUSTRATION NO. 1

Is It Fifty (50) Percent Yet?

*Sample Problem:* Assume that the owner of a nonconforming house wishes to add a room to the house. If the house had an equalized assessed value of \$20,000.00, the property owner would be able to make improvements valued at less than fifty (50) percent of the present equalized assessed value of the house or less than \$10,000.00. The improvement would have to be built to zoning standards. Any further additions or structural alterations could not be allowed unless the entire structure was changed to meet the requirements for a new structure.

- (a) Additions and modifications which are permitted are based upon a time period over the life of the structure as shown above. Therefore, if, in the example above, the property owner constructed an addition for less than \$10,000.00, no further additions could be allowed because the fifty (50) percent improvement limit had been reached. However, assume that the addition was valued at \$4,000.00 or twenty (20) percent of the equalized assessed value of the structure (\$20,000.00). Five years later, the property owner again wishes to add an attached greenhouse. In the meantime, the present equalized assessed value of the house has increased from \$20,000.00 to \$30,000.00. The value of the greenhouse is \$3,000.00 or ten (10) percent of the current equalized assessed value of the structure.
- (b) The property owner has now accumulated twenty (20) percent plus ten (10) percent of the allowable additions.
- (c) Finally, three years later, when the assessed value of the house is \$40,000.00, the property owner wishes to modify the house to the extent of \$10,000.00. \$10,000.00 is twenty-five (25) percent of \$40,000.00; therefore, the property owner could not make the modification since there were accumulated modifications totaling thirty (30) percent of the equalized value and an additional twenty-five (25) percent would be greater than the fifty (50) percent allowed. However, the property owner could make modifications equal to less than twenty (20) percent of the current equalized assessed value of the home, or less than \$8,000.00.
- (d) This example is further clarified in the following table: (Note: The base for calculation is not the original value of the home at the time the ordinance is enacted, but is the value of the home at each time the home is modified.)

Year	Assessed Value of Home	Value of Modification	Percent of Modification	Cumulative Percentage
1977	\$20,000	\$4,000	20%	20%
1982	\$30,000	\$3,000	10%	30%
1985	\$40,000	\$10,000	25%	55%
	\$40,000	\$8,000	20%	50%

- (10) 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 Sec. 20-1268. 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 the paragraph.
- (11) Except as provided below under subsection (12), if any nonconforming structure or any structure with a nonconforming use is destroyed or is substantially damaged, it cannot be replaced, reconstructed or rebuilt unless the use and the structure meet the current ordinance requirements. A structure is considered substantially damaged if the total cost to restore the structure to its pre-damaged condition equals or exceeds fifty (50) percent of the structure's present equalized assessed value.
- (12) For nonconforming buildings that are damaged or destroyed by a non-Flood disaster, the repair or reconstruction of any such nonconforming building may be permitted in order to restore it after the non-Flood disaster, provided that the nonconforming building will meet all of the minimum requirements under 44 CFR Part 60, or under the regulations promulgated thereunder.
- (13) A nonconforming historic structure may be altered if the alteration will not preclude the structure's continued designation as an historic structure, the alteration will comply with Sec. 20-819, Flood resistant materials are used, and construction practices and Flood proofing methods that comply with Sec. 20-1068 are used.
- (14) 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 Floodplain area. Any replacement, repair or maintenance of an existing on-site sewage disposal in a Floodplain area shall meet the applicable requirements of all municipal ordinances and ch. COMM 83, Wis. Adm. Code.
- (15) No new well or modification to an existing well used to obtain potable water shall be allowed in a Floodplain area. Any replacement, repair or maintenance of an existing well in a Floodplain area shall meet the applicable requirements of all municipal ordinances and chs. NR811 and NR812, Wis. Adm. Code.
- (16) No modification or addition shall be allowed to any nonconforming structure or any structure with a nonconforming use in a floodway area, unless such modification or addition:
- (a) has been granted a permit or variance which meets all ordinance requirements;
  - (b) meets the requirements of paragraphs (1) through (14) as listed above; and

- (c) will not increase the obstruction to Flood flows or regional Flood height during the occurrence of the regional flood.
- (d) Any addition to the existing structure shall be floodproofed, pursuant to Sec. 20-1068 by means other than the use of fill, to the Flood Protection Elevation.
- (e) Mechanical and utility equipment must be elevated to or above the regional flood elevation.
- (f) Its use must be limited to parking and/or limited storage.”

