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CHAPTER 1000

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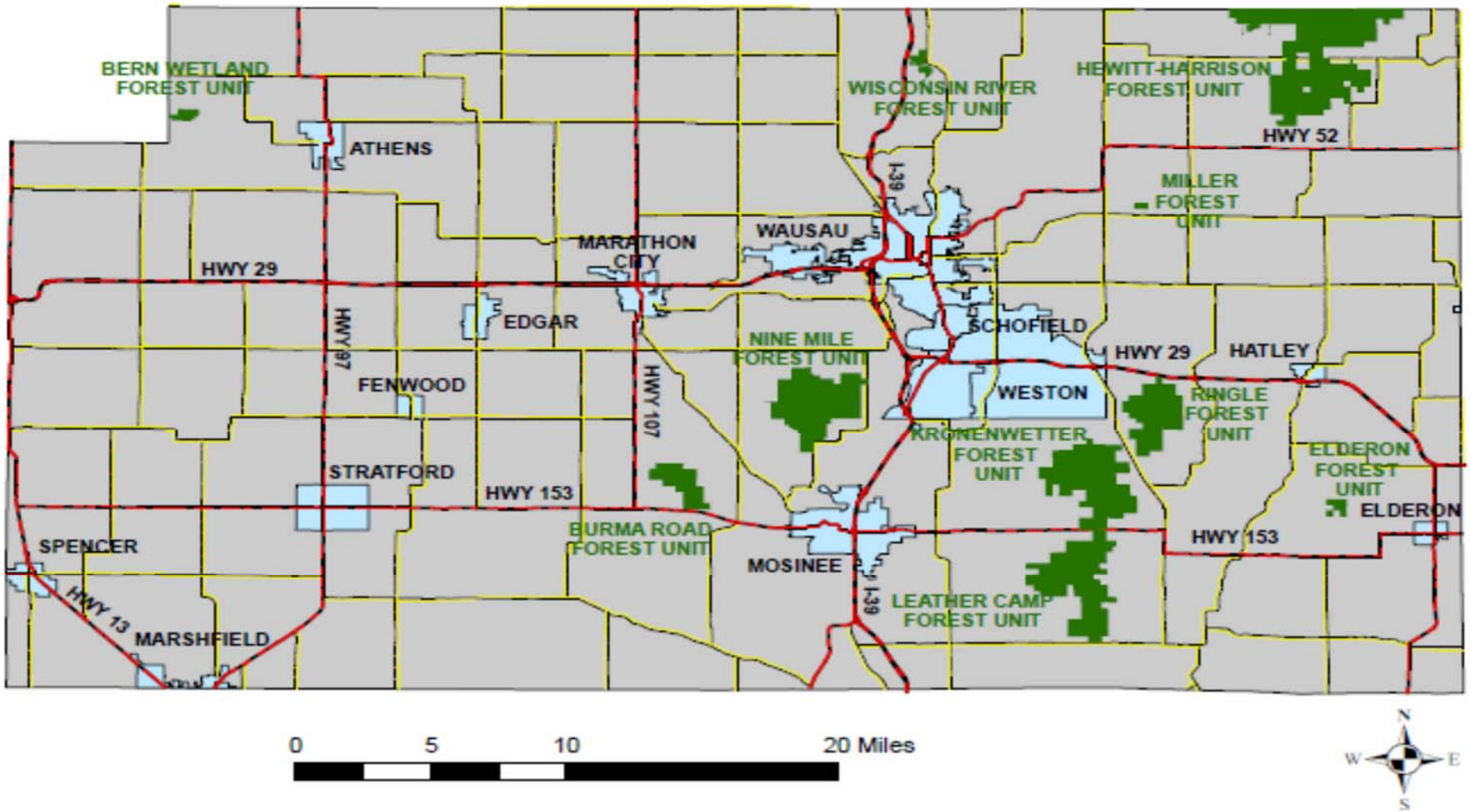
1000 RESOURCE MAPS AND TABLES

1000.1 MAP OF COUNTY FOREST LOCATIONS

MARATHON COUNTY FOREST UNITS



1000.2 OFFICIAL COUNTY FOREST BOUNDARY MAP – ACQUISITION ZONES

1000.2.1 Potential Acquisition Acreage By Forest Unit

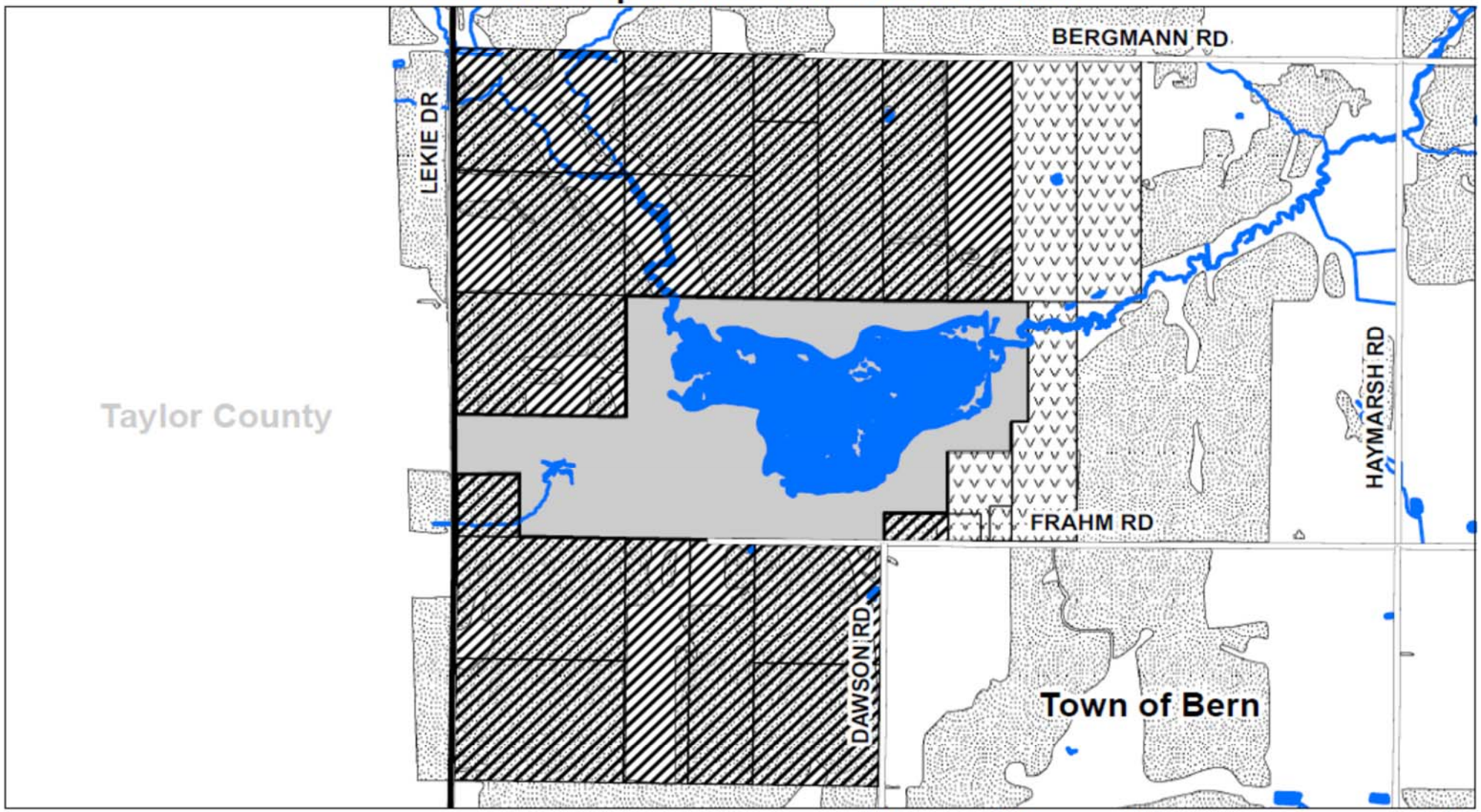
1.	Bern Wetland A. 646 Acres	
2.	Burma Forest Unit A. Town of Mosinee – 495 Acres B. Town of Emmet – 120 Acres	Total 615 Acres
3.	Elderon Forest Unit A. Town of Elderon – 1739 Acres	
4.	Hewitt-Harrison Forest Unit A. Town of Harrison – 2419 Acres B. Town of Hewitt – 1844 Acres	Total 4263 Acres
5.	Kronenwetter Forest Unit A. Town of Reid – 866 Acres B. Village of Kronenwetter – 640 Acres	Total 1506 Acres
6.	Wisconsin River Forest Unit A. Town of Texas – 43 Acres	Total 43 Acres
7.	Miller Forest Unit A. Town of Easton – 215 Acres	Total 215 Acres
8.	Nine Mile Forest Unit A. Town of Marathon – 750 Acres B. Town of Mosinee – 454 Acres C. Town of Rib Mountain – 340 Acres	Total 1544 Acres
9.	Leathercamp Forest Unit A. Town of Bevent – 1479 Acres B. Town of Guenther – 1114 Acres C. Village of Kronenwetter – 314 Acres D. Town of Reid – 291 Acres	Total 3198 Acres
10.	Ringle Marsh Forest Unit A. Town of Reid – 1022 Acres B. Town of Ringle – 395 Acres	Total 1417 Acres
11.	New Forest Unit – Town of Halsey A. Private Lands – 1734 Acres B. Spirit Falls Timber – 1363 Acres C. Ort Lumber – 420 Acres	Total 3517 Acres

Potential Acquisition Acreage for Plan 18,703 Acres

1000.2.2

Marathon County Forest: Bern Wetland Unit

Potential Acquisition Zone for 2021-2035



Legend

- Current Ownership
- Potential Acquisition Zone (2021-2035)
- No Purchase Zone (Developed/Agriculture)
- Wooded Areas
- Lakes/Ponds
- Streams/Rivers
- County Forest Roads
- Town Roads
- County Roads
- State & US Highways

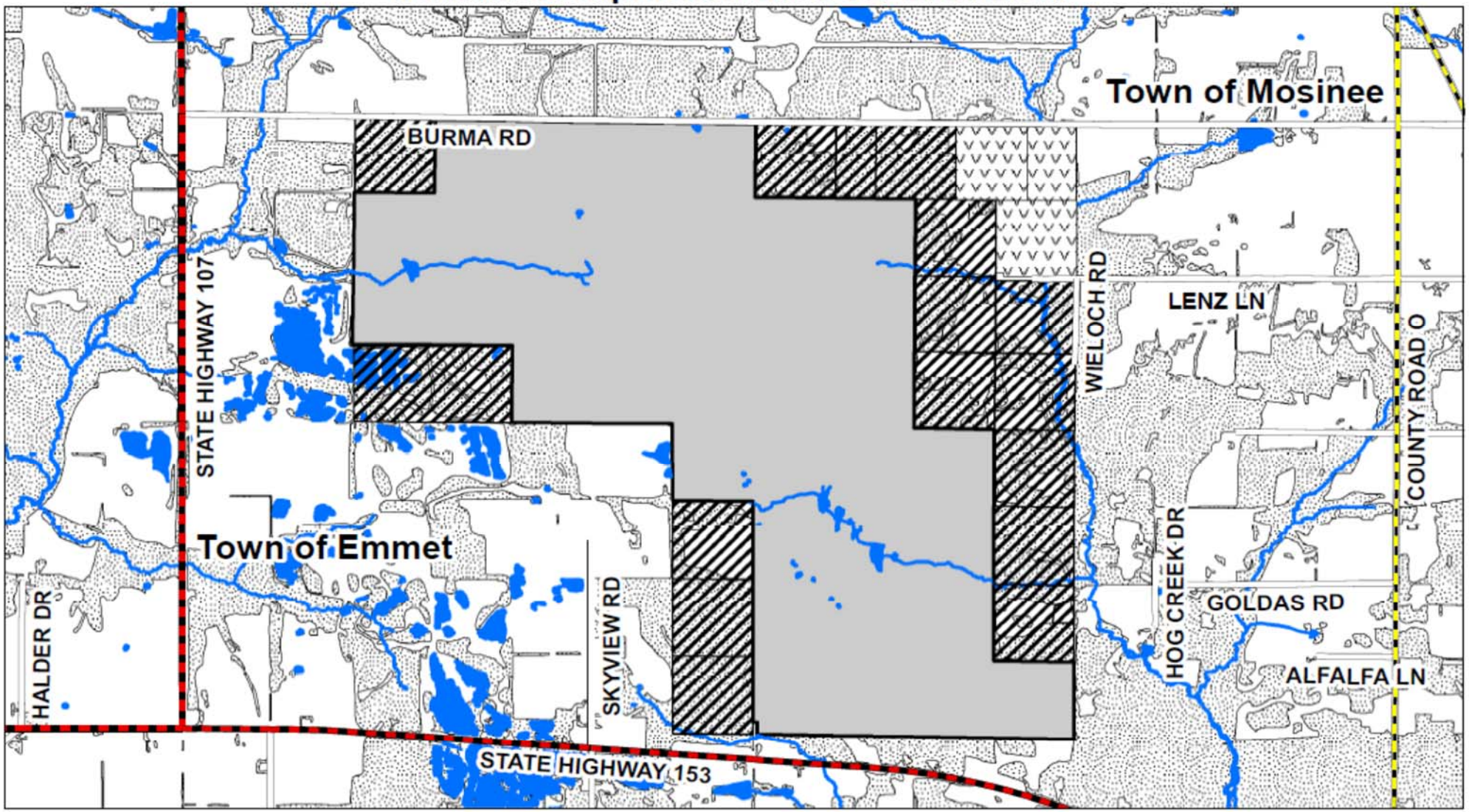
0 0.25 0.5 1 Miles

Total Potential Acquisition Acreage: 646 acres

01/17/2020

Marathon County Forest: Burma Forest Unit

Potential Acquisition Zone for 2021-2035



Legend

- Current Ownership
- Potential Acquisition Zone (2021-2035)
- No Purchase Zone (Developed/Agriculture)
- Wooded Areas
- Lakes/Ponds
- Streams/Rivers
- County Forest Roads
- Town Roads
- County Roads
- State & US Highways

0 0.25 0.5 1 Miles

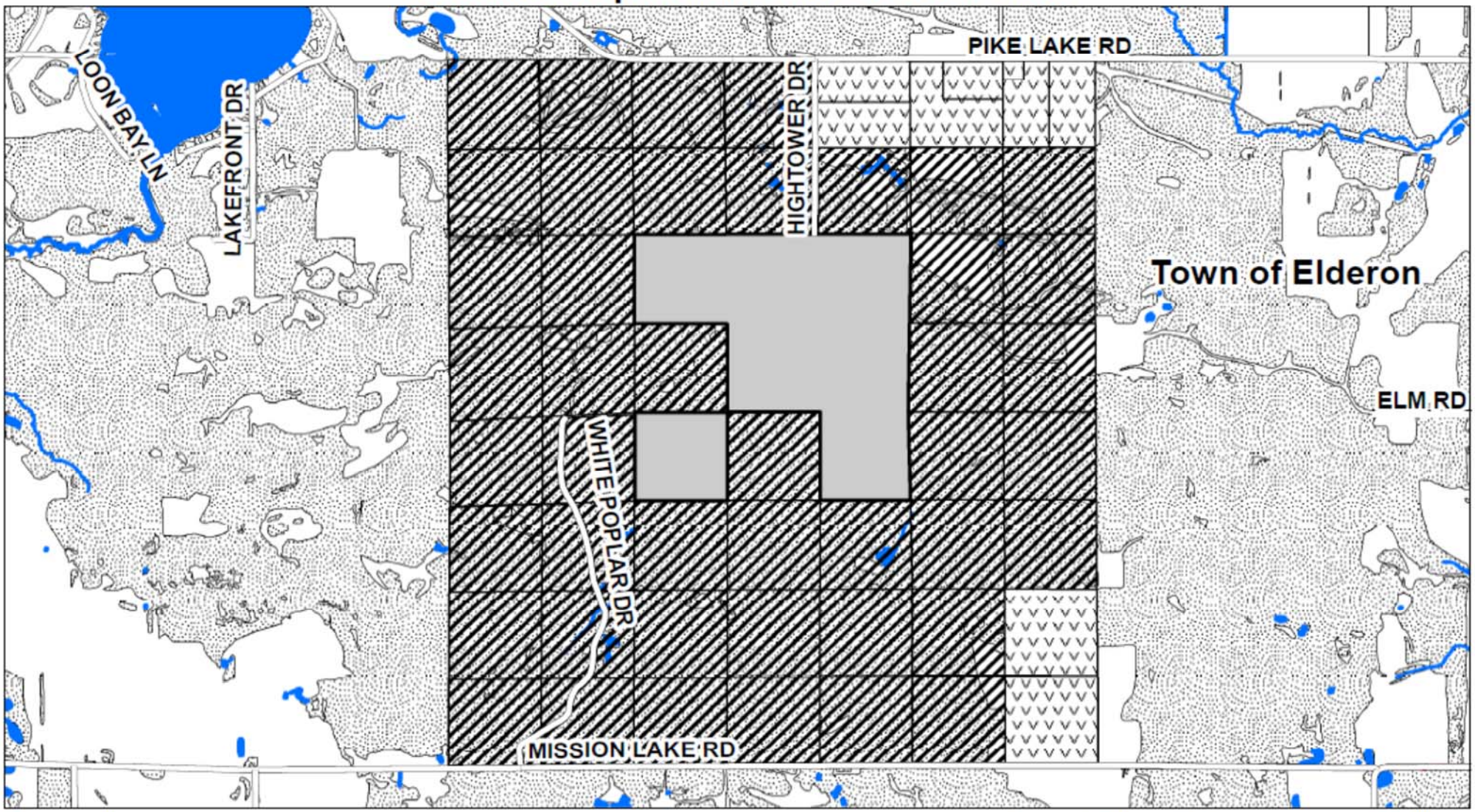
Total Potential Acquisition Acreage: 615 acres

01/17/2020

1000.2.4

Marathon County Forest: Elderon Forest Unit

Potential Acquisition Zone for 2021-2035



Legend

- Current Ownership
- Potential Acquisition Zone (2021-2035)
- No Purchase Zone (Developed/Agriculture)
- Wooded Areas
- Lakes/Ponds
- Streams/Rivers
- County Forest Roads
- Town Roads
- County Roads
- State & US Highways

