

ASHLAND COUNTY
FLOOD PLAIN ZONING ORDINANCE

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ASHLAND COUNTY

FLOOD PLAIN ZONING ORDINANCE

SECTION 1.0 STATUTORY AUTHORIZATION, FINDING OF FACT, STATEMENT OF PURPOSE AND TITLE

1.1 STATUTORY AUTHORIZATION: This Ordinance for flood plain protection is adopted pursuant to the authorization contained in Sections 59.97 and 87.30 of the WISCONSIN STATUTES.

1.2 FINDING OF FACT: The uncontrolled use of the flood plains, rivers or streams of the County of Ashland, Wisconsin adversely affects the public health, safety, convenience and general welfare and impairs the tax base of Ashland County.

1.3 STATEMENT OF PURPOSE: The purpose of these rules is to provide a uniform basis for the preparation, implementation and administration of sound flood plain regulations for all Ashland County flood plains to:

- 1.31 Protect life, health and property;
- 1.32 Minimize expenditures of public monies for costly flood control projects;
- 1.33 Minimize rescue and relief efforts, generally undertaken at the expense of the general public;
- 1.34 Minimize business interruptions;
- 1.35 Minimize damage to public facilities on the flood plains such as water mains, sewer lines, streets and bridges;
- 1.36 Minimize the occurrence of future flood blight areas on flood plains;
- 1.37 Discourage the victimization of unwary land and home buyers.

1.4 TITLE: Ashland County Flood Plain Zoning Ordinance

SECTION 2.0 GENERAL PROVISIONS

2.1 AREAS TO BE REGULATED: Areas regulated by this Ordinance include all lands, within the corporate limits of the County of Ashland, Wisconsin, that would be inundated by the "regional flood" defined in the DEFINITIONS, Section 10.1 (31) of this Ordinance.

2.2 DISTRICT BOUNDARY: The boundary of the flood plain districts and where shown, the floodway district, shall be those areas designated as A-Zones on the Flood Hazard Boundary maps or the Flood Insurance Rate maps prepared by the Department of Housing and Urban Development. These maps, dated February 15, 1978, are the official flood plain zoning maps for the community and have been approved by the Department of Natural Resources and the Federal Insurance Administration Office (FIA) of the Federal Emergency Management Agency (FEMA), and are on file in the office of the County Zoning Administrator.

2.21 Establishment of Districts: The flood plain areas within the jurisdiction of this ordinance are hereby divided into three districts: the Floodway District (FW), Flood Fringe District (FF), and the General Flood Plain District (GFP), defined as follows:

- (a) The Floodway District consists of the channel of a stream and those portions of the flood plain adjoining the channel that are required to carry and discharge the flood waters or flood flows of any river or stream associated with the regional flood.
- (b) The Flood Fringe District consists of that portion of the flood plain between the regional flood limits and the floodway area.
- (c) The General Flood Plain District consists of the land which has been or may be hereafter covered by flood water during the regional flood and encompasses both the Floodway and Flood Fringe Districts.

Within these districts, all uses not listed as PERMITTED USES shall be prohibited.

2.22 Where flood profiles exist, the location of flood plain boundaries shall be determined by using the scale appearing on the map. Where the conflict exists between the flood plain limits listed on the maps and the actual field conditions, the elevations from the water surface profile as related to actual field elevations shall be the governing factor in locating regulatory flood plain limits. Disputes shall be settled according to Section 7.33, MAPPING DISPUTES, of this ordinance.

2.225 Where no flood profiles exist, the location of the flood plain boundary line shown on the map shall be determined by the zoning administrator based on visual on-site inspection and other available information. Where there is a significant conflict between a flood plain boundary illustrated on the map and the actual field conditions, the dispute shall be settled according to the procedure established in Section 7.33, MAPPING DISPUTES, of this ordinance. Where a map amendment has been approved by both the County Board and the Department of Natural Resources the zoning administrator shall have the authority to grant or deny a land use permit. Permits for land determined to be in the flood plain shall be processed in accordance with Section 7.4 of this ordinance.

2.23 Compliance with the provisions of this Ordinance shall not be grounds for the removal of lands from the flood plain district unless; such lands are filled to a height of at least two feet above the elevation of the "regional flood" for the particular area and are contiguous to other lands lying outside the flood plain district, approval has been granted by the Department of Natural Resources pursuant to Section 8 of this Ordinance, and, where required, an "official letter of map amendment" has been issued by the FIA of the Federal Emergency Management Agency (FEMA).

2.3 EFFECT OF FLOOD PLAIN DISTRICT REGULATIONS: The regulations set forth in this Ordinance for flood plain, flood fringe and floodway districts shall apply to all flood plains, flood fringes, and floodways mapped on the "official flood plain zoning map". (see definition 28)

2.4 COMPLIANCE: No new use or change in use of any structure, land or water shall be located, extended, converted or structurally altered and no development as defined in this ordinance shall commence without full compliance with the terms of this Ordinance and other applicable regulations.

2.5 ABROGATION AND GREATER RESTRICTIONS:

2.51 This ordinance supersedes provisions of any zoning ordinance relating to flood plains, however, any underlying zoning shall remain in full force and effect to the extent that its provisions are more restrictive.

2.52 It is not otherwise intended by this Ordinance to repeal, abrogate, or impair any existing deed restrictions; however, where this Ordinance imposes greater restrictions, the provisions of this Ordinance shall prevail.