(p) **Create Section 20-213.5 General Provisions Floodplain Districts to read as follows:**

“Sec. 20-213.5 General Provisions Floodplain Districts.

- (1) **Areas to be regulated.** This chapter regulates all areas that would be covered by the Regional Flood or Base Flood, including Floodplain Islands unless actual dry land access can be obtained.

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.

- (2) **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 as listed in Section 20-213. 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 Planning and Development Department, Racine County. If more than one map or revision is referenced, the most current approved information shall apply.

- (3) **Official maps: Based on the FIS.**

- (a) Flood Insurance Rate Map (FIRM), panel numbers 550347 0020, 0025, 0045 and 0050, dated April 1, 1982, with corresponding profiles that are based on the Flood Insurance Study (FIS) dated April 1, 1982; and
- (b) Flood Boundary and Floodway Map (FBFW), panel numbers 550347 0020, 0025, 0045 and 0050, dated April 1, 1982;

All have been approved by the DNR and FEMA

- (4) **Official maps:** Based on other studies as listed in Section 20-213

All have been approved by the DNR.

**(5) Locating Floodplain boundaries.**

Discrepancies between boundaries on the official Floodplain zoning map and actual field conditions shall be resolved using the criteria in paragraphs (a) and (b) below. If a significant difference exists, the map shall be amended according to this chapter. 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 chapter. Disputes between the Zoning Administrator and an applicant over the district boundary line shall be settled according to Article II and the criteria in (a) and (b) below.

- (a) If Flood Profiles exist, the map scale and the Profile Elevations shall determine the district boundary. The regional or Base Flood elevations shall govern if there are any discrepancies.
- (b) Where Flood Profiles do not exist, the location of the boundary shall be determined by the map scale, visual on-site inspection and any information provided by the Village's zoning and planning department under the direction of the Zoning Administrator, Department of Natural Resources, FEMA and the Zoning Administrator.

Note: Where the Flood Profiles are based on established Base Flood elevations from a FIRM, FEMA must also approve any map amendment involving channel relocations and changes to the maps to alter floodway lines or to remove an area from the floodway or the floodfringe.”

**(q) Amend Section 20-816 Purposes by striking text below as indicated below.**

“Sec. 816. Purposes

The FW Urban Floodway District is intended to be used to protect people and property in urban areas within the Village from Flood damage by prohibiting the erection of structures that would impede the flow of water during periodic flooding. Prohibiting Development of the floodway will serve to diminish damages in the broader Floodplain by not increasing Flood stages. In delineating the FW district, the effects of Development within the associated Flood fringe shall be computed. No increase in Flood stage shall be permitted that is equal to or greater than 0.01 feet unless the board of trustees has made appropriate legal arrangements with all affected units of government and all property owners affected by the stage increase, and until all such affected units of government have amended their water surface profiles, and floodland zoning maps to reflect the increased Flood elevations. ~~No urban floodway district changes shall be permitted where the cumulative effect of changes increases flood stages by more than 1.0 foot unless a waiver is secured from the Federal Emergency Management Agency (FEMA).~~ The FW district shall only be utilized

in areas of the Village where public sanitary sewerage facilities are currently available or are programmed to be made available within twenty-four (24) months ~~and where the elevation of the one hundred year recurrence interval flood has been increased by two (2) or more feet since such elevation was originally established.~~”

(r) **Create Section 20-819 Standards For Developments In Floodway Areas to read as follows**

“Sec. 20-819 Standards for Development in Floodway Areas.

