General Code of Ordinances for Marathon County Chapter 22 – Shoreland, Shoreland – Wetland, and Floodplain Code

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Environmental Resources Committee
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TABLE OF CONTENTS

TABLE OF CONTENTS i

TITLE 1 TITLE, PURPOSE AND SCOPE.....1

Chapter 22.101 General 1

Section 22.101.01 *Title* 1
Section 22.101.02 *Statutory Authorization* 1
Section 22.101.03 *Finding of Fact* 1
Section 22.101.04 *Purpose and Intent* 1
Section 22.101.05 *Interpretation* 2
Section 22.101.06 *Conflict* 2
Section 22.101.07 *Inconsistencies* 2
Section 22.101.08 *Compliance with other Applicable Regulations* 2
Section 22.101.09 *Validity and Separability* 3
Section 22.101.10 *Repealer* 3
Section 22.101.11 *Abrogation and Greater Restrictions* 3
Section 22.101.12 *Effective Date* 4

TITLE 2 SHORELAND 4

Chapter 22.201 Areas to be Regulated 4

Section 22.201.01 *Lakes, Ponds and Flowages* 4
Section 22.201.02 *Navigable Rivers and Streams* 4
Section 22.201.03 *Shoreland – Wetland Maps* 4
Section 22.201.04 *Determination of Navigability* 4
Section 22.201.05 *Areas Exempt from Shoreland Zoning Ordinance* 5

Chapter 22.202 Shoreland - Wetlands 5

Section 22.202.01 *Purpose* 5
Section 22.202.02 *Designation* 5
Section 22.202.03 *Locating Shoreland – Wetland Boundaries* 5
Section 22.202.04 *Permitted Uses* 5
Section 22.202.05 *Prohibited Uses* 7
Section 22.202.06 *Rezoning of Lands in the Shoreland-Wetland District* 7

Chapter 22.203 Land Division 8

Section 22.203.01 *Review of Land Division* 8
Section 22.203.02 *Planned Residential Unit Development (PUD)* 8
Section 22.203.03 *Minimum Lot Size* 9
Section 22.203.04 *Determination of Average Lot Width* 10
Section 22.203.05 *Substandard Lots* 10

Chapter 22.204 Structure Setbacks and Height 10

Section 22.204.01 *Structure Setback from Ordinary High Water Mark* 10
Section 22.204.02 *Exempt Structures from Shoreland Setbacks* 10
Section 22.204.03 *Reduced Principal Structure Setbacks* 11

Section 22.204.04 *Floodplain* 11
Section 22.204.05 *Height within 75 Feet of the Ordinary High Water Mark* 12
Section 22.204.06 *Methods of Measurement* 12

Chapter 22.205 Shoreland Vegetation 13
Section 22.205.01 *Purpose* 13
Section 22.205.02 *Establishment of a Vegetation Buffer when Mitigation is Required* ... 13
Section 22.205.03 *Permitted Maintenance in Vegetation Buffer Zone* 14
Section 22.205.04 *Violation of Vegetation Buffer Zone and/or Filling, Grading or Excavating* 15

Chapter 22.206 Filling, Grading and Excavating 15
Section 22.206.01 *Filling, Grading & Excavating less than 10,000 square feet* 15
Section 22.206.02 *Filling, Grading & Excavating equal to or greater than 10,000 square feet* 16
Section 22.206.03 *Standards for Riprap placement on shoreline* 16

Chapter 22.207 Impervious Surface Standards 16
Section 22.207.01 *Purpose* 16
Section 22.207.02 *Calculation of Percentage of Impervious Surface* 16
Section 22.207.03 *General Standards* 17
Section 22.207.05 *Maximum Impervious Surface* 17
Section 22.207.06 *Treated Impervious Surfaces* 17
Section 22.207.07 *Existing Impervious Surfaces* 18

Chapter 22.208 Non-Conforming Structures and Uses 18
Section 22.208.01 *Discontinued Non-conforming Use* 18
Section 22.208.02 *Maintenance, Repair, Replacement, or Vertical Expansion of Non-conforming Structures* 18
Section 22.208.03 *Lateral Expansion of Non-conforming Principal Structures within the Setback* 18
Section 22.208.04 *Expansion of a Non-conforming Principal Structure beyond Setback* 19
Section 22.208.05 *Relocation of Non-Conforming Principal Structure* 19
Section 22.208.06 *Maintenance, Repair, Replacement, or Vertical Expansion of structures that were authorized by variance* 20
Section 22.208.07 *Maintenance, Repair or Replacement of a Structure in Violation* 20

Chapter 22.209 Mitigation 20
Section 22.209.01 *General Standards* 20
Section 22.209.02 *Mitigation Options* 21

Chapter 22.210 Demolition Permits 22
Section 22.210.01 *Purpose* 22
Section 22.210.02 *Requirements* 22

Chapter 22.211 Relaxation of Shoreland Standards 22
Section 22.211.01 *Persons with Disabilities* 22

TITLE 3 FLOODPLAIN 23

Chapter 22.301 General 23
- Section 22.301.01 *Statutory Authorization* 23
- Section 22.301.02 *Finding of Fact* 23
- Section 22.301.03 *Statement of Purpose* 23
- Section 22.301.04 *Areas to be Regulated* 23
- Section 22.301.05 *Official Maps* 24
- Section 22.301.06 *Establishment of Floodplain Zoning Districts* 25
- Section 22.301.07 *Locating Floodplain Boundaries* 25
- Section 22.301.08 *Removal of Lands from Floodplain* 25
- Section 22.301.09 *Compliance* 25
- Section 22.301.10 *Municipalities and State Agencies Regulated* 26
- Section 22.301.11 *Abrogation and Greater Restrictions* 26
- Section 22.301.12 *Interpretation* 26
- Section 22.301.13 *Warning and Disclaimer* 26
- Section 22.301.14 *Severability* 26
- Section 22.301.15 *Annexed Areas for Cities and Villages* 26

Chapter 22.302 General Standards 27
- Section 22.302.01 *General Standards Applicable to all Floodplain Districts* 27
- Section 22.302.02 *Hydraulic and Hydrologic Analyses* 27
- Section 22.302.03 *Watercourse Alterations* 27
- Section 22.302.04 *Chapter 30, 31, WI Statues, Development* 27
- Section 22.302.05 *Public or Private Campgrounds* 28

Chapter 22.303 Floodway District (FW) 29
- Section 22.303.01 *Applicability* 29
- Section 22.303.02 *Permitted Uses* 29
- Section 22.303.03 *Standards for Development* 29
- Section 22.303.04 *Prohibited Uses* 31

Chapter 22.304 Floodfringe District (FF) 32
- Section 22.304.01 *Applicability* 32
- Section 22.304.02 *Permitted Uses* 32
- Section 22.304.03 *Standards for Development in the Floodfringe District* 32

Chapter 22.305 Other Floodplain Districts 34

Chapter 22.306 General Floodplain District (GFP) 34
- Section 22.306.01 *Applicability* 34
- Section 22.306.02 *Permitted Uses* 34
- Section 22.306.03 *Standards for Development* 34
- Section 22.306.04 *Determining Floodway and Floodfringe Limits* 35

Chapter 22.307 Non-conforming Uses 36
- Section 22.307.01 *General* 36

Chapter 22.308 Floodway District 39
Section 22.308.01 *General* 39

Chapter 22.309 Floodfringe District 40
Section 22.309.01 *General* 40

TITLE 4 ADMINISTRATION 41
Chapter 22.401 Administrative Organization and Responsibilities 41
Section 22.401.01 *Zoning Administrator* 41
Section 22.401.02 *Zoning Permit* 42
Section 22.401.03 *Review and Issuance of Permit* 42
Section 22.401.04 *Expiration of Permits* 43
Section 22.401.05 *Hydraulic & Hydrologic Studies to Analyze Development* 44
Section 22.401.06 *Certificate of Compliance* 47
Section 22.401.07 *Other Permits* 47
Section 22.401.08 *Zoning Agency* 47
Section 22.401.09 *Board of Adjustment* 48
Section 22.401.10 *Appeals to the Board* 48
Section 22.401.11 *Boundary Disputes* 49
Section 22.401.12 *Variance* 49
Section 22.401.13 *Review Appeals of Permit Denials* 50
Section 22.401.14 *Floodproofing Standards of Non-conforming Structures or Uses* 50
Section 22.401.15 *Public Information* 51
Section 22.401.16 *Schedule of Fees* 51
Section 22.401.17 *Conformance with Approved Site Plan* 51

Chapter 22.402 Amendments 52
Section 22.402.01 *Establishment of Floodplain Zoning Districts* 52
Section 22.402.02 *General* 52
Section 22.402.03 *Procedures* 53

Chapter 22.403 Enforcement and Penalties 54
Section 22.403.01 *Enforcement and Penalties* 54

TITLE 5 DEFINITIONS 55
Chapter 22.501 Shoreland 55
Section 22.501.01 *Shoreland* 55

Chapter 22.502 Floodplain 58
Section 22.502.01 *Floodplain* 58

TITLE 1: TITLE, PURPOSE AND SCOPE

Chapter 22.101 General

Section 22.101.01 Title

This chapter shall be known and cited as the County of Marathon, Wisconsin Shoreland, Shoreland-Wetland, and Floodplain Code.

Section 22.101.02 Statutory Authorization

This ordinance is adopted pursuant to the authorization in ss. 59.692 WI Stats. to implement 59.69, 59.692, 59.694, 87.30, 236.45, and 281.31.

The provisions of this chapter apply to regulation of the use and development of unincorporated shoreland areas. Unless specifically exempted by law, all cities, villages, towns, counties and, when WI Stats.13.48 (13), applies, state agencies are required to comply with, and obtain all necessary permits under, local shoreland ordinances. The construction, reconstruction, maintenance or repair of state highways and bridges carried out under the direction and supervision of the Wisconsin Department of Transportation is not subject to local shoreland zoning ordinances if WI Stats. 30.2022 (1), applies (NR 115.02). Shoreland zoning requirements in annexed or incorporated areas are provided in WI Stats. 61.353 and 62.233.

Section 22.101.03 Finding of Fact

Uncontrolled use of the shorelands and pollution of the navigable waters of Marathon County, WI will adversely affect the public health, safety, convenience, and general welfare and impair the tax base. The legislature of Wisconsin has delegated responsibility to the counties to further the maintenance of safe and healthful conditions; prevent and control water pollution; protect spawning grounds, fish and aquatic life; control building sites, placement of structures and land uses; and to preserve shore cover and natural beauty. This responsibility is hereby recognized by Marathon County, Wisconsin.

Section 22.101.04 Purpose and Intent

For the purpose of promoting the public health, safety, convenience and welfare, and promote and protect the public trust in navigable waters this ordinance has been established to:

A. Further the maintenance of safe and healthful conditions and prevent and control water pollution through:

   1. Limiting structures to those areas where soil and geological conditions will provide a safe foundation.
   2. Establishing minimum lot sizes to provide adequate area for private on-site wastewater treatment systems.
   3. Controlling filling and grading to prevent soil erosion problems.
   4. Limiting impervious surfaces to control runoff which carries pollutants.

B. Protect spawning grounds, fish and aquatic life through:

1. Preserving wetlands and other fish and aquatic habitat.
2. Regulating pollution sources.
3. Controlling shoreline alterations, dredging and lagooning.

C. Control building sites, placement of structures and land uses through:

1. Prohibiting certain uses detrimental to the shoreland-wetlands.
2. Setting minimum lot sizes and widths.
3. Setting minimum building setbacks from waterways.
4. Setting the maximum height of near shore structures.

D. Preserve and restore shoreland vegetation and natural scenic beauty through:

1. Restricting the removal of natural shoreland cover.
2. Preventing shoreline encroachment by structures.
3. Controlling shoreland excavation and other earth moving activities.
4. Regulating the use and placement of boathouses and other structures.

Section 22.101.05 **Interpretation**

A. The provisions of this ordinance shall be liberally construed in favor of the county and shall not be deemed a limitation or repeal of any other powers granted by Wisconsin Statutes. Where a provision of this ordinance is required by Wisconsin Statues and, a standard in NR 115, Wisconsin Administrative Code, and where the ordinance provision is unclear, the provision shall be interpreted in light of Wisconsin Statues and the NR 115 standards in effect on the date of the adoption of this ordinance or in effect on the date of the most recent text amendment to this ordinance.

Section 22.101.06 **Conflict**

Whenever the regulations of this Zoning Ordinance conflict with any other lawfully adopted rules, regulations or ordinances, private deed restrictions or private covenants, the more restrictive or that imposing the highest standards shall govern.

This chapter shall not repeal, impair or modify private covenants or other ordinances, except that it shall apply whenever it imposes stricter regulations.

Section 22.101.07 **Inconsistencies**

In the event any of the requirements or regulatory provisions of these regulations are found to be inconsistent one with another, the more restrictive or greater requirements shall be deemed in each case to be applicable.

Section 22.101.08 **Compliance with Other Applicable Regulations**

All uses and associated premises, buildings, structures, activities, roads, parking areas, utilities, construction, shall be in compliance with the county subdivision regulations, applicable building and health codes and all other applicable regulations adopted by County

Board and administered by the County of Marathon. Compliance with all State building departments and other applicable State and Federal agencies are required.

Section 22.101.09 **Validity and Separability**

If any portion of this ordinance is adjudged unconstitutional or invalid by a court of competent jurisdiction, the remainder of this ordinance shall not be affected.

Section 22.101.10 **Repealer**

All existing ordinances of Marathon County, Wisconsin pertaining to shoreland zoning that are inconsistent herewith are hereby repealed.

Section 22.101.11 **Abrogation and Greater Restrictions**

[s. 59.692(5) WI Stats.]. The provisions of this ordinance supersede any provisions in a county zoning ordinance that solely relate to shorelands, in other words, if a zoning standard only applies to lands that lie within the shoreland and applies because the lands are in shoreland, then this ordinance supersedes those provisions. However, where an ordinance adopted under a statute other than WI Stats.59.692 does not solely relate to shorelands and is more restrictive than this ordinance, for example a floodplain ordinance, that ordinance shall continue in full force and effect to the extent of the greater restrictions.

1. [s.59.692(2)(a) WI Stats.] This ordinance shall not require approval or be subject to disapproval by any town or town board.
2. [s.59.692(2)(b) WI Stats.] If an existing town ordinance relating to shorelands is more restrictive than this ordinance or any amendments thereto, the town ordinance continues in all respects to the extent of the greater restrictions but not otherwise.
3. This ordinance is not intended to repeal, abrogate, or impair any existing deed restrictions, covenants, or easements. However, where this ordinance imposes greater restrictions, the provisions of this ordinance shall prevail.
4. The following provisions of the Marathon County Zoning Ordinance are hereby incorporated by reference; these provisions shall only apply to the shoreland area where they impose greater restrictions than this ordinance otherwise imposes.
5. [s.59.692(1d)(b) WI Stats.] This ordinance may establish standards to regulate matters that are not regulated in NR115, but that further the purposes of shoreland zoning as described in section 1.3 of this ordinance.
6. [s.59.692(1k)(a)1. WI Stats.] Counties may not establish shoreland zoning standards in a shoreland zoning ordinance that requires any of the following:
   a. Approval to install or maintain outdoor lighting in shorelands, impose any fee or mitigation requirement to install or maintain outdoor lighting in shorelands, or otherwise prohibits or regulates outdoor lighting in shorelands if the lighting is designed or intended for residential use.
   b. Requires any inspection or upgrade of a structure before the sale or other transfer of the structure may be made.
7. [s.59.692(7). WI Stats.] The construction and maintenance of a facility is considered to satisfy the requirements of a shoreland ordinance if:
   a. The Department of Natural Resources (DNR) has issued all required permits or approvals authorizing the construction or maintenance under ch. 30, 31, 281, or 283.

b. A facility means any property or equipment of a public utility, as defined in s. 196.01 (5), or a cooperative association organized under ch.185 for the purpose of producing or furnishing heat, light, or power to its members only, that is used for the transmission, delivery or furnishing of natural gas, heat, light or power.

Section 22.101.12 **Effective Date**

This Shoreland, Shoreland-Wetland, and Floodplain Ordinance shall take effect and be in force from the date adopted by the Marathon County Board of Supervisors until a revision is completed.

TITLE 2: SHORELAND

Chapter 22.201 Areas to be Regulated

Areas regulated by this ordinance shall include all the lands (referred to herein as shorelands) in the unincorporated areas of Marathon County which are:

Section 22.201.01 **Lakes, Ponds and Flowages**

Within one thousand (1,000) feet of the Ordinary High Water Mark (OHWM) of navigable lakes, ponds or flowages.

Lakes, ponds or flowages in the county shall be presumed to be navigable if they are listed in the Wisconsin Department of Natural Resources publication FH-800 2009 “Wisconsin Lakes” book available electronically at the following web site: http://dnr.wi.gov/lakes/lakebook/wilakes2009bma.pdf or are shown on United States Geological Survey quadrangle maps (1:24,000 scale), or other zoning base maps.

Section 22.201.02 **Navigable Rivers & Streams**

Within three hundred (300) feet of the Ordinary High Water Mark of navigable rivers or streams, or to the landward side of the floodplain, whichever distance is greater.

Rivers and streams in the county shall be presumed to be navigable if they are designated as perennial waterways or intermittent waterways on United States Geological Survey quadrangle maps (1:24,000). Flood hazard boundary maps, flood insurance rate maps, flood boundary-floodway maps, county soil survey maps or other existing county floodplain zoning maps shall be used to delineate floodplain areas.