2.6 INTERPRETATION: In their interpretation and application, the provisions of this Ordinance shall be held to be minimum requirements and shall be liberally construed in favor of the governing body and shall not be deemed a limitation or repeal of any other powers granted by WISCONSIN STATUTES.

2.7 WARNING AND DISCLAIMER OF LIABILITY: The degree of flood protection intended to be provided by this Ordinance is considered reasonable for regulatory purposes and is based on engineering and scientific methods of study. Larger floods may occur on rare occasions or the flood height may be increased by man-made or natural causes, such as ice jams and bridge openings restricted by debris. This Ordinance does not imply that areas outside flood plain zoning district boundaries or land uses permitted within such districts will always be totally free from flooding or flood damages, nor shall this Ordinance create a liability on the part of or a cause of action against the county of Ashland or any officer or employee thereof for any flood damage that may result from reliance on this Ordinance.

2.8 SEVERABILITY: If any section, clause, provision or portion of this Ordinance is adjudged unconstitutional or invalid by a court of competent jurisdiction, the remainder of this Ordinance shall not be affected thereby.

2.9 SPECIAL PROVISIONS APPLICABLE TO ALL FLOOD PLAIN DISTRICTS

2.91 No developments shall be allowed in floodway areas which, acting alone or in combination with existing or future similar uses, cause an increase equal to or greater than 0.1 foot in height of the regional flood for any main stem, tributaries to the main stem of any stream, drainage ditches, or any other drainage facilities. Said increase shall be calculated using an equal degree of hydraulic encroachment from the hydraulic floodway lines for a hydraulic reach on both sides of a river or stream. Increases equal to or greater than 0.1 foot may be permitted, but only if amendments are made to this Ordinance, the official floodway lines, water surface profile and flood plain zoning maps pursuant to Section 8.0 of this Ordinance; provided further that the total cumulative allowable increase in height of the regional flood for any given hydraulic reach of a stream shall not exceed one foot.

2.92 No developments in flood fringe areas shall materially affect the storage capacity of flood plains, based upon an equal degree of hydrologic encroachment (volume of the storage area which is lost). For the purpose of this subsection, "materially" is defined as any increase in discharge of the regional flood which causes a rise in the water surface profile of 0.1 foot. Such developments may be permitted only if amendments are made to this Ordinance pursuant to Section 8.0 herein; provided further that the total cumulative allowable increase in height of the regional flood for any given reach of a stream shall not exceed one foot.

2.93 Owners or operators of all mobile home parks and mobile home subdivisions located in A-Zones shall file adequate evacuation plans indicating vehicular access and escape routes, including mobile home hauler routes, with the appropriate disaster preparedness authorities, and shall provide for adequate surface drainage to minimize flood damage.

2.94 Mobile home replacement in existing parks or subdivisions. All mobile homes to be placed on a site located in an A-Zone on a community's Official Flood Plain Zoning Map shall be placed to prevent the flotation, collapse, or lateral movement of the structure due to flooding. Such mobile homes shall be anchored according to the following specifications: (I) over-the-top ties shall be provided at intermediate locations and mobile homes less than fifty (50) feet long shall require one additional tie per side; (II) frame ties shall be provided at each corner of the mobile home with five (5) additional ties per side at intermediate points and mobile homes less than fifty (50) feet long shall require four (4) additional ties per side; (III) all components of the anchoring system shall be capable of carrying four thousand eight hundred (4,800) pounds; and (IV) any additions to the mobile home shall be similarly anchored.

2.95 All subdivision proposals and other proposed new developments greater than 50 lots or 5 acres, whichever is the lesser, shall include with such proposals regional flood elevation data, and the means to provide adequate surface drainage and to minimize flood damage. Where the estimated cost of such development exceeds \$75,000, and for all subdivision proposals the applicant shall provide all necessary computations to show the effects of the proposal(s) on flood heights, velocities and flood plain storage. The provisions of Section 7.4 shall apply hereto.

2.96 Utility facilities such as: dams, flowage areas, transmission lines, pipelines, and water monitoring devices are permitted subject to regulations pursuant to Chapter 30, WISCONSIN STATUTES, and applicable federal regulations.

2.97 Navigational and Drainage Aids such as: channels, channel markers, buoys, and other such devices are permitted, provided that prior to any alteration or relocation of a watercourse the Zoning Administration shall notify adjacent communities, the Department of Natural Resources and the Federal Insurance Administration, and require the applicant to secure necessary permits. The flood carrying capacity within the altered or relocated portion of any watercourse shall be maintained.

2.98 Other water related uses such as: docks, piers, wharves, bridges, culverts, and river crossings of transmission lines are permitted subject to any pier or dockline regulations, or any other regulations that are required pursuant to Chapter 30, WISCONSIN STATUTES, and applicable federal regulations.

SECTION 3.0 REGIONAL FLOODWAY DISTRICT (FW)

3.1 APPLICABILITY: The provisions of this section shall apply to all areas within the Regional Floodway District, as shown on the official flood plain zoning maps, and to the floodway portion of the General Flood Plain District, as determined pursuant to 7.4 of this Ordinance.

3.2 DESCRIPTION OF DISTRICT: The Regional Floodway District shall include mapped floodway areas so designated on the official flood plain zoning maps as described in Section 2.2 of this Ordinance.