(a) General

- (1) Any Development in floodway areas shall comply with Sec. 20-1185 and have a low Flood damage potential.
- (2) Applicants shall provide the following data to determine the effects of the proposal according to Sec. 20-1185(a).
  - 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, classified as historic structure, or functionally dependent on a waterfront location may be allowed by conditional use permit if the structures comply with the following criteria:

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

(c) Public utilities, streets and bridges

Public utilities, streets and bridges may be allowed by conditional use permit if:

- (1) Adequate Flood proofing measures are provided to the Flood Protection Elevation; and
- (2) Construction meets the Development standards of Sec. 20-1185.

(d) Fills or deposition of materials

Fills or deposition of materials may be allowed by conditional use permit if:

- (1) The requirements of Sec. 20-1185(a) 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 rip-rap, vegetative cover; sheet piling or bulkheading; and
- (4) The fill is not classified as a solid or hazardous material.”

(s) **Create Section 20-879 Determining Floodway And Floodfringe Limits to read as follows:**

“Sec. 20-879 Determining Floodway and Floodfringe Limits.

Development within the GFO General Floodplain Overlay District is generally prohibited. However, in those limited situations where Development may be possible and where the location of the floodway is not readily obtainable from an adopted comprehensive watershed plan, the Zoning Administrator shall:

- (1) Require the applicant to submit two (2) copies of an aerial photograph or a plan which shows the proposed Development with respect to the general Floodplain district limits, stream channel, and existing Floodplain Developments, along with a legal description of the property, fill limits and elevations, building floor elevations and Flood proofing measures;
- (2) 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:
  - (a) 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;
  - (b) 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;
- (c) Profile showing the slope of the bottom of the channel or flow line of the stream;
  - (d) Specifications for building construction and materials, Flood proofing, filling, dredging, channel improvement, storage of materials, water supply and sanitary facilities;
- (3) Transmit one (1) copy of the information described in pars. (1) and (2) 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 Section 20-18 apply the applicant shall provide all required information and computations to delineate floodway boundaries and the effects of the project on Flood elevations.”
- (t) **Create Section 20-1185 General Standards Applicable To All Floodplain Districts to read as follows:**

“Sec. 20-1185 General Standards Applicable to all Floodplain Districts.

- (1) Hydraulic and hydrologic analyses
  - (a) Except as allowed in par. (3) below, no Floodplain Development shall:
    - i. Obstruct flow, defined as Development which blocks the conveyance of floodwaters by itself or with other Development, increasing regional Flood height; or
    - ii. 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. (3) are met.
  - (c) Obstructions or increases equal to or greater than 0.01 foot may only be permitted if amendments are made to this ordinance, the official Floodplain zoning maps, floodway lines and water surface profiles, in accordance with this ordinance, all with the approval of the Wisconsin Department of Natural Resources and FEMA.
- (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 ordinances are made according to s. 8.0.

(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 and Family Services;
- (b) A conditional 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 (1) 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 and family services and all other applicable regulations;
- (f) Only Camping Units are allowed;
- (g) The Camping Units may not occupy any site in the Campground for more

than one hundred eighty (180) consecutive days, at which time the Camping Unit must be removed from the Floodplain for a minimum of twenty-four (24) hours;

- (h) All Camping Units that remain on site for more than thirty (30) days shall be issued a limited authorization by the Campground operator, a written copy of which is kept on file at the Campground. Such authorization shall allow placement of a camping unit for a period not to exceed one hundred eighty (180) days and shall ensure compliance with all the provisions of this section;
- (i) The municipality shall monitor the limited authorization issued by the Campground operator to assure compliance with the terms of this section;
- (j) All Camping Units that remain in place for more than one hundred eighty (180) consecutive days must meet the applicable requirements in Secs. 20-1068 and 20-1270 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 collections, electrical service, natural gas lines, propane tanks, sewage systems and wells shall be properly anchored and placed at or Flood proofed to the Flood Protection Elevation.”

(u) **Amend Section 20-1271(B) Accessory; Industrial Structures as follows:**

“Sec. 20-1271(B) Accessory; Structures.