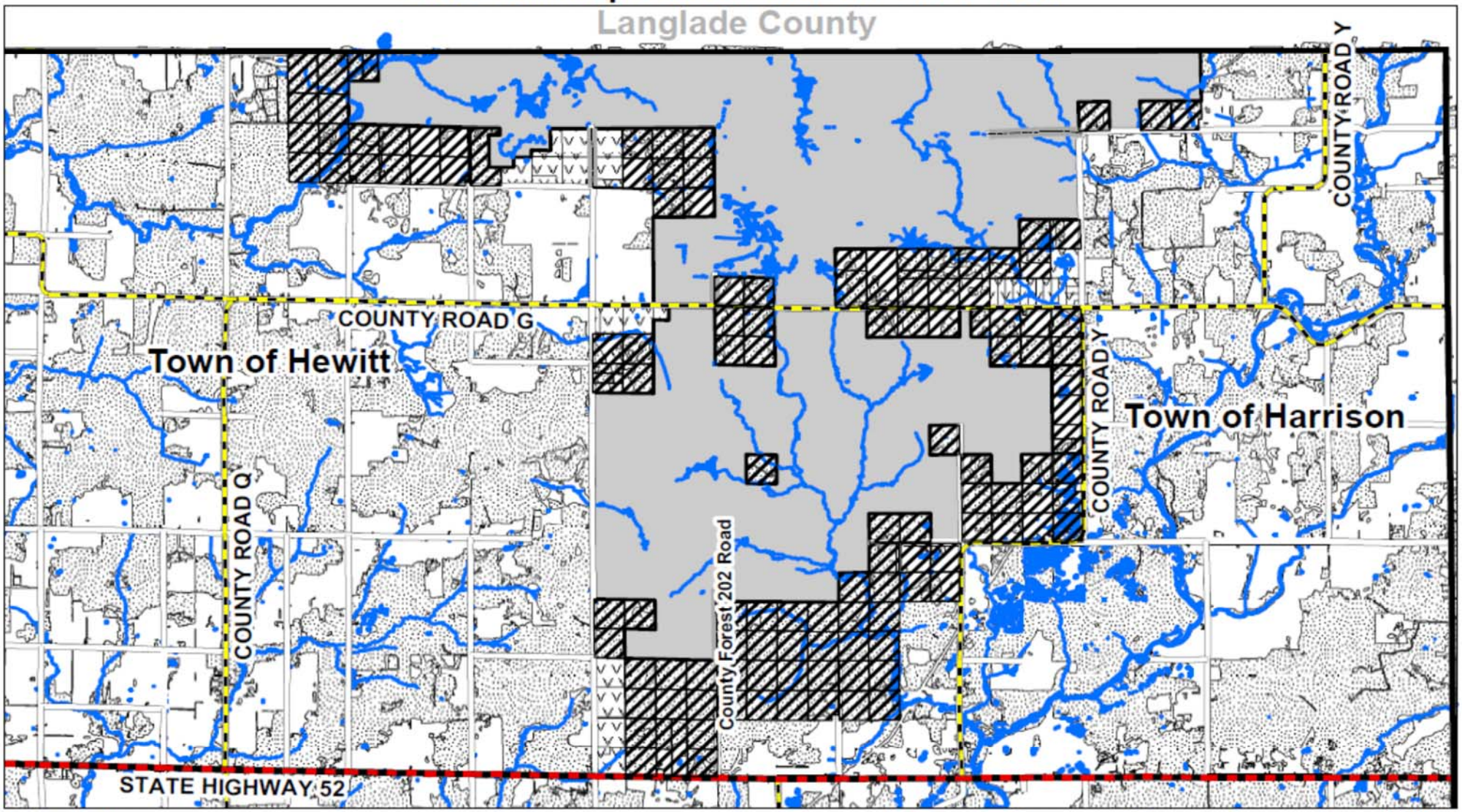
0 0.25 0.5 1 Miles

Total Potential Acquisition Acreage: 1,739 acres

01/17/2020

Marathon County Forest: Hewitt-Harrison Forest Unit

Potential Acquisition Zone for 2021-2035



Legend

0 1 2 4 Miles

- Current Ownership
- Potential Acquisition Zone (2021-2035)
- No Purchase Zone (Developed/Agriculture)
- Wooded Areas
- Lakes/Ponds
- Streams/Rivers
- County Forest Roads
- Town Roads
- County Roads
- State & US Highways

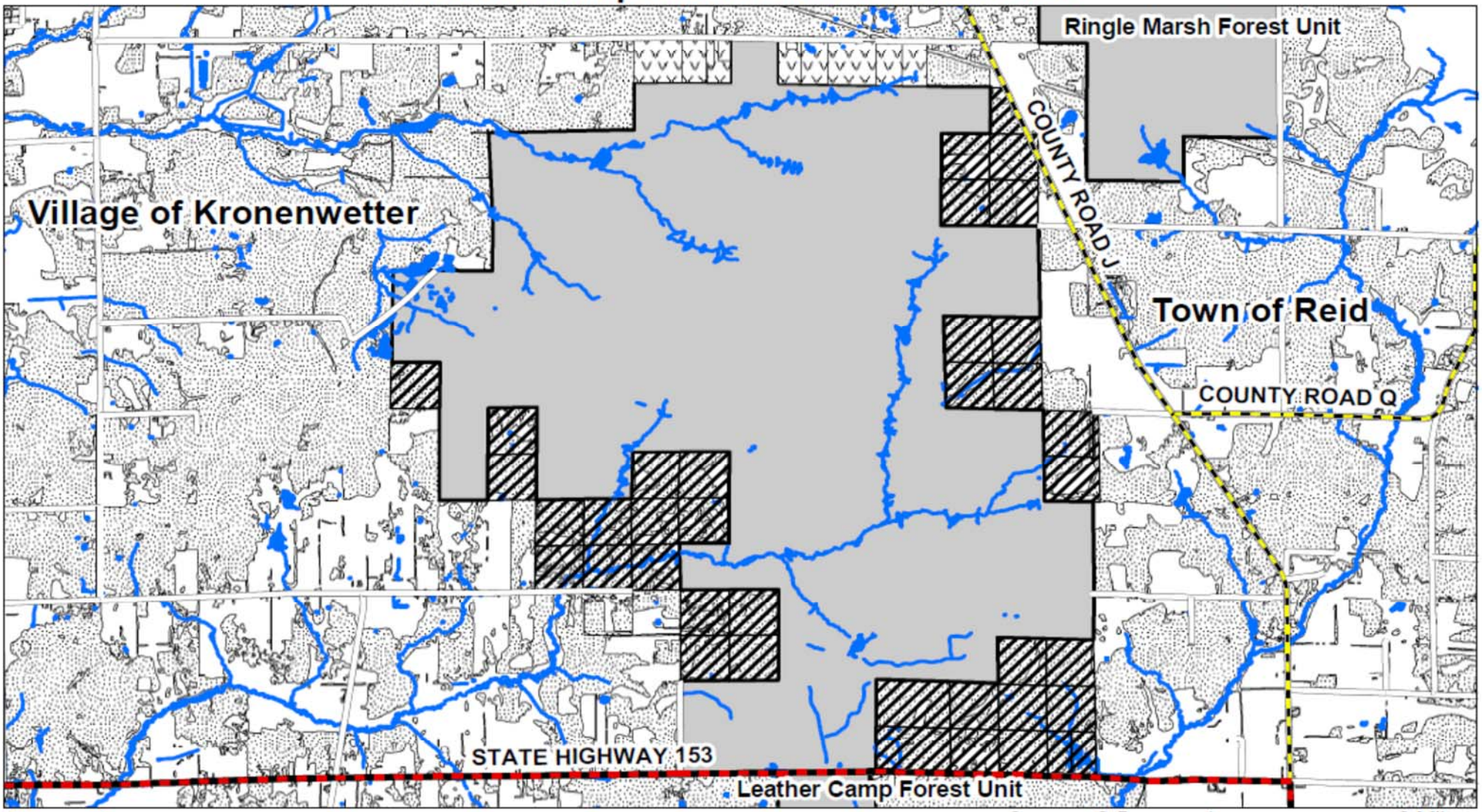
Total Potential Acquisition Acreage: 4,263 acres

01/17/2020

1000.2.6

Marathon County Forest: Kronenwetter Forest Unit

Potential Acquisition Zone for 2021-2035



Legend

0 0.5 1 2 Miles

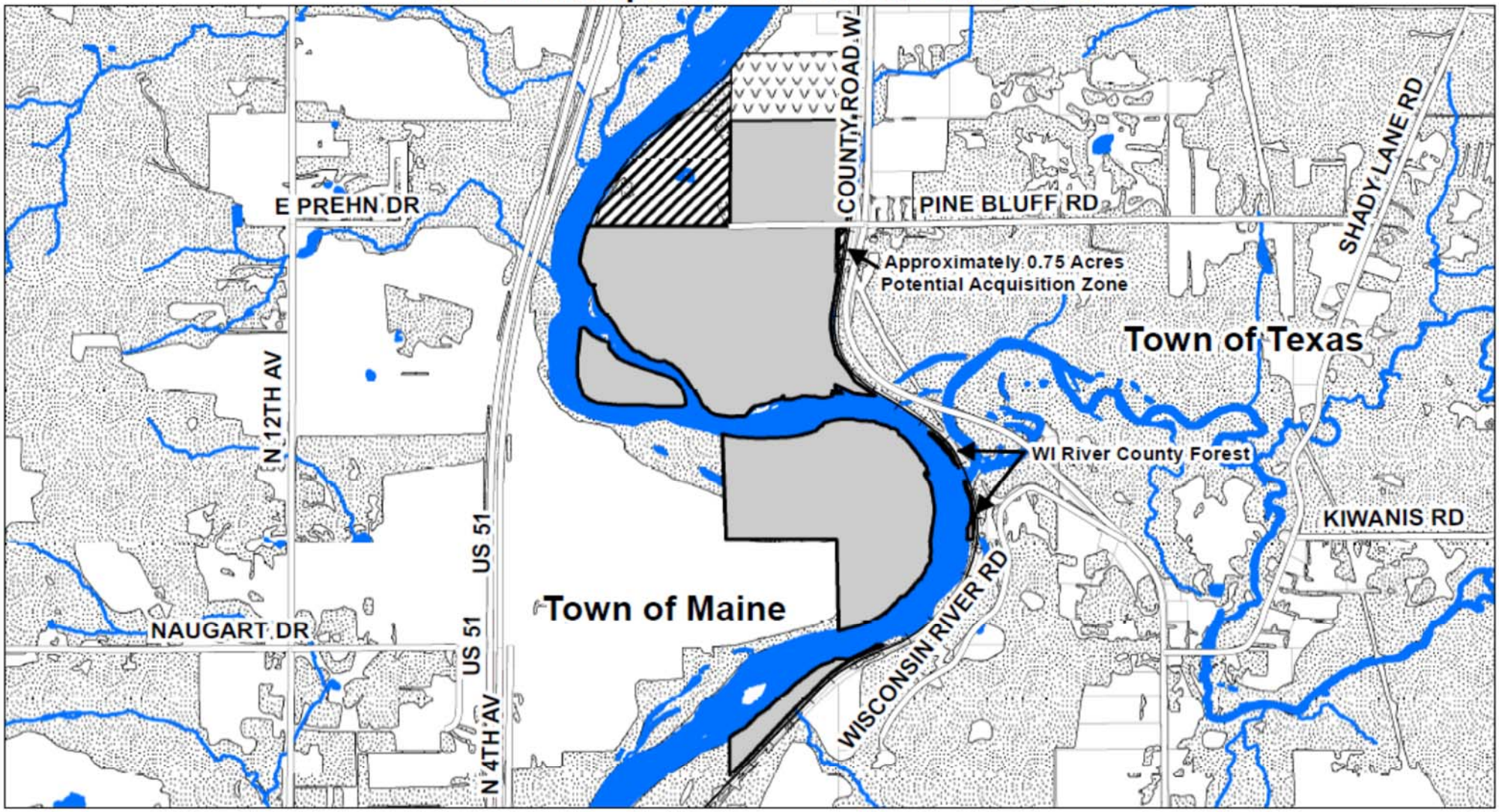
- Current Ownership
- Potential Acquisition Zone (2021-2035)
- No Purchase Zone (Developed/Agriculture)
- Wooded Areas
- Lakes/Ponds
- Streams/Rivers
- County Forest Roads
- Town Roads
- County Roads
- State & US Highways

Total Potential Acquisition Acreage: 1,506 acres

01/17/2020

Marathon County Forest: Wisconsin River Forest Unit

Potential Acquisition Zone for 2021-2035



Legend

- Current Ownership
- Potential Acquisition Zone (2021-2035)
- No Purchase Zone (Developed/Agriculture)
- Wooded Areas
- Lakes/Ponds
- Streams/Rivers
- County Forest Roads
- Town Roads
- County Roads
- State & US Highways
- Railroads

0 0.25 0.5 Miles

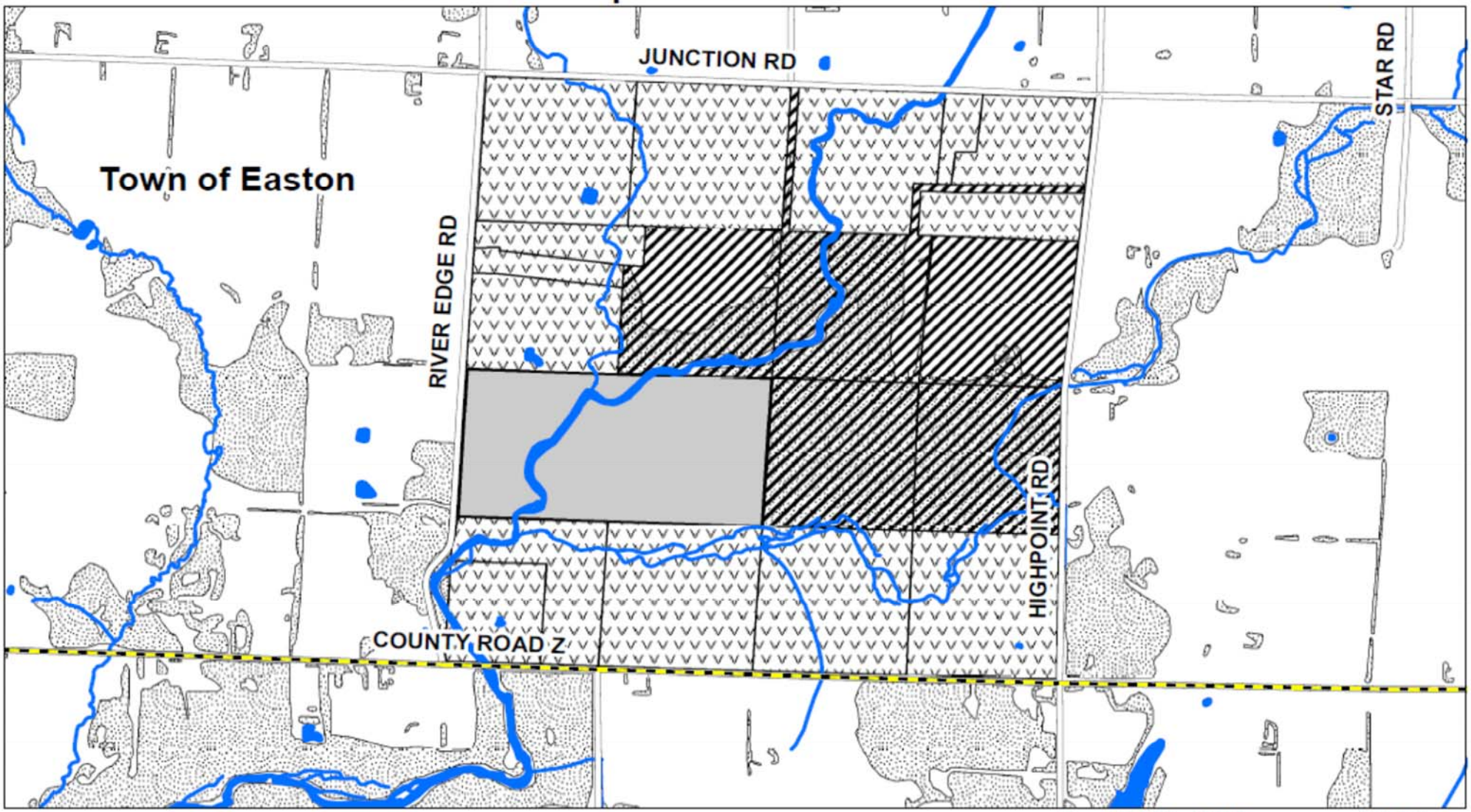
Total Potential Acquisition Acreage: 44 acres

01/17/2020

1000.2.8

Marathon County Forest: Miller Forest Unit

Potential Acquisition Zone for 2021-2035



Legend

- Current Ownership
- Potential Acquisition Zone (2021-2035)
- No Purchase Zone (Developed/Agriculture)
- Wooded Areas
- Lakes/Ponds
- Streams/Rivers
- County Forest Roads
- Town Roads
- County Roads
- State & US Highways

0 0.125 0.25 0.5 Miles

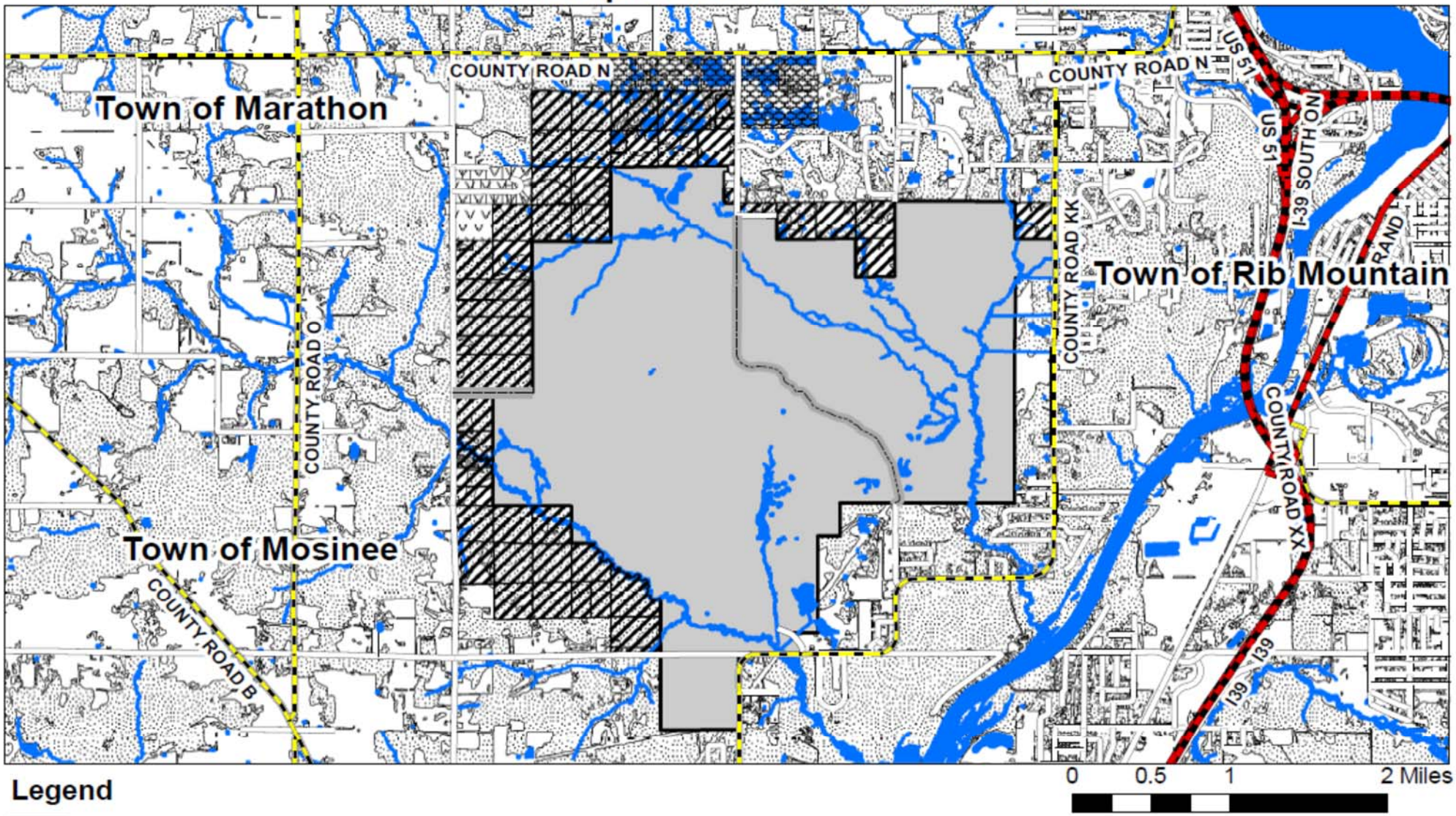
Total Potential Acquisition Acreage: 215 acres