Section 22.201.03 **Shoreland- Wetland Maps**

The most recent version of the Wisconsin Wetland Inventory as depicted on the Department of Natural Resources Surface Water Data Viewer is made part of this ordinance. The maps can be viewed at http://dnrmaps.wi.gov/SL/Viewer.html?Viewer=SWDV&runWorkflow=Wetland

Section 22.201.04 **Determination of Navigability**

Determinations of navigability and Ordinary High Water Mark location shall initially be made by the Zoning Administrator. When questions arise, the Zoning Administrator shall contact the appropriate office of the Department of Natural Resources for a final determination of navigability or Ordinary High Water Mark. The county may work with surveyors with regard to s.59.692(h).

Section 22.201.05 **Areas Exempt from Shoreland Zoning Ordinance.**

A. Under s. 281.31(2m), notwithstanding any other provision of law or administrative rule promulgated thereunder, this shoreland zoning ordinance does not apply to:
   1. Lands adjacent to farm drainage ditches if:
      a. Such lands are not adjacent to a natural navigable stream or river;
      b. Those parts of such drainage ditches adjacent to such lands were not navigable streams before ditching; and
   2. Lands adjacent to artificially constructed drainage ditches, ponds or stormwater retention basins that are not hydrologically connected to a natural navigable water body.

Chapter 22.202 Shoreland - Wetlands

Section 22.202.01 **Purpose**

This district is created to maintain safe and healthful conditions, to prevent water pollution, to protect fish spawning grounds and wildlife habitat, to preserve shore cover and natural beauty and to control building and development in wetlands whenever possible. When development is permitted in a wetland, the development should occur in a manner that minimizes adverse impacts upon the wetland.

Section 22.202.02 **Designation**

This district shall include all shorelands within the jurisdiction of this ordinance which are designated as wetlands on the most recent version of the Wisconsin Wetland Inventory as depicted on the Department of Natural Resources Surface Water Data Viewer.

Section 22.202.03 **Locating Shoreland – Wetland Boundaries**

Where an apparent discrepancy exists between the shoreland-wetland district boundary shown on the Wisconsin Wetland Inventory and actual field conditions, the county shall contact the Department to determine if the map is in error. If the Department determines that a particular area was incorrectly mapped as wetland or meets the wetland definition but was not shown as wetland on the map, the county shall have the authority to immediately grant or deny a shoreland zoning permit in accordance with the applicable regulations based on the Department determination as to whether the area is wetland. In order to correct wetland mapping errors on the official zoning map, an official zoning map amendment must be initiated within a reasonable period oftime.

Section 22.202.04 **Permitted Uses**

The following uses shall be allowed, subject to general shoreland zoning regulations contained in this ordinance, the provisions of WI Stats. 30, 31, and 281.36, and the provisions of other applicable local, state and federal laws:

A. Activities and uses which do not require the issuance of a zoning permit, but which must be carried out without any filling, flooding, draining, dredging, ditching, tiling or excavating.
   1. Hiking, fishing, trapping, hunting, swimming, and boating;

2. The harvesting of wild crops, such as marsh hay, ferns, moss, wild rice, berries, tree fruits, and tree seeds, in a manner that is not injurious to the natural reproduction of such crops;
3. The pasturing of livestock;
4. The cultivation of agricultural crops;
5. The practice of silviculture, including the planting, thinning, and harvesting of timber; and
6. The construction or maintenance of duck blinds.

B. Uses which do not require the issuance of a zoning permit and which may include limited filling, flooding, draining, dredging, ditching, tiling, or excavating but only to the extent specifically provided below:

1. Temporary water level stabilization measures necessary to alleviate abnormally wet or dry conditions that would have an adverse impact on silvicultural activities if not corrected;
2. The cultivation of cranberries including flooding, dike and dam construction, or ditching necessary for the growing and harvesting of cranberries;
3. The maintenance and repair of existing agricultural drainage systems including ditching, tiling, dredging, excavating and filling necessary to maintain the level of drainage required to continue the existing agricultural use. This includes the minimum filling necessary for disposal of dredged spoil adjacent to the drainage system provided that dredged spoil is placed on existing spoil banks where possible;
4. The construction or maintenance of fences for the pasturing of livestock, including limited excavating and filling necessary for such construction or maintenance;
5. The construction or maintenance of piers, docks or walkways built on pilings, including limited excavating and filling necessary for such construction and maintenance; and
6. The maintenance, repair, replacement or reconstruction of existing town and county highways and bridges, including limited excavating and filling necessary for such maintenance, repair, replacement or reconstruction.

C. Uses which require the issuance of a zoning permit and which may include limited filling, flooding, draining, dredging, ditching, tiling or excavating, but only to the extent specifically provided below:

1. The construction and maintenance of roads which are necessary to conduct silvicultural activities or agricultural cultivation, provided that:
   a. The road cannot as a practical matter be located outside the wetland;
   b. The road is designed and constructed to minimize adverse impact upon the natural functions of the wetland enumerated in Section 22.202.06(B);
   c. The road is designed and constructed with the minimum cross-sectional area practical to serve the intended use; and
   d. Construction activities are carried out in the immediate area of the roadbed only.
2. The construction or maintenance of nonresidential buildings, provided that:
   a. The building is essential for and used solely in conjunction with the raising of waterfowl, minnows or other wetland or aquatic animals; or some other use permitted in the shoreland-wetland district;
   b. The building cannot, as a practical matter, be located outside the wetland;
   c. Such building is not designed for human habitation and does not exceed 500 sq. ft. in floor area; and

d. Only limited filling or excavating necessary to provide structural support for the building is authorized.

3. The establishment of public and private parks and recreation areas, natural and outdoor education areas, historic and scientific areas, wildlife refuges, game bird and animal farms, fur animal farms, fish hatcheries, and public boat launching ramps and attendant access roads, provided that:
   a. Any private development is used exclusively for the permitted use and the applicant has received a permit or license under WI Stats. 29, where applicable;
   b. Filling or excavating necessary for the construction or maintenance of public boat launching ramps or attendant access roads is allowed only where such construction or maintenance meets the criteria in Section 22.202.04 C.1. ; and
   c. Ditching, excavating, dredging, or dike and dam construction in public and private parks and recreation areas, natural and outdoor education areas, historic and scientific areas, wildlife refuges, game bird and animal farms, fur animal farms, and fish hatcheries is allowed only for the purpose of improving wildlife habitat and to otherwise enhance wetland values.

D. The construction or maintenance of electric, gas, telephone, water and sewer transmission and distribution facilities, by public utilities and cooperative associations organized for the purpose of producing or furnishing heat, light, power or water to their members and the construction or maintenance of railroad lines provided that:
   1. The transmission and distribution facilities and railroad lines cannot, as a practical matter, be located outside the wetland;
   2. Such construction or maintenance is done in a manner designed to minimize adverse impact upon the natural functions of the wetland enumerated in Section 22.202.06 B.

Section 22.202.05 **Prohibited Uses**

Any use not listed in Section 22.202.04 is prohibited, unless the wetland or portion of the wetland has been rezoned by amendment of this ordinance in accordance with Section 22.202.06 of this ordinance and s. 59.69(5)(e), WI Stats.

Section 22.202.06 **Rezoning of Lands in the Shoreland-Wetland District**

A. For all proposed text and map amendments to the shoreland-wetland provisions of this ordinance, the Marathon County Conservation, Planning and Zoning Department shall provide the following to the WI Department of Natural Resources:
   1. A copy of every petition for a text or map amendment to the shoreland-wetland provisions of this ordinance, within 5 days of the filing of such petition with the county clerk. Such petition shall include a copy of the Wisconsin Wetland Inventory map adopted as part of this ordinance describing any proposed rezoning of a shoreland-wetland;
   2. Written notice of the public hearing to be held on a proposed amendment at least 10 days prior to such hearing;
   3. A copy of the county zoning agency's findings and recommendations on each proposed amendment within 10 days after the submission of those findings and recommendations to the county board; and
   4. Written notice of the county board's decision on the proposed amendment within 10 days after it is issued.

B. A wetland, or a portion thereof, in the shoreland-wetland district shall not be rezoned if the proposed rezoning may result in a significant adverse impact upon any of the following:
   1. Storm and flood water storage capacity;
   2. Maintenance of dry season stream flow, the discharge of groundwater to a wetland, the recharge of groundwater from a wetland to another area, or the flow of groundwater through a wetland;
   3. Filtering or storage of sediments, nutrients, heavy metals or organic compounds that would otherwise drain into navigable waters;
   4. Shoreline protection against soil erosion;
   5. Fish spawning, breeding, nursery or feeding grounds;
   6. Wildlife habitat; or
   7. Wetlands both within the boundary of designated areas of special natural resource interest and those wetlands which are in proximity to or have a direct hydrologic connection to such designated areas as defined in NR 103.04 which can be accessed at the following web site: http://www.legis.state.wi.us/rsb/code/nr/nr103.pdf

C. If the Department notifies the county zoning agency that a proposed text or map amendment to the shoreland-wetland provisions of this ordinance may have a significant adverse impact upon any of the criteria listed in Section 22.202.06 B. of this ordinance, that amendment, if approved by the county board, shall contain the following provision:

   "*This amendment shall not take effect until more than 30 days have elapsed after written notice of the county board's approval of this amendment is mailed to the Department of Natural Resources. During that 30-day period the Department of Natural Resources may notify the county board that it will adopt a superseding shoreland ordinance for the county under s. 59.692(6), WI Stats. If the Department does so notify the county board, the effect of this amendment shall be stayed until the s. 59.692(6) adoption procedure is completed or otherwise terminated."*

Chapter 22.203 Land Division

Section 22.203.01 **Review of Land Division**

The county shall review, pursuant to s. 236.45, WI Stats., all land divisions in shoreland areas which create 3 or more parcels or building sites of 5 acres each or less within a 5-year period. In such review all of the following factors shall be considered:

A. Hazards to the health, safety or welfare of future residents.
B. Proper relationship to adjoining areas.
C. Public access to navigable waters, as required by law.
D. Adequate stormwater drainage facilities.
E. Conformity to state law and administrative code provisions.

Section 22.203.02 **Planned Residential Unit Development (PUD)**

A. Purpose. The Planned Residential Unit Development is intended to permit smaller non-riparian lots where the physical layout of the lots is so arranged as to better assure the control of pollution and preservation of ground cover than would be expected if the lots were developed with the normal lot sizes and setbacks and without special conditions placed upon the Planned Residential Unit Development at the time of its approval. A condition of all Planned Residential Unit Development is the preservation of certain open space, preferably on the shoreland, in perpetuity.

B. Requirements for Planned Residential Unit Development. The County Board may at its discretion, upon its own motion or upon petition, approve a Planned Residential Unit Development Overlay District upon finding, after a public hearing, that all of the following facts exist:

1. Area. The area proposed for the Planned Residential Unit Development shall be at least 2 acres in size or have a minimum of 200 feet of frontage on a navigable water.
2. Lots. Any proposed lot in the Planned Residential Unit Development that does not meet the minimum size standards of Section 22.203.03 shall be a non-riparian lot.
3. Vegetative buffer zone and preservation of ground cover. The location of lots and the dedication of part of the land for use by the public or residents of the Planned Residential Unit Development shall preserve the vegetative buffer zone and ground cover of the shoreland to enhance scenic beauty of the navigable water, prevent erosion, and provide wildlife habitat. All lands not used for lots and streets shall be dedicated in perpetuity to remain in open space. This may be accomplished by conveyance in common to each of the owners of lots in the development or to a corporation formed by them, or by dedication to the county, town or municipality. Lands dedicated to the public must be accepted by action of the governing body of the accepting unit of government. If the land is to be conveyed to owners of lots in the development, a homeowner's association or similar legally constituted body shall be created to maintain the open space land. Any restriction placed on platted land by covenant, grant of easement or any other manner which was required by a public body or which names a public body as grantee, promisee or beneficiary, shall vest in the public body the right to enforce the restriction at law or in equity against anyone who has or acquires an interest in the land subject to the restriction.
4. Density. The number of platted lots shall not exceed those which would have been possible if the same land were platted in accordance with the minimum lot sizes and widths provided by the applicable provisions of the zoning ordinance. This figure shall be determined by dividing the total area of the subdivision by the minimum lot size required by Section 22.203.03 of this ordinance.
5. Lot sizes, widths, setbacks, and vegetation removal. When considering approval of a Planned Residential Unit Development the governing body shall consider whether proposed lot sizes, widths, and setbacks are of adequate size and distance to prevent pollution or erosion along streets or other public ways and waterways. Increased shoreland setbacks shall be a condition of approval as a way of minimizing adverse impacts of development. Shore cover provisions in Sections 22.205.02 and 22.205.03 shall apply except that maximum width of a lake frontage opening shall be 100 feet and minimum vegetative buffer depth shall be increased to offset the impact of the proposed development.

Section 22.203.03 **Minimum Lot Size**

Minimum lot sizes in the shoreland area shall be established to afford protection against danger to health, safety and welfare, and protection against pollution of the adjacent body of water.

A. Sewered Lots: Minimum Area and Width for Each Lot. The minimum lot area shall be 10,000 sq. ft. and the minimum average lot width shall be 65 feet.

B. Unsewered Lots: Minimum Area and Width for Each Lot. The minimum lot area shall be 20,000 sq. ft. and the minimum average lot width shall be 100 feet.

Note: In calculating the minimum area or width of a lot, the beds of navigable waters shall not be included.

Section 22.203.04 **Determination of Average Lot Width**

The average lot width shall be calculated by averaging the measurements at the following locations:

A. The Ordinary High Water Mark.

B. The building setback line.

C. Road Frontage.

Section 22.203.05 **Substandard Lots**

A. A legally created lot or parcel that met minimum area and minimum average width requirements when created, but does not meet current lot size requirements, may be used as a building site if all of the following apply:

   1. The substandard lot or parcel was never reconfigured or combined with another lot or parcel by plat, survey, or consolidation by the owner into one property tax parcel.
   2. The substandard lot or parcel has never been developed with one or more of its structures placed partly upon an adjacent lot or parcel.
   3. The substandard lot or parcel is developed to comply with all other ordinance requirements.

B. For lots which do not meet the requirements of Section 22.203.05(A), a building permit for the improvement of a lot having lesser dimensions than those stated in Section 22.203.03 shall be issued only if a variance is granted by the board of adjustment.

Chapter 22.204 Structure Setbacks & Height

Section 22.204.01 **Structure Setback from Ordinary High Water Mark**

Permitted building setbacks shall be established to conform to health, safety and welfare requirements, preserve natural beauty, reduce flood hazards and avoid water pollution. Unless exempt under Section 22.204.02, or reduced under Section 22.204.03, a setback of 75 feet from the Ordinary High Water Mark of any navigable waters to the nearest part of a building or structure shall be required for all buildings and structures.

Section 22.204.02 **Exempt Structures from Shoreland Setbacks**

A. Boathouses.

   1. New

      a. Located entirely above the Ordinary High Water Mark.
      b. Entirely within the access and viewing corridor.
      c. Do not contain plumbing and are not used for human habitation.
      d. Shall be designed and used exclusively for the storage of watercraft and related equipment.
      e. The area of a boathouse shall not exceed 400 square feet.
      f. A one (1) foot wide soffit may extend beyond the exterior walls.
      g. The dimension more or less parallel to the shore shall not exceed 14 feet.
      h. The maximum height of the sidewalls shall not exceed 8 feet in height from the top plate to the finished floor.
      i. Roof pitch may not be less than 4:12 (rise to run) nor steeper than 6:12.

j. The water side of a boathouse shall be set back at least 3 feet and no more than 20 feet from the Ordinary High Water Mark.

k. Only one boathouse allowed on the property.

2. Existing

a. Same as A.1.a.-d.

b. The roof of a boathouse may be used as a deck provided that:

(1) The boathouse has a flat roof

(2) The roof has no side walls or screens

(3) The roof may have a railing that meets the Department of Safety and Professional Services standards.

B. Open sided and screened structures such as gazebos, decks, patios and screen houses in the shoreland setback area that satisfy the requirements in s. 59.692(1v), WI Stats.

1. The part of the structure that is nearest to the water is located at least 35 feet landward from the Ordinary High Watermark.

2. The floor area of all the structures in the shoreland setback area will not exceed 200 square feet.

3. The structure that is the subject of the request for special zoning permission has no sides or has open or screened sides.

4. The county must approve a plan pursuant to Sections 22.205.02 and 22.205.03 that will be implemented by the owner of the property to preserve or establish a vegetative buffer zone that covers at least 70% of the half of the shoreland setback area that is nearest to the water.

C. Broadcast signal receivers, including satellite dishes or antennas that are one meter or less in diameter and satellite earth station antennas that are 2 meters or less in diameter.

D. Utility transmission and distribution lines, poles, towers, water towers, pumping stations, well pump house covers, private on-site wastewater treatment systems that comply with WI Stats. 383, and other utility structures that have no feasible alternative location outside of the minimum setback and that employ best management practices to infiltrate or otherwise control storm water runoff from the structure.

E. Walkways, stairways or rail systems that are necessary to provide pedestrian access to the shoreline and are a maximum of 5 feet in width.

F. Devices or systems used to treat runoff from impervious surfaces

G. EXISTING EXEMPT STRUCTURES. (s.59.692(1k)(a)2m, WI Stats.) Existing exempt structures may be maintained, repaired, replaced, restored, rebuilt and remodeled provided the activity does not expand the footprint and does not go beyond the three-dimensional building envelope of the existing structure. Counties may allow expansion of a structure beyond the existing footprint if the expansion is necessary to comply with applicable state or federal requirements.

Section 22.204.03 **Reduced Principal Structure Setbacks**

Existing development pattern means that principal structures exist within 250 feet of the proposed principal structure in both directions along the shoreline.