3.3 PERMITTED USES: The following open space uses having a low flood damage potential and not obstructing flood flows, shall be permitted within the Floodway District, and in the floodway portion of the General Floodplain District provided that they are not prohibited by any other ordinance, and provided further that they meet all of the standards contained in Section 3.4 and a Land Use Permit has been issued by the Zoning Administrator.

3.31 Agricultural uses, such as: general farming, pasture, grazing, outdoor plant nurseries, horticulture, viticulture, truck farming, forestry, sod farming and wild crop harvesting.

3.32 Nonstructural, industrial, commercial uses, such as: loading areas, parking areas, airport landing strips.

3.33 Private and public recreational uses, such as: golf courses, tennis courts, driving ranges, archery ranges, picnic grounds, boat launching ramps, swimming areas, parks, wildlife and nature preserves, game farms, fish hatcheries, shooting preserves, target ranges, trap and skeet ranges, hunting and fishing areas, hiking and horseback riding trails.

3.34 Uses or structures accessory to open space uses.

3.35 Extraction of sand, gravel and/or other materials.

3.36 Marinas, boat rentals, docks, piers, wharves.

3.37 Railroads, streets, bridges, pipelines, and other water related uses, such as culverts and river crossings of transmission lines and any uses subject to regulations pursuant to Chapter 30, Wisconsin Statutes.

3.4 STANDARDS FOR DEVELOPMENTS IN FLOODWAY AREAS

3.41 All of the provisions of Section 2.9 shall apply hereto.

3.42 Structures which are accessory to permitted open space uses may be permitted, providing the structures:

- (a) Are not designed for human habitation;
- (b) Have a low flood damage potential;
- (c) Are to be constructed and placed on the building site so as to offer minimum obstruction to the flow of flood waters. Whenever possible, structures will be constructed with the longitudinal axis parallel to the direction of flow of flood waters, and will be placed with their longitudinal axes approximately on the same line as those of adjoining structures;
- (d) Are firmly anchored to prevent them from floating away and restricting bridge openings or other restricted sections of the stream or river; and
- (e) Have all service facilities, such as electrical and heating equipment at or above the flood protection elevation for the particular area.

3.43 Uses permitted by the Department of Natural Resources pursuant to Chapters 30 and 31, Wis. Stats., provided that the necessary permits are obtained and amendments approved by the county, to the official floodway lines, water surface profiles, flood plain zoning maps and flood plain zoning ordinance.

3.44 Public utilities, streets and bridges provided that:

- (a) Adequate flood proofing measures are provided to the flood protection elevation;
- (b) Construction shall not cause any increase of 0.1 foot or greater in the height of the regional flood, except that reasonable increases up to 1.0 foot may be approved if the amendment procedures and all conditions of Section 8.2 are met; and
- (c) The County of Ashland amends its water surface profiles, flood plain zoning maps and flood plain zoning ordinances to reflect any changes resulting from such construction.

3.45 Fills or deposition of materials may be permitted provided that:

- (a) The provisions of Section 2.91 are met;
- (b) Fill or deposition of materials does not encroach on the channel area between the ordinary high water mark on each bank of the stream unless a permit has been granted by the Department of Natural Resources pursuant to Chapter 30, Wis. Stats., and a permit pursuant to Section 404 of the Federal Water Pollution Control Act, Amendments of 1972, 33 U.S.C. 1334 has been issued, if applicable, and the other requirements of this Section are met; and

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

SECTION 4.0 REGIONAL FLOOD FRINGE DISTRICT (FF)

4.1 APPLICABILITY: The provisions of this Section shall apply to all areas within the Regional Flood Fringe District, as shown on the official flood plain zoning maps, and to those portions of the General Flood Plain District that are determined to be in the flood fringe area pursuant to Section 7.4 of this Ordinance.

4.2 DESCRIPTION OF DISTRICT: The regional flood fringe district shall include the A-Zones so designated on the official flood plain zoning maps as described in Section 2.2 of this Ordinance.

4.3 PERMITTED USES: The following uses shall be permitted uses within the Flood Fringe District and flood fringe portions of the General Flood Plain District.

4.31 Any structures, land use, or development may be permitted to the extent that they are not prohibited by this or any other Ordinance or any other Federal, State or local regulations and provided that a land use permit has been issued by the Zoning Administrator.

4.4 STANDARDS FOR DEVELOPMENT IN FLOOD FRINGE AREAS

4.41 All of the provisions of Section 2.9 shall apply hereto.

4.42 RESIDENTIAL: All residential structures shall meet the following standards:

- (a) The first floor of a structure to be erected, constructed, reconstructed or moved on the flood plain shall be constructed on fill at or above the flood protection elevation for the particular area. The fill shall be not less than one foot below the flood protection elevation for the particular area and the fill shall extend at such elevation at least 15 feet beyond the limits of any structure or building erected thereon.

- (b) The basement floor shall be at or above the regional flood elevation, unless a communitywide exemption allowing floodproofing of basements has been granted by the Federal Insurance Administration of the Federal Emergency Management Agency (FEMA).

4.43 COMMERCIAL: In commercial areas, any structure or building which is to be erected, constructed, reconstructed, added to or moved into the flood fringe area shall meet the requirements of Section 4.42 (a) and (b) above. Certain yards, parking lots and other accessory land uses may be at lower elevations. However, no such area in general use by the public shall be inundated to a depth greater than two feet or subjected to flood velocities greater than four feet per second upon the occurrence of the regional flood.