01/17/2020

1000.2.9

Marathon County Forest: Nine Mile Forest Unit

Potential Acquisition Zone for 2021-2035



Legend

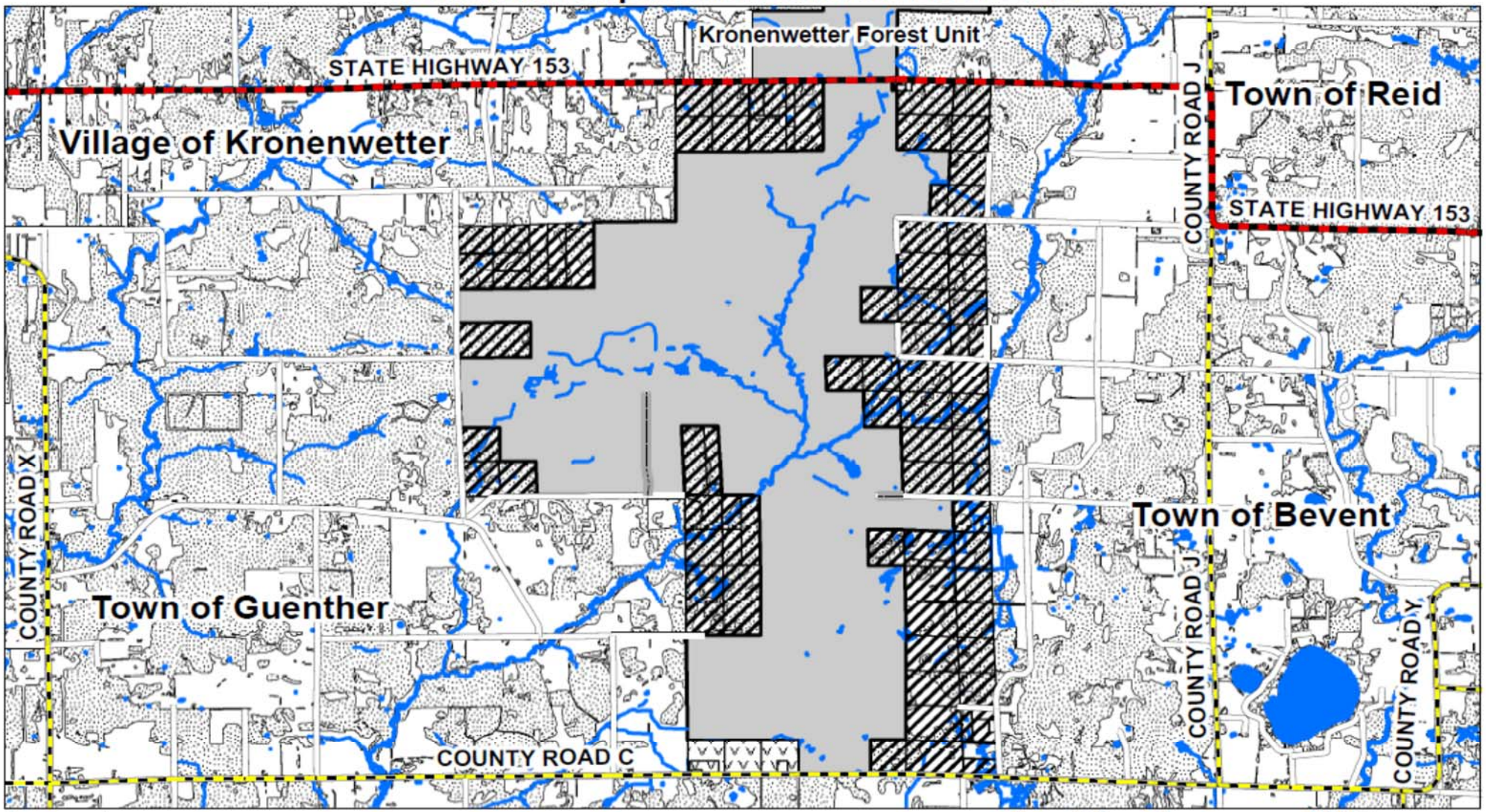
- Current Ownership
- Potential Acquisition Zone (2021-2035)
- Potential Connector Acquisition (Rib Mt. State Park/9 Mile)
- No Purchase Zone (Developed/Agriculture)
- Wooded Areas
- Lakes/Ponds
- Streams/Rivers
- County Forest Roads
- Town Roads
- County Roads
- State & US Highways

Total Potential Acquisition Acreage (w/ Rib Mt. Connector): 1,834 acres 02/26/2020

1000.2.10

Marathon County Forest: Leather Camp Forest Unit

Potential Acquisition Zone for 2021-2035



Legend

- Current Ownership
- Potential Acquisition Zone (2021-2035)
- No Purchase Zone (Developed/Agriculture)
- Wooded Areas
- Lakes/Ponds
- Streams/Rivers
- County Forest Roads
- Town Roads
- County Roads
- State & US Highways

0 0.5 1 2 Miles

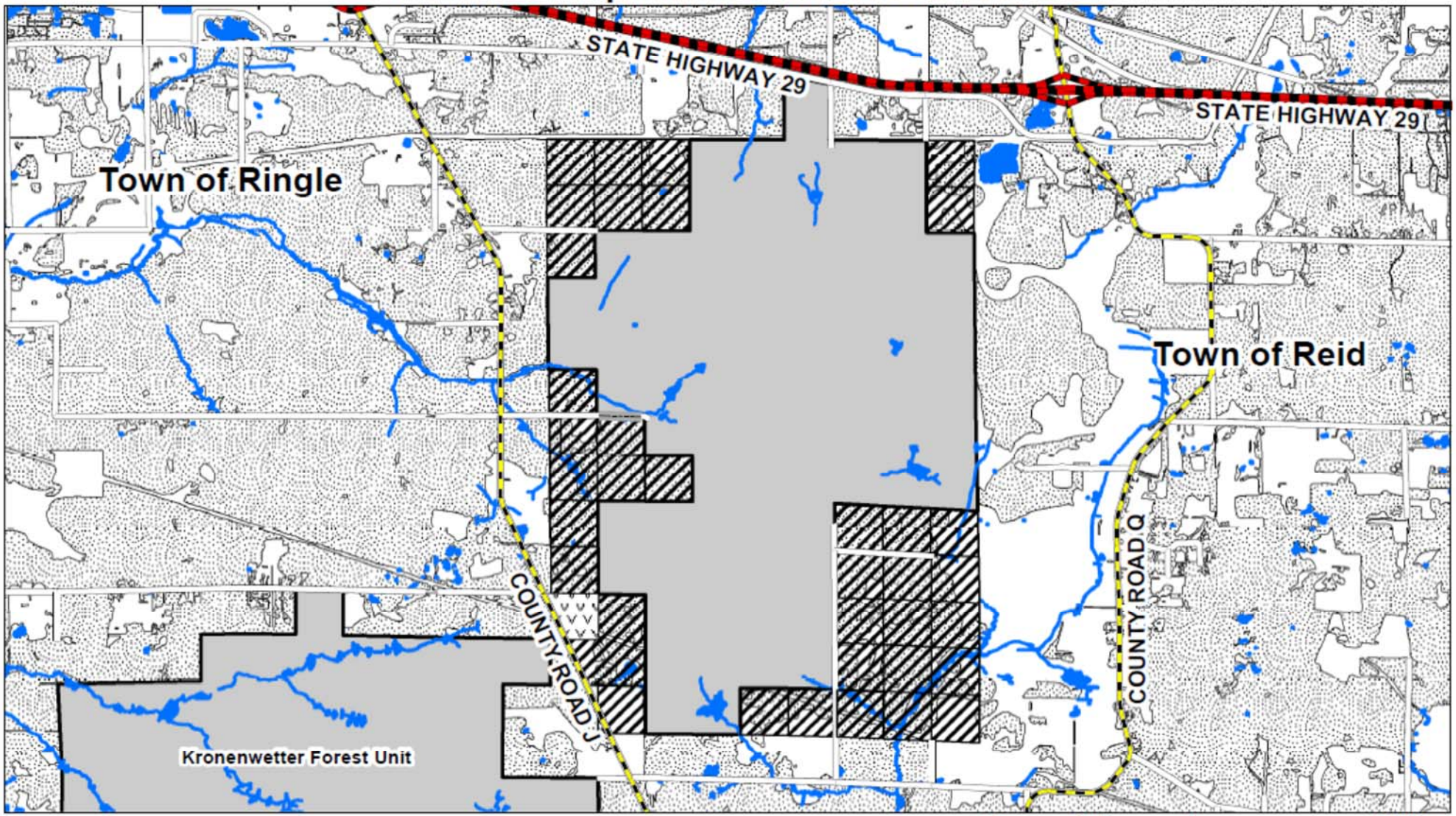
Total Potential Acquisition Acreage: 3,198 acres

01/17/2020

1000.2.11

Marathon County Forest: Ringle Marsh Forest Unit

Potential Acquisition Zone for 2021-2035



Legend

- Current Ownership
- Potential Acquisition Zone (2021-2035)
- No Purchase Zone (Developed/Agriculture)
- Wooded Areas
- Lakes/Ponds
- Streams/Rivers
- County Forest Roads
- Town Roads
- County Roads
- State & US Highways

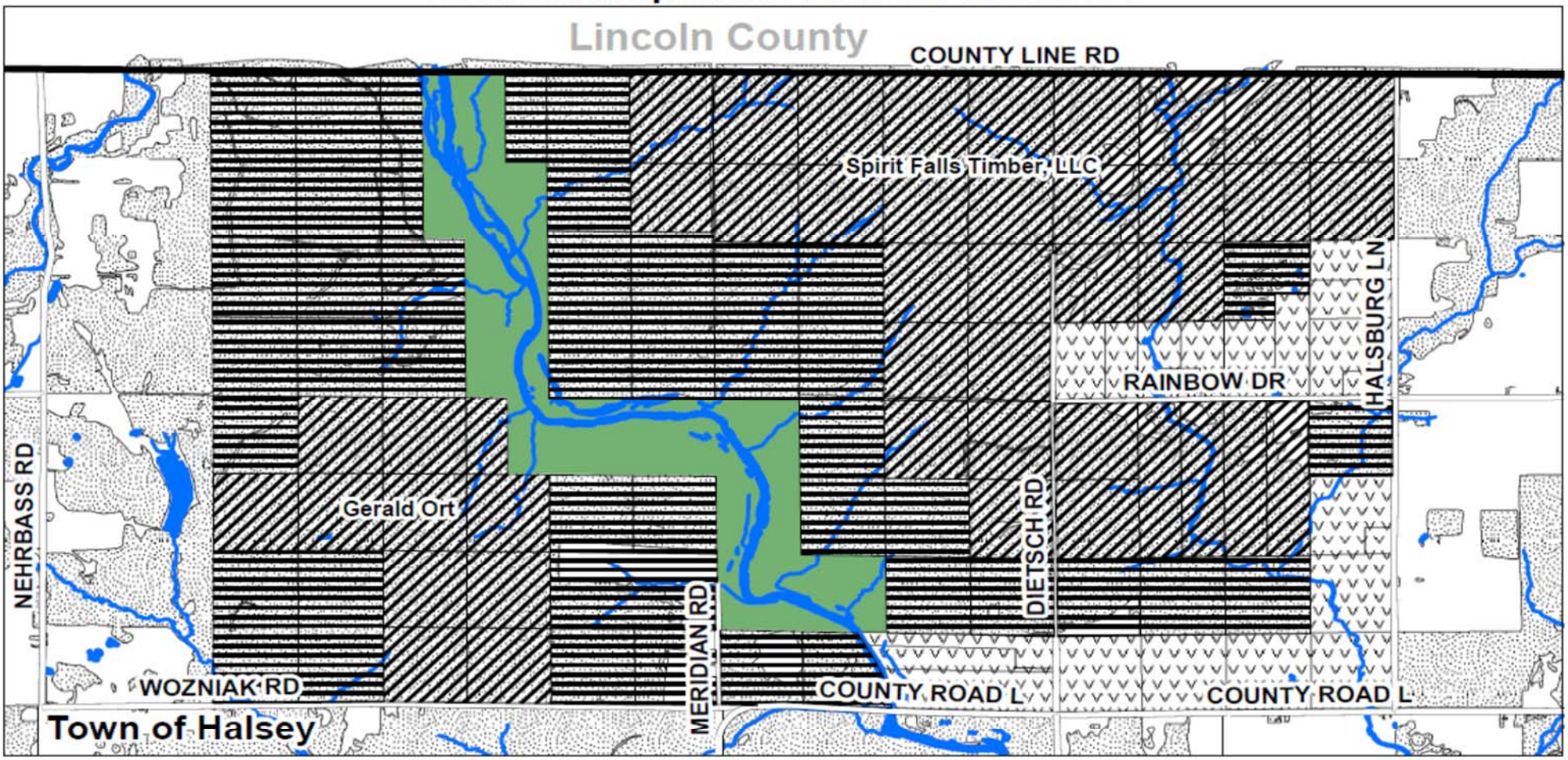
0 0.5 1 2 Miles

Total Potential Acquisition Acreage: 1,417 acres

01/17/2020

Marathon County Forest: Town of Halsey

Potential Acquisition Zone for 2021-2035



0 0.5 1 Miles

Legend

- Current Ownership
- State Owned Lands
- Potential Purchase Zone: Spirit Falls & Ort (2021-2035)
- Potential Purchase Zone: Other Private (2021-2035)
- No Purchase Zone (Developed/Agriculture)
- Wooded Areas
- Lakes/Ponds
- Streams/Rivers
- Town Roads
- County Roads
- State & US Highways

Total Acreage: Spirit Falls-1363 acres, Ort-420 acres, Other Private-1734 acres

01/27/2020

1005 LAWS AND ORDINANCES

28.11 ADMINISTRATION OF COUNTY FORESTS

28.11(1) PURPOSE. The purpose of this section is to provide the basis for a permanent program of county forests and to enable and encourage the planned development and management of the county forests for optimum production of forest products together with recreational opportunities, wildlife, watershed protection and stabilization of stream flow, giving full recognition to the concept of multiple-use to assure maximum public benefits; to protect the public rights, interests and investments in such lands; and to compensate the counties for the public uses, benefits and privileges these lands provide; all in a manner which will provide a reasonable revenue to the towns in which such lands lie.

28.11(2) DEFINED. “County forests" include all county lands entered under and participating under ch. 77 on October 2, 1963, and all county lands designated as county forests by the county board or the forestry committee and entered under the county forest law and designated as “county forest lands" or “county special-use lands" as hereinafter provided.

28.11(3) POWERS OF COUNTY BOARD. The county board of any such county may:

28.11(3)(a) Enact an ordinance designating a committee to have charge of the county forests and specifying the powers, duties, procedures and functions of such committee. The members of such committee shall be appointed pursuant to s. 59.13 and may include well-qualified residents of the county who are not members of the county board.

28.11(3)(b) Establish regulations for the use of the county forests by the public and to provide penalties for their enforcement.

28.11(3)(c) Appropriate funds for the purchase, development, protection and maintenance of such forests and to exchange other county-owned lands for the purpose of consolidating and blocking county forest holdings.

28.11(3)(d) Enter into cooperative agreements with the department for protection of county forests from fire.

28.11(3)(e) Establish aesthetic management zones along roads and waters and enter into long-term cooperative leases and agreements with the department and other state agencies or federal agencies for the use of the county forests for natural resources research.

28.11(3)(f) Establish transplant nurseries for growing seedlings, from the state forest nurseries, to larger size for planting in county forests, but no ornamental or landscape stock shall be produced in such nurseries.

28.11(3)(g) Establish forest plantations and engage in silviculture, forest management and timber sales.

28.11(3)(h) Engage in other projects designed to achieve optimum development of the forest.

28.11(3)(i) Enter into leases or agreements, for terms not exceeding 10 years, to explore and prospect for ore, minerals, gas or oil upon any county forest lands. These leases or agreements shall contain proper covenants to safeguard the public interests in the lands involved and to guard against trespass and waste. The county board shall require proper security to ensure that the person engaged in exploration or prospecting fully informs the county of every discovery of ore, minerals, gas or oil and restores the land surface to an acceptable condition and value if no discovery of valuable deposit is made or if county forest lands are not withdrawn from entry under this section. Before a lease or agreement under this paragraph is effective, approval of the lease or agreement by the department is required. If the department finds that the proposed lease or agreement fully complies with the law and contains the proper safeguards, it shall approve the lease or agreement.

28.11(3)(j) Enter into leases for the extraction of valuable deposits of ore, minerals, gas or oil upon any county forest land. If the extraction can be accomplished without permanently affecting the surface of the land, extraction leases may be entered into and extraction may occur while the land remains county forest lands. If the extraction cannot be accomplished without permanently affecting the surface of the land, extraction may not commence until the land is withdrawn as county forest land. Before an extraction lease under this paragraph is effective, approval of the lease by the department is required.

28.11(3)(k) Establish energy conservation projects which permit individual members of the public to remove up to 10 standard cords of wood without charge from county forest lands for individual home heating purposes. The county board shall limit removal of wood for energy conservation projects to wood that is unsuitable for commercial sale. The county board may require a permit to remove wood for energy conservation projects and may charge a fee for the permit to administer projects established under this paragraph. A county board shall restrict participation in projects established under this paragraph to residents, as defined under s. 29.001 (69), but may not restrict participation to residents of the county. No timber sale contract is required for wood removed under this paragraph.

28.11(4) ENTRY OF COUNTY FOREST LANDS

28.11(4)(a) A county may file with the department an application for entry of county-owned land under this section. Such application shall include the description of the land and a statement of the purposes for which the lands are best suited. Upon the filing of such application the department shall investigate the same and it may conduct a public hearing thereon if it deems it advisable to do so at such time and place as it sees fit.

28.11(4)(b) If after such investigation the department finds that the lands constitute a well blocked county forest unit or that they block in with other established county forest lands and are otherwise suitable for the purposes of this section it shall make an order of entry designating such lands as county forest lands. All county lands entered under and participating under ch. 77 on October 2, 1963 shall be designated “county forest lands" without further order of entry.

28.11(4)(c) If the department finds that the lands are not suited primarily for timber production and do not otherwise qualify for entry under par. (b) but that they are suitable for scenic, outdoor recreation, public hunting and fishing, water conservation and other multiple-use purposes it shall make an order of entry designating such lands as “county special-use lands".

28.11(4)(d) A copy of the order of entry shall be filed with the county clerk and the county forestry committee, and the order shall also be recorded with the register of deeds.

28.11(4)(e) From and after the filing of such order of entry, the lands therein described shall be “county forest lands" or “county special-use lands", as the case may be, and shall so remain until withdrawn as hereinafter provided.

28.11(4)(f) The department may construct and use forest fire lookout towers, telephone lines and fire lanes or other forest protection structures on any lands entered under this section and the county clerk of such county shall execute any easement on or over such lands which the department may require for forest protection. The general public shall enjoy the privilege of entering such lands for the purpose of hunting, fishing, trapping and other recreation pursuits subject to such regulation and restrictions as may be established by lawful authority.

28.11(5) (5) MANAGEMENT.

28.11(5)(a) On or before December 31, 2005, a comprehensive county forest land use plan shall be prepared for a 15-year period by the county forestry committee with the assistance of technical personnel from the

department and other interested agencies, and shall be approved by the county board and the department. The plan shall include land use designations, land acquisition, forest protection, annual allowable timber harvests, recreational developments, fish and wildlife management activities, roads, silvicultural operations and operating policies and procedures; it shall include a complete inventory of the county forest and shall be documented with maps, records and priorities showing in detail the various projects to be undertaken during the plan period. The plan may include an application for aids under s. 23.09 (17m). The application will be considered an annual application for these aids during the 15-year period of the plan. The initial plan may be revised as changing conditions require. Upon the expiration of the initial 15-year plan period, and upon expiration of each subsequent 15-year plan period, the plan shall be revised and shall be in effect for another 15-year period. If a plan under this paragraph is not revised upon expiration of the 15-year plan period, or if a plan under s. 28.11 (5) (a), 2003 stats., is not revised on or before December 31, 2005, that plan shall remain in effect until such time as that plan is revised and the revised plan takes effect.

28.11(5)(b) An annual work plan and budget based upon the comprehensive plan shall be prepared by the county forestry committee with the assistance of a forester of the department. The plan shall include a schedule of compartments to be harvested and a listing by location of management projects for the forthcoming year. In addition the plan shall include other multiple- use projects where appropriate. A budget, listing estimated expenditures for work projects, administration and protection of the forest, shall accompany the annual plan both to be submitted to the county board for approval at the November meeting.

28.11(5m) COUNTY FOREST ADMINISTRATION GRANTS.

28.11(5m)(a)The department may make grants, from the appropriation under s. 20.370 (5) (bw), to counties having lands entered under sub. (4) to fund all of the following for one professional forester in the position of county forest administrator or assistant county forest administrator:

28.11(5m)(a)1. Up to 50 percent of the forester's salary.

28.11(5m)(a)2. Up to 50 percent of the forester's fringe benefits, except that the fringe benefits may not exceed 40 percent of the forester's salary.

28.11(5m)(am) The department may make grants, from the appropriation under s. 20.370 (5) (bw), to counties having lands entered under sub. (4) to fund up to 50 percent of the costs of a county's annual dues to a nonprofit organization that provides leadership and counsel to that county's forest administrator and that functions as an organizational liaison to the department. The total amount that the department may award in grants under this paragraph in any fiscal year may not exceed $50,000.

28.11(5m)(b) The department may not make a grant under this subsection for a year for which the department has not approved the annual work plan that was approved by the county board under sub. (5) (b). The department may not base the amount of a county's grant on the acreage of the county's forest land.

28.11(5m)(c) The department may choose not to make a grant to a county under this subsection if the county board for that county is more than one year delinquent in approving a comprehensive county forest land use plan or revised plan under sub. (5) (a).