Where there is an existing development pattern, the shoreland setback for a proposed principal structure may be reduced to the average shoreland setback of the principal structure on each adjacent lot within 250 feet of the proposed principal

structure. The shoreland setback may not be reduced to less than 35 feet from the Ordinary High Water Mark of any navigable waters.

Section 22.204.04 **Floodplain**

Buildings and structures to be constructed or placed in a floodplain shall be required to comply with any applicable floodplain zoning ordinance. See Title 3 Floodplain for additional regulations.

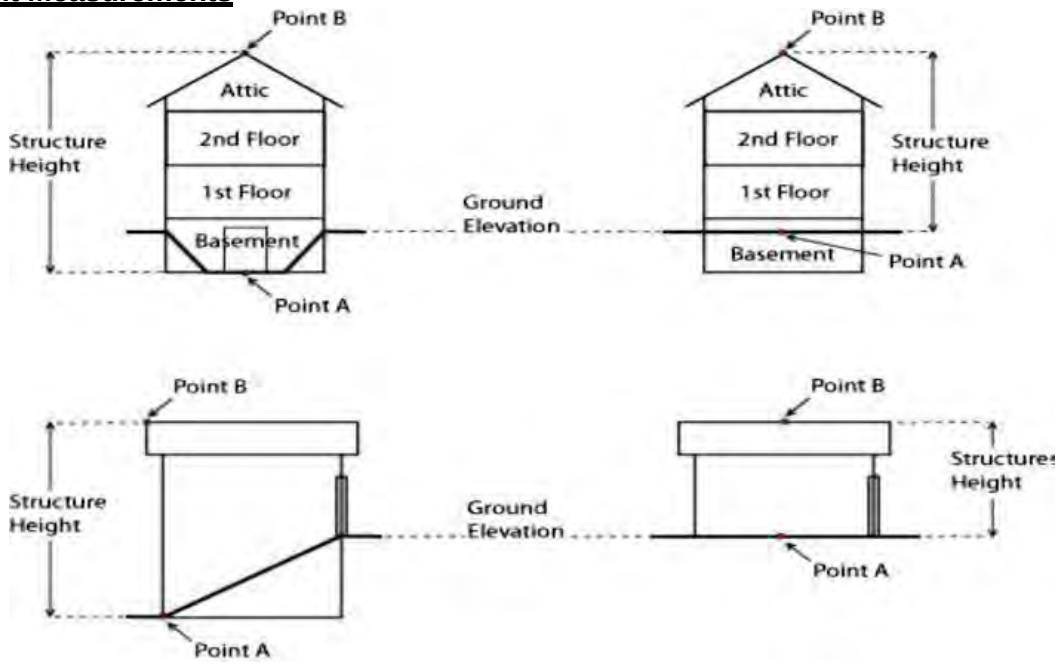
Section 22.204.05 **Height within 75 Feet of the Ordinary High Water Mark**

To protect and preserve wildlife habitat and natural scenic beauty, on or after February 1, 2010, a county may not permit any construction that result in a structure taller than 35 feet within 75 feet of the Ordinary High Water Mark of any navigable waters.

Section 22.204.06 **Method of Measurement**

Structure height is the measurement of the vertical line segment starting at the lowest point of any exposed wall and it's intersect with the ground (Point A in the following diagram) to a line horizontal to the highest point of a structure (Point B in the following diagram), unless specified under other sections of this code.

Figure 1. Height Measurements



Chapter 22.205 Shoreland Vegetation

Section 22.205.01 **Purpose**

To protect natural scenic beauty, fish and wildlife habitat, and water quality, a county shall regulate removal of vegetation in shoreland areas, consistent with the following: The County shall establish ordinance standards that consider sound forestry and soil conservation practices and the effect of vegetation removal on water quality, including soil erosion, and the flow of effluents, sediments and nutrients.

Section 22.205.02 **Establishment of a Vegetation Buffer when mitigation is required**

A. The owner(s) or their agent shall submit a plan that will be implemented by the owner of the property to establish, preserve, enhance and/or restore a vegetative buffer zone that covers at least 70% of the half of the shoreland setback area that is nearest to the water. The plan must be approved by the Marathon County Conservation, Planning, and Zoning Department.

B. For the plan to be approved:
   1. It must be binding on the owner, his/her heirs, successors, and assignees, and must authorize entrance onto the property by zoning staff for inspections to assure compliance with the plan.
   2. The agreement shall be written and recordable on forms provided by the Marathon County Conservation, Planning, and Zoning Department and recorded with the Register of Deeds. This also applies to preservation of an existing natural buffer.
   3. Failure to comply with the plan and/or subsequent removal of vegetation from the vegetative buffer zone will cause the Marathon County Conservation, Planning, and Zoning Department to revoke the Zoning Permit and order the removal of any structure(s) authorized by a Special Zoning Permit.

C. To be considered for approval a plan to establish, preserve, enhance and/or restore a vegetative buffer zone shall, at a minimum, contain:
   1. A binding agreement with the owner, his/her heirs, successors, and assignees, must authorize entrance onto the property by zoning staff for inspections to assure compliance with the plan. The agreement shall be written and recordable on forms provided by the Marathon County Conservation, Planning, and Zoning Department and recorded with the Register of Deeds. This also applies to preservation of an existing natural buffer;
   2. A description of how the landowner intends to carry out the project, including methods, materials and equipment to be used;
   3. A proposed schedule and sequence of work activities;
   4. The names, descriptions, and densities of native species to be utilized in the restoration work, including ground cover, shrubs, and tree layers;
   5. A description of the site before the project begins and a description of the proposed site once the buffer is completed; and
   6. The erosion control measures that will be used during construction of the permitted structure and vegetative buffer zone to control sediment, runoff and protect water quality.

D. To be considered for approval a plan to establish, preserve, enhance, and/or restore an existing a native vegetative buffer zone shall, at a minimum, contain:
   1. A description of how the homeowner intends to maintain the buffer including “no mow” plans;
   2. Supplemental plantings of native species which at a minimum will result in the following: in every 100 square feet there shall be:
      a. One tree (minimum 3 species);

b. Two shrubs (minimum 4 species);and
c. Seventy plugs of ground cover or approved seed mix; or
d. If plant density cannot be met, documentation by the applicant may be submitted for approval showing all of Section 22.101.04, purpose and intent, are being met or exceeded and approved by the Marathon County Conservation Planning and Zoning Department.

3. Removal of non-native species (e.g. purple loosestrife); and
4. The erosion control measures that will be used during construction of the permitted structure and any disturbance in the vegetative buffer zone due to planting or removal of non-natives to control sediment, runoff and protect water quality.
5. Plan must meet NRCS technical standard 643A and Wisconsin Biology Technical Note 1: Shoreland Habitat.

E. An applicant shall submit a vegetative buffer plan for approval prior to issuance of a zoning permit.

F. A shoreland grading (earth disturbance) permit may be required to implement a vegetative buffer zone plan.

G. Removal of the shoreland structure and/or impervious surfaces will not relinquish the recorded agreement or permit the removal, destruction, degradation, and/or reduction in size of the shoreland vegetative buffer.

Section 22.205.03 **Permitted Maintenance in Vegetation Buffer Zone**

A vegetation buffer zone is established to protect water quality, fish and wildlife habitat and natural scenic beauty, and to promote preservation and restoration of native vegetation. The county ordinance shall designate land that extends from the Ordinary High Water Mark to a minimum of 35 feet inland as a vegetative buffer zone and prohibit removal of vegetation in the vegetative buffer zone except as follows:

A. The county may allow routine maintenance of vegetation.

B. The county may allow removal of trees and shrubs in the vegetative buffer zone to create access and viewing corridors, provided that the combined width of all access and viewing corridors on a riparian lot or parcel may not exceed 35 percent of the shoreline.

C. The county may allow removal of trees and shrubs in the vegetative buffer zone on a parcel with 10 or more acres of forested land consistent with “generally accepted forestry management practices” as defined in NR 1.25(2)(b), and described in Department publication “Wisconsin Forest Management Guidelines” (publication FR-226), provided that vegetation removal be consistent with these practices.

D. The county may allow removal of vegetation within the vegetative buffer zone to manage exotic or invasive species, damaged vegetation, vegetation that must be removed to control disease, or vegetation creating an imminent safety hazard, provided that any vegetation removed be replaced by replanting in the same area as soon as practicable.

E. The county may authorize by permit additional vegetation management activities in the vegetative buffer zone. The permit issued shall require that all management activities comply with detailed plans approved by the county and designed to control erosion by limiting sedimentation into the waterbody, to improve the plant community by replanting in the same area, and to maintain and monitor the newly restored area. The permit also shall require an enforceable restriction to preserve the newly restored area.

Section 22.205.04 **Violation of Vegetation Buffer Zone and/or Filling, Grading or Excavating**

Any violation pursuant to Sections 22.205.03 or 22.206 shall be subject to establishment of the vegetation buffer as in Section 22.205.02 and subject to fines and forfeitures set in Section 22.403.

Chapter 22.206 Filling, Grading, and Excavating

Section 22.206.01 **Filling, Grading, and Excavating less than 10,000 square feet**

Filling, grading or excavating within 300 feet of a navigable water body shall be governed by the following:

A. Applicants shall submit a Shoreland Alteration Permit to the Zoning Administrator showing the following:
   1. Proposed and existing principal and accessory structures.
   2. Fencing.
   3. Paving.
   4. Landscaping.
   5. Screening.
   6. Private sewage system location.
   7. Driveways.
   8. Plans for management of surface waters and stormwater.
   9. North arrow.
   10. Measurement of setbacks for buildings and lot lines.
   11. Slopes and areas to be excavated, filled, or graded (Existing and Proposed).
   12. Signature of person responsible for the work.

B. The site plan must demonstrate that the site has sufficient and usable space for all the above referenced requirements in Section 22.206.01A. A permit shall be denied if the activity threatens to cause unreasonable erosion, sedimentation or disruption of fish or wildlife habitat or natural scenic beauty and any permits granted shall be conditioned with the standards outlined below which may be modified at the discretion of the Zoning Administrator.

C. Standards.
   1. Filling, grading, and excavating activities shall be performed using appropriate best management practices specified in the DNR construction site erosion control manual.
   2. The area of soil exposed and duration of exposure shall be minimized.
   3. Fill shall not be deposited in any floodplain without proper written authorization.
   4. Erosion control practices shall be instituted on all projects within 100 feet of the Ordinary High Water Mark of a lake or stream on slopes greater than 5% and on all projects within 25 feet of a property line. These practices shall remain until vegetation has stabilized the area and sufficiently to deter erosion.
   5. Maximum of a 3 foot horizontal to a 1 foot vertical finished grade.
   6. No spoils shall be placed within 35 feet of the ordinary high water mark.

7. No heavy equipment shall be permitted to operate on or below the Ordinary High Water Mark.
8. No fill or grading within 35 feet of the ordinary high water mark except for establishing of a vegetative buffer, riprap, or exempt structures.
9. Total area to be approved shall not exceed 10,000 square feet in size including the identified Private Onsite Wastewater Treatment System area.
10. Post construction runoff shall be considered and appropriately controlled to prevent erosion and sediment transport.
11. Upland slopes and drainage ways shall be stabilized according to accepted engineering practices.
12. The fill and grade permit shall become void if no activity has begun within six months of the date of issuance of the permit unless an extension is granted by the Zoning Administrator for another 6 month period. After one year, a new fill and grade permit is required. If the filling, grading, or excavating has not been completed within 2 years of the date of issuance, the permit shall be revoked by the Zoning Administrator, and written notice shall be given to the persons affected, with notice that further work, described on the revoked permit shall not proceed unless and until a new permit has been obtained.

Section 22.206.02 **Filling, Grading, and Excavating Equal to or Greater than 10,000 square feet**

A. Filling, grading or excavating equal to or greater than 10,000 square feet shall comply with the applicable and appropriate state standards.

Section 22.206.03 **Standards for Riprap placement on shoreline**

Filling, grading, and excavating for purposes of installing, repairing, or maintaining riprap shall comply with the applicable and appropriate state standards.

Chapter 22.207 Impervious Surface Standards

Section 22.207.01 **Purpose**

Establish impervious surface standards to protect water quality and fish and wildlife habitat, and to protect against pollution of navigable waters. County impervious surface standards shall apply to the construction, reconstruction, expansion, replacement or relocation of any impervious surface on a riparian lot or parcel and any non-riparian lot or parcel that is located entirely within 300 feet of the Ordinary High Water Mark of any navigable waterway.

Section 22.207.02 **Calculation of Percentage of Impervious Surface**

Percentage of impervious surface shall be calculated by dividing the surface area of the existing and proposed impervious surfaces on the portion of a lot or parcel that is within 300 feet of the Ordinary High Water Mark by the total surface area of that lot or parcel, and multiplied by 100. Impervious surfaces described in Section 22.207.06 shall be excluded from the calculation of impervious surface on the lot or parcel. If an outlot lies between the Ordinary High Water Mark and the developable lot or parcel and both are in common ownership, the lot or parcel and the

outlot shall be considered one lot or parcel for the purposes of calculating the percentage of impervious surface.

***Note**: NR 115.05(1)(e)1m. clarifies that if an outlot lies between the OHWM and the developed lot or parcel and both are in common ownership, then the lot or parcel should be considered one property for the purposes of calculating the percentage of impervious surfaces. If there is an outlot, parcel or road that is owned by some other entity, for example a hydroelectric facility or a town or county, then the county should determine what level of control the property owner has over that portion of the lot. Can the property owner place structures, such as shoreline protection, piers, stairs, boathouses etc. on that portion of the lot or does some other entity have control over development? If a property owner has no or little say over construction on that portion of the lot then impervious surfaces on that portion of the lot should be calculated separately.*

For properties that have been developed under WI Stats. 703, the impervious surface calculations shall apply to the entire property. The property is still under one legal description and the proposed expansion to a unit is not the only impervious surface calculated since the regulation states lot or parcel and not a unit. It will be important to remember also that mitigation applies to the property as a whole and not just to the portion of the frontage that might be in front of the unit impacted.

Section 22.207.03 **General Standards**

Except as allowed in Section 22.207.06 allow up to 15% impervious surface on the portion of a lot or parcel that is within 300 feet of the Ordinary High Water Mark.

Section 22.207.05 **Maximum Impervious Surface**

A property may exceed the impervious surface standard under Section 22.207.03 provided the following standards are met:

A. For properties where the general impervious surface standard applies under Section 22.207.03, a property owner may have more than 15% impervious surface but not more than 30% impervious surface on the portion of a lot or parcel that is within 300 feet of the Ordinary High Water Mark.

B. For properties that exceed the standard under Section 22.207.03 but do not exceed the maximum standard under Section 22.207.05A, a permit can be issued for development with a mitigation plan that meets the standards found in Section 22.209.02C.

Section 22.207.06 **Treated Impervious Surfaces**

Impervious surfaces that can be documented by the applicant to show they meet either of the following standards shall be excluded from the impervious surface calculations under Section 22.207.02.

A. The impervious surface is treated by devices such as stormwater ponds, constructed wetlands, infiltration basins, rain gardens, bio-swales or other engineered systems to standards.

B. The runoff from the impervious surface discharges to an internally drained pervious area that retains the runoff on or off the parcel and allows infiltration into the soil.

Section 22.207.07 **Existing Impervious Surfaces**

For existing impervious surfaces that were lawfully placed when constructed but that do not comply with the impervious surface standard in Section 22.207.03 or the maximum impervious surface standard in Section 22.207.05, the property owner may do any of the following:

A. Maintain and repair the existing impervious surfaces;

B. Replace existing impervious surfaces with similar surfaces within the existing building envelope;

C. Relocate or modify an existing impervious surface with similar or different impervious surface, provided that the relocation or modification does not result in an increase in the percentage of impervious surface that existed on the effective date of the County Shoreland ordinance, and the impervious surface meets the applicable setback requirements in NR 115.05 (1) (b).

Chapter 22.208 Non-Conforming Structures and Uses

Section 22.208.01 **Discontinued Non-conforming Use**

If a non-conforming use is discontinued for a period of 12 months, any future use of the building, structure or property shall conform to the ordinance.

Section 22.208.02 **Maintenance, Repair, Replacement or Vertical Expansion of Non-conforming Structures**

An existing structure that was lawfully placed when constructed but that does not comply with the required shoreland setback may be maintained, repaired, replaced, restored, rebuilt or remodeled if the activity does not expand the footprint of the non-conforming structure. Further, an existing structure that was lawfully placed when constructed but that does not comply with the required shoreland setback may be vertically expanded unless the vertical expansion would extend more than 35 feet above grade level. Counties may allow expansion of a structure beyond the existing footprint if the expansion is necessary to comply with applicable state or federal requirements.

Note: *WI Stats. 59.692(1k)(a)1.b. and d. prohibits counties from requiring any approval or imposing any fee or mitigation requirement for the activities specified in section 22.208.02. However, it is important to note that property owners may be required to obtain permits or approvals and counties may impose fees under ordinances adopted pursuant to other statutory requirements, such as floodplain zoning, general zoning, sanitary codes, building codes, or even stormwater erosion control.*

Note*: NR115.05(1)(b)1m lists structures that are exempt from the shoreland setback. These structures are considered conforming structures and are not considered non-conforming structures. Structures that were granted variances or illegally constructed structures are not considered non-conforming structures.*

Section 22.208.03 Lateral Expansion of Non-conforming Principal Structure Within the Setback.

An existing principal structure that was lawfully placed when constructed but that does not comply with the required building setback per Section 22.204.01 may be expanded laterally, provided that all of the following requirements are met:

A. The use of the structure has not been discontinued for a period of 12 months or more if a non-conforming use.

B. The existing principal structure is at least 35 feet from the Ordinary High Water Mark.

C. Lateral expansions are limited to a maximum of 200 square feet over the life of the structure. No portion of the expansion may be any closer to the Ordinary High Water Mark than the closest point of the existing principal structure.