4.44 MANUFACTURING AND INDUSTRIAL: Manufacturing and industrial buildings, structures and accessory uses shall be elevated or floodproofed in accordance with Section 7.5, to two feet above the regional flood elevation. Measures shall be taken to minimize interference with normal plant operations especially for streams having protracted flood durations. Certain accessory land uses such as yards and parking lots may be at lower elevations subject to requirements set out in Section 4.43.

4.45 The storage or processing of materials that are buoyant, flammable, explosive, or which in times of flooding, could be injurious to human, animal, or plant life, shall be at or above the flood protection elevation for the particular area or floodproofed in compliance with Section 7.5 of this Ordinance.

4.46 UTILITIES: Construction and substantial improvements to utilities may be permitted provided that they are floodproofed to the flood protection elevation pursuant to Section 7.5.

4.47 SEWAGE SYSTEMS: All on-site disposal systems shall be floodproofed to the flood protection elevation pursuant to Section 7.5 and shall meet the applicable provisions of local zoning ordinances and Wis. Admin. Code H62.20.

4.48 WELLS: All wells, whether public or private, shall be floodproofed to the flood protection elevation pursuant to Section 7.5 and shall meet the applicable provisions of Chapters NR 111 and NR 112, Wis. Admin. Code.

4.49 SOLID WASTE DISPOSAL SITES: All solid waste disposal sites, whether public or private, are prohibited in flood fringe areas.

4.50 ACCESSORY USES: An accessory structure (not connected to a principal structure) shall meet the applicable provisions of Section 3.42 (a), (b), (c), (d), and (e). A lesser degree of protection, compatible with these criteria and the criteria in Section 4.43 may be permissible for any such accessory structure.

SECTION 5.0 GENERAL FLOOD PLAIN DISTRICT (GFP)

5.1 APPLICABILITY: The provisions for this district shall apply to all flood plains in the County of Ashland for which "regional flood" data, as defined in the DEFINITIONS, Section 10.1 (31) are not available or where regional flood data is available, but floodways have not been delineated. As adequate regional flood data becomes available and floodways are delineated for portions of this district, such portions shall be placed in the Regional Flood Fringe or Regional Floodway District, as appropriate.

5.2 DESCRIPTION OF DISTRICT: The general flood plain district shall include:

5.21 All A-Zones shown on the Official Flood Plain Zoning Maps as described in Section 2.2 of this ordinance.

5.3 PERMITTED USES: Those uses permitted in Sections 3.3, 3.4, 4.3 and 4.4, provided the procedures of Section 5.4 below are met, and a land use permit has been issued by the Zoning Administrator.

5.4 STANDARDS FOR DEVELOPMENT IN THE GENERAL FLOOD PLAIN DISTRICT: The General Flood Plain District encompasses both floodway and flood fringe areas. Therefore, a determination shall be made pursuant to Section 7.4, to determine whether the proposed use is located within a floodway or flood fringe area. If it is determined that a proposed use is located within a floodway, the provisions of Section 3.3 and 3.4 of this Ordinance shall apply. If it is determined that the proposed use is located within the flood fringe, the provisions of Section 4.3 and 4.4 shall apply.

SECTION 6.0 NONCONFORMING USES

6.1 GENERAL: Insofar as the standards in this section are not inconsistent with the provisions of Section 59.97 (10), Wis. Stats., they shall apply to all nonconforming uses. The existing lawful use of a structure or building or its accessory use which is not in conformity with the provisions of this Ordinance may be continued subject to the following conditions:

6.11 No modifications or additions to a nonconforming use shall be permitted unless they are made in conformity with the provisions of this Section. For the purposes of this Section the words "modification" and "addition" shall include, but not be limited to, any alteration, addition, modification, rebuilding or replacement of any such existing structure or accessory use. Ordinary maintenance repairs are not considered structural repairs, modifications or additions; such ordinary maintenance repairs include internal and external painting, decorating, paneling, and the replacement of doors, windows, and other nonstructural components; and

6.12 If a nonconforming use is discontinued for 12 consecutive months, any future use of the structure or building shall conform with the appropriate provisions of this Ordinance for floodway and flood fringe areas.

SECTION 6.2 FLOODWAY AREAS

6.21 No modifications or additions shall be allowed to any existing structures which are not in compliance with permitted floodway standards or uses, unless such modifications or additions meet all of the following criteria:

- (a) The modifications or additions to a structure will not increase the amount of obstruction to flood flows pursuant to Section 2.91 of this Ordinance;
- (b) Any addition to a structure shall be floodproofed, pursuant to Section 7.5 by means other than the use of fill, to the flood protection elevation;

- (c) No structural repairs, modifications or additions to a structure, which exceed over the life of the structure 50% of its present equalized assessed value, shall be allowed unless the entire structure is permanently changed to a conforming use;
- (d) If any nonconforming structure is destroyed or is so badly damaged that it cannot be practically restored, it cannot be replaced, reconstructed or rebuilt unless the use is permitted in the floodway district and the structure meets the provisions of Section 3.0 of this Ordinance. For the purpose of this subsection, restoration is deemed impractical where the total cost of such restoration would exceed 50% of the present equalized assessed value of said structure.