- (b) Accessory Structures associated with agricultural, residential, commercial, institutional, or industrial uses in the FFO urban Floodplain fringe overlay district are permitted, provided that all structures, when permitted, are not attached to the principal structure, are not designed for human occupancy or the confinement of animals, have a low Flood damage potential, are constructed and placed to provide minimum obstruction to Flood flows (whenever possible, Accessory Structures shall be placed with their longitudinal axis parallel to the flow of floodwaters), are firmly anchored to prevent them from floating away and restricting bridge openings, and have all service facilities (such as electrical and heating equipment) at an elevation at least two (2) feet above the 100-year recurrence interval Floodplain and shall meet the requirements of Sec. 20-171(11) of this ordinance. ~~Accessory structures in the FFO urban floodplain fringe overlay district shall not be subject to inundation depths greater than two (2) feet or flood velocities greater than two (2) feet per second upon the occurrence of a 100 year recurrence interval flood.~~
  - (1) Except as provided in paragraph 2, an accessory structure which is not connected to the principal structure may be constructed with its lowest floor at or above the regional flood elevations.

- (2) For a residential accessory structure which is not connected to the principal structure and which is less than six hundred (600) square feet in size and valued at less than ten thousand dollars (\$10,000) may be constructed with its lowest floor no more than two (2) feet below the Regional Flood Elevations if it is subject to Flood velocities of no more than two (2) feet per second, it meets all the provisions of Section 20-819(b) (1) (2) (3) and (4), and materials that are buoyant, flammable, explosive, or injurious to property, water quality or human, animal, plant, fish or aquatic life be stored at or above the Flood Protection Elevation or floodproofed. Adequate measures shall be taken to ensure that such materials will not enter the water body during flooding. Constructing a structure below the Base Flood Elevation will result in increased premium rates for Flood insurance up to amounts as high as \$25 for \$100 of insurance coverage and such construction below the Base Flood Elevation increases risks to life and property.”

(v) **Amend Section 20-1068 Floodproofing by adding the underlined text as follows:**

“Sec. 20-1068 Floodproofing.

Where floodproofing, whether residential or non-residential, by means of elevating on fill is deemed inappropriate or impractical and where floodproofing by means other than filling is permitted, floodproofing measures shall be in accordance with the following:

- (a) *Floodproofing measures* shall be designed to:
- (1) Withstand the Flood pressures, depths, velocities, uplift and impact forces, and other factors associated with the 100-year recurrence interval flood; and
  - (2) Assure protection to an elevation at least two (2) feet above the elevation of the 100-year recurrence interval flood; and
  - (3) Provide anchorage of structures to foundations to resist flotation and lateral movement; and
  - (4) Insure that the structural walls and floors are watertight and completely dry without human intervention during flooding to a point at least two (2) feet above the elevation of the 100-year recurrence interval flood.
- (b) *No permit* or variance shall be issued until the applicant submits a plan or document certified by a registered professional engineer or architect certifying that the floodproofing measures are adequately designed to protect the structure or Development to a point at least two (2) feet above the elevation of the 100-year recurrence interval Flood (the Base Flood Elevation) for the particular area. A record of such certification which includes the specific elevation (in relation to

mean sea level) to which such structures are floodproofed shall be maintained with the Zoning Administrator.

(c) *Floodproofing measures* may include, but are not limited to:

- (1) Reinforcement of walls and floors to resist rupture or collapse caused by water pressure or floating debris;
- (2) Addition of mass or weight to structures to prevent flotation;
- (3) Placement of essential utilities above the Flood Protection Elevation;
- (4) Surface subsurface drainage systems, including pumping facilities, to relieve external foundation wall and Basement floor pressures;
- (5) Construction of water supply wells, and waste treatment and collection systems to prevent the infiltration of floodwaters into such systems;
- (6) Cutoff valves on sewer lines and the elimination of gravity flow basement drains; and/or
- (7) The construction of permanent or moveable watertight bulkheads, erection of permanent watertight shutters and doors, and installation of wire reinforced glass or glass block for windows.”