D. The county shall issue a permit that requires a mitigation plan that shall be approved by the county and implemented by the property owner by the date specified in the permit. The mitigation plan shall meet the standards found in Section 22.209.02 A.

E. All other provisions of the shoreland ordinance shall be met.

Section 22.208.04 Expansion of a Non-conforming Principal Structure beyond Setback

An existing principal structure that was lawfully placed when constructed but that does not comply with the required building setback under Section 22.204.01, may be expanded horizontally, landward or vertically provided that the expanded area meets the building setback requirements per Section 22.204.01 and that all other provisions of the shoreland ordinance are met.

A mitigation plan is not required solely for expansion under this paragraph, but may be required per Section 22.207.

Section 22.208.05 Relocation of Non-conforming Principal Structure

An existing principal structure that was lawfully placed when constructed but that does not comply with the required building setback per Section 22.204.01 may be relocated on the property provided all of the following requirements are met:

A. The use of the structure has not been discontinued for a period of 12 months or more if a non-conforming use.

B. The existing principal structure is at least 35 feet from the Ordinary High Water Mark.

C. No portion of the relocated structure is located any closer to the Ordinary High Water Mark than the closest point of the existing principal structure.

D. The county determines that no other location is available on the property to build a principal structure of the same footprint to the structure proposed for relocation that will result in compliance with the shoreland setback requirement per Section 22.204.01.

E. The county shall issue a permit that requires a mitigation plan that shall be approved by the county and implemented by the property owner by the date specified in the permit. The mitigation plan shall meet the standards found in Sections 22.209 and 22.205.02 include enforceable obligations of the property owner to establish or maintain measures that the county determines are adequate to offset the impacts of the permitted expansion on water quality, near- shore aquatic habitat, upland wildlife habitat and natural scenic beauty. The

mitigation measures shall be proportional to the amount and impacts of the replaced or relocated structure being permitted. The obligations of the property owner under the mitigation plan shall be evidenced by an instrument recorded in the office of the County Register of Deeds.

F. All other provisions of the shoreland ordinance shall be met.

Section 22.208.06 **Maintenance, Repair, Replacement, or Vertical Expansion of Structures that were Authorized by Variance**

A structure of which any part has been authorized to be located within the shoreland setback area by a variance granted before July 13, 2015 may be maintained, repaired, replaced, restored, rebuilt, or remodeled if the activity does not expand the footprint of the authorized structure. Additionally, the structure may be vertically expanded unless the vertical expansion would extend more than 35 feet above grade level. Counties may allow expansion of a structure beyond the existing footprint if the expansion is necessary to comply with applicable state or federal requirements.

Section 22.208.07 **Maintenance, Repair or Replacement of a Structure in Violation**

Maintenance, repair, replacement of a building or structure in violation of a county shoreland zoning ordinance that, under 59.691(1t) may not be enforced. (No vertical or lateral expansion allowed for structures in violation).

A structure that was illegally constructed which is older than 10 years and not enforced under the shoreland ordinance may be maintained, repaired, replaced, restored, rebuilt or remodeled if the activity does not expand the footprint of the authorized structure.

Chapter 22.209 Mitigation

Section 22.209.01 **General Standards**

Mitigation is the balancing measures that are designed, implemented, and function to restore natural functions and values that are otherwise lost through development and human activities.

When the county issues a permit requiring mitigation under Sections 22.204.02B, 22.207.05, 22.208.03, 22.208.05, the property owner must submit a complete permit application that is reviewed and approved by the county. The application shall include the following:

A. A site plan that describes the proposed mitigation measures.

   1. The site plan shall be designed and implemented to restore natural functions lost through development and human activities.

   2. The mitigation measures shall be proportional in scope to the impacts on water quality, near-shore aquatic habitat, upland wildlife habitat and natural scenic beauty.

B. An implementation schedule and enforceable obligation on the property owner to establish and maintain the mitigation measures.

   1. The enforceable obligations shall be evidenced by an instrument recorded in the office of the Register of Deeds.

      Note: Sections 22.209 and 22.205.02 include enforceable obligations of the property.

Section 22.209.02 Mitigation Options

A. Lateral expansion of principal structure located between 35 and 75 feet from the OHWM.

The property owner shall choose and implement 3 of the following:

1. Accessory Structures
   Removal of all non-conforming accessory structures located in the shore setback area. This requirement shall not apply to a detached garage which is in good repair and located at least as far from the Ordinary High Water Mark as the principal structure on the property.
2. Vegetation Buffer
   Restoration of native primary vegetative buffer to county vegetative buffer standards per Section 22.205.02.
3. POWTS
   The associated private onsite wastewater treatment system must be evaluated and upgraded as appropriate in compliance with SPS 383. (Note: If the system was evaluated within 3 years and maintenance is up to date a new evaluation will not be required.)
4. Stormwater
   Stormwater management practices (e.g., rain gardens, water diversions of overland flow).

B. Replacement or Relocation of Principal Structure located between 35 and 75 feet from the OHWM and which is less than 35 feet in height.

The property owner shall choose and implement 3 of the following:

1. Accessory Structures
   Removal of all non-conforming accessory structures located in the shore setback area. This requirement shall not apply to a detached garage which is in good repair and located at least as far from the Ordinary High Water Mark as the principal structure on the property.
2. Vegetation Buffer
   Restoration of native primary vegetative buffer to county vegetative buffer standards per Section 22.205.02.
3. POWTS
   The associated private onsite waste treatment system must be evaluated and upgraded as appropriate in compliance with SPS 383, (Note: If the system was evaluated within 3 years and maintenance is up to date a new evaluation will not be required.)
4. Stormwater
   Stormwater management practices (e.g., rain gardens, water diversions of overland flow).

C. Impervious Surface Area greater than 15 percent and or less than or equal to 30 percent.

The property owner shall choose and implement 3 of the following:

1. Accessory Structures
   Removal of all non-conforming accessory structures located in the shore setback area. This requirement shall not apply to a detached garage which is in good repair and located at least as far from the Ordinary High Water Mark as the principal structure on the property.

2. Vegetation Buffer
   Restoration of native primary vegetative buffer to county vegetative buffer standards per Section 22.205.02.
3. POWTS
   The associated private onsite wastewater treatment system must be evaluated and upgraded as appropriate in compliance with SPS 383. (Note: If the system was evaluated within 3 years and maintenance is up to date a new evaluation will not be required.)
4. Stormwater
   Stormwater management practices (e.g., rain gardens, water diversions of overland flow).

Chapter 22.210 Demolition Permits

Section 22.210.01 **Purpose**

To orderly maintain records of the removal of conforming, and non-conforming structures within the shoreland area and to provide technical assistance to property owner(s).

Section 22.210.02 **Requirements**

A permit shall be issued for the removal of any structure within 100 feet of the Ordinary High Water Mark and/or within the mapped floodplain. The Department will supply the property owner with an application which needs to be completed.

Chapter 22.211 Relaxation of Shoreland Standards

Section 22.211.01 **Persons with Disabilities**

The Zoning Administrator may issue a special permit to relax the standards of this ordinance in order to provide reasonable accommodations as requested by provisions of federal and state law. Such relaxation shall be the minimum necessary to be consistent with federal guidelines for accommodation of persons with disabilities and shall, where practicable, be terminated when the facility is no longer used by the disabled person. A person applying for a permit for construction under this section shall establish the nature and extent of the disability and that the relaxation requested is the minimum necessary to provide reasonable use of the facility.

TITLE 3: FLOODPLAIN

Chapter 22.301 General

Section 22.301.01 Statutory Authorization

This ordinance is adopted pursuant to the authorization in WI Stats. 59.69, 59.692, and 59.694 for counties; and the requirements in s. 87.30, WI Stats.

Section 22.301.02 Finding of Fact

Uncontrolled development and use of the floodplains and rivers of this municipality would impair the public health, safety, convenience, general welfare and tax base.

Section 22.301.03 Statement of Purpose

This ordinance is intended to regulate floodplain development to:

A. Protect life, health, and property;
B. Minimize expenditures of public funds for flood control projects;
C. Minimize rescue and relief efforts undertaken at the expense of the taxpayers;
D. Minimize business interruptions and other economic disruptions;
E. Minimize damage to public facilities in the floodplain;
F. Minimize the occurrence of future flood blight areas in the floodplain;
G. Discourage the victimization of unwary land and homebuyers;
H. Prevent increases in flood heights that could increase flood damage and result in conflicts between property owners; and
I. Discourage development in a floodplain if there is any practicable alternative to locate the activity, use or structure outside of the floodplain.

Section 22.301.04 Areas to be Regulated

A. This ordinance regulates all areas that would be covered by the regional flood or base flood as shown on the Flood Insurance Rate Map (FIRM) or other maps approved by DNR. Base flood elevations are derived from the flood profiles in the Flood Insurance Study (FIS) and are shown as AE, A1-30, and AH Zones on the FIRM. Other regulatory zones are displayed as A and AO zones.
Regional Flood Elevations (RFE) may be derived from other studies. If more than one map or revision is referenced, the most restrictive information shall apply.

B. A property owner requesting an amendment to a floodplain determination shall submit a letter of map amendment (LOMA) and all supplementary documents. The department shall amend the floodplain determination and may not enforce Title 3 Floodplain, General Code of Ordinances, Marathon County Chapter 22, to the extent of the LOMA unless the LOMA is no longer valid.

Section 22.301.05 **Official Maps**

The boundaries of all floodplain districts are designated as A, AE, AH, AO or A1-30 on the maps based on the Flood Insurance Study (FIS) listed below. Any change to the base flood elevations (BFE) or any changes to the boundaries of the floodplain or floodway in the FIS or on the Flood Insurance Rate Map (FIRM) must be reviewed and approved by the DNR and FEMA through the Letter of Map Change process (Section 22.402) before it is effective. No changes to RFEs on non-FEMA maps shall be effective until approved by the DNR. These maps and revisions are on file in the office of the Marathon County Conservation, Planning and Zoning Department, Marathon County. If more than one map or revision is referenced, the most restrictive information shall apply.

Flood Insurance Rate Map Panels (Effective Date: 07/22/2010):
55073C0025F, 55073C0050F, 55073C0062F, 55073C0064F, 55073C0065F, 55073C0075F, 55073C0100F, 55073C0125F, 55073C0145F, 55073C0150F, 55073C0175F, 55073C0200F, 55073C0225F, 55073C0250F, 55073C0255F, 55073C0260F, 55073C0265F, 55073C0270F, 55073C0300F, 55073C0325F, 55073C0340F, 55073C0350F, 55073C0353F, 55073C0354F, 55073C0355F, 55073C0358F, 55073C0359F, 55073C0360F, 55073C0361F, 55073C0362F, 55073C0365F, 55073C0366F, 55073C0370F, 55073C0378F, 55073C0379F, 55073C0380F, 55073C0382F, 55073C0383F, 55073C0386F, 55073C0387F, 55073C0390F,55073C0391F, 55073C0393F, 55073C0401F, 55073C0402F,
55073C0410F, 55073C0412F, 55073C0416F, 55073C0417F, 55073C0419F,
55073C0430F, 55073C0433F, 55073C0435F, 55073C0437F, 55073C0438F, 55073C0439F, 55073C0441F, 55073C0465F, 55073C0475F, 55073C0500F, 55073C0505F, 55073C0510F, 55073C0525F, 55073C0550F, 55073C0555F, 55073C0560F, 55073C0565F, 55073C0570F, 55073C0600F, 55073C0625F, 55073C0629F, 55073C0630F, 55073C0631F, 55073C0632F, 55073C0633F, 55073C0636F, 55073C0637F, 55073C0638F, 55073C0639F, 55073C0641F, 55073C0645F, 55073C0663F, 55073C0664F, 55073C0670F, 55073C0700F, 55073C0720F, 55073C0725F, 55073C0740F, 55073C0750F, 55073C0775F, 55073C0780F, 55073C0785F, 55073C0795F, 55073C0825F, 55073C0850F, 55073C0875F, 55073C0880F, 55073C0885F, 55073C0890F, 55073C0895F, 55073C0901F, 55073C0902F, 55073C0905F, 55073C0925F, 55073C0950F, 55073C1000F

Flood Insurance Rate Map Panels (Effective Date: 09/28/2018):
55073C0384G, 55073C0392G, 55073C0394G, 55073C0403G, 55073C0411G, 55073C0413G, 55073CIND1B, 55073CIND2B

FIS: 55073CV000B
FIS Effective Date: 09/28/2018

Studies

United States Department of the Interior, Geological Survey Floodplain and Floodway Delineation for Regional Flood in Central Marathon County Wisconsin – July 13, 1973;

Dam Break Profile for the Rothschild Dam on the Wisconsin River by US Army Corps of Engineers December 12, 1991.

Winding Creek Dam Break Study by Short Elliot Hendrickson, Inc. April 1992.

Big Eau Pleine Reservoir Flood Plain Encroachment Study (Kawatski Property) July 31, 2014

Individual flood studies for specific projects where DNR and/or FEMA has not provided floodplain engineering, but where DNR has approved the individual study, are assigned a unique number, logged on to the Marathon County Geographic Information System computer, and are on file in the Department. These studies are used for the regional flood elevation for that specific site.

Changes to, or newly calculated flood elevations on, non-FEMA maps shall not be effective until approved by the DNR. Bridge studies under DNR/DOT Memorandum of Agreement are assumed to be approved by the DNR for use where no other flood study is available. These

maps and revisions are on file in the Marathon County Conservation, Planning and Zoning Department.

Section 22.301.06 **Establishment of Floodplain Zoning Districts**

The regional floodplain areas are divided into 3 districts as follows:

A. The Floodway District (FW) is the channel of a river or stream and those portions of the floodplain adjoining the channel required to carry the regional floodwaters and are contained within AE Zones as shown on the FIRM.

B. The Floodfringe District (FF) is that portion between the regional flood limits and the floodway and displayed as AE Zones on the FIRM.

C. The General Floodplain District (GFP) is those areas that may be covered by floodwater during the regional flood and does not have a BFE or floodway boundary determined, including A, AH and AO zones on the FIRM.

Section 22.301.07 **Locating Floodplain Boundaries**

Discrepancies between boundaries on the official floodplain zoning map and actual field conditions shall be resolved using the criteria in sub A. or B. below. If a significant difference exists, the map shall be amended according to Section 22.402. The Zoning Administrator can rely on a boundary derived from a profile elevation to grant or deny a land use permit, whether or not a map amendment is required. The Zoning Administrator shall be responsible for documenting actual pre-development field conditions and the basis upon which the district boundary was determined and for initiating any map amendments required under this section. Disputes between the Zoning Administrator and an applicant over the district boundary line shall be settled according to Section 22.401.09 and the criteria in A. and B. below**.** Where the flood profiles are based on established base flood elevations from a FIRM, FEMA must approve any map amendment or revision pursuant to Section 22.402.

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 for projects, the location of the boundary shall be determined by the map scale.

Section 22.301.08 **Removal of Lands from Floodplain**

A. Compliance with the provisions of this ordinance shall not be grounds for removing land from the floodplain unless it is filled at least two feet above the regional or base flood elevation, the fill is contiguous to land outside the floodplain, and the map is amended pursuant to Section 22.402.

B. At the request of a property owner who has obtained a Letter of Map Amendment (LOMA) from the Federal Emergency Management Agency under 44 CFR 70, the county, city, village, or town in which the property is located shall amend its floodplain determination as necessary to conform with the letter of map amendment. After amending its floodplain determination, the county may not enforce a floodplain zoning ordinance with respect to that specific property or area to the extent that the ordinance is contrary to the Letter of Map Amendment unless the LOMA it is no longer valid.

Section 22.301.09 **Compliance**

Any development or use within the areas regulated by this ordinance shall be in compliance with the terms of this ordinance, and other applicable local, state, and federal regulations.

Section 22.301.10 **Municipalities and State Agencies Regulated**

Unless specifically exempted by law, all cities, villages, towns, and counties are required to comply with this ordinance and obtain all necessary permits.

State agencies are required to comply if s. 13.48(13), WI Stats., applies.

The construction, reconstruction, maintenance and repair of state highways and bridges by the Wisconsin Department of Transportation is exempt when s. 30.2022, WI Stats., applies.

Section 22.301.11 **Abrogation and Greater Restrictions**

A. This ordinance supersedes all the provisions of any municipal zoning ordinance enacted under s 59.69, 59.692 or 59.694 which relate to floodplains. A more restrictive ordinance shall continue in full force and effect to the extent of the greater restrictions, but not otherwise.

B. This ordinance is not intended to repeal, abrogate or impair any existing deed restrictions, covenants or easements. If this ordinance imposes greater restrictions, the provisions of this ordinance shall prevail.

Section 22.301.12 **Interpretation**

In their interpretation and application, the provisions of this ordinance are the minimum requirements liberally construed in favor of the governing body and are not a limitation on or repeal of any other powers granted by the Wisconsin Statutes. If a provision of this ordinance, required by NR 116, is unclear, the provision shall be interpreted in light of the standards in effect on the date of the adoption of this ordinance or in effect on the date of the most recent text amendment to this ordinance.

Section 22.301.13 **Warning and Disclaimer of Liability**

The flood protection standards in this ordinance are based on engineering experience and research. Larger floods may occur or the flood height may be increased by man-made or natural causes. This ordinance does not imply or guarantee that non-floodplain areas or permitted floodplain uses will be free from flooding and flood damages. This ordinance does not create liability on the part of, or a cause of action against, the municipality or any officer or employee thereof for any flood damage that may result from reliance on this ordinance.