6.22 No new on-site sewage disposal system, or additions to existing on-site disposal systems, shall be allowed in a floodway area. Any replacement, repair or maintenance of an on-site sewage disposal system in a floodway area shall meet the applicable provisions of local ordinances and Wis. Admin. Code H62.20.

6.23 No new well used to obtain water for ultimate human consumption, or modifications to an existing well, shall be allowed in a floodway area. Any replacement, repair or maintenance of a well in a floodway area shall meet the applicable provisions of local ordinances and Chapters NR 111 and NR 112, Wis. Admin. Code.

6.3 FLOOD FRINGE AREAS

6.31 All modifications or additions to any nonconforming structure, which do not exceed 50% of its present equalized assessed value, shall be protected by floodproofing measures pursuant to Section 7.5 of this Ordinance. No structural modification or addition to any nonconforming structure, which over the life of the structure exceed fifty (50) percent of its present equalized assessed value shall be allowed unless the use is permitted in the flood fringe district and the structure meets the provisions of Section 4.0 of this Ordinance.

6.32 Where compliance with the provisions of Subsection 6.31 above would result in unnecessary hardship, and only where the structure will not be either used for human habitation or be associated with a high flood damage potential, the Board of Adjustment/Appeals, using the procedure in 7.34, may grant a variance from those provisions, using the criteria listed below. Modifications or additions to structures or buildings which are protected to elevations lower than the flood protection elevation may be permitted if:

- (a) Human lives are not endangered;
- (b) Public facilities, such as water or sewer, are not to be installed;
- (c) Flood depths will not exceed four feet;
- (d) Flood velocities will not exceed two feet per second; and

- (e) The structure will not be used for storage of materials described in Section 4.45.

6.33 Any new, addition to, replacement, repair or maintenance of an on-site sewage disposal system in a flood fringe area shall meet all the applicable provisions of all ordinances and Wis. Admin. Code H62.20.

6.34 Any new, addition to, replacement, repair or maintenance of a well in a flood fringe area shall meet the applicable provisions of this ordinance and Chapters NR 111 and NR 112, Wis. Admin. Code.

6.35 If a variance is granted, the community shall notify the property owner that increased flood insurance premiums may result.

SECTION 7.0 ADMINISTRATION

This Ordinance provides for the appointment of appropriate boards and staff, and the development of necessary policies and procedures, to administer the flood plain zoning ordinance in accordance with this section. Where a zoning administrator, planning agency or a Board of Adjustment has already been appointed to administer a zoning ordinance adopted under Sections 59.97 or 59.971, Wis. Stats., these officials shall also administer the flood plain zoning ordinance.

7.1 ZONING ADMINISTRATOR: A Zoning Administrator is hereby appointed to administer the provisions of this Ordinance. The Zoning Administrator shall exercise the following duties and powers:

7.11 Advise applicants as to the provisions of this Ordinance and assist them in preparing permit applications.

7.12 Issue permits and inspect properties for compliance with this Ordinance and issue Certificates of Compliance when appropriate.

7.13 Keep the official records of all water surface profiles, flood plain zoning maps, flood plain zoning ordinances, nonconforming uses and changes thereto, permit applications, permits, appeals, variances and amendments related to the flood plain zoning ordinance.

7.14 Submit copies of any required data, variances, amendments, case-by-case analyses, annual reports, and any other required information to the Department of Natural Resources.

7.15 Investigate, prepare reports and report violations of the flood plain zoning ordinance to the appropriate county committee and to the municipal attorney, corporation counsel or district attorney, with copies to the appropriate district office of the Department of Natural Resources.

7.16 Submit copies of map and text amendments and annual reports to the Federal Insurance Administration (FIA) office of FEMA.

7.17 Maintain on file a list of all documentation of certified elevations.

7.18 ADMINISTRATIVE PROCEDURES:

- (a) LAND USE PERMIT: A land use permit shall be obtained from the Zoning Administrator before any new land use, change in use, or development as defined in 10.1 (9) subject to the provisions of this Ordinance, may be initiated. An application for a land use permit shall be made to the Zoning Administrator upon forms furnished and shall include, for the purpose of proper enforcement of these regulations, the following data:
1. Name and address of the applicant and property owner;
 2. Legal description of the property and type of proposed use;
 3. A sketch showing the dimensions of the lot and locations of buildings from lot line, center line of abutting highways and high-water mark of any abutting watercourse;
 4. All information concerning any private water or on-site sewage disposal system to be installed, including a sketch showing surveyed location of wells, streams, lakes, buildings, privies and septic tank systems within 100 feet of proposed sewage disposal site.
- (b) CERTIFICATE OF COMPLIANCE: No development as defined in this chapter shall take place, no vacant land in the flood plain shall be occupied or used and no building hereafter erected, altered or moved, shall be occupied until the applicant obtains a Certificate of Compliance from the Zoning Administrator. The local zoning administrator or building inspector shall require that the applicant submit a certification by a registered professional engineer or architect that the finished fill and building floor elevations and other flood plain regulatory factors were accomplished in compliance with appropriate flood plain zoning provisions and other flood plain regulations; the applicant shall submit such certification for all new construction and substantial improvements. Upon written request from the owner, the Zoning Administrator shall issue a certificate of compliance for any building or premises existing at the time of the adoption of this Ordinance certifying, after inspection, the extent and type of use made of the building or premises and whether or not such use conforms to the provisions for this Ordinance.
- (c) OTHER PERMITS: It is the responsibility of the applicant to secure all other necessary permits from all appropriate Federal, State, and local agencies, including those required under Section 404 of the Federal Water Pollution Control Act amendments of 1972, 33 U.S.C. 1334.