(w) **Amend Sec. 20-856 Purpose by striking the text as indicated below:**

“Sec. 20-856 Purpose.

The FFO urban Floodplain fringe overlay district is intended to provide for and encourage the most appropriate use of land and water in urban or urbanizing areas of the county subject to periodic flooding and to minimize Flood damage to people and property. The FFO district shall not be utilized in any area of the county except where used to complement use of the FW district and only where public sanitary sewerage facilities are currently available or are programmed to be made available within twenty-four (24) months ~~and where the elevation of the one-hundred-year recurrence interval flood has been increased by two (2) or more feet since such elevation was originally established.~~

Overlay districts provide for the possibility of superimposing certain additional requirements upon a basic zoning district without disturbing the requirements of the basic district. In the instance of conflicting requirements, the more restrictive of the conflicting requirements shall apply.”

(x) **Amend Sec. 20-1267 Open Space, related uses to read as follows by adding the text as indicated below:**

“Sec. 20-1267 Open Space, related uses.

- (a) Open space and related uses may be permitted by conditional use in any floodland district for the following uses provided that the applicant shall show that such use or improvement will not impede drainage, will not cause ponding, will not obstruct the floodway, will not increase Flood flow velocities, will not increase the Flood stage, and will not retard the movement of floodwaters. When permitted, all structures shall be floodproofed in accordance with the standards set forth in section 20-1068 of this chapter and constructed so as not to catch or collect debris nor be damaged by floodwaters. All floodproofed structures shall be securely anchored to protect them from large floods. Certification of floodproofing shall be made to the Zoning Administrator and shall consist of a plan or document certified by a registered professional engineer or architect that the floodproofing measures are consistent with the Flood velocities, forces, depths, and other factors associated with the one-hundred-year recurrence interval flood. No such structures shall be designed for human habitation. Any fills or deposition of materials and public utilities, streets and bridges shall meet the requirements of Sec. 20-1185. Utilities, streets and bridges shall be designed to be compatible with comprehensive Floodplain Development plans. 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 Sec. 20-1068 to the Flood Protection Elevation. 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.

- (1) Navigational structures.
- (2) Public water measuring and control facilities.
- (3) Bridges and approaches.
- (4) Marinas.
- (5) Utility poles, towers, and underground conduit for transmitting electricity, telephone, natural gas and similar products and services.
- (6) Park and recreational areas, not including structures.
- (7) Parking lots and loading areas accessory to permitted uses in adjacent districts, not including new or used vehicle sales or storage areas, provided that such uses shall not be subject to inundation depths greater than two (2) feet or Flood velocities greater than two (2) feet per second.

- (8) Filling as authorized by the state department of natural resources to permit the establishment of approved Bulkhead Lines. No material shall be deposited in the navigable channel unless a permit is issued by the Department pursuant to ch. 30, Wis. 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. The fill or other materials will be protected against erosion by riprap, vegetative cover, sheet piling or bulkheading.
- (9) Other open space uses consistent with the purpose and intent of the district and compatible with uses in adjacent districts, not including structures.
- (b) The thin mantle spreading of spoils resulting from the cleanout and/or dredging of existing drainage ditches or canals may be permitted in the FCO urban Floodplain conservancy overlay district, the FFO urban Floodplain fringe overlay district and the GFO general Floodplain overlay district provided that such spreading does not result in an increase in the Flood stage of the one-hundred-year recurrence interval Flood equal to or greater than 0.01 foot; the spoils are leveled to a maximum depth of twelve (12) inches; and provided that such spreading will not have a significant adverse impact upon the criteria established by the State Department of Natural Resources in NR116.07.
- (c) Flood control/Flood Hazard Mitigation projects which are contained in watershed plans approved and adopted by the Racine County Board of Supervisors or the Village Board of Trustees may be permitted in the FCO urban Floodplain conservancy overlay district, the FFO urban Floodplain fringe overlay district, and the GFO general Floodplain overlay district provided that such projects will not result in an increase in the Flood stage of the one-hundred-year recurrence interval Flood equal to or greater than 0.01 foot.”
- (y) **Amend Section 20-1268 Residential and Commercial Uses to read as follows:**  
“Sec. 20-1268 Residential and Commercial Uses.
  - (a) Residential, including manufactured homes, commercial, and institutional structures may be permitted by conditional use in the FFO urban Floodplain fringe overlay district provided that the structure is permitted in the underlying basic use district and subject to the standards in this section. Any structure or building used for human habitation which is to be erected, constructed, reconstructed, altered, or moved into the floodfringe area shall meet or exceed the following standards:
    - (1) The lowest floor, excluding the Basement or Crawlway, shall be placed on fill at or above the Flood Protection Elevation (which is a point two (2) feet above the regional flood elevation). The fill elevation surrounding the structure shall be one (1) foot or more above the regional flood elevation