Section 22.301.14 **Severability**

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

Section 22.301.15 **Annexed Areas for Cities and Villages**

The Marathon County floodplain zoning provisions in effect on the date of annexation shall remain in effect and shall be enforced by the municipality for all annexed areas until the municipality adopts and enforces an ordinance which meets the requirements of NR 116, and 44 CFR 59-72, *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 elevation and the floodway location.

Section 22.302.01 General Standards Applicable to all Floodplain Districts

The community shall review all permit applications to determine whether proposed building sites will be reasonably safe from flooding. If a proposed building site is in a flood-prone area, all new construction and substantial improvements shall be designed and anchored to prevent flotation, collapse, or lateral movement of the structure resulting from hydrodynamic and hydrostatic loads; be constructed with flood-resistant materials; be constructed to minimize flood damages and to ensure that utility and mechanical equipment is designed and/or located so as to prevent water from entering or accumulating within the equipment during conditions of flooding.

Subdivisions shall be reviewed for compliance with the above standards. All subdivision proposals (including manufactured home parks) shall include regional flood elevation and floodway data for any development that meets the subdivision definition of this ordinance and all other requirements in Section 22.401.02. Adequate drainage shall be provided to reduce exposure to flood hazards and all public utilities and facilities, such as sewer, gas, electrical, and water systems are located and constructed to minimize or eliminate flood damages.

Section 22.302.02 Hydraulic and Hydrologic Analyses

A. No floodplain development shall:

   1. Obstruct flow, defined as development which blocks the conveyance of floodwaters by itself or with other development, causing any increase in the regional flood height; or

   2. Cause any increase in the regional flood height due to floodplain storage area lost.

B. The Zoning Administrator shall deny permits if it is determined the proposed development will obstruct flow or cause any increase in the regional flood height, based on the officially adopted FIRM or other adopted map, unless the provisions of Section 22.402 are met.

Section 22.302.03 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 standards of Section 22.302.02 must be met and 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 and pursuant to Section 22.402, the community shall apply for a Letter of Map Revision (LOMR) from FEMA. Any such alterations must be reviewed and approved by FEMA and the DNR through the LOMC process.

Section 22.302.04 Chapter 30, 31, WI. Stats., Development

Development which requires a permit from the Department, WI Stats. 30 and 31, such as docks, piers, wharves, bridges, culverts, dams and navigational aids, may be allowed if the necessary permits are obtained and amendments to the floodplain zoning ordinance are made according to Section 22.402.

Section 22.302.05 **Public or Private Campgrounds**

Public or private campgrounds shall have a low flood damage potential and shall meet the following provisions:

A. The campground is approved by the Department of Health Services;

B. A land use permit for the campground is issued by the Zoning Administrator;

C. The character of the river system and the campground elevation are such that a 72-hour warning of an impending flood can be given to all campground occupants;

D. There is an adequate flood warning procedure for the campground that offers the minimum notice required under this section to all persons in the campground. This procedure shall include a written agreement between the campground owner, the municipal emergency government coordinator and the chief law enforcement official which specifies the flood elevation at which evacuation shall occur, personnel responsible for monitoring flood elevations, types of warning systems to be used and the procedures for notifying at-risk parties, and the methods and personnel responsible for conducting the evacuation;

E. This agreement shall be for no more than one calendar year, at which time the agreement shall be reviewed and updated by the officials identified in sub D., to remain in compliance with all applicable regulations, including those of the state Department of Safety and Professional Services and all other applicable regulations;

F. Only camping units that are fully licensed, if required, and ready for highway use are allowed;

G. The camping units shall not occupy any site in the campground for more than 180 consecutive days, at which time the camping unit must be removed from the floodplain for a minimum of 24 hours;

H. All camping units that remain on site for more than 30 days shall be issued a limited authorization by the campground operator, a written copy of which is kept on file at the campground. Such authorization shall allow placement of a camping unit for a period not to exceed 180 days and shall ensure compliance with all the provisions of this section;

I. The municipality shall monitor the limited authorizations issued by the campground operator to assure compliance with the terms of this section;

J. All camping units that remain in place for more than 180 consecutive days must meet the applicable requirements in either Sections 22.303, 22.304 or 22.306 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; and

L. All service facilities including, but not limited to, refuse collection, electrical service, gas lines, propane tanks, sewage systems and wells shall be properly anchored and placed at, or floodproofed to, the flood protection elevation.

Chapter 22.303 Floodway District (FW)

Section 22.303.01 **Applicability**

This section applies to all floodway areas on the floodplain zoning maps and those identified pursuant to Sections 22.306.04.

Section 22.303.02 **Permitted Uses**

The following open space uses are allowed in the Floodway District and the floodway areas of the General Floodplain District, if:

A. They are not prohibited by any other ordinance;

B. They meet the standards in Sections 22.303.03 and 22.303.04; and

C. All permits or certificates have been issued according to Section 22.401.02.

1. Agricultural uses, such as: farming, outdoor plant nurseries, horticulture, viticulture and wild crop harvesting.
2. Nonstructural industrial and commercial uses, such as loading areas, parking areas and airport landing strips.
3. Nonstructural recreational uses, such as golf courses, tennis courts, archery ranges, picnic grounds, boat ramps, swimming areas, parks, wildlife and nature preserves, game farms, fish hatcheries, shooting, trap and skeet activities, hunting and fishing areas and hiking and horseback riding trails, subject to the fill limitations of Section 22.303.03 D.
4. Uses or structures accessory to open space uses, or classified as historic structures that comply with Sections 22.303.03 and 22.303.04
5. Extraction of sand, gravel or other materials that comply with Section 22.303.03 D.
6. Functionally water-dependent uses, such as docks, piers or wharves, dams, flowage areas, culverts, navigational aids and river crossings of transmission lines, and pipelines that comply with WI Stats. 30 and 31.
7. Public utilities, streets, and bridges that comply with Section 22.303.03C.

Section 22.303.03 **Standards for Developments**

A. General

1. Any development in the floodway shall comply with Section 22.302.01 and have a low flood damage potential.
2. Applicants shall provide the following data to determine the effects of the proposal according to Sections 22.302.02 and 22.401.03.
   a. A cross-section elevation view of the proposal, perpendicular to the watercourse, showing if the proposed development will obstruct flow; or
   b. 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 cause any increase in the flood elevations upstream or downstream, based on the data submitted for sub. 2. above.

B. Structures

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

1. Not designed for human habitation, does not have a high flood damage potential and is constructed to minimize flood damage;
2. Shall have a minimum of two openings on different walls having a total net area not less than one square inch for every square foot of enclosed area, and the bottom of all such openings being no higher than one foot above grade. The openings shall be equipped with screens, louvers, or other coverings or devices provided that they permit the automatic entry and exit of floodwaters;
3. Must be anchored to resist flotation, collapse, and lateral movement;
4. Mechanical and utility equipment must be elevated or flood proofed to or above the flood protection elevation; and
5. Must not obstruct flow of flood waters or cause any increase in flood levels during the occurrence of the regional flood.

C. Public Utilities, Streets And Bridges

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

1. Adequate floodproofing measures are provided to the flood protection elevation; and
2. Construction meets the development standards of Section 22.302.02.

D. Fills Or Deposition Of Materials

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

1. The requirements of Section 22.302.02 are met;
2. No material is deposited in navigable waters unless a permit is issued by the Department pursuant to WI Stats. 30, 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 all other requirements have been met;
3. The fill or other materials will be protected against erosion by riprap, vegetative cover, sheet piling or bulkheading; and
4. The fill is not classified as a solid or hazardous material.

Section 22.303.04 **Prohibited Uses**

All uses not listed as permitted uses in Section 22.303.02 are prohibited, including the following uses:

A. Habitable structures, structures with high flood damage potential, or those not associated with permanent open-space uses;

B. Storing materials that are buoyant, flammable, explosive, injurious to property, water quality, or human, animal, plant, fish or other aquatic life;

C. Uses not in harmony with, or detrimental to, uses permitted in the adjoining districts;

D. Any private or public sewage systems, except portable latrines that are removed prior to flooding and systems associated with recreational areas and Department approved campgrounds that meet the applicable provisions of local ordinances and SPS 383, Wis. Adm. Code;

E. Any public or private wells which are used to obtain potable water, except those for recreational areas that meet the requirements of local ordinances and NR 811 and NR 812, Wis. Adm. Code;

F. Any solid or hazardous waste disposal sites;

G. Any wastewater treatment ponds or facilities, except those permitted under NR 110.15(3)(b), Wis. Adm. Code; and

H. Any sanitary sewer or water supply lines, except those to service existing or proposed development located outside the floodway which complies with the regulations for the floodplain area occupied.

Section 22.304.01 **Applicability**

This section applies to all floodfringe areas shown on the floodplain zoning maps and those identified pursuant to Section 22.306.04.

Section 22.304.02 **Permitted Uses**

Any structure, land use, or development is allowed in the Floodfringe District if the standards in Section 22.304.03 are met, the use is not prohibited by this or any other ordinance or regulation and all permits or certificates specified in Section 22.401 have been issued.

Section 22.304.03 **Standards for Development in the Floodfringe District**

Section 22.302.02 shall apply in addition to the following requirements according to the use requested. Any existing structure in the floodfringe must meet the requirements of Section 22.307 *Non-conforming Uses:*

A. Residential Uses

Any structure, including a manufactured home, which is to be newly constructed or moved into the floodfringe, shall meet or exceed the following standards. Any existing structure in the floodfringe must meet the requirements of Section 22.307 *Non-conforming Uses.*

1. The elevation of the lowest floor shall be at or above the flood protection elevation on fill unless the requirements of Section 22.304.03 A.2. can be met. The fill shall be one foot or more above the regional flood elevation extending at least 15 feet beyond the limits of the structure.
2. The basement or crawlway floor may be placed at the regional flood elevation if it is dry floodproofed to the flood protection elevation. No basement or crawlway floor is allowed below the regional flood elevation.
3. Contiguous dryland access shall be provided from a structure to land outside of the floodplain, except as provided in sub. 4.
4. In developments where existing street or sewer line elevations make compliance with sub. 3. impractical, the municipality may permit new development and substantial improvements where roads are below the regional flood elevation, if:
   a. The municipality has written assurance from police, fire and emergency services that rescue and relief will be provided to the structure(s) by wheeled vehicles during a regional flood event; or
   b. The municipality has a DNR approved emergency evacuation plan.

B. Accessory Structures or Uses

Accessory structures shall be constructed on fill with the lowest floor at or above the regional flood elevation.

C. Commercial Uses

Any commercial structure which is erected, altered or moved into the floodfringe shall meet the requirements of Section 22.304.03A. Subject to the requirements of Section 22.304.03E. storage yards, surface parking lots and other such uses may be placed at lower elevations if an adequate warning system exists to protect life and property.

D. Manufacturing and Industrial Uses

Any manufacturing or industrial structure which is erected, altered or moved into the floodfringe shall have the lowest floor elevated to or above the flood protection elevation or meet the floodproofing standards in Section 22.401.12. Subject to the requirements of Section 22.304.03 E., storage yards, surface parking lots and other such uses may be placed at lower elevations if an adequate warning system exists to protect life and property.

E. Storage of Materials

Materials that are buoyant, flammable, explosive, or injurious to property, water quality or human, animal, plant, fish or aquatic life shall be stored at or above the flood protection elevation or floodproofed in compliance with Section 22.401.12. Adequate measures shall be taken to ensure that such materials will not enter the water body during flooding.

F. Public Utilities, Streets and Bridges

All utilities, streets and bridges shall be designed to be compatible with comprehensive floodplain development plans; and

1. When failure of public utilities, streets, and bridges would endanger public health or safety, or where such facilities are deemed essential, construction or repair of such facilities shall only be permitted if they are designed to comply with Section 22.401.12.

2. Minor roads or non-essential utilities may be constructed at lower elevations if they are designed to withstand flood forces to the regional flood elevation.

G. Sewage Systems

All sewage disposal systems shall be designed to minimize or eliminate infiltration of flood water into the system, pursuant to Section 22.401.12 C., to the flood protection elevation and meet the provisions of all local ordinances and SPS 383.

H. Wells

All wells shall be designed to minimize or eliminate infiltration of flood waters into the system, pursuant to Section 22.401.12 C., to the flood protection elevation and shall meet the provisions of NR 811 and NR 812.

I. Solid Waste Disposal Sites

Disposal of solid or hazardous waste is prohibited in floodfringe areas.

J. Deposition of Materials

Any deposited material must meet all the provisions of this ordinance.

K. Manufactured Homes

1. Owners or operators of all manufactured home parks and subdivisions shall provide adequate surface drainage to minimize flood damage, and prepare secure approval and file an evacuation plan, indicating vehicular access and escape routes, with local emergency management authorities.

2. In existing manufactured home parks, all new homes, replacement homes on existing pads, and substantially improved homes shall:

a. Have the lowest floor elevated to the flood protection elevation; and

b. Be anchored so they do not float, collapse or move laterally during a flood.

3. Outside of existing manufactured home parks, including new manufactured home parks and all single units outside of existing parks, all new, replacement and substantially improved manufactured homes shall meet the residential development standards for the floodfringe in Section 22.304.03 A.

L. Mobile Recreational Vehicles

All mobile recreational vehicles that are on site for 180 consecutive days or more or are not fully licensed and ready for highway use shall meet the elevation and anchoring requirements in Section 22.304.03 K.2. and 3. A mobile recreational vehicle is ready for highway use if it is on its wheels or jacking system, is attached to the site only by quick-disconnect utilities and security devices and has no permanently attached additions.

Chapter 22.305 Other Floodplain Districts

Other floodplain districts may be established under the ordinance and reflected on the floodplain zoning map. These districts may include general floodplain districts and flood storage districts.

Chapter 22.306 General Floodplain District (GFP)

Section 22.306.01 **Applicability**

The provisions for this district shall apply to all floodplains mapped as A, AO or AH zones.

Section 22.306.02 **Permitted Uses**

Pursuant to Section 22.306.04, it shall be determined whether the proposed use is located within the floodway or floodfringe.

Those uses permitted in the Floodway (Section 22.303.02) and Floodfringe (Section 22.304.02) Districts are allowed within the General Floodplain District, according to the standards of Section 22.306.03, provided that all permits or certificates required under

Section 22.306.03 **Standards for Development**

Section 22.303 applies to floodway areas, Section 22.304 applies to floodfringe areas. The rest of this ordinance applies to either district.

A. In AO/AH Zones the structure's lowest floor must meet one of the conditions listed below whichever is higher:

1. At or above the flood protection elevation; or
2. Two (2) feet above the highest adjacent grade around the structure; or
3. The depth as shown on the FIRM.

B. In AO/AH zones, provide plans showing adequate drainage paths to guide floodwaters around structures.

Section 22.306.04 **Determining Floodway and Floodfringe Limits**

Upon receiving an application for development within the general floodplain district, the Zoning Administrator shall:

A. Require the applicant to submit two copies of an aerial photograph or a plan which shows the proposed development with respect to the general floodplain district limits, stream channel, and existing floodplain developments, along with a legal description of the property, fill limits and elevations, building floor elevations and flood proofing measures; and the flood zone as shown on the FIRM.

B. Require the applicant to furnish any of the following information deemed necessary by the Department to evaluate the effects of the proposal upon flood height and flood flows, regional flood elevation and to determine floodway boundaries.

   1. A Hydrologic and Hydraulic Study as specified in Section 22.401.03.

   2. Plan (surface view) showing elevations or contours of the ground; pertinent structure, fill or storage elevations; size, location and layout of all proposed and existing structures on the site; location and elevations of streets, water supply, and sanitary facilities; soil types and other pertinent information.

   3. Specifications for building construction and materials, floodproofing, filling, dredging, channel improvement, storage, water supply and sanitary facilities.

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

Section 22.307.01 **General**

APPLICABILITY

A. If these standards conform with WI Stats. 87.30, NR116 Administrative Code and Code of Federal Regulations regarding the National Flood Insurance Program they shall apply to all modifications or additions to any non-conforming use or structure and to the use of any structure or premises which was lawful before the passage of this ordinance or any amendment thereto.

B. The existing lawful use of a structure or its accessory use which is not in conformity with the provisions of this ordinance may continue subject to the following conditions:

1. No modifications or additions to a non-conforming 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. Maintenance is not considered a modification; this includes painting, decorating, paneling and other nonstructural components and the maintenance, repair or replacement of existing private sewage or water supply systems or connections to public utilities. Any costs associated with the repair of a damaged structure are not considered maintenance.

   The construction of a deck that does not exceed 200 square feet and that is adjacent to the exterior wall of a principal structure is not an extension, modification or addition. The roof of the structure may extend over a portion of the deck in order to provide safe ingress and egress to the principal structure.

2. If a non-conforming use or the use of a non-conforming structure is discontinued for 12 consecutive months, it is no longer permitted and any future use of the property, and any structure or building thereon, shall conform to the applicable requirements of this ordinance.

3. The municipality shall keep a record which lists all non-conforming uses and non-conforming structures, their present equalized assessed value, the cost of all modifications or additions which have been permitted, and the percentage of the structure's total current value those modifications represent.

4. No modification or addition to any non-conforming structure or any structure with a non-conforming 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 Section 22.304.03 A. The costs of elevating the lowest floor of a non-conforming building or a building with a non- conforming use to the flood protection elevation are excluded from the 50% provisions of this paragraph.

5. No maintenance to any non-conforming structure or any structure with a non-conforming use, the cost of which 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 Section 22.304.03 A.