7.2 ZONING AGENCY: A zoning agency or committee shall be appointed and given the duties and powers to:

- (a) Oversee the functions of the office of the zoning administrator;
- (b) Review and act upon all proposed amendments to the flood plain zoning ordinance;
- (c) Maintain a complete public record of all proceedings.

7.3 BOARD OF ADJUSTMENT: The board created under Chapter 59.99, WISCONSIN STATUTES, for counties is hereby authorized to act as board of adjustment. The powers of the Board of Adjustment shall be pursuant to Chapter 59.99, WISCONSIN STATUTES.

7.31 APPEALS TO THE BOARD: Appeals to the Board of Adjustment may be taken by a person aggrieved or by an officer, department, board or bureau of the municipality affected by any decision of the Zoning Administrator. Such appeal shall be taken within a reasonable time, as provided by the rules of the Board, by filing with the Zoning Administrator and with the Board of Adjustment a notice of appeal specifying the grounds thereof. The Zoning Administrator shall forthwith transmit to the Board all the papers constituting the record upon which the action appealed from was taken.

7.32 HEARING APPEALS

- (a) The Board of Adjustment shall fix a reasonable time for the hearing of the appeal, give public notice thereof by publishing in the official newspaper of Ashland County a class 2 notice pursuant to Chapter 985, WISCONSIN STATUTES, specifying the date, time and place of hearing and the matters to come before the Board; as well as mailed notices to the parties at interest.
- (b) A decision regarding the appeal shall be made as soon as practicable.
- (c) The final disposition of an appeal or application to the Board of Adjustment shall be in the form of a written resolution or order signed by the Secretary of the Board. Such resolution shall state the specific facts which are the basis for the Board's determination and shall either affirm, reverse, vary or modify the order, requirement, decision or determination appealed, in whole or in part, dismiss the appeal for lack of jurisdiction or prosecution, or grant the application.
- (d) A copy of all decisions by the Board of Adjustment shall be mailed to the appropriate District Office of the Department of Natural Resources.

7.33 MAPPING DISPUTES: The following procedure shall be used by the Zoning Board of Adjustment in disputes of a flood plain zoning district boundary:

- (a) Flood district boundaries: when the location of the flood plain or floodway district boundary is established by experience flood maps or engineering studies pursuant to Section 3.2, 4.2 or 5.2 of this Ordinance, the flood elevations or "flood profiles" for the point in question shall be the governing factor in locating the district boundary. If no elevation or profiles are available to the Board, any other available evidence may be examined.
- (b) In all cases, the person contesting the location of the district boundary shall be given a reasonable opportunity to present his case to the Zoning Board of Adjustment and if he chooses, submit his own technical evidence. If the Board determines that the district boundary as mapped is incorrect, the person contesting the location of the boundary may then proceed to petition the County Board for a map amendment, pursuant to Section 8.2 of this Ordinance.

7.34 - VARIANCE: Any deviation from the standards of this ordinance, for which a permit has been denied by the Zoning Administrator, may be allowed only upon written request for a variance submitted to the Zoning Administrator, public hearing, and issuance of a variance from the Board of Adjustment. The board may authorize in specific cases such variance from the terms of the ordinance as will not be contrary to the public interest where, owing to special conditions, a literal enforcement of the provisions of this ordinance would result in unnecessary hardship. A variance:

- (a) Shall be consistent with the spirit and intent of this flood plain zoning ordinance.
- (b) Shall not permit any change in established flood elevations or profiles.
- (c) Shall not be granted for a use that is common to a group of adjacent lots or premises (in such a case, the zoning ordinance would have to be amended through property procedures).
- (d) Shall not be granted unless it is shown that the variance will not be contrary to the public interest or damaging to the rights of other persons or property values in the area.
- (e) Shall not be granted for actions which require an amendment to the flood plain zoning ordinance.
- (f) Shall not have the effect of allowing or expanding a use or structure which is prohibited in that zoning district by a flood plain zoning ordinance.
- (g) Shall not be granted solely on the basis of economic gain or loss.
- (h) Shall not be granted for a self-created hardship.

7.4 PROCEDURES FOR DETERMINING FLOODWAY AND FLOOD FRINGE LIMITS

7.41 APPLICABILITY: When any developments are proposed within a General Flood Plain District, a determination shall be made to establish the boundaries of the floodway and determine whether floodway or flood fringe uses apply, and, where applicable, to determine the regional flood elevation.