extending at least fifteen (15) feet beyond the limits of the structure. The State Department of Natural Resources may authorize other floodproofing measures where existing streets or sewer lines are at elevations which make compliance impractical provided the board of appeals grants a variance due to dimensional restrictions.

- (2) The Basement or Crawlway floor may be placed at the regional flood elevation providing it is floodproofed to the Flood Protection Elevation. No permit or variance shall allow any floor, Basement or Crawlway below the Regional Flood Elevation.
  - (3) Contiguous dryland access as a vehicle access route above regional flood elevation shall be provided from a structure or building to land which is outside of the Floodplain, except as provided in subsection (4) below.
  - (4) In existing Developments where existing streets or sewer lines are at elevations which make dryland access impractical under subsection (3) above, the municipality may permit new Development and substantial improvements where access roads are at or below the Regional Flood Elevation, provided that:
    - a. The municipality has written assurance from the appropriate local units of police, fire, and emergency services that rescue and relief service will be provided to the structure(s) by wheeled vehicles, considering the anticipated depth, duration, and velocity of the regional Flood event; or
    - b. The municipality has an adequate natural disaster plan concurred with by the division of emergency government and approved by the Wisconsin Department of Natural Resources.
- (b) In commercial and institutional areas, any structure or building which is to be erected, constructed, reconstructed, altered or moved into the floodfringe area shall meet the requirements for residential use. Storage yards, parking lots, and other Accessory Structures or land uses may be at lower elevations, subject to the storage requirements of section 20-816 et seq. which requires 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 Sec. 20-1068. Adequate measures shall be taken to ensure that such materials will not enter the water body during flooding. However, no such area in general use by the public shall be inundated to a depth greater than two (2) feet or subjected to Flood velocities greater than two (2) feet per second during the Regional Flood. Inundation of such yards or parking areas exceeding two (2) feet may be allowed provided that an adequate warning system exists to protect life and property.

- (c) Structures placed on fill may be removed from the urban Floodplain fringe overlay district provided that lands have been filled to the Flood Protection Elevation or higher; that the fill is contiguous to lands lying outside of the floodlands, and further provided that the property owner, or his agent, has complied with all the requirements for amending the zoning map as set forth in section 20-121 et seq., including but not limited to Sections 20-166 and 20-166.5.
- (d) Any manufacturing or industrial structure which is erected, altered or moved into the floodfringe area shall be protected to the Flood Protection Elevation using fill, levees, floodwalls, or other Flood proofing measures in Section 20-1068. Subject to the requirements of the storage requirements set forth under subsection (b) above, 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) 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.
  - (1) In Existing Manufactured Home Parks, all new homes, replacement homes on existing pads, and substantially improved homes shall:
    - a. have the lowest floor elevated to the Flood Protection Elevation; and
    - b. anchored so they do not float, collapse or move laterally during a flood.
  - (2) 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 under subsection (a) above.”
- (z) **Amend Section 20-1270 Mobile homes, parks to be renumbered and read as follows:**

“Sec. 20-1270 Mobile Homes, Parks, Mobile Recreational Vehicles .