28.11(5r) Sustainable forestry grants.

28.11(5r)(a) In this subsection, “sustainable forestry" has the meaning given in s. 28.04 (1) (e).

28.11(5r)(b) The department may make grants, from the appropriation under s. 20.370 (5) (bw), to counties having lands entered under sub. (4) to fund the cost of activities designed to improve sustainable forestry on the lands.

28.11(5r)(c) The department may choose not to make a grant to a county under this subsection if the county board for that county is more than one year delinquent in approving a comprehensive county forest land use plan or revised plan under sub. (5) (a).

28.11(6) TIMBER SALES AND CULTURAL CUTTINGS.

28.11(6)(a) Limitations. The county forestry committee is authorized to sell merchantable timber designated in timber sale contracts and products removed in cultural or salvage cuttings. All timber sales shall be based on tree scale or on the scale, measure or count of the cut products; the Scribner Decimal C log rule shall be used in log scaling. All cuttings shall be limited to trees marked or designated for cutting by qualified personnel recognized as such by the department.

28.11(6)(b) PROCEDURES.

28.11(6)(b)1. Any timber sale with an estimated value of $3,000 or more shall be by sealed bid or public sale after publication of a classified advertisement announcing the sale in a newspaper having general circulation in the county in which the timber to be sold is located. Any timber sale with an estimated value below $3,000 may be made without prior advertising. Any timber sale with an estimated value of $3,000 or more requires approval of the secretary.

28.11(6)(b)2. Timber sales shall be subject to presale appraisals by qualified personnel recognized as such by the department to establish minimum sales value. Appraisal methods and procedures shall be approved by the department.

28.11(6)(b)3. No merchantable wood products may be cut on any lands entered under this section unless a cutting notice on forms furnished by the department is filed with and approved by the department. Any unauthorized cutting shall render the county liable to the state in an amount equal to double the stumpage value of the cut products which amount shall be paid by the county to the state. If the county does not pay the amount of such penalty to the state, the department may withhold such amount from future state contributions to the county.

28.11(6)(b)4. Within 90 days after completion of any cutting operation, including timber trespass, but not more than 2 years after filing the cutting notice, the county shall transmit to the department on forms furnished by the department, a report of merchantable wood products cut. The department may conduct any investigations on timber cutting operations that it considers to be advisable, including the holding of public hearings on the timber cutting operations, and may assess severance share payments accordingly.

28.11(6)(c) Exception. Paragraph (b) 1. does not apply to any sale of timber that has been damaged by fire, snow, hail, ice, insects, disease, or wind. Timber damaged in that manner that is located in a county forest may be sold by the county forestry committee for that county on such terms and in such manner as the committee determines is in the best interest of the county.

28.11(7) County forest credit. The department shall set up an account for each county showing the lands entered; the sums previously paid under s. 28.14, 1961 stats.; the sums hereafter paid under this section; the sums previously received in the form of four-fifths severance tax collected pursuant to s. 77.06 (5), 1961 stats.; the sums received as forestry fund severance share under this section; and the sums previously reimbursed to the state on withdrawn lands pursuant to s. 28.12 (4), 1961 stats. Whenever the forestry fund account of any county shows an overpayment of such severance tax or severance share as of June 30 of any year, the department shall return such overpayment to the county. All severance taxes previously paid by any county and deposited in the general fund shall be credited to the forestry fund account of the county. If such credit exceeds the balance due to the forestry fund account from such county, the overpayment shall be credited to the county and applied in lieu of future severance shares due to the state until the county account is balanced.

28.11(8) STATE CONTRIBUTION.

28.11(8)(a) (a) Acreage payments. As soon after April 20 of each year as feasible, the department shall pay to each town treasurer 30 cents per acre, based on the acreage of such lands as of the preceding June 30, as a grant out of the appropriation made by s. 20.370 (5) (bv) on each acre of county lands entered under this section.

28.11(8)(b) FORESTRY FUND ACCOUNT.

28.11(8)(b)1. A county having established and maintaining a county forest under this section is eligible to receive from the state from the appropriations under s. 20.370 (5) (bq) and (bs) an annual payment as a noninterest bearing loan to be used for the purchase, development, preservation and maintenance of the county forest lands and the payment shall be credited to a county account to be known as the county forestry aid fund. A county board may, by a resolution adopted during the year and transmitted to the department by December 31, request to receive a payment of not more than 50 cents for each acre of land entered and designated as "county forest land". The department shall review the request and approve the request if the request is found to be consistent with the comprehensive county forest land use plan. If any lands purchased from the fund are sold, the county shall restore the purchase price to the county forestry aid fund. The department shall pay to the county the amount due to it on or before March 31 of each year, based on the acreage of the lands as of the preceding June 30. If the amounts in the appropriations under s. 20.370 (5) (bq) and (bs) are not sufficient to pay all of the amounts approved by the department under this subdivision, the department shall pay eligible counties on a prorated basis.

28.11(8)(b)2. The department may allot additional interest free forestry aid loans on a project basis to individual counties to permit the counties to undertake meritorious and economically productive forestry operations, including land acquisitions. These additional aids may not be used for the construction of recreational facilities or for fish and game management projects. Application shall be made in the manner and on forms prescribed by the department and specify the purpose for which the additional aids will be used. The department shall make an investigation as it deems necessary to satisfy itself that the project is feasible, desirable and consistent with the comprehensive plan. If the department so finds, it may make allotments in such amounts as it determines to be reasonable and proper and charge the allotments to the forestry fund account of the county. These allotments shall be credited by the county to the county forestry aid fund. After determining the loans as required under subd. 1., the department shall make the remainder of the amounts appropriated under s. 20.370 (5) (bq) and (bs) for that fiscal year available for loans under this subdivision. The department shall also make loans under this subdivision from the appropriations under s. 20.370 (5) (bt) and (bu).

28.11(8)(b)3. All payments made under this paragraph shall be known as the "forestry fund account".

28.11(9) COUNTY FOREST SEVERANCE SHARE.

28.11(9)(a) Except as provided under pars. (b) and (c), on timber cut from lands entered as "county forest lands" the county shall pay a severance share of not less than 20 percent of the actual stumpage sales value of the timber. A higher rate of payment may be applied when agreed upon by the department and the county. When cutting is done by the county and timber is not sold or is sold as cut forest products the severance share shall be 20 percent of the severance tax schedule in effect under s. 77.06 (2).

28.11(9)(ag) The severance share paid by a county to the state shall be credited to the forestry fund account of the county and shall be divided into 2 payments as follows:

28.11(9)(ag)1. An acreage loan severance share payment that is equal to the product of multiplying the amount of the severance share paid by the county by the percentage of the balance due in the forestry fund account of the county that is attributable to loans made under sub. (8) (b) 1.

28.11(9)(ag) 2. A project loan severance share payment that is equal to the product of multiplying the amount of the severance share paid by the county by the percentage of the balance due that is attributable to loans made under sub. (8) (b) 2.

28.11(9)(am) The acreage loan severance share payments shall be deposited in the conservation fund and credited to the appropriation under s. 20.370 (5) (bq), and the project loan severance share payments shall be deposited in the conservation fund and credited to the appropriation under s. 20.370 (5) (bu).

28.11(9)(ar)1. Notwithstanding s. 20.001 (3) (c), if the sum of the unencumbered balances in the appropriations under s. 20.370 (5) (bq), (bt) and (bu) exceeds $400,000 on June 30 of any fiscal year, the amount in excess of $400,000 shall lapse from the appropriation under s. 20.370 (5) (bq) to the conservation fund, except as provided in subd. 2.

28.11(9)(ar)2. Notwithstanding s. 20.001 (3) (c), if the amount in the appropriation under s.20.370 (5) (bq) is insufficient for the amount that must lapse under subd. 1., the remainder that is necessary for the lapse shall lapse from the appropriation under s. 20.370 (5) (bu).

28.11(9)(b) No severance share payment is required if there is no balance due in the forestry fund account of the county. A severance share payment shall not exceed the balance due in the forestry fund account of the county.

28.11(9)(c) No severance share payment is required for wood removed from county forest lands for energy conservation projects established under sub. (3) (k).

28.11(9)(d) Of the gross receipts from all timber sales on the county forests 10 percent shall be paid annually by the county to the towns having county forest lands on the basis of acreage of such lands in the towns.

28.11(11) WITHDRAWALS.

28.11(11)(a)1. The county board may by resolution adopted by not less than two-thirds of its membership make application to the department to withdraw lands entered under this section. The county board shall first refer the resolution to the county forestry committee, which shall consult with an authorized representative of the department in formulating its withdrawal proposal. The county board shall not take final action on the application until 90 days after referral of the application to the forestry committee or until the report of the forestry committee regarding the application has been filed with the board. The application shall include the land description, a statement of the reasons for withdrawal, and any restrictions or other conditions of use attached to the land proposed for withdrawal.

28.11(11)(a)2. Upon the filing of an application to withdraw lands under subd. 1., the department shall investigate the application. During the course of its investigation the department shall make an examination of the character of the land, the volume of timber, improvements, and any other special values. In the case of withdrawal for the purpose of sale to any purchaser other than the state or a local unit of government, the department shall establish a minimum value on the lands to be withdrawn. In making its investigation the department shall give full weight and consideration to the purposes and principles set forth in sub. (1), and it shall also weigh and consider the benefits to the people of the state as a whole, as well as to the county, from the proposed use against the benefits accruing to the people of the state as a whole and to the county under the continued entry of the lands to be withdrawn. The department may conduct a public hearing on the application, if it considers it advisable, at a time and place that it determines, except that if the county requests a public hearing in writing, the department shall hold a public hearing.

28.11(11)(a)3. If the department finds that the benefits after withdrawal of the lands described in the application under subd. 2. outweigh the benefits under continued entry of the lands and that the lands will be put to a better and higher use, it shall make an order withdrawing the lands from entry; otherwise it shall deny the application.

28.11(11)(a)4. If the application is denied, the county board may, by resolution adopted by not less than two-thirds of its membership, appeal to a review committee. The department shall submit the findings of its investigation and of any hearing on a proposed withdrawal to the committee, which shall be composed of the following members:

a. One member appointed by the county board submitting the application for withdrawal.

b. One member who is appointed by the governor, who is from another county that has land enrolled under the county forest law, and who shall be chairperson of the review committee.

c. One member appointed by the department.

d. One member appointed by the University of Wisconsin from the College of Agricultural and Life Sciences.

e. One member to be selected by unanimous vote of the appointed members or, if the appointed members fail to achieve unanimity, by the governor.

28.11(11)(a)5. 5. The review committee appointed under subd. 4. shall, by majority vote within 60 days after receiving the findings of the department, do one of the following:

a. Approve the application for withdrawal if it finds the proposed use to be of a greater benefit considering all losses and benefits to the people of the state as a whole, as well as to the people of the county.

b. Provisionally deny the application for withdrawal giving specific reasons why it finds the proposal deficient and making any suggestions for revising the application to reduce the conflict of the proposed use with the public interest.

28.11(11)(a)6. If the committee approves a withdrawal under subd. 5., it shall notify the county board of its approval stating, as necessary, specific procedures to be followed by the county relating to the withdrawal. The county board may then by a resolution approved by not less than two-thirds of its membership, withdraw the lands from the county forest law and shall send copies of this resolution to the department and to the county register of deeds who shall record the resolution.

28.11(11)(a)7. If the committee provisionally denies the proposed withdrawal under subd. 5., it may consider an amended application for withdrawal upon presentation of the application and supporting information, or it may require additional investigation of the amended application by the department before reconsidering the application. Any additional investigation shall include additional public hearings if requested by the county, the department, or the committee.

28.11(11)(b) If the application is approved the county shall reimburse the state the amounts previously paid to the county pursuant to sub. (8) (b) which reimbursement shall be credited to the county forestry fund account; except that the department may waive all or part of such reimbursement if it finds that the lands are withdrawn for a higher public use or that the amount of such reimbursement is unreasonable when compared to the value of the land. If the department has waived any portion of such reimbursement and if at any subsequent time the land ceases to be used for the purpose designated in the application for withdrawal, the full amount of reimbursement due the forestry fund account on the lands withdrawn shall immediately become due and payable to the department and shall be credited to the forestry fund account, unless the department finds and determines that the lands will continue to be put to another higher public use in which case payments of such reimbursement may be deferred by the department so long as the lands are devoted to a higher public use. If payment is not made prior to the time of the next forestry aid payment to the county, forestry aid payments in an amount to be determined by the department shall be withheld until the amount due the forestry fund account is reimbursed.

28.11(12) ENFORCEMENT. If at any time it appears to the department that the lands are not being managed in accordance with this section it shall so advise the county forestry committee and the county clerk. If the condition persists the department may proceed against the persons responsible for such noncompliance under s. 30.03 (4).

28.11(13) REVIEW. All orders of the department made under this section may be reviewed under ss. 227.52 to 227.58.

28.11 History: 1971 c. 215; 1975 c. 39 s. 734; 1975 c. 342; 1977 c. 29; 1979 c. 34 ss. 723 to 725, 2102 (39) (a); 1983 a. 27; 1983 a. 192 s. 304; 1983 a. 424 ss. 2 to 5; 1985 a. 29 ss. 655ce to 655cg, 3202 (39); 1985 a. 182 s. 57; 1987 a. 27; 1989 a. 31, 79; 1993 a. 16, 184, 301; 1995 a. 27, 201; 1997 a. 237, 248; 1999 a. 9; 2001 a. 16, 103; 2003 a. 242; 2005 a. 48; 2007 a. 20.

28.11 Cross-reference: See also ch. NR 48 and ss. NR 1.24, 47.60 to 47.75, and 302.03, Wis. adm. code.

A county forest withdrawal appeal review committee under sub. (11) (a) is not a state agency whose decisions are reviewable under ch. 227. Allen v. Juneau County, 98 Wis. 2d 103, 295 N.W.2d 218 (Ct. App. 1980).

County boards cannot sell or exchange county forest lands without first withdrawing them from the county forest program under sub. (11). 66 Atty. Gen. 109.

Conservation easements and restrictive covenants are permissible in county forests as long as they are consistent with and do not interfere with the purposes of county forests and the management plans properly developed for them under the county forest law. OAG 08-10.

1005.2 COUNTY ORDINANCES

1005.2.1 County Forestry Ordinance *

- **Chapter 16 - COUNTY FORESTS**

- **Sec. 16.01. - County forests established.**

This chapter is hereby established to prescribe rules and regulations for the administration of County powers and duties as provided in Chs. 26, 28, 29, 59, and 77, Wis. Stats., under which the County Board is granted, in cooperation with the Department of Natural Resources, hereafter referred to as the "DNR", specific powers relative to the establishment, protection, development and management of County forests to provide sustained yield of forest products for commercial use and the associated benefits of soil and water conservation, scenic and recreational values, fish and game resources, multiple-use purposes and related uses.

(Ord. No. O-8-03, 4-15-03)

- **Sec. 16.02. - Determination of County forests.**

(1) Determination is hereby made that for the purpose of proper and complete identification, all County owned forest lands or special use lands now held or hereafter acquired by the County are established and designated as County forests or special use lands and such lands shall be shown on an official County map available at the County Clerk's office according to the records in the office of the Register of Deeds and Wausau and Marathon County Parks, Recreation, and Forestry Department, hereafter referred to as the "Department".

(2) It is the intent of the County Board to consolidate County forest holdings as lands are acquired by the County within the above defined areas and to apply to the DNR to enter such lands under § 28.11, Wis. Stats.

(Ord. No. O-8-03, 4-15-03)

- **Sec. 16.03. - Committee of administration.**

(1) *Appointment.* The County Board assigns administration of the Department's Forestry Division to the Forestry/Recreation Committee, composed of three members, is the committee of jurisdiction for Marathon County forestlands, hereafter referred to as the "Committee".

(2) *Powers and duties.*

(a) The Committee is empowered to recommend to the County Board the acquisition of land within County forest areas by purchase, gift or bequest, or by exchange of County owned lands outside such areas for the purpose of blocking the forest for better administration. Each recommended acquisition shall be presented to the County Board for approval.

(b) The Committee may make application for entry of County forest lands under § 28.11, Wis. Stats.

(c) The Committee shall authorize the Director to designate a County Forest Administrator as its agent, and the Committee is empowered to employ such other competent personnel as may be necessary to direct, perform and enforce the administrative and management functions of the Department's Forestry Division.

(d) The Committee may establish and maintain in appropriate centers a forest headquarters for office space and the housing of machinery, tools, equipment and supplies needed in conducting forest operations.

(e) The Committee may purchase, acquire, sell, trade or dispose of instruments, tools, equipment and supplies required for the operation of the forest pursuant to the bidding requirements of Wisconsin Statutes Chapters 28 and 59. Purchases not provided for in the budget must receive specific approval of the Finance and Property Committee and be referred to the County Board.

(f) The Committee shall cooperate with the DNR in preparing budgets for County Forest Administration, capital and direct expenditures of forestry funds advanced by the DNR and for the other revenues accruing to the County under this Chapter for submission to the County Board.

(g) The Committee shall do all things necessary for the protection of the forest whether from fire, insects, disease, trespass, or from damage by animals or persons, or from other causes, in cooperation with the DNR.

(h) The Committee shall regulate the disposal of slash.

(i) The Committee may designate timber harvest boundaries to establish timber sales on County forest lands.

(j) The Committee may construct, improve and maintain a system of forest roads, trails and fire breaks, and purchase or secure easements for accessways required to cross privately owned lands. Purchase of easements shall be referred to the County Board for approval.

(k) In order to protect the public rights the Committee may prohibit specified vehicles from entering County forest or special use lands where such vehicles would interfere with or be detrimental to wildlife, game management, other recreational activities, aesthetic management zones, nursery areas, areas of unique flora and fauna, stream banks or ground cover where erosion may result. The Committee shall have discretion in reasonably marking roads or trails. Gates or other barricades shall be clearly marked.

(l) The Committee shall conduct forest improvement work, including reforestation, release cuttings, thinnings, pruning and weeding by any method, including spraying or dusting of DNR approved herbicides and pesticides by airplane and other methods and shall authorize disposal of all salvaged materials.

(m) The Committee shall prepare an intensive 15-year County forest land use plan, with assistance from the DNR, and the plan shall be approved by the County Board and the DNR.

(n) The Committee is authorized to sell merchantable timber in accordance with § 28.11(6), Wis. Stats.

(o) The Committee may establish, construct and maintain within the County forest the following: picnic grounds, waysides, camps and campsites, public access roads and boat landings, scenic areas, trails and natural or historic markers. The Committee may establish fees or use permits for the use of these areas. The Committee may also assign certain forest lands to school districts for educational purposes.

(p) The Committee or its designee may issue permits within the County forest for the collection of firewood, Christmas boughs, peat or other natural resources for private use and may charge a fee for such permits.

(q) The Committee will cooperate with the DNR pursuant to the Memorandum of Understanding dated April 19, 1967, on all matters relating to game and fish management within the County forest and may prohibit hunting or fishing, as advised by the DNR, where such hunting or fishing would be inconsistent with other planned land uses.

(r) The Committee may enter into agreements with Forest Experiment Stations, the University of Wisconsin System, other universities or with the DNR for the use of tracts of County forest lands, labor, materials or equipment for conducting research.

(s) The Committee may authorize special forest or recreation development work on other public lands not included in the County forest, including school forests, community forests, other County lands, watersheds, public highways or similar projects with funds from the County Forestry Aid Fund.

(t) The Committee may enter into agreements to prospect for ore or minerals upon County lands under the jurisdiction of the Committee, subject to approval by the County Board and the DNR.

(u) The Committee shall prepare and present an annual report of its activities to the County Board.

(v) County Forest Citizens' Advisory Subcommittee.

1. *Appointments.* The chairman of the Committee shall appoint 11 persons to the subcommittee. The appointments shall all be citizens at large and should provide as nearly as possible county-wide geographical representation.

2. *Terms of office.* Initial appointments shall consist of five members appointed for a one-year term and six persons for a two-year term. Thereafter, the appointments to the subcommittee shall be for a two-year term. The subcommittee shall elect its officers and adopt its own rules and regulations for carrying out its duties.