6. If on a per event basis the total value of the work being done under 4. and 5. equals or exceeds 50% of the present equalized assessed value the work shall not be permitted unless the entire structure is permanently changed to a conforming structure with a conforming use in compliance with the applicable requirements of this ordinance. Contiguous dry land access must be provided for residential and commercial uses in compliance with Section. 22.304.03 A.

7. Except as provided in sub. 8., if any non-conforming structure or any structure with a non-conforming use is destroyed or is substantially damaged, it cannot be replaced, reconstructed or rebuilt unless the use and the structure meet the current ordinance requirements. A structure is considered substantially damaged if the total cost to restore the structure to its pre-damaged condition equals or exceeds 50% of the structure's present equalized assessed value.

8. For non-conforming buildings that are substantially damaged or destroyed by a non-flood disaster, the repair or reconstruction of any such non-conforming building shall be permitted in order to restore it to the size and use in effect prior to the damage event, provided that the minimum federal code requirements below are met and all required permits have been granted prior to the start of construction.

   a. Residential Structures

      1) Shall have the lowest floor, including basement, elevated to or above the base flood elevation using fill, pilings, columns, posts or perimeter walls. Perimeter walls must meet the requirements of Section. 22.401.12 B.

      2) Shall be anchored to prevent flotation, collapse, or lateral movement of the structure resulting from hydrodynamic and hydrostatic loads, including the effects of buoyancy and shall be constructed with methods and materials resistant to flood damage.

      3) Shall be constructed with electrical, heating, ventilation, plumbing and air conditioning equipment and other service facilities that are designed and/or elevated so as to prevent water from entering or accumulating within the components during conditions of flooding.

      4) In A Zones, obtain, review and utilize any flood data available from a federal, state or other source.

      5) In AO Zones with no elevations specified, shall have the lowest floor, including basement, meet the standards in Section 22.306.03.

      6) In AO Zones, shall have adequate drainage paths around structures on slopes to guide floodwaters around and away from the structure.

b. Nonresidential Structures

1) Shall meet the requirements of Section. 22.307.01B8a.1), 2), 5), and 6).

2) Shall either have the lowest floor, including basement, elevated to or above the regional flood elevation; or, together with attendant utility and sanitary facilities, shall meet the standards in Section 22.401.12 A. or B.

3) In AO Zones with no elevations specified, shall have the lowest floor, including basement, meet the standards in Section 22.306.03.

C. A non-conforming historic structure may be altered if the alteration will not preclude the structure's continued designation as a historic structure, the alteration will comply with Section 22.303.03A., flood resistant materials are used, and construction practices and floodproofing methods that comply with Section 22.401.12 are used. Repair or rehabilitation of historic structures shall be exempt from the development standards of Section 22.307.01 B.8.a. if it is determined that the proposed repair or rehabilitation will not preclude the structure's continued designation as a historic structure and is the minimum necessary to preserve the historic character and design of the structure.

Section 22.308.01 **General**

A. No modification or addition shall be allowed to any non-conforming structure or any structure with a non-conforming use in the Floodway District, unless such modification or addition:

1. Has been granted a permit or variance which meets all ordinance requirements;
2. Meets the requirements of Section 22.307.01;
3. Shall not increase the obstruction to flood flows or regional flood height;
4. Any addition to the existing structure shall be floodproofed pursuant to Section 22.401.12 by means other than the use of fill, to the flood protection elevation; and
5. If any part of the foundation below the flood protection elevation is enclosed, the following standards shall apply:
   a. The enclosed area shall be designed by a registered architect or engineer to allow for the efficient entry and exit of flood waters without human intervention. A minimum of two openings must be provided with a minimum net area of at least one square inch for every one square foot of the enclosed area. The lowest part of the opening can be no more than 12 inches above the adjacent grade;
   b. The parts of the foundation located below the flood protection elevation must be constructed of flood-resistant materials;
   c. Mechanical and utility equipment must be elevated or floodproofed to or above the flood protection elevation; and
   d. The use must be limited to parking, building access or limited storage.

B. No new on-site sewage disposal system, or addition to an existing on-site sewage disposal system, except where an addition has been ordered by a government agency to correct a hazard to public health, shall be allowed in the Floodway District. Any replacement, repair or maintenance of an existing on-site sewage disposal system in a floodway area shall meet the applicable requirements of all municipal ordinances, Section 22.401.12C and SPS 383.

C. No new well or modification to an existing well used to obtain potable water shall be allowed in the Floodway District. Any replacement, repair or maintenance of an existing well in the Floodway District shall meet the applicable requirements of all municipal ordinances, Section 22.401.12C and NR 811 and NR 812.

Section 22.309.01 **General**

A. No modification or addition shall be allowed to any non-conforming structure or any structure with a non-conforming use unless such modification or addition has been granted a permit or variance by the municipality, and meets the requirements of Section 22.304.03 except where Section 22.309.01B. is applicable.

B. Where compliance with the provisions of sub. A. would result in unnecessary hardship and only where the structure will not be used for human habitation or be associated with a high flood damage potential, the Board of Adjustment/Appeals, using the procedures established in Section 22.401.07, may grant a variance from those provisions of sub. A. for modifications or additions using the criteria listed below. Modifications or additions which are protected to elevations lower than the flood protection elevation may be permitted if:

1. No floor is allowed below the regional flood elevation for residential or commercial structures;
2. Human lives are not endangered;
3. Public facilities, such as water or sewer, shall not be installed;
4. Flood depths shall not exceed two feet;
5. Flood velocities shall not exceed two feet per second; and
6. The structure shall not be used for storage of materials as described in Section 22.304.03E.

C. 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, Section 22.401.12 C. and SPS 383.

D. All new wells, or addition to, replacement, repair or maintenance of a well shall meet the applicable provisions of this ordinance, Section 22.401.12C and NR 811 and NR 812.

TITLE 4: ADMINISTRATION

Chapter 22.401 Administrative Organization and Responsibilities

Section 22.401.01 **Zoning Administrator**

The Zoning Administrator of the county shall be the zoning official for the purpose of effecting proper enforcement of this Zoning Ordinance, under the supervision of the Director of Conservation, Planning and Zoning.

Duties and Powers
The Zoning Administrator is authorized to administer this ordinance, shall adhere to the procedures as set forth under Chapter 17, and shall have the following duties and powers:

A. Advise applicants of the ordinance provisions, assist in preparing permit applications and appeals, and assure that the regional flood elevation for the proposed development is shown on all permit applications.

B. Issue permits and inspect properties for compliance with provisions of this ordinance and issue certificates of compliance where appropriate.

C. Inspect and assess all damaged floodplain structures to determine if substantial damage to the structures has occurred.

D. Keep records of all official actions such as:
   1. All permits issued, inspections made, and work approved.
   2. Documentation of certified lowest floor and regional flood elevations.
   3. Floodproofing certificates.
   4. Water surface profiles, floodplain zoning maps and ordinances, non-conforming uses and structures including changes, appeals, variances and amendments.
   5. All substantial damage assessment reports for floodplain structures.
   6. List of non-conforming structures and uses.

E. Submit copies of the following items to the appropriate Department office:
   1. Written notice to the appropriate office of the Department at least 10 days prior to any hearing on a proposed variance, special exception or conditional use permit, appeal for a map or text interpretation, map or text amendment, and copies of all proposed land divisions submitted to the county for review
   2. Within 10 days of the decision, a copy of any decisions on variances, appeals for map or text interpretations, and map or text amendments.
   3. Copies of case-by-case analyses and other required information including an annual summary of floodplain zoning actions taken.
   4. Copies of substantial damage assessments performed and all related correspondence concerning the assessments.

F. Investigate, prepare reports, and report violations of this ordinance to the municipal zoning agency and attorney for prosecution. Copies of the reports shall also be sent to the appropriate Department office.

G. Submit copies of amendments and biennial reports to the FEMA Regional office.

Section 22.401.02 **Zoning Permit**

A zoning permit shall be obtained before any new development; repair, modification or addition to an existing structure; or change in the use of a building or structure, including sewer and water facilities, may be initiated. Application to the Zoning Administrator shall include:

A. General Information
   1. Name and address of the applicant, property owner and contractor; and
   2. Legal description, proposed use, and whether it is new construction or a modification.

B. Site Development Plan
   A site plan drawn to scale shall be submitted with the permit application form and shall contain:
   1. Location, dimensions, area and elevation of the lot;
   2. Location of the Ordinary High Water Mark of any abutting navigable waterways;
   3. Location of any structures with distances measured from the lot lines, street center lines and Ordinary High Water Mark;
   4. Location of any existing or proposed on-site sewage systems or private water supply systems;
   5. Location and elevations of earth disturbances
   6. Location and elevation of existing or future access roads;
   7. Location of floodplain and floodway limits as determined from the official floodplain zoning maps;
   8. The elevation of the lowest floor of proposed buildings and any fill using the vertical datum from the adopted study – either National Geodetic Vertical Datum (NGVD) or North American Vertical Datum (NAVD);
   9. Data sufficient to determine the regional flood elevation in NGVD or NAVD at the location of the development and to determine whether or not the requirements of Sections 22.303 or 22.304 are met; and
   10. Data to determine if the proposed development will cause an obstruction to flow or an increase in regional flood height or discharge according to Section 22.302.02. This may include any of the information noted in Section 22.303.03 A.

Section 22.401.03 **Review And Issuance Of Permit**

Permits shall be reviewed and acted upon by the Zoning Administrator under the following conditions:

A. Within 20 working days after receipt of the completed application, provided that payment of all applicable fees have been made. The Zoning Administrator shall issue a zoning permit if the application and information obtained through field inspections complies with all applicable regulations. If denied, the Zoning Administrator shall give written notice of denial and state reasons for denial including sections of the Zoning Ordinance that the applicant does not comply with.

B. Upon approval of a variance or appeal by the Board of Adjustment as set forth in Section 22.401.10.

C. Once the Board of Adjustment has authorized issuance of a zoning permit, the Zoning Administrator shall issue the zoning permit within 20 working days of such authorization except as otherwise provided in this section.

D. The Zoning Administrator shall issue a placard to be posted in a conspicuous place on the property for which a permit is issued, attesting to the fact that the activity is in conformance with the provisions of this Ordinance.

Section 22.401.04 **Expiration Of Permits**

A. **Commencement**. The permit shall become void if no construction has begun or use changed within six months of the date of issuance of the permit unless an extension is granted by the Zoning Administrator for another six month period. After one year, a new zoning permit is required.

B. **Completion**. If the project in the zoning permit application has not been completed within two years of the date of issuance, the permit shall be revoked by the Zoning Administrator, and written notice shall be given to the persons affected, with notice that further work described on the revoked zoning permit shall not proceed unless and until a new zoning permit has been obtained.

C. **Expiration.** All permits issued under the authority of this ordinance shall expire no more than 180 days after issuance. The permit may be extended for a maximum of 180 days for good and sufficient cause

Section 22.401.05 Hydraulic and Hydrologic Studies to Analyze Development

All hydraulic and hydrologic studies shall be completed under the direct supervision of a professional engineer registered in the State. The study contractor shall be responsible for the technical adequacy of the study. All studies shall be reviewed and approved by the Department.

A. Zone A floodplains:

1. Hydrology
   The appropriate method shall be based on the standards in NR 116.07(3), *Hydrologic Analysis: Determination of Regional Flood Discharge.*

2. Hydraulic modeling
   The regional flood elevation shall be based on the standards in NR 116.07(4), *Hydraulic Analysis: Determination of Regional Flood Elevation* and the following:

   a. Determination of the required limits of the hydraulic model shall be based on detailed study information for downstream structures (dam, bridge, culvert) to determine adequate starting WSEL for the study.

   b. Channel sections must be surveyed.

   c. Minimum four foot contour data in the overbanks shall be used for the development of cross section overbank and floodplain mapping.

   d. A maximum distance of 500 feet between cross sections is allowed in developed areas with additional intermediate cross sections required at transitions in channel bottom slope including a survey of the channel at each location.

   e. The most current version of HEC_RAS shall be used.

   f. A survey of bridge and culvert openings and the top of road is required at each structure.

   g. Additional cross sections are required at the downstream and upstream limits of the proposed development and any necessary intermediate locations based on the length of the reach if greater than 500 feet.

   h. Standard accepted engineering practices shall be used when assigning parameters for the base model such as flow, Manning's N values, expansion and contraction coefficients or effective flow limits. The base model shall be calibrated to past flooding data such as high water marks to determine the reasonableness of the model results. If no historical data is available, adequate justification shall be provided for any parameters outside standard accepted engineering practices.

   i. The model must extend past the upstream limit of the difference in the existing and proposed flood profiles in order to provide a tie-in to existing studies. The height difference between the proposed flood profile and the existing study profiles shall be no more than 0.00 feet.

3. Mapping
   A work map of the reach studied shall be provided, showing all cross section locations, floodway/floodplain limits based on best available topographic data, geographic limits of the proposed development and whether the proposed development is located in the floodway.
   a. If the proposed development is located outside of the floodway, then it is determined to have no impact on the regional flood elevation.
   b. If any part of the proposed development is in the floodway, it must be added to the base model to show the difference between existing and proposed conditions. The study must ensure that all coefficients remain the same as in the existing model, unless adequate justification based on standard accepted engineering practices is provided.

B. Zone AE Floodplains

1. Hydrology
   If the proposed hydrology will change the existing study, the appropriate method to be used shall be based on NR 116.07(3), Wis. Admin. Code, *Hydrologic Analysis: Determination of Regional Flood Discharge.*
2. Hydraulic model
   The regional flood elevation shall be based on the standards in NR 116.07(4), *Hydraulic Analysis: Determination of Regional Flood Elevation* and the following:
   a. Duplicate Effective Model
      The effective model shall be reproduced to ensure correct transference of the model data and to allow integration of the revised data to provide a continuous FIS model upstream and downstream of the revised reach. If data from the effective model is available, models shall be generated that duplicate the FIS profiles and the elevations shown in the Floodway Data Table in the FIS report to within 0.1 foot.
   b. Corrected Effective Model
      The Corrected Effective Model shall not include any man-made physical changes since the effective model date, but shall import the model into the most current version of HEC-RAS for Department review.
   c. Existing (Pre-Project Conditions) Model
      The Existing Model shall be required to support conclusions about the actual impacts of the project associated with the Revised (Post-Project) Model or to establish more up-to-date models on which to base the Revised (Post-Project) Model.
   d. Revised (Post-Project Conditions) Model
      The Revised (Post-Project Conditions) Model shall incorporate the Existing Model and any proposed changes to the topography caused by the proposed development. This model shall reflect proposed conditions.
   e. All changes to the Duplicate Effective Model and subsequent models must be supported by certified topographic information, bridge plans, construction plans and survey notes.

f. Changes to the hydraulic models shall be limited to the stream reach for which the revision is being requested. Cross sections upstream and downstream of the revised reach shall be identical to those in the effective model and result in water surface elevations and top widths computed by the revised models matching those in the effective models upstream and downstream of the revised reach as required. The Effective Model shall not be truncated.

3. Mapping
Maps and associated engineering data shall be submitted to the Department for review which meets the following conditions:

a. Consistency between the revised hydraulic models, the revised floodplain and floodway delineations, the revised flood profiles, topographic work map, annotated FIRMs and/or Flood Boundary Floodway Maps (FBFMs), construction plans, bridge plans.

b. Certified topographic map of suitable scale, contour interval, and a planimetric map showing the applicable items. If a digital version of the map is available, it may be submitted in order that the FIRM may be more easily revised.

c. Annotated FIRM panel showing the revised 1% and 0.2% annual chance floodplains and floodway boundaries.

d. If an annotated FIRM and/or FBFM and digital mapping data (GIS or CADD) are used then all supporting documentation or metadata must be included with the data submission along with the Universal Transverse Mercator (UTM) projection and State Plane Coordinate System in accordance with FEMA mapping specifications.

e. The revised floodplain boundaries shall tie into the effective floodplain boundaries.

f. All cross sections from the effective model shall be labeled in accordance with the effective map and a cross section lookup table shall be included to relate to the model input numbering scheme.

g. Both the current and proposed floodways shall be shown on the map.

h. The stream centerline, or profile baseline used to measure stream distances in the model shall be visible on the map.

Section 22.401.06 Certificate of Compliance

No land shall be occupied or used, and no building which is hereafter constructed, altered, added to, modified, repaired, rebuilt or replaced shall be occupied until a certificate of compliance is issued by the Zoning Administrator, except where no permit is required, subject to the following provisions:

A. The certificate of compliance shall show that the building or premises or part thereof, and the proposed use, conform to the provisions of this ordinance;

B. Application for such certificate shall be concurrent with the application for a permit;

C. If all ordinance provisions are met, the certificate of compliance shall be issued within 10 days after written notification that the permitted work is completed;

D. The applicant shall submit a certification signed by a registered professional engineer, architect or land surveyor that the fill, lowest floor and floodproofing elevations are in compliance with the permit issued. Floodproofing measures also require certification by a registered professional engineer or architect that the requirements of Section 22.401.12 are met.

Section 22.401.07 Other Permits

Prior to obtaining a floodplain development permit the applicant must secure all necessary permits from federal, state, and local agencies, including but not limited to those required by the U.S. Army Corps of Engineers under s. 404 of the Federal Water Pollution Control Act, Amendments of 1972, 33 U.S.C. 1344.

Section 22.401.08 Zoning Agency

A. The Marathon County Environmental Resources Committee shall:

1. Oversee the functions of the office of the Zoning Administrator; and
2. Review and advise the governing body on all proposed amendments to this ordinance, maps and text.
3. Shall adhere to the procedures as set forth under Chapters 17 & 22.

B. The Marathon County Environmental Resources Committee shall not:

1. Grant variances to the terms of the ordinance in place of action by the Board of Adjustment/Appeals; or
2. Amend the text or zoning maps in place of official action by the governing body.