7.42 Upon receiving an application for development, the Zoning Administrator shall:

- (a) Require the applicant to submit, at the time of application, two copies of an aerial photograph, or a plan which accurately locates the flood plain proposal with respect to the flood plain district limits, channel of stream, existing flood plain developments, together with all pertinent information such as the nature of the proposal, legal description of the property, fill limits and elevations, building floor elevations and floodproofing measures.
- (b) Require the applicant to furnish any of the following additional information as is deemed necessary by the Department of Natural Resources for evaluation of the effects of the proposal upon flood flows and to determine the boundaries of the floodway and, where applicable, the regional flood elevation.
 1. A typical valley cross-section showing the channel of the stream, the flood plain adjoining each side of the channel, cross-sectional area to be occupied by the proposed development, and high water information.
 2. Plan (surface view) showing elevations or contours of the ground, pertinent structure, fill or storage elevations; size, location and spatial arrangement of all proposed and existing structures on the site, location and elevations of streets, water supply, 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 of materials, water supply and sanitary facilities.
- (c) Transmit one copy of the information described in subsections (a) and (b) to the Department of Natural Resources along with a written request to have that agency provide technical assistance to establish floodway boundaries and, where applicable, provide regional flood elevation. Where the provisions of Section 2.95 of this Ordinance apply, the applicant shall provide all required information and computations.

7.5 FLOODPROOFING: Floodproofing measures such as the following shall be designed consistent with the flood protection elevation for the particular area as described in Section 10.1 (21), to withstand the flood velocities, forces and other factors associated with the flood protection elevation. The applicant shall submit a plan or document certified by a registered professional engineer or architect that the floodproofing measures are adequately designed to protect to the flood protection elevation for the particular area. All floodproofing shall provide anchorage to resist flotation and lateral movement. Other floodproofing measures may include:

7.51 Installation of watertight doors, bulkheads, and shutters.

7.52 Reinforcement of walls and floors to resist pressures.

7.53 Use of paints, membranes or mortars to reduce seepage of water through walls.

The above sections 7.5, 7.51, 7.52 and 7.53 shall insure that structural walls are watertight, which shall be the minimum standard for certification pursuant to Section 7.5 above.

7.54 Addition of mass or weight to structures to prevent flotation.

7.55 Placement of essential utilities above the flood protection elevation.

7.56 Pumping facilities and/or subsurface drainage systems for buildings to relieve external foundation wall and basement floor pressures and to lower water levels in structures.

7.57 Construction of water supply and waste treatment systems to prevent the entrance of flood waters.

7.58 Construction to resist rupture or collapse caused by water pressure or floating debris.

7.59 Cutoff valves on sewer lines or the elimination of gravity flow basement drains.

SECTION 8.0 AMENDMENTS

8.1 GENERAL: The County Board of the County of Ashland, Wisconsin, may from time to time, alter, supplement or change the boundaries of use districts and the regulations contained in the Ordinance in the manner provided by law. Official amendments are required for any changes in the official floodway lines, water surface profiles, flood plain zoning maps or flood plain zoning ordinance. Actions which require an amendment include, but are not limited to, the following:

8.11 Any change in the official floodway lines or in the boundary of the flood plain area;

8.12 Settlement of conflicts between the water surface profiles and flood plain zoning maps, in accordance with Section 7.33 of this Ordinance;

8.13 Any fill or encroachment into the floodway which will result in raising the elevation of an area in the floodway to a height at or above the elevation of the regional flood;

8.14 Any fill or encroachment that will cause a change equal to or greater than 0.1 foot in the water surface profiles of the regional flood; and

8.15 Any upgrading of flood plain zoning ordinances required by law.

8.16 Amendments to this Ordinance may be made upon petition of any interested party in accordance with the provisions of Section 59.97 of the WISCONSIN STATUTES. Such petitions shall include any necessary data required by Sections 7.42 and 2.95 of this Ordinance.

8.2 AMENDMENT PROCEDURE: Copies of any amendment proposed to the County Board shall be referred to the Zoning Committee which shall be forwarded by the secretary of the Zoning Committee, together with the first notice of the public hearing thereon, to the main office and appropriate district office of the Department of Natural Resources, and the Federal Insurance and Hazard Mitigation Office. The amendment procedure shall comply with the provisions of Section 59.97, Wis. Statutes. No amendment to the text or maps shall become effective until approved by the Department of Natural Resources, the Office of the Federal Insurance Administration and, in the case of map amendments, until an official letter of map amendment has been issued by the Federal Insurance Administration Office of FEMA. In areas where no stream profiles exist the Zoning Committee shall consider data jointly submitted by the Department of Natural Resources and the zoning administrator based on visual on-site inspection and other available information.

SECTION 9.0 ENFORCEMENT AND PENALTIES

Any violations of the provisions of this Ordinance by any person, firm, association, corporation (including building contractors) or his or their agent, shall be unlawful and shall be forwarded to the Municipal Attorney, who shall expeditiously prosecute all such violators. A violator shall, upon conviction, forfeit to the county a penalty of not less than \$10.00 and not more than \$100.00, together with a taxable cost of such action. Each day during within such violation exists shall constitute a separate offense. Every violation of this Ordinance is a public nuisance and the creation thereof may be enjoined and the maintenance thereof may be abated by action at suit of the county, the state, or any citizen thereof.

SECTION 10.0 DEFINITIONS

10.1 Unless specifically defined below, words or phrases used in this Ordinance shall be interpreted so as to give them the same meaning as they have at common law and to give this Ordinance its most reasonable application.

(1) A ZONES - are those areas shown on a community's "Official Flood Plain Zoning Map" (see definition 28) which would be inundated by the "base flood" or "regional flood" as defined herein. These areas may be numbered as A0, A1 to A30, A99, or be unnumbered A Zones. The A Zones may or may not be reflective of flood profiles, depending on the availability of data for a given area.

(2) ACCESSORY USE - An accessory use is any facility, structure, building or use which is accessory or incidental to the principal use of a property, structure or building.