3. *Duties* The subcommittee shall have the following duties:

   a. Give advice and counsel to the Committee regarding long-range forest and outdoor recreation plans for the County forest.

   b. Provide recommendations to the Committee on priorities for development of the Forestry Division annual budget and work plan.

   c. Operate as a focus group on specific problems or questions posed by the Committee.

   d. Attend tours of Forestry Division recreation, forestry and wildlife projects.

   e. Prepare an annual report for the Committee of activities and issues the subcommittee has addressed the prior year and goals and activities anticipated in the current year.

4. *Administration.* The subcommittee will meet quarterly or more often as needed. The County Forest Administrator will attend said meetings and act as liaison with the Committee. Round trip mileage will be paid from residence to meeting locations to all members who are not employees of Marathon County.

(O-13-96; O-16-98; O-8-03; O-16-13)

- **Sec. 16.04. - Administration of County forest lands.**

Applications for entry of County owned lands under § 28.11, Wis. Stats., shall be prepared and approved by the Committee and signed by the County Board Chairman and the County Clerk. The County Forest Administrator will forward the applications to the DNR within the time limits prescribed by the DNR. Withdrawal of lands entered under the County forest law shall be in the manner prescribed by § 28.11(11), Wis. Stats. No deed to land so withdrawn shall be issued prior to recording the County Board Resolution and the DNR order of withdrawal with the Register of Deeds.

(O-8-03)

- **Sec. 16.05. - Forest financing.**

(1) All appropriations from the DNR to Marathon County under § 28.11(8)(b), Wis. Stats., for the purchase, development, preservation and maintenance of the County forest shall be deposited in the County Forestry Aid Fund. Income from the sale of lands or equipment purchased with State aid funds shall be restored to this fund. All unexpended funds shall be nonlapsing.

(2) All monies received by the County from the sale of timber stumpage, cut forest products, fees and use permits, sale of building materials, sale of surplus materials and equipment, or other revenue received by the Committee, except income specified in sub. (1) of this section, shall be deposited in the County General Fund.

(3) The Committee shall prepare a budget of sums required for operations under this chapter and when the sums are appropriated by the County Board, they may be expended by the Committee for the purposes covered by this chapter.

(4) All monies appropriated for purposes under § 16.02(2)(q) shall be deposited in the County Forestry Aid Fund.

(O-8-03)

- **Sec. 16.06. - County forest use regulations.**

(1) *Recreation use.*

(a) The Committee may designate suitable areas for forest parks, campsites, picnic areas, waysides, parking lots and boat landings, and is authorized to provide needed conveniences, including wells and sanitary facilities. Such areas shall be for public use as prescribed by the Committee.

(b) "Camp" or "camping" shall be defined as the use of a shelter such as a tent, trailer, motor vehicle, tarpaulin, bedroll or sleeping bag for temporary residence or sleeping purposes. No person shall camp in any County forest without a camping permit issued by the Committee or its designee. Camping may be permitted in some areas of the County forest without charge for a period not to exceed 14 consecutive days. In order to protect the public rights the Committee may prohibit camping on designated areas of the County forest or special use lands where such activities would interfere with or be detrimental to wildlife, game management, other recreational activities, aesthetic management zones, nursery areas, areas of unique flora and fauna, stream banks or ground cover where erosion may result. The Committee or its designee shall have discretion in reasonably marking areas restricted to camping. The Committee or its designee may authorize by permit persons to camp in waysides and parking lots. Violation of any state law or any rules of the Committee by a member of a camping party is cause for revocation of the camping permit and ejection from the County forest.

(c) Rules and regulations may be made governing the use and enjoyment of all lands, structures and property owned, leased or administered by the County and under the management, supervision and control of the Committee. Any person who shall violate such rules or regulations or who refuses to subject himself or herself thereto may be excluded from the use of such facilities. No person shall disregard posted rules and regulations or engage in any activity contrary to posted notice.

(2) *Timber cutting.*

(a) "Cultural cuttings" shall include thinnings, release cuttings, sanitation cuttings and improvement cuttings to remove trees of inferior species, form or condition for the purpose of stand improvement. All cultural cuttings on County forests shall require approval of the Committee, and such cuttings shall be in accordance with plans made by, or under the supervision of the Team Leader of the DNR. Materials cut in such operations by the Department shall be used by the Department or given to other public agencies for their use, or sold, as the Committee shall determine. When given to other public agencies, the latter shall pay the County a sum equal to the severance tax thereon.

(b) "Salvage cuttings" shall include the cutting of timber damaged by fire, storm, insect or disease. Salvage cutting shall be done under procedure specified for cultural cutting or for commercial cutting, as the Committee may decide.

(c) "Commercial cutting" shall include all cutting where stumpage is sold under contract in which the primary objective of the cutting is the marketing of the timber products, including logs, ties, poles, posts, pulpwood, piling, Christmas trees and boughs, or other forest products.

(d) Proposed timber sales shall be submitted to the Committee by the County Forest Administrator after all provisions relating to forestry practice have been endorsed by the Team Leader or designee of the DNR.

(e) Contract specifications for each cutting operation pertaining to payment and financial responsibility of the bidder shall be determined by the Committee in consultation with the County Forest Administrator and the Team Leader or designee of the DNR.

(f) After approval of any sale by the Committee a Notice of Intention to Cut shall be filed with the DNR as provided by § 28.11(6)(b)(3), Wis. Stats. Cutting operations shall not be started until cutting notice approval is received by the County from the DNR.

(g) All timber sales shall conform with the provisions of § 28.11(6), Wis. Stats.

(h) Payment for forest products shall be made promptly after billing. Prepayment and other payment arrangements may be adopted with the approval of the Committee.

(3) *Tree stands, trail cameras and ground blinds.*

(a) *Tree stands.* No person shall construct, cause to be constructed, use or occupy any elevated scaffold or other elevated device commonly referred to as a tree stand on any lands owned or under the control of the County, except that portable tree stands may be used, provided that they are completely removed from the tree each day at the close of hunting hours and provided that such portable tree stands are not in any manner bolted, nailed, screwed or fastened to the tree and provided that such portable tree stands cause no permanent or temporary damage to the trees in which they are placed. Portable tree stands may be left in the woods provided that they have the name, address, and phone number of the owner permanently affixed to the stand in the English language, and shall be clearly visible and kept legible at all times. Portable tree stands without such identifying information shall be subject to immediate removal by County officials. Portable

tree stands may be chained or locked to the base of a tree seven days prior to, and must be removed by the owner within seven days after the close of any deer or bear hunting season established by the Wisconsin Department of Natural Resources.

(b) *Trail cameras.* No person shall place or use any camera or other device commonly referred to as a trail camera on lands owned or under the control of the County that causes permanent or temporary damage to natural vegetation or other County property. The placement and use of trail cameras are permitted for hunting and wildlife scouting purposes, and are prohibited in designated areas of the County forest where such activity would interfere with other recreational activities and shall include parking areas and buildings. Trail cameras may be left in the woods provided they have the name, address, and phone number of the owner permanently affixed in a manner that is clearly visible without moving the camera. Trail cameras without such identifying information shall be subject to immediate removal by County officials. Trail cameras may be chained or locked to natural vegetation and must be removed from County forest lands as stipulated for tree stands in paragraph (a).

(c) *Ground blinds.* No person shall construct, cause to be constructed, use or occupy any ground blind, as that term is defined herein, without a minimum of 144 square inches of solid blaze orange or florescent pink material visible from all directions during any deer hunting season with firearms on any lands owned or under the control of the County. A ground blind may be left in the woods seven days prior to, and must be removed by the owner within seven days after the close of any deer or bear hunting season, provided that ground blinds are collapsed to the ground except while hunting in accordance with applicable state statutes and applicable provisions of the Wisconsin Administrative Code setting forth regulations of the Department of Natural Resources. Any blind must bear the name, address, and phone number of the owner affixed permanently to the blind in the English language, and shall be clearly visible and kept legible at all times. Ground blinds without such identifying information shall be subject to immediate removal by County officials.

(4) *Firearms, bows and arrows.*

(a) The use of firearms, or bows and arrows is prohibited in designated areas, except by permit issued by the Committee or its designee. Such designated areas shall be posted with notice of this regulation.

(b) No person shall discharge any firearm or use a bow and arrow within Nine Mile or Wisconsin River County Forests, or within 300 feet of any established parking area within County lands under the jurisdiction of the Committee, except while hunting in accordance with applicable state statutes and applicable provisions of the Wisconsin Administrative Code setting forth regulations of the Department of Natural Resources and, except in that portion of Shooting Range Park north of Four Mile Creek where the use of firearms or bow and arrow are permitted on designated range areas in accordance with posted regulations.

(c) Unless other facts and circumstances that indicate a criminal or malicious intent on the part of the person apply, a person is not in violation of, and may not be charged with a violation of, this section for loading, carrying, or going armed with a firearm, without regard to whether the firearm is loaded or is concealed or openly carried.

(d) This section does not apply and may not be enforced if the actor's conduct is justified or, had it been subject to a criminal penalty, would have been subject to a defense described in § 939.45, Wis. Stats.

(e) No person, except a law enforcement officer, shall enter any building, facility, or location open to the public that is restricted by state law or posted as a no firearms or concealed weapons location while possessing, carrying, or concealing a firearm or weapon, whether with or without a state permit.

(5) *Throwing or shooting projectiles.* No person shall throw or shoot a knife, stone, paintball or other projectile, by hand or any other means, in any County forest.

(6) *Waterfowl hunting and watercraft.*

(a) Waterfowl, as that term is defined herein, may be hunted from a waterfowl blind, as that term is defined herein, in accordance with applicable State statutes and applicable provisions of the Wisconsin Administrative Code setting forth regulations of the Department of Natural Resources, placed above or below the ordinary high watermark, as that term is defined herein, in any County forest. A waterfowl blind may be established not more than seven days prior to the opening of the waterfowl hunting season and must be removed by the owner within seven days after the close of the season established by the Wisconsin Department of Natural Resources. Any blind must bear the name, address, and phone number of the owner affixed permanently to the blind in the English language, and shall be clearly visible and kept legible at all times. Waterfowl blinds without such identifying information shall be subject to immediate removal by County officials.

(b) Watercraft, as that term is defined herein, may be left in any County forest not more than seven days prior to the opening of the waterfowl hunting season and must be removed by the owner within seven days after the close of the season. Any watercraft must bear the name, address, and phone number of the owner affixed to the watercraft in the English language, and shall be clearly visible and kept legible at all times. Watercraft without such identifying information shall be subject to immediate removal by County officials.

(c) Definitions. The following terms shall have the meanings indicated:

Ground blind. A blind used to conceal a hunter hunting from the ground and constructed entirely of dead vegetation from County forest lands or manmade materials.

Ordinary high watermark. 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. Where the bank or shore at any particular place is of such character that it is difficult or impossible to ascertain where the point of ordinary high-water is, recourse may be had to the opposite bank of a stream or to other places on the shore of a lake or flowage to determine whether a given stage of water is above or below the ordinary high watermark.

Watercraft. Any device used and designed for navigation on water.

Waterfowl. Any migratory game bird of the family Anatidae including wild geese, brant, wild ducks, rails, coots, gallinules, jacksnipe, woodcock, plovers, sandpipers and wild swan.

Waterfowl blind. Any permanent structure used in hunting waterfowl, which is not removed at the end of hunting hours each day.

(d) Penalty. Violations of this subsection shall be punishable as provided in § 16.10 of this chapter relating to waterfowl hunting and watercraft violations.

(O-18-88; O-31-90; O-13-96; O-19-99; O-8-03; O-10-11; O-16-13; O-4-19)

- **Sec. 16.07. - Fees, rules and permits.**

(1) *Fee schedule.* No persons shall use any facility, shelter, land or area for which a fee or charge has been established by the Committee without payment of such a fee or charge.

(2) *Deposits.* Shelters or facilities will be reserved upon completion and approval of a use agreement; payment of the rental fee; and payment of the security deposit and/or key deposit if applicable. The key and security deposit will be subject to retention, in whole or in part, by the Committee, if the key is not returned; the shelter or facility has been subjected to abuse; inadequately cleaned; or used in violation of current facility use regulations.

(3) *Additional rules.* Rules and regulations may be made governing the use and enjoyment of all lands, structures and property owned, leased or administered by the County and under the management, supervision and control of the Committee. Any person who shall violate such rules or regulations or who refuses to subject himself thereto may be excluded from the use of such facility.

(4) *Permits.* Any person to whom a permit has been issued by the Committee or its designee shall be bound by the provisions of all ordinances of Marathon County as fully as though the same were inserted in each permit.

(5) *Exceptions.* Nothing in this chapter shall prohibit or hinder the Committee, its Director, Administrator, Supervisors, Managers, Rangers or other authorized agents or any law enforcement officers from performing their official duties.

(O-8-03)

- **Sec. 16.08. - General offenses.**

(1) *Sales.* No person shall sell or offer for sale any goods, merchandise or service in any County forest except as authorized by the Committee or its designee and when holding proper licenses.

(2) *Posting bills or advertising.* No person shall distribute or post bills or advertisements in any County forest without written permission of the Committee or its designee.

(3) *Personal conduct.* No person shall engage in violent, abusive, indecent, profane, boisterous, unreasonably loud or otherwise disorderly conduct under circumstances in which the conduct tends to cause or provoke a disturbance in any County forest.

(4) *Property of others.* No person shall disturb, molest or remove the property or personal effects of others.

(5) *Unreasonable noise.* No person shall make or cause to be made any unreasonably loud sounds or noises under circumstances which tend to annoy or disturb others, except that noises customary to accepted County forest activities are permitted.

(6) *Obstructing.* No person shall knowingly obstruct a ranger or any law enforcement officer while the ranger or any law enforcement officer is doing any act in an official capacity and with lawful authority. Obstruct includes without limitation knowingly giving false information with intent to mislead the ranger or any law enforcement officer in the performance of duty including the issuance of any citation.

(7) *Destruction and entry.*

(a) *Deface, remove or destroy.* No person shall disturb, molest, deface, remove or destroy any trees, shrubs, plants, or other natural growth, or natural or archeological feature; disturb or remove shoreline rip-rap; carve on any rocks, archeological or geological features, signs, walls or structures; drive nails in trees or move, deface or vandalize in any manner any structures including buildings, signs, fences, tables or other County property. This paragraph shall be deemed to prohibit any natural growth from being cut or cleared to create shooting lanes. Edible fruits, nuts, wild mushrooms and wild asparagus may be picked or gathered without a permit, except on State Natural Areas.

(b) *Prospecting prohibited.*

(1) In this subsection, the term "prospecting" means exploring for the presence of rocks, minerals or fossils by means of relocation, removal or displacement of soil or other organic or inorganic materials.

(2) No person may collect, or engage in prospecting for, rocks, minerals, or fossil materials located on any Marathon County Forest land or the bed of any body of water located thereon.

(c) *Entry and manipulation.* No person shall enter in any way any building, installation or area that may be under construction or locked or closed to public use or molest or manipulate any water control structure, dam or culvert or enter or be upon any building, installation or area after the posted closing time or before the posted opening time or contrary to posted notice in any County forest.

(8) *Cleaning and refuse.*

(a) *Washing.* The washing of motor vehicles, persons, pets, cooking utensils or clothing is prohibited in any lakes, streams or on any picnic areas, boat landings, parking lots or roadways or within 50 feet of any pump, fountain or drinking water outlet in any County forest.

(b) *Refuse.*

1. No person shall deposit or leave any garbage, sewage, or other waste material upon any body of water or other area in any County forest except in an appropriate solid waste or recycling container.

2. No person shall deposit or leave any residential or commercial waste material in any waste receptacle or other area in any County forest.

(c) *Dispensing beverages.* No vendor shall dispense beverages in any cup, glass, flask, bottle or other container made of glass or other shatterable material designed or used for holding a beverage at any outdoor game, attraction, event, or public function. This prohibition does not apply to vendors at any of the above-listed activities serving sit-down meals where the beverage containers are washed and reused. All beverage vendors at any of the above-listed activities shall use recyclable beverage containers and provide adequate collection facilities for the recycling of all beverage containers so used.

(9) *Vehicular traffic.*

(a) No person shall operate any vehicle at a speed contrary to official traffic signs in any County forest.

(b) No person shall operate a motor vehicle in an abusive, boisterous, unreasonably loud or otherwise disorderly manner under circumstances which tend to cause or provoke a disturbance. Such conduct

shall include, but not be limited to, conduct which tends to disturb, annoy or endanger one or more persons because of unnecessary or deliberate spinning of wheels, squealing of tires, revving of engine, blowing the horn, causing engine to backfire or causing vehicle while commencing to move or in motion to raise one or more of its wheels, tracks or skis off the ground or operate at an unreasonable or imprudent speed in any County forest.

(c) No person shall operate a motor vehicle in any County forest or on any forest road or trail closed by a gate, soil berm, barricade or other device designed to block access to such area or road or posted as closed, unless such party is authorized by permit or contract issued pursuant to this chapter. The Committee or its designee may authorize special motor vehicle use areas or trails and establish rules and regulations for the use thereof by the general public. The Committee or its designee may authorize by permit persons with physical disabilities to use a designated motor vehicle as a mode of personal conveyance. A permit is not required for disabled persons using a motorized wheelchair. A motor vehicle shall be defined as any self-propelled device for moving persons or property or pulling implements from one place to another, excluding a self-propelled motorized wheelchair or similar device designed solely to aid the mobility of a physically disabled person.

(d) No person shall operate a bicycle as defined in § 340.01(5), Wis. Stats., upon any trail seasonally closed to bicycles within Nine Mile County Forest or contrary to posted notice in any County forest.

(e) No person shall operate any vehicle for recreational use or other purposes in such a manner as to cause soil erosion or other damage to County property, except that all-terrain vehicles as defined in § 340.01(2g), Wis. Stats., and utility terrain vehicles as defined in § 23.33(1)(ng), Wis. Stats., are permitted on trails specifically designated for such use in accordance with posted regulations.

(f) Unless snowmobile trails remain open as provided in section 7.09 of this Code, no person shall operate a motor vehicle for recreational use within Burma County Forest from March 15 through August 30.

(g) No person shall operate a motor vehicle for recreational use within Burma County Forest between 10:00 p.m. and 6:00 a.m. from May 1 through September 30.

(h) No person shall operate a motor vehicle for recreational use within Burma County Forest from October 1 through November 20.

(i) Paragraphs (f) through (h) shall not apply to motor vehicles authorized by permit or contract issued pursuant to this chapter.

(10) *Parking.*

(a) No person shall park, stop or leave standing, whether attended or unattended, any vehicle or obstruction:

1. In any manner as to block, obstruct or limit the use of any road, trail, sidewalk, parking lot, waterway or winter sport facility.

2. Outside of any area provided for such purposes when it is practical to use such areas.

3. Contrary to posted notice.

(b) No person shall park, stop or leave standing any vehicle, whether attended or unattended, whether temporarily or otherwise, in areas reserved, by official traffic signs indicating the restriction, for vehicles displaying registration plates or identification cards which designates the vehicle as a vehicle used by a physically disabled person as defined in § 346.505, Wis. Stats.

(c) No person shall park, stop or leave standing any vehicle, whether attended or unattended, whether temporary or otherwise, in areas designated as fire lanes with signs.

(d) The forfeiture for a violation of paragraph (a) shall be $10.00. The forfeiture for a violation of paragraphs (b) or (c) shall be $30.00. In the event that the violator fails to appear in court on the date and time indicated on the citation, or fails to enter a "not guilty" plea by mail by the court date, or fails to stipulate to the violation by posting the forfeiture required in the office of the Marathon County Clerk of Courts at the address indicated on the citation by the court date, said forfeiture shall be ordered by the court in default and shall be increased by the amount of $30.00 as a penalty for failure to pay in a timely fashion, for a total forfeiture of $40.00 for a violation of paragraph (a) and $60.00 for a violation of paragraph (b) or (c).

(e) The provisions of § 345.28, Wis. Stats., and any subsequent amendments thereto, are specifically adopted and incorporated herein by reference. If the alleged violator fails to pay the amount of the forfeiture as provided herein, or to appear in court, the County may take any or all of the actions authorized under § 345.28, Wis. Stats.

(f) The registered owner of a vehicle is deemed to have authorized the parking of a vehicle found parked in violation of this subsection.

(11) *Abandoned vehicles.* No person shall leave any vehicle unattended without approval of the Committee or its designee for more than 48 hours under such circumstance as to cause the vehicle to reasonably appear to have been abandoned. An abandoned vehicle shall constitute a public nuisance and be subject to removal at the owner's expense. Removal of the vehicle shall not relieve the owner or the operator of the vehicle from any penalty incurred because of such violation.