  - (a) 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 of this Section. 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.
  - (b) Mobile home parks and mobile home units located within a mobile home park in the FFO urban Floodplain fringe overlay district are permitted, provided that the use is permitted in the underlying use district; that a conditional use permit pursuant

to section 20-1201 et seq. has been granted; and further provided that the following design and construction standards are complied with:

- (1) All mobile homes shall be placed on a concrete pad constructed on fill or on pilings so that the pad elevation is at least one (1) foot above the elevation of the one-hundred-year recurrence interval flood. Fill shall extend at least fifteen (15) feet beyond the limits of the concrete pad.
  - (2) All mobile homes shall have the lowest floor elevation of the mobile home unit at least two (2) feet above the elevation of the one-hundred-year recurrence interval Flood.
  - (3) Mobile home units placed on pilings shall be placed on lots that are large enough to permit steps.
  - (4) Where pilings are constructed, they shall rest on stable soil, shall not be greater than ten (10) feet apart, and pilings extending more than six (6) feet above the ground level shall be reinforced.
  - (5) Mobile home units shall be anchored to resist flotation, collapse or lateral movement. Anchoring shall consist of over-the-top and frame ties to ground anchors. Over-the-top ties shall be installed at each of the four (4) corners of the mobile home unit with two (2) additional ties per side at intermediate points. Only one (1) additional over-the-top tie per side shall be required for mobile home units less than fifty (50) feet in length. Frame ties shall be required at each of the four (4) corners of the mobile home unit with five (5) additional ties per side at intermediate points. Only four (4) additional frame ties shall be required for mobile home units less than fifty (50) feet in length. All components of the anchoring system shall be capable of carrying a force of four thousand eight hundred (4,800) pounds. Any additions to the mobile home shall be similarly anchored.
  - (6) All mobile home parks shall be adequately drained and appropriate access for a hauler shall be provided.
  - (7) Owners and operators of all mobile home parks and mobile home subdivisions located in a Floodplain district shall file an adequate evacuation plan indicating vehicular access and escape routes, including mobile home hauler routes, with the county and the appropriate disaster preparedness authorities, and shall provide for adequate surface drainage within the mobile home park to minimize Flood damage.
- (c) Certification of anchoring, pier construction and pad construction shall be made to the Zoning Administrator and shall consist of a plan or document certified by a registered professional engineer or architect that the anchoring, pier and/or pads meet the minimum requirements set forth herein, and will withstand the Flood

velocities, forces, depths and other factors associated with the one-hundred-year recurrence interval flood. Mobile home sites placed on fill may be removed from the urban Floodplain fringe overlay district provided that lands have been filled to the Flood Protection Elevation or higher; that the fill is contiguous to lands lying outside of the floodlands, and further provided that the property owner, or his agent, has complied with all the requirements for amending the zoning map as set forth in section 20-121 et seq.”

(aa) **Amend Sec. 20-42 Same—Additional variance requirements in floodland districts as follows:**

**“Sec. 20-42. Same--Additional requirements in floodland districts.**

- (a) No variance shall be granted where:
  - (1) Filling and Development contrary to the purpose and intent of the FW urban floodway district and the FCO urban Floodplain conservancy overlay district would result.
  - (2) A change in the boundaries of the FW urban floodway district, FCO urban Floodplain conservancy overlay district, FFO urban Floodplain fringe overlay district, or the GFO general Floodplain overlay district would result or an increase in the regional flood elevation would result.
  - (3) A lower degree of Flood protection than two (2) feet above the one-hundred-year recurrence interval Flood for the particular area would result.
  - (4) Any residential or commercial Basement or Crawlway located below the 100-year recurrence interval Flood elevation would result.
  - (5) Any change or alteration of an historic structure, including its use, would result in the structure losing its designations as a historic structure.
  - (6) Any action contrary to the provisions of chapter NR116 of the Wisconsin Administrative Code would result.
- (b) No variance shall be granted unless a determination is made that the granting of a variance will not result in increased Flood heights, additional threats to public safety, extraordinary public expense, create nuisances, cause fraud on or victimization of the public, or conflict with existing local laws or ordinances.
- (c) Variations shall only be granted upon a determination that the variance is the minimum necessary, considering the Flood hazard, to afford relief.
- (d) Variance shall only be granted for lots that are less than one-half acre and are contiguous to existing structures constructed below the Regional Flood Elevation.