(3) BASE FLOOD - A flood having one percent chance of being equalled or exceeded in any given year. (See also regional flood)

(4) BASE FLOOD ELEVATION - An elevation equal to that which reflects the height of the base flood as defined in (3) above.

(5) BOARD OF ADJUSTMENT - The body established under Chapter 59.99, WISCONSIN STATUTES, for counties and designated "board of adjustment".

(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 of Natural Resources pursuant to Section 30.11, WISCONSIN STATUTES, and which allows complete filling on the landward side except where such filling is prohibited by the floodway provisions of this Ordinance.

(7) CERTIFICATE OF COMPLIANCE - A certification by the Zoning Administrator that a structure, use, or development is in compliance with all provisions of this Ordinance.

(8) CHANNEL - A channel is a natural or artificial watercourse with definite bed and banks to confine and conduct the normal flow of water.

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

(10) ENCROACHMENT - An encroachment is any fill, structure, building, accessory use, use or development in the floodway.

(11) ENCROACHMENT/FLOODWAY LINES - Encroachment lines are limits of obstruction to flood flows. These lines are on both sides of and generally parallel to the stream. The lines are established by assuming that the area landward (outside) of the encroachment lines will be ultimately developed in such a way that it will not be available to convey flood flows.

(12) EQUAL DEGREE OF HYDRAULIC ENCROACHMENT - The effect of any encroachment into the floodway must be computed by assuming an equal degree of hydraulic encroachment on the other side of a river or stream for a significant hydraulic

reach. This computation assures that property owners up, down or across the river or stream will have the same rights of hydraulic encroachment. Encroachments are analyzed on the basis of the effect upon hydraulic conveyance, not upon the distance the encroachment extends into the floodway.

(13) "EXISTING MOBILE HOME PARK OR MOBILE HOME SUBDIVISION" - means a parcel (or contiguous parcels) of land divided into two or more mobile home lots for rent or sale for which the construction of facilities for servicing the lot on which the mobile home is to be affixed (including, at a minimum, the installation of utilities, either final site grading or the pouring of concrete pads, and the construction of streets) is completed before the effective date of flood plain management regulations adopted by a community.

(14) "FLOOD" OR "FLOODING" - A general and temporary condition or partial or complete inundation of normally dry land areas from the overflow of inland waters or the unusual and rapid accumulation or runoff of surface waters from any source.

(15) FLOOD FRINGE - The flood fringe is that portion of the flood plain outside of the floodway, which is covered by flood waters during the regional flood; it is generally associated with standing water rather than rapidly flowing water.

(16) FLOOD HAZARD BOUNDARY MAP - A map prepared by the U.S. Department of Housing and Urban Development, designating areas of special flood hazard within a given community. Flood hazard areas are designated as A Zones. Said map forms the basis for both the regulatory and insurance aspects of the National Flood Insurance program.

(17) FLOOD INSURANCE STUDY MAP - A map prepared by the U.S. Department of Housing and Urban Development, designating areas of special flood hazard and flood insurance rate zones for a given community. Flood hazard and insurance rate zones are designated as A Zones. Said maps form the basis for the regulatory and/or the insurance aspects of the National Flood Insurance Programs.

(18) FLOOD PLAIN - The flood plain is the land which has been or may be hereafter covered by flood water during the regional flood. The flood plain includes the floodway and the flood fringe.

(19) FLOOD PROFILE - A graph or a longitudinal profile showing the relationship of the water surface elevation of a flood event to locations along a stream or river.

(20) FLOODPROOFING - Floodproofing involves any combination of structural provisions, changes, or adjustments to properties and structures subject to flooding, primarily for the purpose of reducing or eliminating flood damage to properties, water and sanitary facilities, structures and contents of buildings in flood hazard areas.

(31) REGIONAL FLOOD - The regional flood is a flood determined to be representative of large floods known to have generally occurred in Wisconsin and which may be expected to occur on a particular stream because of like physical characteristics. The flood frequency of the regional flood is once in every 100 years; this means that in any given year there is a 1% chance that the regional flood may occur or be exceeded. During a typical 30-year mortgage period, the regional flood has a 26% chance of occurrence.

(32) STORAGE CAPACITY OF A FLOOD PLAIN - The volume of space above an area of flood plain land that can be occupied by flood water of a given stage at a given time, regardless of whether the water is moving.

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

(34) SUBSTANTIAL IMPROVEMENT - Any repair, reconstruction, or improvement of a structure, the cost of which equals or exceeds fifty percent (50%) of the present equalized assessed value of the structure either before the improvement or repair is started, or if the structure has been damaged, and is being restored, before the damage occurred. The term does not, however, include either: (I) any project for improvement of a structure to comply with existing state or local health, sanitary, or safety code specifications which are solely necessary to assure safe living conditions, or (II) any alteration of a structure or site documented as deserving preservation by the Wisconsin State Historical Society or listed on the National Register of Historic places. Ordinary maintenance repairs are not considered structural repairs, modifications or additions; such ordinary maintenance repairs include internal and external painting, decorating, paneling, and the replacement of doors, windows, and other nonstructural components.

(35) UTILITIES - Any public or private water supply, or waste collection and/or disposal system, including but not limited to; septic systems, private and public wells, and their attendant facilities, public sewage collection systems and treatment facilities.