(12) *Fires.* No person shall abandon any fire or leave any fire unattended or throw away any matches, cigarettes, cigars, pipe ashes or embers without first extinguishing them. No person shall start, tend or use in any manner any fire contrary to posted notice in any County forest.

(13) *Fireworks.* No person shall possess or discharge any fireworks regulated by § 167.10(1), Wis. Stats., in any County forest.

(14) *Animals in public facilities.* No person shall allow a dog or other animal to enter any public buildings or picnic areas in any County forest, except for dogs assisting physically impaired persons or as authorized by the Committee.

(15) *Animal feces.* The owner or person having immediate care, custody or control of a dog or other animal shall promptly remove and dispose of, in a sanitary manner, any feces left or deposited by the animal within 300 feet of the Chalet at Nine Mile County Forest.

(16) *Horses.*

(a) No person shall ride or use a horse or other beast of burden in any manner in any County forest, except on designated bridle trails or for events authorized by the Committee or its designee.

(b) No person shall ride or use a horse or other beast of burden in a careless, negligent or reckless manner so as to create a nuisance or to endanger the life, property or person of others.

(17) *Animals on ski trails.* No person shall allow a dog or any other animal on cross-country ski trails during that period of the year when such trails are open for cross-country skiing in Nine Mile County Forest, except while hunting in accordance with applicable State statutes and applicable provisions of the Wisconsin Administrative Code setting forth regulations of the Department of Natural Resources.

(O-8-03; O-11-08; O-16-13; O-17-14; O-19-14; O-4-19)

- **Sec. 16.09. - Legal action.**

(1) *Criminal action.* Whenever an arrest shall have been made for unlawful cutting on land owned by Marathon County or on which the County holds a tax certificate, the District Attorney shall take appropriate action under § 26.18, Wis. Stats.

(2) *Seizure.* Whenever forest products are found known to have been unlawfully severed from County forest lands, the Sheriff shall, on satisfactory evidence, seize such materials pursuant to § 26.06, Wis. Stats., for use by the County or sale as the Committee may determine.

(3) *Civil action.* Whenever evidence of unlawful cutting on Marathon County lands shall be lodged with the Corporation Counsel, who shall, on recommendation of the Committee, bring suit to recover damages as provided by § 26.09, Wis. Stats. The Committee may bring civil suit against parties responsible for forest fire damage under § 26.21, Wis. Stats.

(4) *Cooperation.* The Committee and its appointed administrative agent shall secure information and seek the cooperation of the State, County and town officers in securing information required for legal action.

(5) *Jurisdiction over minors and underage persons.* Any and all County ordinances conferring jurisdiction on the Circuit Court for persons 12 years of age or older, including all subsequent amendments and/or revisions thereto, are hereby adopted and by reference made a part of this section.

(6) *Authority to issue a citation.* Citations for violations of this chapter may be issued by any law enforcement officer or by the Director and those administrative, supervisory or managerial Department personnel delegated by the Director and listed below:

Assistant Directors;

Forest Administrator;

County Forester;

Assistant Park and Recreation Managers;

Facility Managers;

Motorized Recreation Coordinator;

Recreation Deputies.

(O-8-03; O-12-15)

- **Sec. 16.10. - Schedule of cash deposits, County forests.**

Section	Title	Deposit
16.06(1)	Recreation Use	$20.00
16.06(3)	Tree Stands, Trail Cameras and Ground Blinds	50.00
16.06(4)	Firearms, Bows and Arrows	50.00
16.06(5)	Throwing or Shooting Projectiles	30.00
16.06(6)	Waterfowl Hunting and Watercraft	50.00
16.07	Fees, Rules and Permits	20.00
16.08(1)	Sales	40.00
16.08(2)	Posting Bills or Advertising	40.00
16.08(3)	Personal Conduct	40.00
16.08(4)	Property of Others	50.00
16.08(5)	Unreasonable Noise	20.00
16.08(6)	Obstructing	40.00
16.08(7)(a)	Deface, Remove or Destroy (Plus Restitution for Damages)	50.00
16.06(7)(b)	Prospecting Prohibited	50.00
16.06(7)(c)	Entry and Manipulation	30.00
16.06(8)(a)	Washing	20.00
16.06(8)(b)	Refuse	50.00
16.06(8)(c)	Dispensing Beverages	50.00
16.08(9)	Vehicular Traffic	40.00
16.08(11)	Abandoned Vehicles	40.00
16.08(12)	Fires	30.00
16.08(13	Fireworks	30.00
16.08(14)	Animals in Public Facilities	10.00
16.08(15)	Animal Feces	10.00
16.08(16)	Horses	10.00
16.08(17)	Animals on Ski Trails	10.00

(O-8-03; O-16-13; O-17-15; O-4-19)

1005.2.2 Regulations of Snowmobiles *

(1) *Definitions.* Words and phrases herein shall be as defined by § 350.01, Wis. Stats., or its successor statute.

(2) *Operation of snowmobiles on or in the vicinity of highways.*

(a) No person may operate a snowmobile upon any part of any freeway which is a part of the federal system of interstate and defense highways. No person may operate a snowmobile upon any part of any other freeway unless the department of transportation authorizes snowmobile use on that freeway.

(b) No person may operate a snowmobile on any highway except in the following manner or as otherwise authorized by law.

1. Directly across any roadway having fewer than five lanes, but only after stopping and yielding the right-of-way to all vehicles approaching on the roadway. Crossings under this subdivision may be made only at a place where no obstruction prevents a quick and safe crossing. For purposes of this subdivision, "obstruction" includes but is not limited to impairment of view and dangerous roadway condition.

1m. Directly across a roadway having five lanes, in the manner specified in subd. 1., but only if the department of transportation authorizes such a crossing.

2. On any roadway which is not normally maintained for other vehicular traffic by the removal of snow.

3. On the roadway of highways to cross a bridge, culvert or railroad right-of-way unless posted by the maintaining authority, but shall yield the right-of-way to all vehicular traffic.

4. On the roadway of county or town highways and city or village streets for special snowmobile events authorized under § 350.04, Wis. Stats.

5. On highways which have been designated as routes and which are required to be marked.

(c) Snowmobiles may be operated adjacent to a roadway with due regard to safety in the following manner:

1. Along U.S. numbered highways, state and county highways at a distance of ten or more feet from the roadway. Travel upon the median of a divided highway is prohibited except to cross.

2. Along town highways outside of the roadway.

3. During daylight hours travel may be in either direction regardless of the flow of vehicular traffic.

4. At night travel shall conform to the direction of vehicular traffic in the nearest lane unless:

a. The snowmobile trail is located at least 40 from the roadway, or is separated from the roadway by a head lamp barrier; and

b. Reserved.

c. The use of the snowmobile trail is approved by the department of transportation with respect to snowmobile trails located near or crossing state trunk highways or by the officer in charge of maintenance with respect to snowmobile trails located near or crossing other highways.

5. Whenever it is impracticable to gain immediate access to an area adjacent to a highway, other than a freeway, where a snowmobile is to be operated, the snowmobile may be operated adjacent and parallel to the roadway for the purpose of gaining access to and from the area of operation. Loading or unloading of the snowmobile shall be accomplished with due regard to safety at the nearest practical point to the area of operation.

6. Snowmobiles traveling adjacent to a roadway shall observe roadway speed limits.

(d) Snowmobiles may be operated for emergency purposes on any highway during a period of emergency when so declared by the governmental agency having jurisdiction.

(e) Under no circumstances, except as provided in this section, is a snowmobile to be operated on the main-traveled portion of a highway or on the plowed portion.

(3) *Right-of-way.* The operator of a snowmobile shall slow the vehicle to a speed not to exceed ten miles per hour and yield the right-of-way when traveling within 100 feet of a person who is not in or on a snowmobile except as provided in ch. 346 where applicable.

(4) *Snowmobile races, derbies and routes.*

(a) The county may block off the highways under its jurisdiction for the purpose of allowing special snowmobile events. No state trunk highway or connection highway or part thereof, shall be blocked off by the county for any snowmobile race or derby. The county shall notify the county sheriff's office at least one week in advance of the time and place of any snowmobile race or derby which may result in any street or part thereof, of the county, being blocked off. Upon such notice, the sheriff's department shall take such measures as it deems appropriate to protect persons and property and to regulate traffic in the designated area and its vicinity on the day of such race or derby.

b1. Pursuant to § 895.52, Wis. Stats., or its successor statute, the county, town, city or village shall not be liable for any injury suffered in connection with a race or derby under this section, unless the injury is caused by the negligence of the county.

2. The county shall post the provisions of (b)1. in a conspicuous place, readily accessible to all contestants and spectators, and shall assist in locating and identifying persons responsible for injuries that may occur.

(5) *Public utility exemption.* So that public utilities may effectively carry out their obligations to the public, the restrictions imposed by this chapter relating to use on, near or adjacent to highways shall not apply to snowmobiles operated to fulfill the corporate function of the public utility in those cases where safety does not require strict adherence to the regulations related to snowmobiles in general. However, snowmobiles operated by public utilities must be operated in a safe manner at all times.

(6) *Operation by youthful operators restricted.*

(a) *Age restriction* . No person under the age of 12 years may operate a snowmobile unless the person is accompanied either by a parent or guardian or by a person over 18 years of age.

(b) *Snowmobile safety permit or operator's license required* . No person over the age of 12 years but under the age of 16 years may operate a snowmobile unless he or she holds a valid snowmobile safety certificate or is accompanied by a person over 18 years of age or by a person over 14 years of age having a snowmobile safety certificate issued by the department. Any person who is over the age of 12 and under the age of 16 who holds a snowmobile safety certificate shall carry it while operating a snowmobile and shall display it to a law enforcement officer on request. Persons enrolled in a safety certification program approved by the department may operate a snowmobile in an area designated by the instructor.

(c) *Exceptions* . This section does not apply to the operation of snowmobiles by an operator under the age of 16 years upon lands owned or leased by the operator's parent or guardian. As used in this section, "leased lands" does not include lands leased by an organization of which said operator or the operator's parent or guardian is a member.

(d) *Definition* . For purposes of this section, "accompanied" means being on the same snowmobile as the operator.

(7) *Driving animals.* No person shall drive or pursue any animal with a snowmobile, except as a part of normal farming operations involving the driving of livestock.

(8) *Owner permitting operation.* No owner or other person having charge or control of a snowmobile may knowingly authorize or permit any person to operate the snowmobile if the person is prohibited from operating a snowmobile under § 350.05, Wis. Stats., or its successor statute, if the person is incapable of operating a snowmobile because of physical or mental disability or if the person is under the influence of an intoxicant.

(9) *Head lamps, tail lamps and brakes, etc.*

(a) Any snowmobile operated during the hours of darkness or operated during daylight hours on any highway right-of-way shall display a lighted head lamp and tail lamp.

(b) The head lamp on a snowmobile may be of the single beam or multiple beam type, but in either case shall comply with the following requirements and limitations:

1. The head lamp shall be an electric head lamp and the current shall be supplied by a wet battery and electric generator, by a current-generating coil incorporated into the magneto or by a generator driven directly by the motor by means of gears, friction wheel, chain or belt.

2. The head lamp shall display a white light of sufficient illuminating power to reveal any person, vehicle or substantial object at a distance of 200′ ahead.

3. If the snowmobile is equipped with a multiple beam head lamp, the upper beam shall meet the minimum requirements set forth in par. (b) and the lower most beam shall be so aimed and of sufficient intensity to reveal persons and vehicles at a distance of at least 100′ ahead.

4. If the snowmobile is equipped with a single beam lamp, such lamp shall be so aimed that when the vehicle is loaded none of the high intensity portion of the light, at a distance of 25′ ahead, projects higher than the level of the center of the lamp from which it comes.

(c) The tail lamp on a snowmobile must display a red light plainly visible during darkness from a distance of 500′ to the rear.

(d) Every snowmobile shall be equipped with at least one brake operated either by hand or by foot, capable of bringing the snowmobile to a stop, under normal conditions, within 40′ when traveling at a speed of 20 miles per hour with a 150 pound driver on a level, hard-packed snow surface, or capable of locking the track on a level, hard-packed snow surface. The design shall permit simple and easy adjustment to compensate for wear. There shall be no other control linked to the brake which impairs braking operation.

(e) All snowmobiles manufactured after July 1, 1972, and offered for sale or sold in this state shall be equipped with side marker reflectors meeting the visibility requirements of society of automobile engineers standards or reflex material standards in compliance with federal specifications.

(f) No snowmobile shall be manufactured, sold, offered for sale, or operated unless it is equipped with a muffler in good working order, which blends the exhaust noise into the overall engine noise and is in constant operation to prevent excessive or unusual noise.

(g) Every snowmobile manufactured after July 1, 1972, and offered for sale or sold in this state shall be so constructed as to limit total vehicle noise to not more than 82 decibels of a sound pressure at 50′, as measured by society of automotive engineers standards. Every snowmobile manufactured as [of] July 1, 1975, and offered for sale or sold in this state shall be so constructed as to limit total vehicle noise to not more than 78 decibels of a sound pressure, as measured by society of automotive engineers standards. No snowmobile shall be modified by any person in any manner that shall amplify or otherwise increase total noise emission above that emitted by the snowmobile as originally constructed, regardless of date of manufacture.

(h) Subsection (g) does not apply to snowmobiles competing in a sanctioned race or derby or to snowmobiles being tested by manufacturers, distributors or dealers on lands under their control.

(i) No person may operate, offer for sale or sell a snowmobile that is manufactured after May 7, 1994, if the width of the snowmobile exceeds 48″.

(j) All snowmobiles competing in a sanctioned race or derby shall be equipped with a device wired into the motor's electrical system that will shut off the motor if the operator falls from the snowmobile or otherwise leaves the operator's position. The device shall be capable of being attached to the body of the operator, and shall be so attached when the snowmobile is being operated.

(10) *Miscellaneous provisions for snowmobile operation.* No person shall operate a snowmobile in the following manner:

(a) At a rate of speed that is unreasonable or improper under the circumstances.

(b) In any careless way so as to endanger the person or property of another.

(c) In such a way that the exhaust of the motor makes an excessive or unusual noise.

(d) Without a functioning muffler.

(e) On the private property of another without the consent of the owner or lessee. Failure to post private property does not imply consent for snowmobile use. Any other motor-driven craft or vehicle principally manufactured for off-highway use shall at all times have the consent of the owner before operation of such craft or vehicle on private lands.

(f) Between the hours of 10:30 p.m. and 7 a.m. when within 150′ of a dwelling at a rate of speed exceeding ten miles per hour.

(g) In any forest nursery, planting area or on public lands posted or reasonably identified as an area of forest or plant reproduction when growing stock may be damaged.

(h) On the frozen surface of public waters within 100′ of a person not in or upon a vehicle or within 100′ of a fishing shanty unless operated at a speed of ten miles per hour or less.

(i) On a slide, ski or skating area except for the purpose of serving the area, crossing at places where marked or after stopping and yielding the right-of-way.

(j) On or across a cemetery, burial ground, school or church property without consent of the owner.

(k) On the lands of an operating airport or landing facility except for personnel in performance of their duties or with consent.

(11) *Intoxicated snowmobiling.*

(a) *Operation.*

1. *Operating while under the influence of an intoxicant.* No person may engage in the operation of a snowmobile while under the influence of an intoxicant to a degree which renders him or her incapable of safe snowmobile operation.

(b) *Operating with alcohol concentrations at or above specified levels* . No person may engage in the operation of a snowmobile while the person has a blood alcohol concentration of 0.8 percent or more by weight of alcohol in his or her blood. No person may engage in the operation of a snowmobile while the person has 0.8 grams or more of alcohol in 210 liters of his or her breath.

1. *Reserved.*

2. *Reserved.*

3. *Operating with alcohol concentrations at specified levels; below age 21.* If a person has not attained the age of 21, the person may not engage in the operation of a snowmobile while he or she has a blood alcohol concentration of more than 0.0 percent but not more than 0.8 percent by weight of alcohol in his or her blood or more than 0.0 grams but not more than 0.8 grams of alcohol in 210 liters of his or her breath.

a. Reserved.

b. Causing injury.

1. *Causing injury while under the influence of an intoxicant.* No person while under the influence of an intoxicant to a degree which renders him or her incapable of safe snowmobile operation may cause injury to another person by the operation of a snowmobile.

2. *Causing injury with alcohol concentrations at or above specified levels.* No person who has a blood alcohol concentration of 0.8 percent or more by weight of alcohol in his or her blood may cause injury to another person by the operation of a snowmobile. No person who has 0.8 grams or more of alcohol in 210 liters of his or her breath may cause injury to another person by the operation of a snowmobile.

3. *Defenses.* In an action under this subsection, the defendant has a defense if he or she proves by a preponderance of the evidence that the injury would have occurred even if he or she had been exercising due care and he or she had not been under the influence of an intoxicant or did not have a blood alcohol concentration of 0.8 percent or more by weight of alcohol in his or her blood or 0.8 grams or more of alcohol in 210 liters of his or her breath.

(12) *Preliminary breath screening test.*

(1) *Requirement* . A person shall provide a sample of his or her breath for a preliminary breath screening test as mandated by § 350.102, Wis. Stats., or its successor statute.

(13) *Application of intoxicated snowmobiling law.* Except as provided in this section, the intoxicated snowmobile law is applicable to all property, whether the property is publicly or privately owned and whether or not a fee is charged for the use of that property. The intoxicated snowmobiling law does not apply to the operation of a snowmobile on private land not designated as a snowmobile trail unless an accident involving personal injury occurs as the result of the operation of a snowmobile and the snowmobile was operated on the private land without the consent of the owner of that land.

(14) *Implied consent.* Any person who engages in the operation of a snowmobile upon the public highways of this state, or in those areas enumerated in § 350.1025, Wis. Stats., or its successor statute, is deemed to have given consent to provide one or more samples of his or her breath, blood or urine for the purpose of authorized analysis as required under § 350.104, Wis. Stats., or its successor statute. Any person who engages in the operation of a snowmobile within this state is deemed to have given consent to submit to one or more chemical tests of his or her breath, blood or urine for the purpose of authorized analysis as required under § 350.104, Wis. Stats., or its successor statute.

(15) *Chemical tests.* A person shall provide a sample of his or her breath, blood or urine for purposes of analysis as mandated by § 350.104, Wis. Stats., or its successor statute.

(16) *Penalties.* Any person violating any of the terms or provisions of this section shall pay a forfeiture as specified in § 350.11, Wis. Stats., or its successor statute.

(17) *Registration of snowmobiles.* No person shall operate and no owner shall give permission for the operation of any snowmobile within Marathon County unless said snowmobile is registered pursuant to § 350.12, Wis. Stats., or its successor statute.

(18) *Interference with uniform trail signs and standards prohibited.*

(1) No person may intentionally remove, damage, deface, move or obstruct any uniform snowmobile trail sign or standard or intentionally interfere with the effective operation of any uniform snowmobile trail sign or standards of the sign or standard is legally placed by the state, any municipality or any authorized individual. This subsection does not apply to an authorized individual who removes or moves any uniform snowmobile trail sign or standard from his or her own property.

(2) No person may possess any uniform snowmobile trail sign or standard of the type established by the department for the warning, instruction or information of the public, unless he or she obtained the uniform snowmobile trail sign or standard in a lawful manner. Possession of a uniform snowmobile trail sign or standard creates a rebuttable presumption of illegal possession.

(19) *Accidents and accident reports.*

(1) *Reserved.*

(2) *Duty to render aid.* Insofar as the operator is capable of doing, the operator of a snowmobile involved in a snowmobile accident shall render to other persons affected thereby such assistance as is practicable and necessary to save them from or minimize any danger caused by the accident and shall give his or her name and address and identification of his or her snowmobile to any person injured and to the owner of any property damaged in the accident.

(3) *Duty to report.*

(a) If a snowmobile accident results in the death of any person, or in an injury that requires the treatment of a person by a physician, the operator of each snowmobile involved in the accident shall give notice of the accident to a conservation warden or local law enforcement officer as soon as possible and, within ten days after the accident, shall file a written report of the accident with the department on the form prescribed by it.

(b) If the operator of a snowmobile is physically incapable of making the report required by this subsection and there was another occupant on the snowmobile at the time of the accident capable of making the report that other occupant shall make such report.