Section 22.401.09 Board of Adjustment

The Board of Adjustment, created under WI Stats. 59.694, for counties, is hereby authorized or shall be appointed to act for the purposes of this ordinance. The Board shall exercise the powers conferred by Wisconsin Statutes and adopt rules for the conduct of business. The Zoning Administrator shall not be the secretary of the Board.

Powers and Duties:
The Board of Adjustment shall adhere to the procedures as set forth under Chapter 17 and:

A. Appeals: Hear and decide appeals where it is alleged there is an error in any order, requirement, decision or determination made by an administrative official in the enforcement or administration of this ordinance;

B. Boundary Disputes: Hear and decide disputes concerning the district boundaries shown on the official floodplain zoning map; and

C. Variances: Hear and decide, upon appeal, variances from the ordinance standards.

Section 22.401.10 Appeals to the Board

A. Appeals to the Board may be taken by any person aggrieved, or by any officer or department of the municipality affected by any decision of the Zoning Administrator or other administrative officer. Such appeal shall be taken within 30 days unless otherwise provided by the rules of the Board, by filing with the official whose decision is in question, and with the Board, a notice of appeal specifying the reasons for the appeal. The official whose decision is in question shall transmit to the board all records regarding the matter appealed.

B. Notice and Hearing for Appeals Including Variances

   1. Notice - The Board shall:

      a. Fix a reasonable time for the hearing;

      b. Publish adequate notice pursuant to Wisconsin Statutes, specifying the date, time, place and subject of the hearing; and

      c. Assure that notice shall be mailed to the parties in interest and the appropriate Department office at least 10 days in advance of the hearing.

   2. Hearing - Any party may appear in person or by agent. The Board shall:

      a. Resolve boundary disputes according to Section 22.401.09;

      b. Decide variance applications according to Section 22.401.10; and

      c. Decide appeals of permit denials according to Section 22.401.11.

C. Decision: The final decision regarding the appeal or variance application shall:

   1. Be made within a reasonable time;

   2. Be sent to the appropriate Department office within 10 days of the decision;

   3. Be a written determination signed by the Chairman or Secretary of the Board;

   4. State the specific facts which are the basis for the Board's decision;

   5. Either affirm, reverse, vary or modify the order, requirement, decision or determination appealed, in whole or in part, dismiss the appeal for lack of jurisdiction or grant or deny the variance application; and

6. Include the reasons for granting an appeal, describing the hardship demonstrated by the applicant in the case of a variance, clearly stated in the recorded minutes of the Board proceedings.

Section 22.401.11 **Boundary Disputes**

The following procedure shall be used by the Board in hearing disputes concerning floodplain district boundaries:

A. If a floodplain district boundary is established by approximate or detailed floodplain studies, the flood elevations or profiles shall prevail in locating the boundary. If none exist, other evidence may be examined;

B. The person contesting the boundary location shall be given a reasonable opportunity to present arguments and technical evidence to the Board; and

C. If the boundary is incorrectly mapped, the Board should inform the zoning committee or the person contesting the boundary location to petition the governing body for a map amendment according to: Section 22.402.

Section 22.401.12 **Variance**

A. The Board may, upon appeal, grant a variance from the standards of this ordinance if an applicant convincingly demonstrates that:

1. Literal enforcement of the ordinance will cause unnecessary hardship;
2. The hardship is due to adoption of the Marathon County Shoreland, Shoreland-Wetland, and Floodplain ordinance and unique property conditions, not common to adjacent lots or premises. In such case the ordinance or map must be amended;
3. The variance is not contrary to the public interest; and
4. The variance is consistent with the purpose of this ordinance in Sections 22.101.04 and/or 22.301.03.

B. In addition to the criteria in sub. A., to qualify for a variance under FEMA regulations, the following criteria must be met:

1. The variance shall not cause any increase in the regional flood elevation;
2. Variances can only be granted for lots that are less than one-half acre and are contiguous to existing structures constructed below the RFE; and
3. Variances shall only be granted upon a showing of good and sufficient cause, shall be the minimum relief necessary, shall not cause increased risks to public safety or nuisances, shall not increase costs for rescue and relief efforts and shall not be contrary to the purpose of the ordinance. A variance shall not:
   a. Grant, extend or increase any use prohibited in the zoning district;
   b. Be granted for a hardship based solely on an economic gain or loss;
   c. Be granted for a hardship which is self-created;
   d. Damage the rights or property values of other persons in the area;
   e. Allow actions without the amendments to this ordinance or map(s) required in Section 22.402; and

f. Allow any alteration of an historic structure, including its use, which would preclude its continued designation as an historic structure.

C. When a floodplain variance is granted the Board shall notify the applicant in writing that it may increase risks to life, and property and flood insurance premiums could increase up to $25.00 per $100.00 of coverage. A copy shall be maintained with the variance record.

Section 22.401.13 Review Appeals of Permit Denials

A. The Board of Adjustment shall review all data related to the appeal. This may include:
   1. Permit application data listed in Section 22.401.02;
   2. Floodway/floodfringe determination data in Section 22.306.04;
   3. Data listed in Section 22.303.03 A.2. where the applicant has not submitted this information to the Zoning Administrator; and
   4. Other data submitted with the application, or submitted to the Board with the appeal.

B. For appeals of all denied permits the Board shall:
   1. Follow the procedures of Section 22.401.07;
   2. Consider zoning agency recommendations; and
   3. Either uphold the denial or grant the appeal.

C. For appeals concerning increases in regional flood elevation the Board shall:
   1. Uphold the denial where the Board agrees with the data showing an increase in flood elevation. Increases may only be allowed after amending the flood profile and map and all appropriate legal arrangements are made with all adversely affected property owners as per the requirements of Section 22.402; and
   2. Grant the appeal where the Board agrees that the data properly demonstrates that the project does not cause an increase provided no other reasons for denial exist.

Section 22.401.14 Floodproofing Standards of Non-conforming Structures or Uses

A. No permit or variance shall be issued for a non-residential structure designed to be watertight below the regional flood elevation until the applicant submits a plan certified by a registered professional engineer or architect that the floodproofing measures will protect the structure or development to the flood protection elevation and submits a FEMA Floodproofing Certificate.

B. For a structure designed to allow the entry of floodwaters, no permit or variance shall be issued until the applicant submits a plan either:
   1. Certified by a registered professional engineer or architect; or
   2. Meets or exceeds the following standards:
      a. 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;
      b. The bottom of all openings shall be no higher than one foot above grade; and
      c. Openings may be equipped with screens, louvers, valves, or other coverings or devices provided that they permit the automatic entry and exit of floodwaters.

C. Floodproofing measures shall be designed, as appropriate, to:

1. Withstand flood pressures, depths, velocities, uplift and impact forces and other regional flood factors;
2. Protect structures to the flood protection elevation;
3. Anchor structures to foundations to resist flotation and lateral movement;
4. Minimize or eliminate infiltration of flood waters; and
5. Minimize or eliminate discharges into flood waters.

Section 22.401.15 **Public Information**

A. Place marks on structures to show the depth of inundation during the regional flood.

B. All maps, engineering data, and regulations shall be available and widely distributed.

C. Real estate transfers should show what floodplain district any real property is in.

Section 22.401.16 **Schedule of Fees**

A. Fee Schedule. See Conservation, Planning and Zoning Department Approved Fee schedule.

B. Nonrefundable. All fees received by the Zoning Administrator are nonrefundable and shall be placed in the County treasury.

C. Double Fee. Any building or structure erected, constructed, placed, moved or structurally altered or for any development or use of land, premises, building or structure without obtaining all permits and approvals prior to commencing the above stated activities shall result in a double fee.

Section 22.401.17 **Conformance with Approved Site Plan**

A. Suspension by Zoning Administrator. Property which is the subject of site plan approval must be developed in strict compliance with the approved site plan, inclusive of any amendments, which has received the approval of the Zoning Administrator or the Board of Adjustment. If construction and development does not conform with the approved site plan, the approval of the site plan shall be suspended by the Zoning Administrator by written notice and posted upon the premises involved and mailed to the last known address of the owner.

   Upon suspension of this approval, all construction activities shall cease upon the site until the time the violation has been corrected or the Zoning Administrator or the Board of Adjustment has approved a modification to the site plan.

B. Rescind Site Plan Approval. Approval of a site plan may be rescinded by the Zoning Administrator or the Board of Adjustment upon determination that the site has not been improved, constructed or maintained in compliance with approved permits, site plans, or conditions of site plan approval. In addition, the breach of any condition, safeguard or requirement shall automatically invalidate the approval granted, and shall constitute a violation of this Zoning Ordinance.

C. Revisions to Approved Site Plans.

   1. Minor revisions to an approved site plan may be administratively reviewed by the Zoning Administrator, provided that such changes do not materially alter the approved site design, intensity of use or demand for public services.

Revisions to an approved site plan that are Conditional Uses shall be reviewed by the Board of Adjustment as an amended site plan.

Chapter 22.402 Amendments

Section 22.402.01 Establishment of Floodplain Zoning Districts

Obstructions or increases may only be permitted if amendments are made to this ordinance, the official floodplain zoning maps, floodway lines and water surface profiles, in accordance with Section 22.402.02.

A. In AE Zones with a mapped floodway, no obstructions or increases shall be permitted unless the applicant receives a Conditional Letter of Map Revision from FEMA and amendments are made to this ordinance, the official floodplain zoning maps, floodway lines and water surface profiles, in accordance with Section 22.402.02. Any such alterations must be reviewed and approved by FEMA and the DNR.

B. In A Zones increases equal to or greater than 1.0 foot may only be permitted if the applicant receives a Conditional Letter of Map Revision from FEMA and amendments are made to this ordinance, the official floodplain maps, floodway lines, and water surface profiles, in accordance with Section 22.402.02.

Section 22.402.02 General

The governing body shall change or supplement the floodplain zoning district boundaries and this ordinance in the manner outlined in Section 22.402.03. Actions which require an amendment to the ordinance and/or submittal of a Letter of Map Change (LOMC) include, but are not limited to, the following:

A. Any fill or floodway encroachment that obstructs flow causing any increase in the regional flood height;

B. Any change to the floodplain boundaries and/or watercourse alterations on the FIRM;

C. Any changes to any other officially adopted floodplain maps listed in Section 22.301.05;

D. Any floodplain fill which raises the elevation of the filled area to a height at or above the flood protection elevation and is contiguous to land lying outside the floodplain;

E. Correction of discrepancies between the water surface profiles and floodplain maps;

F. Any upgrade to a floodplain zoning ordinance text required by s. NR 116.05, Wis. Adm. Code, or otherwise required by law, or for changes by the municipality; and

G. All channel relocations and changes to the maps to alter floodway lines or to remove an area from the floodway or the floodfringe that is based on a base flood elevation from a FIRM requires prior approval by FEMA.

Section 22.402.03 **Procedures**

Ordinance amendments may be made upon petition of any party according to the provisions of WI Stats.62.23, for cities and villages, or 59.69, WI Stats., for counties. The petitions shall include all data required by Sections 22.306.04 and 22.401.02. The Land Use Permit shall not be issued until a Letter of Map Revision is issued by FEMA for the proposed changes.

A. The proposed amendment shall be referred to the zoning agency for a public hearing and recommendation to the governing body. The amendment and notice of public hearing shall be submitted to the Department Regional office for review prior to the hearing. The amendment procedure shall comply with the provisions of WI Stats. 62.23, for cities and villages or s. 59.69, WI Stats., for counties.

B. No amendments shall become effective until reviewed and approved by the Department.

C. All persons petitioning for a map amendment that obstructs flow causing any increase in the regional flood height, shall obtain flooding easements or other appropriate legal arrangements from all adversely affected property owners and notify local units of government before the amendment can be approved by the governing body.

Chapter 22.403 Enforcement and Penalties

Section 22.403.01 **Enforcement & Penalties**

A. The Corporation Counsel shall prosecute all violations of this chapter reported by the Zoning Administrator in accordance with this Chapter and Chapter 25.04.

B. Nothing in this section shall be deemed to prohibit private prosecutions of violations of this Chapter pursuant to Chapter 59.69(11), or other Sections of the Wisconsin Statutes or Common Law.

C. The following forfeitures and penalties are hereby established for violation of this Chapter:

   1. A violator shall, upon conviction, forfeit to the municipality a penalty of not less than $25 and not more than $50.00 (fifty dollars), together with a taxable cost of such action.

   2. Each day a violation exists or continues shall be a separate offense.

D. As a substitute for or an addition to forfeiture actions, the Corporation Counsel may, on behalf of the County, seek enforcement of any and all parts of this Chapter by court actions seeking in junctional or restraining orders or orders for restoration of the site.

   1. Upon the refusal of property owner to remedy the violation, as authorized by the Court, the Conservation, Planning and Zoning Department may enter upon property to remedy a violation of this Chapter. The costs incurred by the County to remedy a violation of this Chapter may be assessed against the real estate as a special charge.

E. Every violation of this Chapter is a public nuisance and the creation may be enjoined and the maintenance may be abated by action at suit of the municipality, the state, or any citizen thereof pursuant to WI Stats. 87.30.

F. In lieu of prosecution, the Zoning Administer may enter into a written agreement with the responsible parties to resolve a violation of this Chapter.

Title 5: Definitions

Chapter 22.501 Shoreland

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

Section 22.501.01 **Shoreland**

ACCESS AND VIEWING CORRIDOR – [NR 115.03(1d)] means a strip of vegetated land that allows safe pedestrian access to the shore through the vegetative buffer zone.

BOATHOUSE - [NR 115.03(1h)] means a permanent structure used for the storage of watercraft and associated materials and includes all structures which are totally enclosed, have roofs or walls or any combination of these structural parts.

BUILDING ENVELOPE – [NR 115.03(1p)] means the three dimensional space within which a structure is built.

COUNTY ZONING AGENCY – [NR 115.03(2)] means that committee or commission created or designated by the county board under s. 59.69(2)(a), WI Stats., to act in all matters pertaining to county planning and zoning.

DEPARTMENT – [NR 115.03(3)] means the Department of Natural Resources.

EXISTING DEVELOPMENT PATTERN – [NR 115.03(3m)] means that principal structures exist within 250 feet of a proposed principal structure in both directions along the shoreline.

FLOODPLAIN – [NR 115.03(4)] means the land which has been or may be hereafter covered by flood water during the regional flood. The floodplain includes the floodway and the flood fringe as those terms are defined in NR 116.

GENERALLY ACCEPTED FORESTRY MANAGEMENT PRACTICES – [NR 1.25(2)(b)] means forestry management practices that promote sound management of a forest. Generally accepted forestry management practices include those practices contained in the most recent version of the department publication known as Wisconsin Forest Management Guidelines and identified as PUB FR-226.

IMPERVIOUS SURFACE – [NR 115.03(4g)] means an area that releases as runoff all or a majority of the precipitation that falls on it. “Impervious surface” excludes frozen soil but includes rooftops, sidewalks, driveways, parking lots, and streets unless specifically designed, constructed, and maintained to be pervious. Roadways as defined in s. 340.01(54), or sidewalks as defined in s. 340.01(58), are not considered impervious surfaces.

MAINTENANCE AND REPAIR – [NR 115.05(1)(g)4.] includes such activities as interior remodeling, exterior remodeling, and the replacement or enhancement of plumbing or electrical systems, insulation, windows, doors, siding, or roof within the existing building envelope.

MITIGATION – [NR 115.03(4r)] means balancing measures that are designed, implemented and function to restore natural functions and values that are otherwise lost through development and human activities.

NAVIGABLE WATERS – [NR 115.03(5)] means Lake Superior, Lake Michigan, all natural inland lakes within Wisconsin and all streams, ponds, sloughs, flowages and other waters within the territorial limits of this state, including the Wisconsin portion of boundary waters, which are navigable under the laws of this state. Under s. 281.31(2)(d), WI Stats., notwithstanding any other provision of law or administrative rule promulgated thereunder, shoreland ordinances required under s. 59.692, WI Stats., and NR 115, do not apply to lands adjacent to:

1. Farm drainage ditches where such lands are not adjacent to a natural navigable stream or river and such lands were not navigable streams before ditching; and
2. Artificially constructed drainage ditches, ponds or stormwater retention basins that are not hydrologically connected to a natural navigable water body

ORDINARY HIGH WATER MARK – [NR 115.03(6)] means the point on the bank or shore up to which the presence and action of surface water is so continuous as to leave a distinctive mark such as by erosion, destruction or prevention of terrestrial vegetation, predominance of aquatic vegetation, or other easily recognized characteristics.

REGIONAL FLOOD – [NR 115.03(7)] means 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, once in every 100 years.

ROUTINE MAINTENANCE OF VEGETATION – [NR 115.03(7m)] means normally accepted horticultural practices that do not result in the loss of any layer of existing vegetation and do not require earth disturbance.

SHORELAND" – [NR 115.03(8)] means lands within the following distances from the Ordinary High Water Mark of navigable waters: 1,000 feet from a lake, pond or flowage; and 300 feet from a river or stream or to the landward side of the floodplain, whichever distance is greater.

SHORELAND SETBACK – also known as the “SHORELAND SETBACK AREA” in s. 59.692(1)(bn) means an area in a shoreland of an established distance from the Ordinary High Water Mark within which the construction or placement of buildings or structures has been limited or prohibited under an ordinance enacted under section 59.692, WI Stats..

SHORELAND-WETLAND DISTRICT – [NR 115.03(9)] means a zoning district, created as a part of a county zoning ordinance, comprised of shorelands that are designated as wetlands on the Wisconsin wetland inventory maps prepared by the department.