- (e) Variances shall not allow actions without the amendments to this ordinance or map(s) required in Sections 20-121 to 20-168 of this Chapter.
- (f) The Board may, upon appeal, grant a variance from the standards of this ordinance if an applicant convincingly demonstrates that:
  - (1) Literal enforcement of the ordinance provisions will cause unnecessary hardship; and
  - (2) 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;
- (g) The Zoning Administrator shall notify the applicant in writing that (i) the issuance of a variance to construct a structure below the Base Flood Level will result in increased premium rates for Flood insurance up to amounts as high as \$25 for \$100 of insurance coverage and (ii) such construction below the base Flood level increases risks to life and property. Such notification shall be maintained with a record of all variance actions as required in paragraph 20-38(d). The record of all variance actions, including justifications for their issuance, shall be maintained and a report of such variances granted shall be prepared by the Zoning Administrator and shall be submitted in the Village's annual or biennial report submitted to the Federal Insurance Administrator.
- (h) Board Review of Permit Denials.
  - (1) The Board shall review all data related to the appeal. This may include:
    - (a) Permit application data required under Sections 20-36 and 20-81.
    - (b) Floodway/floodfringe determination data in Sections 20-879.
    - (c) Data listed in Section. 20-819(a) where the applicant has not submitted this information to the Zoning Administrator.
    - (d) Other data submitted with the application, or submitted to the Board with the appeal.
  - (2) For appeals of all denied permits the Board shall:
    - (a) Follow the procedures of Sections 20-35 to 20-42;
    - (b) Consider Zoning Agency recommendations; and
    - (c) Either uphold the denial or grant the appeal with conditions.

(3) For appeals concerning increases in regional flood elevation the Board shall:

- (a) Uphold the denial where the Board agrees with the data showing an increase in Flood elevation. Increases equal to or greater than 0.01 foot may only be allowed after amending the Flood Profile and map and all appropriate legal arrangements are made with all adversely affected property owners.
- (b) Grant the appeal where the Board agrees that the data properly demonstrates that the project does not cause an increase equal to or greater than 0.01 foot provided no other reasons for denial exist.”

(bb) **Create Section 20-166.5 Amendments to Floodplain Zoning District Boundaries and Floodplain Ordinance to read as follows:**

“Sec. 20-166.5 Amendments to Floodplain Zoning District Boundaries and Floodplain Ordinance.

(1) General. The Board of Trustees 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.
- (c) Correction of discrepancies between the water surface profiles and Floodplain zoning maps.
- (d) Any fill in the Floodplain which raises the elevation of the filled area to a height at or above the Flood Protection Elevation and is contiguous to land lying outside the Floodplain.
- (e) Any fill or Floodplain encroachment that obstructs flow, increasing regional Flood height 0.01 foot or more.
- (f) 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.
- (g) All channel relocations and changes to the maps to alter floodway lines or to remove an area from the floodway or the floodfringe that is based on a Base Flood elevation from a FIRM requires prior approval by FEMA.

**Note:** Consult the FEMA web site - [www.fema.gov](http://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. Such petitions shall include all necessary data required by Sections 20-879 and 20-81.
  - (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 Wisconsin Department of Natural Resources Regional office and FEMA for review prior to the hearing. The amendment procedure shall comply with the provisions of s. 62.23, Stats., for villages.
  - (b) No amendments shall become effective until reviewed and approved by the FEMA and Wisconsin Department of Natural Resources.
  - (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 Zoning Agency or board shall consider data submitted by the Wisconsin State Department of Natural Resources, the Zoning Administrator's visual on-site inspections and other available information.”