(4) *Reports not used as evidence* . No report required by this section to be filed with the department shall be used as evidence in any trial, civil or criminal, arising out of an accident, except that the department shall furnish upon demand of any person who has or claims to have made such a report, or upon demand of any court, a certificate showing that a specified accident report has or has not been made to the department solely to prove a compliance or a failure to comply with the requirement that such a report be made.

(20) *Enforcement.*

(a) No person operating a snowmobile shall refuse to stop after being requested or signaled to do so by a law enforcement officer.

(b) Notwithstanding subs. (1) and (2), no law enforcement officer may stop a snowmobile operator for a violation of a statutory provision under this chapter or a rule promulgated or an ordinance adopted under this chapter unless the law enforcement officer has reasonable cause to believe the snowmobile operator has committed such a violation.

(21) *Liability*. Section 895.52, Wis. Stats., or its successor statute, applies to this section.

(22) *Parties to a violation.*

(1) Whoever is concerned in the commission of a violation of this chapter for which a forfeiture is imposed is a principal and may be charged with and convicted of the violation although he or she did not directly commit it and although the person who directly committed it has not been convicted of the violation.

(2) A person is concerned in the commission of the violation if the person:

(a) Directly commits the violation;

(b) Aids and abets the commission of it; or

(c) Is a party to a conspiracy with another to commit it or advises, hires or counsels or otherwise procures another to commit it.

(O-3-97)

1005.2.3 Regulation of Snowmobile Trails

(1) *Definitions.*

(a) *All-terrain vehicles.* Includes, but is not limited to, trail bikes, motorcycles, minibikes, air boats and air cushioned vehicles or golf carts. This definition shall not include any all-terrain cycle licensed to use snowmobile trails in the County under paragraph (3)(b) of this section.

(b) *Approved snowmobile trails.* Includes all snowmobile trails or routes so designated by the County Snowmobile Coordinator, the County Forestry, Recreation and Zoning Committee, or both. Approved snowmobile trails created on private property shall not be deemed held open to the public and shall be subject to all conditions and restrictions set forth herein.

(c) *Snowmobile.* Any engine driven vehicle of a type which utilizes sled type runners or skis or an endless belt tread or any combination of these or similar means of contact with the surface upon which it is operated, but does not include such vehicles which are either manually propelled or driven by a motor of four hp or less and operated only on private property.

(d) *Snowmobile coordinator.* The County Snowmobile Coordinator or his or her assistant and such other individuals so designated by the County Forestry, Recreation, Zoning and Planning Committee.

(e) *Snowmobile route.* A highway or sidewalk designated for use by snowmobile operators adopted and signed by the respective township.

(f) *Snowmobile season.* "Snowmobile season" means that period of time approved snowmobile trails are open to the exclusive use of snowmobiles, except under conditions permitted in this section. Said time periods shall begin no earlier than the first Monday after the close of the deer hunting by firearms season and shall end no later than April 15 of the following year, except that it shall not begin until the Forestry, Recreation and Zoning Committee, or its authorized successor committee, has caused publication of the opening of such season and shall not exist after such committee has caused publication of notice of closing of such season in the official county newspaper.

(g) *Snowmobile trail.* A marked route on public or private property, subject to public easement or lease, designated for use by snowmobile operators by the Marathon County Snowmobile Coordinator, but excluding highways except those highways on which the roadway is not normally maintained for other vehicular traffic by the removal of snow.

(2) *Restricted use of snowmobiles.* No person shall operate a snowmobile:

(a) On any land under the supervision, management or control of the County Forestry Department that has been posted as "closed".

(b) At a speed in excess of ten mph when the trail is posted with yellow caution signs, including but not limited to "steep hill", "dip", "turn", etc.

(3) *Restricted use of snowmobile trails.*

(a) No person may operate a snowmobile on approved snowmobile trails except during snowmobile season.

(b) No person may operate an all-terrain vehicle on approved snowmobile trails if the ambient air temperature is above 28 degrees Fahrenheit.

(c) No person may operate any other motor vehicle, including, but not limited to, four-wheel drive vehicle, passenger car, truck, or motorcycle on approved snowmobile trails during snowmobile season.

(d) Private landowners are exempt from the above restrictions on their own property. Those persons with permission to operate motor vehicles given by the private landowner are exempt from the above restriction while on the landowner's property.

(e) Holders of wood cutting permits on Marathon County forest land shall not be permitted to operate any motor vehicles other than snowmobiles on approved snowmobile trails after January 1 of each winter. Prior to January 1 of each winter, holders of wood cutting permits may obtain a permit from the Snowmobile Coordinator to operate motor vehicles during snowmobile season under conditions and during time periods designated by the Snowmobile Coordinator.

(f) The operator of a snowmobile shall slow his vehicle to a speed not to exceed ten mph and yield the right-of-way when traveling within 100 feet of a person who is not in or on a snowmobile, except as provided in Ch. 346, Wis. Stats., where applicable.

(g) No person shall deface, destroy or remove any snowmobile sign posted on any approved snowmobile trail.

(4) *Traffic signs.* The County Highway Department shall be authorized to properly sign snowmobile crossings on County trunk roads according to the State snowmobile regulations, signing only those crossings deemed necessary by the Highway Department.

(O-22-89; O-23-01)

1005.2.4 - All-Terrain Vehicles and Utility Terrain Vehicles

(1) *Intent.* To create uniform procedures and requirements for the use and operation of all-terrain vehicles and utility terrain vehicles on Marathon County routes and trails.

(2) *Definitions.* In this section, words and phrases used herein shall have the meaning as defined by § 23.33(1), Wis. Stats., unless otherwise defined herein. All-terrain vehicles (hereinafter referred to as ATVs) shall have the definition given in § 340.01(2g), Wis. Stats. Utility terrain vehicles (hereinafter referred to as UTVs) shall have the definition given in § 23.33(1)(ng), Wis. Stats. Any reference to a Wisconsin Statute Section or Administrative Code Regulation is a reference to that specific chapter, section, code, or its successor chapter, section, or code. Any future amendments, revisions, or modifications of the statutes or administrative code incorporated herein are intended to be made part of this Code in order to secure uniform statewide regulation of all-terrain vehicles.

(3) *Statutory authority.* Marathon County is authorized to designate highways as ATV/UTV routes pursuant to §§ 23.33(8)(b), and 59.02, Wis. Stats., and is authorized to enact ordinances regulating ATVs and UTVs on designated routes and trails pursuant to § 23.33(11)(a), Wis. Stats.

(4) *Designating ATV/UTV routes.* The Marathon County Highway Commissioner (Commissioner) may designate ATV/UTV routes following due consideration of the recreational value and after weighing possible dangers, public health, liability concerns, terrain involved, traffic density, and history of automobile traffic on potential and existing routes.

(a) *Duties of Highway Commissioner.*

(i) The Commissioner shall designate which portions of county highways are ATV/UTV routes. The Commissioner will update the Infrastructure Committee with respect to the status of, and changes to, ATV/UTV routes.

(ii) The Commissioner shall ensure that all routes designated pursuant to this section are properly posted.

(iii) The Commissioner shall establish the official ATV/UTV route opening and closing dates for each year. Dates shall be posted on the Marathon County website in a place visible to the public.

(iv) All routes established pursuant to this section shall be reviewed annually by the Commissioner to consider the continued value, efficacy, and need for the ATV/UTV routes.

(b) *Application process for route designation.* The Commissioner shall develop policies and procedures for consideration of, and designation of, ATV/UTV routes in accordance with the requirements of § 23.33, Wis. Stats., Wis. Admin. Code NR § 64, and the provisions of this section.

(i) Municipalities. Any town, village, or city in Marathon County may apply to the Commissioner and request that portions of county highways be designated as ATV/UTV routes. Applications shall be completed on a form prescribed by the Commissioner and must be in compliance with the policies and procedures developed by the Commissioner for the designation of ATV/UTV routes. The town, village, or city must further affirm that the municipality will pay for the costs to make, install, and maintain ATV/UTV route signs.

(ii) ATV/UTV clubs. An organization that has assembled as a recognized ATV/UTV club may apply to the Commissioner and request that the Commissioner designate an ATV/UTV route within Marathon County. Applications shall be completed on a form prescribed by the

Commissioner and must be in compliance with the policies and procedures developed by the Commissioner for the designation of ATV/UTV routes. An ATV/UTV club must further affirm that the club will pay for the costs to make, install, and maintain ATV/UTV route signs.

(iii) The County Board of Supervisors may rescind or modify the designation of an ATV/UTV route by enactment of an ordinance rescinding or modifying the designation.

(iv) Application requirements. An application for designation of an ATV/UTV route, at a minimum, include the following:

1. A map showing the proposed ATV/UTV route on the county highway system.

2. A map showing any ATV/UTV trails leading to the proposed route.

3. A statement explaining why the proposed route should be designated as an ATV/UTV route.

4. If the applicant is an ATV/UTV club, the names and addresses of its officers, the date when the organization was established or incorporated, and the number of members.

5. A statement that the applicant will be financially responsible for payments for the installation and maintenance of required ATV/UTV route signs.

6. Any municipality in which the segment of a county roadway being proposed as an ATV/UTV route exists must have adopted the regulations in subsection (6) of this provision for the application to be considered.

(v) Appeal. The Commissioner's determination regarding an application for or continuation of a designated ATV/UTV route may be appealed by the person aggrieved as provided in Chapter 24 of the Marathon County Code of Ordinances. In the event of an appeal, the review of the Commissioner's initial determination shall be conducted by the county administrator or his or her designee.

(5) *Designating ATV/UTV trails.* The Wausau and Marathon County Parks, Recreation, and Forestry Director (Director) may designate ATV/UTV trails following due consideration of the recreational value and after weighing possible dangers, public health, liability concerns, and terrain involved.

(a) *Duties of Director.*

(i) The Director shall designate which portions of county land are designated as ATV/UTV trails. The Director will update the Infrastructure Committee with respect to the status of, and changes to, ATV/UTV trails.

(ii) The Director shall ensure that all trails designated pursuant to this section are properly posted.

(iii) The Director shall establish the official ATV/UTV trail opening and closing dates for each year. Dates shall be posted on the Marathon County website in a place visible to the public.

(iv) All trails established pursuant to this section shall be reviewed annually by the Director to consider the continued value, efficacy, and need for the ATV/UTV trails.

(b) *Application process for trail designation.* The Director shall develop policies and procedures for consideration of, and designation of, ATV/UTV trails in accordance with the requirements of § 23.33, Wis. Stats., Wis. Admin. Code NR § 64, and the provisions of this section.

(i) Municipalities. Any town, village, or city in Marathon County may apply to the Director and request that portions of county lands be designated as ATV/UTV trails. Applications shall be completed on a form prescribed by the Director and must be in compliance with the policies and procedures developed by the Director for the designation of ATV/UTV trails. The town, village, or city must further affirm that the municipality will pay for the costs to make, install, and maintain ATV/UTV trail signs.

(ii) ATV/UTV clubs. An organization that has assembled as a recognized ATV/UTV club may apply to the Director and request that the Director designate an ATV/UTV trail within Marathon County. Applications shall be completed on a form prescribed by the Director and must be in compliance with the policies and procedures developed by the Director for the designation of ATV/UTV trails. An ATV/UTV club must further affirm that the club will pay for the costs to make, install, and maintain ATV/UTV trail signs. The Director may require an ATV/UTV club to execute a trail maintenance contract and obtain or maintain insurance as required by Marathon County.

(iii) The County Board of Supervisors may rescind or modify the designation of an ATV/UTV trail by enactment of an ordinance rescinding or modifying the designation.

(iv) Application requirements. An application for designation of an ATV/UTV trail must, at a minimum, include the following:

1. A map showing the proposed ATV/UTV trail in relation to the county highway system.

2. A map showing any ATV/UTV routes leading to the proposed trail.

3. A statement explaining why the proposed trail should be designated as an ATV/UTV trail.

4. If the applicant is an ATV/UTV club, the names and addresses of its officers, the date when the organization was established or incorporated, and the number of members.

5. A statement that the applicant will be financially responsible for payments for the installation and maintenance of required ATV/UTV trail signs.

6. If the proposed trail travels on private property, a statement from the owner of said property attesting that the landowner will consent to the creation of a trial on said property.

(b) *Appeal.* The Director's determination regarding an application for or continuation of a designated ATV/UTV trail may be appealed by the person aggrieved as provided in Chapter 24 of the Marathon County Code of Ordinances. In the event of an appeal, the review of the Director's initial determination shall be conducted by the county administrator or his or her designee.

(6) *Regulation of ATVs and UTVs.* Except as otherwise provided herein, the statutory provisions of § 23.33, Wis. Stats., and Wis. Admin. Code NR § 64, which create, describe, and define regulations with respect to ATVs and UTVs, are adopted and, by reference, made a part of this Code as if fully set forth herein.

(a) *Operator and rider requirements.* Any person who operates or rides as a passenger on an ATV or UTV on a roadway that is an ATV/UTV route in Marathon County designated pursuant to § 23.33(8)(b)1, Wis. Stats., or an ATV/UTV trail in Marathon County designated pursuant to § 23.33(8)(c), Wis. Stats., must meet the following requirements:

(i) Any operator or passenger shall comply with all federal, state, and local laws, orders, regulations, restrictions, and rules, including those outlined in § 23.33, Wis. Stats., and Wis. Admin. Code NR § 64. All ATV/UTV rules of operation outlined in § 23.33, Wis. Stats., and Wis. Admin. Code NR § 64 are adopted and incorporated in this section.

(ii) No person may operate an ATV or UTV without having attained the age of 16.

(iii) No person may operate an ATV or UTV without a valid driver's license.

(iv) All operators shall have a liability insurance policy in force on any ATV or UTV operated on an ATV/UTV route or trail. The liability insurance policy must have the following minimum coverages:

a. $10,000.00 for property damage.

b. $25,000.00 for the injury or death of one person.

c. $50,000.00 for the injury or death of more than one person.

(b) *Rules of operation.* The operation of an ATV or UTV on a roadway that is an ATV/UTV route in Marathon County designated pursuant to § 23.33(8(b)1, Wis. Stats., or an ATV/UTV trail in Marathon County designated pursuant to § 23.33(8)(c), Wis. Stats., is subject to the following rules of operation:

(i) Any operator or passenger shall comply with all federal, state, and local laws, orders, regulations, restrictions, and rules, including those outlined in § 23.33, Wis. Stats. and Wis. Admin. Code NR § 64. All ATV/UTV rules of operation outlined in § 23.33(3), Wis. Stats. are adopted and incorporated in this section.

(ii) Operators may only operate on a designated ATV/UTV route or trail if said route or trail is signed in accordance with § 23.33(8)(e), Wis. Stats., and Wis. Admin. Code NR § 64.12(7).

(iii) Speed limits.

a. Operators on ATV/UTV routes shall observe a speed limit not to exceed 30 miles per hour or the posted speed limit on the roadway, whichever is less.

b. Operators on ATV/UTV trails shall observe a speed limit not to exceed 35 miles per hour or the posted speed limit on the trail, whichever is less.

(iv) Operators shall ride in single file.

(v) Operators may not operate an ATV or UTV on an ATV/UTV route at any time before or after operating hours. Operating hours are designated as one hour before sunrise and one hour after sunset.

(vi) All ATVs and UTVs must operate with fully functional headlamps, tail lamps, and brake lights.

(vii) Every ATV or UTV shall be equipped, maintained, and operated to prevent excessive or unusual noise. No person shall operate an ATV or UTV on an ATV/UTV route unless the vehicle is equipped with a muffler or other effective noise-suppressing system in good working order and in constant operation.

(c) *Enforcement.*

(i) Any act that is required or is prohibited by any statute or administrative code provision incorporated herein by reference is required or prohibited by this Code.

(ii) The Marathon County Sheriff's Office, local law enforcement agencies, and the Marathon County Parks, Recreation and Forestry Department shall have authority to enforce this section pursuant to § 23.33(12), Wis. Stats.

(d) *Penalties.*

(i) Any forfeiture for a violation of State Statute or Administrative Code adopted by reference in this section shall conform to the forfeiture permitted to be imposed for violation of said statutes or code provisions as set forth therein.

(ii) Any violation of a section of this section without a penalty specified by statute or administrative code shall have a cash deposit requirement of $50.00 plus court costs. A cash deposit requirement of $150.00 plus court costs will be required for a second violation of this section within a 12-month period.

(7) *Severability.* The provisions of this section shall be deemed severable and it is expressly declared that Marathon County would have passed the other provisions of this section irrespective of whether or not one or more provisions may be declared invalid. If any provision of this section or the application to any person or circumstances is held invalid, the remainder of the ordinance and the application of such provisions to other person's circumstances shall not be deemed affected.

(O-4-97; O-31-13; O-5-19; O-28-19)

1005.2.5

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

Approved by Marathon County
Environmental Resources Committee
August 30, 2018

Approved by Marathon County
Board of Supervisors
September 18, 2018

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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.

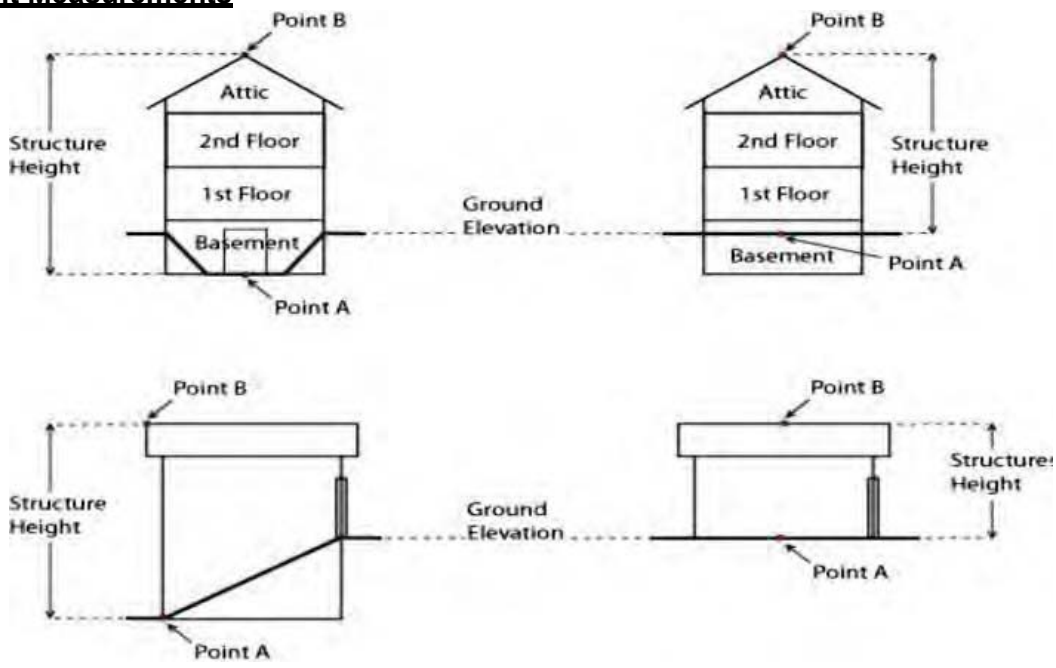
Section 22.204.05 **Height within 75 Feet of the Ordinary High Water Mark**

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 vegetativebuffer.

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 storm water.
   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.

   A. 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.

C. 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 developmentshall:

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.

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.

D. 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.

E. 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 thestudy.

   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 beused.

   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 500feet.

   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 0.00feet.

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

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

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.

G. 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.

1010 PERMITS, USE AGREEMENTS, POLICIES AND CONTRACTS

MARATHON COUNTY TIMBER SALE CONTRACT

Contract No. _____ Scaled or Ticket System ☐

Tract No. _____ Tree Measurement (Lump Sum) ☐

AGREEMENT entered into between Marathon County, Wisconsin, a municipal body corporate, hereinafter referred to as "County" and _____, hereinafter referred to as "Purchaser". The term "Purchaser" shall include all workers, employees, agents, subcontractors, and independent contractors that may be employed by the "Purchaser". For purposes of implementing this contract, the "County Representative" shall be the County Forest Administrator or his designee. The term "County" shall include Marathon County, the Marathon County Board of Supervisors and any committee thereof, and all Marathon County officers, officials, employees, agents, and assigns. Further, this contract constitutes the entire agreement by and between the undersigned parties. No other terms or conditions may be implied or inferred. The County and Purchaser, in consideration of the covenants hereinafter set forth, mutually agree as follows:

Purchaser shall cut and remove all timber marked or designated by County agents on the following described lands hereinafter referred to as the "sale area": _____

Operating Specifications and a map outlining the boundaries of the sale area are attached and made a part of this contract as if fully stated herein.