SPECIAL EXCEPTION (CONDITIONAL USE) – means a use which is permitted by this ordinance provided that certain conditions specified in the ordinance are met and that a permit is granted by the board of adjustment or, where appropriate, the planning and zoning committee or county board.

STRUCTURE – means a principal structure or any accessory structure including a garage, shed, boathouse, sidewalk, walkway, patio, deck, retaining wall, porch or fire pit.

UNNECESSARY HARDSHIP – [NR 115.03(11)] means that circumstance where special conditions, which were not self-created, affect a particular property and make strict conformity with restrictions governing area, setbacks, frontage, height or density unnecessarily burdensome or unreasonable in light of the purposes of this ordinance.

WETLANDS – [NR 115.03(13)] means those areas where water is at, near or above the land surface long enough to be capable of supporting aquatic or hydrophytic vegetation and which have soils indicative of wet conditions.

Chapter 22.502 Floodplain

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

Section 22.502.01 **Floodplain**

A ZONES – Those areas shown on the Official Floodplain Zoning Map which would be inundated by the regional flood. These areas may be numbered or unnumbered A Zones. The A Zones may or may not be reflective of flood profiles, depending on the availability of data for a given area.

AH ZONE – See “AREA OF SHALLOW FLOODING”.

AO ZONE – See “AREA OF SHALLOW FLOODING”.

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

ALTERATION – An enhancement, upgrading or substantial change or modifications other than an addition or repair to a dwelling or to electrical, plumbing, heating, ventilating, air conditioning and other systems within a structure.

AREA OF SHALLOW FLOODING – A designated AO, AH, AR/AO, AR/AH, or VO zone on a community’s Flood Insurance Rate Map (FIRM) with a 1 percent or greater annual chance of flooding to an average depth of 1 to 3 feet where a clearly defined channel does not exist, where the path of flooding is unpredictable, and where velocity flood may be evident. Such flooding is characterized by ponding or sheet flow.

BASE FLOOD – Means the flood having a one percent chance of being equaled or exceeded in any given year, as published by FEMA as part of a FIS and depicted on a FIRM.

BASEMENT – Any enclosed area of a building having its floor sub-grade, i.e., below ground level, on all sides.

BUILDING – See STRUCTURE.

BULKHEAD LINE – A geographic line along a reach of navigable water that has been adopted by a municipal ordinance and approved by the Department pursuant to s. 30.11, Stats., and which allows limited filling between this bulkhead line and the original Ordinary High Water Mark, except where such filling is prohibited by the floodway provisions of this ordinance.

CAMPGROUND – Any parcel of land which is designed, maintained, intended or used for the purpose of providing sites for nonpermanent overnight use by 4 or more camping units, or which is advertised or represented as a camping area.

CAMPING UNIT – Any portable device, no more than 400 square feet in area, used as a temporary shelter, including but not limited to a camping trailer, motor home, bus, van, pick-up truck, or tent that is fully licensed, if required, and ready for highway use.

CERTIFICATE OF COMPLIANCE – A certification that the construction and the use of land or a building, the elevation of fill or the lowest floor of a structure is in compliance with all of the provisions of this ordinance.

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

CRAWLWAYS or CRAWL SPACE – An enclosed area below the first usable floor of a building, generally less than five feet in height, used for access to plumbing and electrical utilities.

DECK – An unenclosed exterior structure that has no roof or sides, but has a permeable floor which allows the infiltration of precipitation.

DEPARTMENT – The Wisconsin Department of Natural Resources.

DEVELOPMENT – Any artificial change to improved or unimproved real estate, including, but not limited to, the construction of buildings, structures or accessory structures; the construction of additions or alterations to buildings, structures or accessory structures; the repair of any damaged structure or the improvement or renovation of any structure, regardless of percentage of damage or improvement; the placement of buildings or structures; subdivision layout and site preparation; mining, dredging, filling, grading, paving, excavation or drilling operations; the storage, deposition or extraction of materials or equipment; and the installation, repair or removal of public or private sewage disposal systems or water supply facilities.

DRYLAND ACCESS – A vehicular access route which is above the regional flood elevation and which connects land located in the floodplain to land outside the floodplain, such as a road with its surface above regional flood elevation and wide enough for wheeled rescue and relief vehicles.

ENCROACHMENT – Any fill, structure, equipment, use or development in the floodway.

FEDERAL EMERGENCY MANAGEMENT AGENCY (FEMA) – The federal agency that administers the National Flood Insurance Program.

FLOOD INSURANCE RATE MAP (FIRM) – A map of a community on which the Federal Insurance Administration has delineated both the floodplain and the risk premium zones applicable to the community. This map can only be amended by the Federal Emergency Management Agency.

FLOOD or FLOODING – A general and temporary condition of partial or complete inundation of normally dry land areas caused by one of the following conditions:

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

FLOOD FREQUENCY – The probability of a flood occurrence which is determined from statistical analyses. The frequency of a particular flood event is usually expressed as occurring, on the average once in a specified number of years or as a percent (%) chance of occurring in any given year.

FLOODFRINGE – That portion of the floodplain outside of the floodway which is covered by flood waters during the regional flood and associated with standing water rather than flowing water.

FLOOD HAZARD BOUNDARY MAP – A map designating approximate flood hazard areas. Flood hazard areas are designated as unnumbered A-Zones and do not contain floodway lines or regional flood elevations. This map forms the basis for both the regulatory and insurance aspects of the National Flood Insurance Program (NFIP) until superseded by a Flood Insurance Study and a Flood Insurance Rate Map.

FLOOD INSURANCE STUDY – A technical engineering examination, evaluation, and determination of the local flood hazard areas. It provides maps designating those areas affected by the regional flood and provides both flood insurance rate zones and base flood elevations and may provide floodway lines. The flood hazard areas are designated as numbered and unnumbered A-Zones. Flood Insurance Rate Maps, that accompany the Flood Insurance Study, form the basis for both the regulatory and the insurance aspects of the National Flood Insurance Program.

FLOODPLAIN – Land which has been or may be covered by flood water during the regional flood. It includes the floodway and the floodfringe, and may include other designated floodplain areas for regulatory purposes.

FLOODPLAIN ISLAND – A natural geologic land formation within the floodplain that is surrounded, but not covered, by floodwater during the regional flood.

FLOODPLAIN MANAGEMENT – Policy and procedures to insure wise use of floodplains, including mapping and engineering, mitigation, education, and administration and enforcement of floodplain regulations.

FLOOD PROFILE – A graph or a longitudinal profile line showing the relationship of the water surface elevation of a flood event to locations of land surface elevations along a stream or river.

FLOODPROOFING – Any combination of structural provisions, changes or adjustments to properties and structures, water and sanitary facilities and contents of buildings subject to flooding, for the purpose of reducing or eliminating flood damage.

FLOOD PROTECTION ELEVATION – An elevation of two feet of freeboard above the water surface profile elevation designated for the regional flood. (Also see: FREEBOARD.)

FLOOD STORAGE – Those floodplain areas where storage of floodwaters has been taken into account during analysis in reducing the regional flood discharge.

FLOODWAY – The channel of a river or stream and those portions of the floodplain adjoining the channel required to carry the regional flood discharge.

FREEBOARD – A safety factor expressed in terms of a specified number of feet above a calculated flood level. Freeboard compensates for any factors that cause flood heights greater than those calculated, including ice jams, debris accumulation, wave action, obstruction of bridge openings and floodways, the effects of watershed urbanization, loss of flood storage areas due to development and aggregation of the river or stream bed.

HABITABLE STRUCTURE – Any structure or portion thereof used or designed for human habitation.

HEARING NOTICE – Publication or posting meeting the requirements of Ch. 985, Stats. For appeals, a Class 1 notice, published once at least one week (7 days) before the hearing, is required. For all zoning ordinances and amendments, a Class 2 notice, published twice, once each week consecutively, the last at least a week (7 days) before the hearing. Local ordinances or bylaws may require additional notice, exceeding these minimums.

HIGH FLOOD DAMAGE POTENTIAL – Damage that could result from flooding that includes any danger to life or health or any significant economic loss to a structure or building and its contents.

HIGHEST ADJACENT GRADE – The highest natural elevation of the ground surface prior to construction next to the proposed walls of a structure.

HISTORIC STRUCTURE – Any structure that is either:

- Listed individually in the National Register of Historic Places or preliminarily determined by the Secretary of the Interior as meeting the requirements for individual listing on the National Register;
- Certified or preliminarily determined by the Secretary of the Interior as contributing to the historical significance of a registered historic district or a district preliminarily determined by the Secretary to qualify as a registered historic district;
- Individually listed on a state inventory of historic places in states with historic preservation programs which have been approved by the Secretary of the Interior; or
- Individually listed on a local inventory of historic places in communities with historic preservation programs that have been certified either by an approved state program, as determined by the Secretary of the Interior; or by the Secretary of the Interior in states without approved programs.

INCREASE IN REGIONAL FLOOD HEIGHT – A calculated upward rise in the regional flood elevation greater than 0.00 foot, based on a comparison of existing conditions and proposed conditions which is directly attributable to development in the floodplain but not attributable to manipulation of mathematical variables such as roughness factors, expansion and contraction coefficients and discharge.

LAND USE – Any nonstructural use made of unimproved or improved real estate. (Also see DEVELOPMENT.)

LOWEST ADJACENT GRADE – Elevation of the lowest ground surface that touches any of the exterior walls of a building.

LOWEST FLOOR – The lowest floor of the lowest enclosed area (including basement). An unfinished or flood resistant enclosure, usable solely for parking of vehicles, building access or storage in an area other than a basement area is not considered a building’s lowest floor; provided that such enclosure is not built so as to render the structure in violation of the applicable non-elevation design requirements of 44 CFR 60.3.

MAINTENANCE – The act or process of restoring to original soundness, including redecorating, refinishing, non-structural repairs, or the replacement of existing fixtures, systems or equipment with equivalent fixtures, systems or structures.

MANUFACTURED HOME – A structure transportable in one or more sections, which is built on a permanent chassis and is designed to be used with or without a permanent foundation when connected to required utilities. The term "manufactured home" includes a mobile home but does not include a "mobile recreational vehicle."

MOBILE/MANUFACTURED HOME PARK OR SUBDIVISION – A parcel (or contiguous parcels) of land, divided into two or more manufactured home lots for rent or sale.

MOBILE/MANUFACTURED HOME PARK OR SUBDIVISION, EXISTING – A parcel of land, divided into two or more manufactured home lots for rent or sale, on which the construction of facilities for servicing the lots is completed before the effective date of this ordinance. At a minimum, this would include the installation of utilities, the construction of streets and either final site grading or the pouring of concrete pads.

MOBILE/MANUFACTURED HOME PARK, EXPANSION TO EXISTING – The preparation of additional sites by the construction of facilities for servicing the lots on which the manufactured homes are to be affixed. This includes installation of utilities, construction of streets and either final site grading, or the pouring if concrete pads.

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

MODEL, CORRECTED EFFECTIVE – A hydraulic engineering model that corrects any errors that occur in the Duplicate Effective Model, adds any additional cross sections to the Duplicate Effective Model, or incorporates more detailed topographic information than that used in the current effective model.

MODEL, DUPLICATE EFFECTIVE – A copy of the hydraulic analysis used in the effective FIS and referred to as the effective model.

MODEL, EFFECTIVE – The hydraulic engineering model that was used to produce the current effective Flood Insurance Study.

MODEL, EXISTING (PRE-PROJECT) – A modification of the Duplicate Effective Model or Corrected Effective Model to reflect any man made modifications that have occurred within the floodplain since the date of the effective model but prior to the construction of the project for which the revision is being requested. If no modification has occurred since the date of the effective model, then this model would be identical to the Corrected Effective Model or Duplicate Effective Model.

MODEL, REVISED (POST-PROJECT) – A modification of the Existing or Pre-Project Conditions Model, Duplicate Effective Model or Corrected Effective Model to reflect revised or post-project conditions.

MUNICIPALITY or MUNICIPAL – The county, city or village governmental units enacting, administering and enforcing this zoning ordinance.

NAVD or NORTH AMERICAN VERTICAL DATUM – Elevations referenced to mean sea level datum, 1988 adjustment.

NGVD or NATIONAL GEODETIC VERTICAL DATUM – Elevations referenced to mean sea level datum, 1929 adjustment.

NEW CONSTRUCTION – For floodplain management purposes, "new construction" means structures for which the start of construction commenced on or after the effective date of floodplain zoning regulations adopted by this community and includes any subsequent improvements to such structures. For the purpose of determining flood insurance rates, it includes any structures for which the "start of construction" commenced on or after the effective date of an initial FIRM or after December 31, 1974, whichever is later, and includes any subsequent improvements to such structures.

NON-CONFORMING STRUCTURE – An existing lawful structure or building which is not in conformity with the dimensional or structural requirements of this ordinance for the area of the floodplain which it occupies. (For example, an existing residential structure in the floodfringe district is a conforming use. However, if the lowest floor is lower than the flood protection elevation, the structure is non-conforming.)

NON-CONFORMING USE – An existing lawful use or accessory use of a structure or building which is not in conformity with the provisions of this ordinance for the area of the floodplain which it occupies. (Such as a residence in the floodway.)

OBSTRUCTION TO FLOW – Any development which blocks the conveyance of floodwaters such that this development alone or together with any future development will cause an increase in regional flood height.

OFFICIAL FLOODPLAIN ZONING MAP – That map, adopted and made part of this ordinance, as described in s. 1.5(2), which has been approved by the Department and FEMA.

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

ORDINARY HIGH WATER MARK – The point on the bank or shore up to which the presence and action of surface water is so continuous as to leave a distinctive mark such as by erosion, destruction or prevention of terrestrial vegetation, predominance of aquatic vegetation, or other easily recognized characteristic.

PERSON – an individual or group of individuals, corporation, partnership, association, municipality or state agency.

PRIVATE SEWAGE SYSTEM – A sewage treatment and disposal system serving one structure with a septic tank and soil absorption field located on the same parcel as the structure. It also means an alternative sewage system approved by the Department of Safety and Professional Services, 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.

PUBLIC UTILITIES – Those utilities using underground or overhead transmission lines such as electric, telephone and telegraph, and distribution and collection systems such as water, sanitary sewer and storm sewer.

REASONABLY SAFE FROM FLOODING – Means base flood waters will not inundate the land or damage structures to be removed from the floodplain and that any subsurface waters related to the base flood will not damage existing or proposed buildings.

REGIONAL FLOOD – A flood determined to be representative of large floods known to have occurred in Wisconsin. A regional flood is a flood with a one percent chance of being equaled or exceeded in any given year, and if depicted on the FIRM, the RFE is equivalent to the BFE.

START OF CONSTRUCTION – The date the building permit was issued, provided the actual start of construction, repair, reconstruction, rehabilitation, addition, placement, or other improvement was within 180 days of the permit date. The actual start means either the first placement of permanent construction on a site, such as the pouring of slab or footings, the installation of piles, the construction of columns, or any work beyond initial excavation, or the placement of a manufactured home on a foundation. Permanent construction does not include land preparation, such as clearing, grading and filling, nor does it include the installation of streets and/or walkways, nor does it include excavation for a basement, footings, piers or foundations or the erection of temporary forms, nor does it include the installation on the property of accessory buildings, such as garages or sheds not occupied as dwelling units or not part of the main structure. For an alteration, the actual start of construction means the first alteration of any wall, ceiling, floor or other structural part of a building, whether or not that alteration affects the external dimensions of the building.

STRUCTURE – Any manmade object with form, shape and utility, either permanently or temporarily attached to, placed upon or set into the ground, stream bed or lake bed, including, but not limited to, roofed and walled buildings, gas or liquid storage tanks, bridges, dams and culverts.

SUBDIVISION – Has the meaning given in s. 236.02(12), WI Stats..

SUBSTANTIAL DAMAGE – Damage of any origin sustained by a structure, whereby the cost of restoring the structure to its pre-damaged condition would equal or exceed 50 percent of the equalized assessed value of the structure before the damage occurred.

SUBSTANTIAL IMPROVEMENT – Any repair, reconstruction, rehabilitation, addition or improvement of a building or structure, the cost of which equals or exceeds 50 percent of the equalized assessed value of the structure before the improvement or repair is started. If the structure has sustained substantial damage, any repairs are considered substantial improvement regardless of the work performed. The term does not, however, include either any project for the improvement of a building required to correct existing health, sanitary or safety code violations identified by the building official and that are the minimum necessary to assure safe living conditions; or any alteration of a historic structure provided that the alteration will not preclude the structure's continued designation as a historic structure.

UNNECESSARY HARDSHIP – Where special conditions affecting a particular property, which were not self-created, have made strict conformity with restrictions governing areas, setbacks, frontage, height or density unnecessarily burdensome or unreasonable in light of the purposes of the ordinance.

VARIANCE – An authorization by the board of adjustment or appeals for the construction or maintenance of a building or structure in a manner which is inconsistent with dimensional standards (not uses) contained in the floodplain zoning ordinance.

VIOLATION – The failure of a structure or other development to be fully compliant with the floodplain zoning ordinance. A structure or other development without required permits, lowest floor elevation documentation, floodproofing certificates or required floodway encroachment calculations is presumed to be in violation until such time as that documentation is provided.

WATERSHED – The entire region contributing runoff or surface water to a watercourse or body of water.

WATER SURFACE PROFILE – A graphical representation showing the elevation of the water surface of a watercourse for each position along a reach of river or stream at a certain flood flow. A water surface profile of the regional flood is used in regulating floodplain areas.

WELL – An excavation opening in the ground made by digging, boring, drilling, driving or other methods.

ZONING ADMINISTRATOR - A person appointed by the Director of the Conservation, Planning and Zoning Department to administer and enforce this ordinance or his/her designee.