Both parties agree that the estimates regarding the amount of timber included in any contract are estimates only and are offered as a guide to the proposed Purchaser for the purpose of bidding.

Purchaser shall be responsible for keeping within the boundaries of the sale area and shall be liable for all trespasses committed by Purchaser outside of such boundaries.

TIMBER TO BE REMOVED

Species/ Product	Estimated Volume	Bid Per Unit	Total Bid	Species/ Product	Estimated Volume	Bid Per Unit	Total Bid

TOTALS: _____ _____

All volumes based on unpeeled measure. Unless otherwise specified, a cord is 4' x 4' x 100".

GENERAL TERMS

1. **CONTRACT PERIOD.** Purchaser will completely perform his obligations under this contract by the _____

2. **CONTRACT EXTENSIONS.** If extensions of this contract are deemed reasonable by the County, the stumpage price agreed upon herein shall be adjusted as follows:

   A. First one-year extension

      1. 3 year contract……..25%

      2. 2.5 year contract……...20%

      3. 2 year contract……..15%

   B. Additional one-year extensions……...10%

   C. Other applicable charges or fees: NONE

   The maximum time duration of a timber sale contract, including extensions, will be four years. Extension beyond this period of time will be considered by the County only in the event of special justification. Special stumpage rate adjustments may be made.

3. **CHANGE ORDERS.** The scope of the services to be performed under this contract may be amended or supplemented by mutual written agreement between the parties to the contract.

4. **PERFORMANCE; PERFORMANCE BOND; LIQUIDATED OR ACTUAL DAMAGES; FUTURE CONTRACTS.** A. Notice to Begin. Purchaser shall contact the County representative in writing both prior to commencing logging operations from contract site and upon final completion of the Timber Sale Contract. The Purchaser must also contact the County representative in writing if work is to cease at the contract site for more than one month. At the end of this period of time, the Purchaser must then inform the County representative in writing that work is to begin again.

   B. Contract Oversight. Cutting and removal of timber purchased under this contract shall be conducted in conformance with this contract and in a good and workmanlike manner with reasonable diligence to assure completion of all performance within the contract period specified in par. 1.

   C. Performance Bond. A performance bond in Marathon County's favor in the amount of $_____ in cash, by surety bond, or in other form accepted by the County, shall be submitted by the Purchaser no later than _____ to be retained by the County to assure full and complete performance of the contract by the Purchaser to the County's satisfaction. Failure to submit the bond will be considered a breach of this contract and subject the Purchaser to liability for damages. The Purchaser agrees that the bond shall be forfeited to the County as liquidated damages upon the County's determination a condition or term of this contract has been breached by the Purchaser, unless the County chooses and can reasonably determine the actual damages suffered as a result of the breach of the contract. Damages assessed under this contract are the responsibility of the Purchaser and may be deducted from this performance bond and otherwise collected by the County.

   D. The Purchaser agrees that the performance bond may be retained by the County until all performance under this contract has been completed to the County's satisfaction and the County determines the performance has been so completed. In the event the Purchaser provided written notice of sale completion to the County, the County shall have sixty (60) days to determine that performance has been completed as required under this contract.

   E. If timber or other forest products not specifically described in this contract or designated by the County for cutting are cut, damaged or removed by the Purchaser, the County may pursue any and all remedies for the unlawful use of the County's property and the cutting, damage or removal of property without consent, including the seeking of criminal or civil charges for theft, timber theft or criminal damage to property in addition to its contract remedies for breach.

F. The County may, when it deems it reasonable and in the best interest of the County, allow the Purchaser to continue performance under the contract and the Purchaser shall pay as liquidated damages double the mill value as determined by the County for the timber or other forest products cut, removed or damaged without authorization under or in violation of this contract. The County's permission to continue cutting shall not be considered a waiver of breach nor prevent it from considering such breach for purposes of asserting any other remedies available to it. It is agreed that the double mill scale sum is a reasonable estimate of the probable damages suffered by the County and shall not be construed as or held to be in the nature of a penalty.

G. The Purchaser agrees that if the timber identified in this contract for cutting is to be resold due to a breach of this contract, as determined by the County, the County is not obligated to give oral or written notice to the Purchaser of the resale.

H. The County's damages upon the Purchaser's failure to perform this contract include, but are not limited to:

(1) The Purchaser's bid value of timber not cut and removed under this contract.

(2) Double the mill value, as determined by the County, for timber cut, removed or damaged without authorization under or in violation of this contract.

(3) All costs of sale area cleanup, restoration or completion of performance not completed by the Purchaser.

(4) All costs of resale of timber not cut and removed as required under this contract.

(5) If the County seeks damages for breach of this contract through court proceedings, and if the County prevails in such proceedings, in whole or in part, then the Purchaser agrees to pay all of the County's actual and reasonable expenses, including attorney's and expert witness fees.

The County may agree to mitigate the damages for breach by offering the timber for resale on no more than two (2) occasions if it determines the timber is salable based upon its volume or quality.

(6) A minimum of 10% of the original sale price to the County (same amount as the original bid bond) as an administrative fee for the costs of readvertising and reestablishing the sale or pay the difference between the new sale price and the original price, but not less than 10% if the new sale price is less than the original price.

(7) If the sale is not resold after two separate bid openings, the Purchaser is liable for liquidated damages including the total performance bond.

I. A Purchaser deemed by the County to be in breach of this contract may also be considered an irresponsible bidder and be refused the opportunity to bid upon or obtain future timber sales of the County for a period not to exceed two (2) years from the date of determination of the breach.

5. NON-COMPLIANCE-WRITTEN NOTICE. A. Upon written notice by a County representative that Purchaser is not in compliance with one or more conditions of the contract, occupancy of and operations on the Contract Site shall be suspended. Any continued occupancy or use of the contract site shall be deemed a trespass. Said written notice shall be sent by Certified Mail to the mailing address listed on the first page of this document or may be personally served by a representative of the County.

B. If subsequent to receiving a written authorization from the County representative to recommence work, Purchaser fails to comply with the terms and conditions of this contract, a County representative shall again give written notice that work and occupancy at the site are to cease.

C. Occupancy and operations may be resumed only with written authorization of the County representative. Said authorization may contain special conditions to insure continued compliance with the terms of this contract.

6. **FORESTRY COMMITTEE.** The Forestry/Recreation Committee (hereinafter called FR Committee) shall then make a determination of whether the Timber Sale Contract and/or Performance Bond described in Paragraph 4 shall be forfeited. Purchaser shall have notice of the FR Committee meeting and an opportunity to be heard. Notification of the FR Committee's decision shall be sent to the Purchaser by certified mail at the address specified on the first page of this contract. The decision of the FR Committee, acting on the advice of its agents as to whether Purchaser is in compliance with the terms of this contract, shall be final subject to Purchaser's rights to appeal pursuant to Chapter 24 of the General Code of Ordinances for Marathon County.

7. **FAILURE TO COMPLY WITH CONTRACT - FORFEITURE.** Should the Purchaser enter into more than one timber sale contract, all of the timber sale contracts entered into by and between the Purchaser and the County shall be considered as one general contract consisting of subunits relating to different sites. A notice of non-compliance with respect to any one site shall constitute notice as to all sites, and the Purchaser shall forthwith cease operations at all sites until Purchaser receives written authorization to resume operations in accordance with the procedures set forth herein.

8. **NON-DISCRIMINATION.** In connection with performance of work under this contract, the Purchaser agrees not to discriminate against any employee or applicant for employment because of sex, race, religion, color, national origin, or disabilities.

9. **TITLE TO PRODUCTS AND STUMPAGE.** Title to all cut forest products shall remain with the County until paid for by Purchaser. Purchaser shall be responsible for payment of all damage or loss of all forest products resulting from fire, flood, theft caused by his own fault during the contractual term. Forest products and stumpage remaining on the sale area at the expiration of the contract or upon breach, revert to the ownership of the County without any refund of monies paid.

10. **AUTHORIZATION TO RELEASE INFORMATION.** Purchaser authorizes any individual, business, or mill receiving wood from this contract to release mill scale slips and any other information to the County regarding amount, date received, and other relevant information.

11. **RESIDENCE.** No residence shall be established on the contract area.

12. **TRAINING REQUIREMENT.** The Purchaser is responsible for ensuring that the actual logging contractor engaged in performance of this contract complies with the Wisconsin SFI (Sustainable Forestry Initiative) Training Standard as adopted by the Wisconsin SFI Implementation Committee (SIC). Criteria for the standard can be found at the website http://www.fistausa.org/sfi_standards.html or by contacting the Forest Industry Safety & Training Alliance (FISTA). Purchaser agrees to provide documentation to Seller that training has been attained prior to initiating sale.

13. **ASSIGNMENT.** The Purchaser is precluded from assigning payment and contract oversight, duties or other performance requirements of this contract to another. The Purchaser's direction to or contracting with another to complete performance required under this contract does not relieve the Purchaser from the responsibility for performance required under this contract or for liability for breach. **(Purchaser shall not subcontract any portion of this contract without prior written approval from the County, said approval will not be unreasonably withheld.)**

14. **INSPECTION.** The County retains for itself the right of ingress and egress to and on the sale area and may inspect the sale area and trucks hauling forest products from or traveling on the sale area at any time. If the inspection reveals any violations of this contract, the Purchaser shall promptly take measures to remedy the violation. The County may terminate the Purchaser's operations upon oral notice to the Purchaser. Upon receipt of the notice, the Purchaser shall cease operations until the County approves resumption of them.

15. PAYMENT. A. All payments will be in cash, cashiers check, personal or business check, or money order unless other arrangements are made in writing with the County.

B. Scaled or ticket-system stumpage payments shall be made prior to wood being hauled. Purchasers in good standing with Marathon County will be allowed up to three business days to submit payment. Marathon County reserves the right to determine which purchasers are in good standing. Payments due and owing to the County will be based upon actual scaling.

C. Lump sum sale contracts must be paid in full prior to beginning any operations. If cutting units are designated, the Purchaser must pay for and satisfactorily complete a unit as determined by a County representative prior to beginning operations in another unit.

16. REMOVAL WITHOUT PAYMENT. Timber or other forest products may not be removed from the sale area until paid for as provided in this contract or other guarantees for payment have been made with and to the satisfaction of the County. Upon removal of timber or other forest products in violation of this paragraph, the Purchaser agrees to pay as liquidated damages double the mill value of the timber removed, and in addition to pursuing its remedies for breach of contract, the County may seek charges against the Purchaser for Timber Theft under s. 26.05, Wis. Stats., or a violation of ch. NR 45, Wis. Adm. Code, consider it a breach of contract and pursue all remedies provided in this contract.

17. ROADS, LANDINGS, MILL SITES, CAMPSITES, EROSION CONTROL, BEST MANAGEMENT PRACTICES (BMPs). A. When not otherwise designated by the County, the location of roads, landings, mill sites and campsites on County's property is subject to advance approval and under the conditions established by the County. All restoration, cleanup or repair of roads, landings, mill sites and campsites, or the cost of the cleanup, if not completed by the Purchaser to the satisfaction of the County, is the responsibility of the Purchaser.

B. All logging debris accumulated at landing areas, including bark, tops and slash, shall be scattered within the sale area to the satisfaction of the County.

C. Berms constructed on the County's property shall be leveled to restore the area to the County's satisfaction unless they are constructed at the direction of the County under par. d.

D. Roads and landings shall be graded or closed upon the request of and to the County's satisfaction upon completion or termination of this contract.

E. Other restoration requirements (e.g., seeding, gravel, rutting, culvert removal, etc.): NONE

F. Erosion control and Best Management Practices (BMPs) requirements:

(1) The Purchaser shall comply with all recommended BMP guidelines as described in "*Wisconsin's Forestry Best Management Practices for Water Quality*" published by the Wisconsin Department of Natural Resources, publication Pub-FR-093, unless specifically provided otherwise below. A copy of this publication is available upon request to the County if not possessed by the Purchaser. Purchaser's certification in Wisconsin BMP training through a FISTA coordinated BMP workshop is also required.

(2) The Purchaser shall make every attempt to comply with Forestry BMPs for Invasive Species as described in "Wisconsin's Forestry Best Management Practices for Invasive Species" published by the Wisconsin Department of Natural Resources, publication Pub-FR-444-09 unless specifically provided otherwise below. In particular, the purchaser agrees to work cooperatively with the administering forester and any subcontractors to address the considerations in BMPs 4.4, 4.5, 4.6, 5.1, 5.2, 5.3, 5.5 and 9.1. A copy of this publication is available upon request to the Seller if not possessed by the Purchaser. The publication can also be found at the Council on Forestry website at: http://council.wisconsinforestry.org/invasives/forestry.

(3) The Purchaser shall comply with all General Guidelines as described in "Wisconsin's Forestland Woody Biomass Harvesting Guidelines" published by the Wisconsin Department of Natural Resources, publication Pub-FR-435-09, unless specifically provided otherwise below. A copy of this publication is available upon request to the County if not possessed by the Purchaser. The publication can also be found at the Council on Forestry website at: http://council.wisconsinforestry.org/biomass/

(4) Other: None.

18. SOIL DISTURBANCE AND RUTTING A. The Purchaser agrees to take all steps and precautions to avoid and minimize soil disturbances, such as soil compaction and rutting. If soil disturbances occur, the Purchaser agrees to work cooperatively to mitigate and repair any and all instances of soil disturbance.

B. Excessive soil disturbance (as defined in Table 1) shall not be permitted. Purchaser agrees to contact Seller in the event of an excessive soil disturbance.

Table 1. Thresholds for soil disturbances.

Timber Sale Infrastructure	Soil disturbances are excessive if:
Roads, Landings, Skid Trails, and General Harvest Area	▪ A gully or rut is 6 inches deep or more and is resulting in channelized flow to a wetland, stream, or lake.
Roads, Landings, and Primary Skid Trails	▪ In a riparian management zone (RMZ) or wetland, a gully or rut is 6 inches deep or more and 100 feet long or more. ▪ In an upland area (outside of RMZ), a gully or rut is 10 inches deep or more and 66 feet long or more.
Secondary Skid Trails and General Harvest Area	▪ A gully or rut is 6 inches deep or more and 100 feet long or more.

Note: The depth is to be measured from the original soil surface to the bottom of the depression. If individual lug depressions are visible, the depth would be measured to the lesser of the two depths (the "top" of the lug). The length is measured from the start of the "too deep" section to the end of the "too deep" section. Measurements are not cumulative.

Note: In high use forest recreation areas such as the Nine Mile Unit and County park lands we will require the purchaser to follow a lower threshold for soil disturbance (than defined in Table 1). The lower threshold will be communicated to the Purchaser during the pre-logging meeting and documented on the pre-logging form.

C. The County may temporarily suspend operations under this contract due to excessive soil disturbances (as defined in Table 1).

D. Prior to sale completion the Purchaser shall mitigate and repair soil disturbances to the Seller's satisfaction.

E. Other restoration requirements (e.g. repair of soil disturbance or rutting on recreational trails used for skidding):

(1) NONE

(2)

19. **DIGGERS HOTLINE.** The Purchaser is responsible to contact the Diggers Hotline, or other informational sources performing similar services, prior to digging or conducting other activities on the property which may result in contact with utility or service lines or facilities.

20. **OTHER APPROVALS.** Logging roads that intersect town, county or state roads or highways must have the intersections approved by the proper authorities prior to construction and cleared of all unsightly debris at the time of construction. The Purchaser agrees to apply for and obtain all approvals. The Purchaser also agrees to fully comply with all terms and conditions of intersection approvals.

21. **UNCUT TREES AND WASTED TIMBER.** Should marked or designated trees be left uncut or unremoved, the Purchaser shall be liable to the County for damages in the amount said wood would have been valued for payment at the mill site as of the date all work to be performed pursuant to this contract was to have been completed. Young growth trees bent or held down by felled trees must be properly released or Purchaser shall be liable for damages in the amount of replacement costs. The Purchaser shall be liable for damages at double the stumpage rate specified for timber wasted in tops and stumps.

22. **STUMP HEIGHT, TOPS.** The maximum stump height may not exceed the stump diameter; except for stumps of a diameter of less than 10 inches, the height of the stump may not exceed 10 inches. Additionally, clumps of stumps shall be treated as individual stumps and maximum height may not exceed each individual stump diameter. Title to tops shall remain in the owner and may not be utilized by the Purchaser, or at the Purchaser's direction, unless otherwise specified in this contract.

23. **ZONE COMPLETION.** The Purchaser agrees to complete all operations on each portion of the sale area or each zone as designated on the sale area map, or other attachments or in the cutting requirements before beginning cutting in the next portion or zone, unless agreed to otherwise by the County.

24. **SLASH.** Slash as defined in s. 26.12, Wis. Stats., shall be disposed of as follows: A. Slash falling in any lake or stream, in a right-of-way or on land of an adjoining landowner shall be immediately removed from the waters, right-of-way or adjoining land. Tops from felled trees may not be left hanging in standing trees. All trees shall be completely felled and not left leaning or hanging in other trees.

    B. Other: None.

25. **FOREST FIRE PREVENTION.** The Purchaser agrees to take reasonable precautions to prevent the starting and spreading of fires. Those precautions include, but are not limited to:

    A. A minimum of one fully charged 5 pound or larger ABC fire extinguisher with a flexible spout shall be carried on each off-road logging vehicle.

    B. All chainsaws and all non-turbocharged off-road logging equipment used in the operation shall be equipped with spark arrestors which have been approved by the U.S. Forest Service. Such arrestors may not be altered in any manner or removed and shall be properly maintained. (Information on approved arrestors may be obtained from the Seller.)

    C. If a fire occurs, the Purchaser agrees to promptly cooperate in the control and suppression of the fire.

    D. The Purchaser shall comply with requests regarding forest fire prevention and suppression made by the Seller and take all reasonable precautions to prevent, suppress and report forest fires. Those requests may include ceasing or modifying operations.

    E. The Purchaser shall be responsible for damage and forest fire suppression costs, including that provided in ss.26.14 and 26.21, Wis. Stats., caused by their operation under this Contract.

    F. Other: NONE

26. SURVEY MONUMENTS. The Purchaser agrees to pay for the cost of repair or replacement of any land survey monuments or accessories which are removed or destroyed or made inaccessible. In the event that the performance bond is insufficient to cover such cost, the provisions of Statute 59.74, Perpetuation of Landmarks, shall be enforced.

27. CLEANUP AND USE OF SALE AREA. A. The Purchaser shall remove, to the satisfaction of the seller, all equipment, tools, solid waste, oil filters, grease cartridges, trash and debris remaining on the sale area or Seller's property upon completion of performance under this Contract, termination of this Contract due to breach by the Purchaser or when requested by the County.

B. No residence, dwelling, permanent structure, or improvement may be established or constructed on the sale area or other property of the County.

C. The Purchaser agrees to properly use and dispose of all petroleum products, including but not limited to oil, hydraulic fuel and diesel fuel. Any on-site spillage must be properly removed and cleaned up by the Purchaser to the satisfaction of the County.

28. INDEPENDENT CONTRACTOR. The Purchaser is an independent contractor for all purposes, including worker's compensation, and not an employee or agent of the County. The County agrees that the undersigned Purchaser shall have the sole control of the method, hours worked, time and manner of any timber cutting to be performed hereunder and takes no responsibility for supervision or direction of the performance of any of the harvesting to be performed by the undersigned Purchaser or of its employees. The County further agrees that it will exercise no control over the selection and dismissal of the Purchaser's employees.

29. HOLD HARMLESS. Purchaser hereby agrees to release, indemnify, defend, and hold harmless Marathon County, their officials, officers, employees and agents from and against all judgments, damages, penalties, losses, costs, claims, expenses, suits, demands, debts, actions and/or causes of action of any type or nature whatsoever, including actual and reasonable attorney's fees, which may be sustained or to which they may be exposed, directly or indirectly, by reason of personal injury, death, property damage, or other liability, alleged or proven, resulting from or arising out of the performance of contractor, its officers, officials, employees, agent or assigns. Marathon County does not waive, and specifically reserves, its right to assert any and all affirmative defenses and limitations of liability as specifically set forth in Wisconsin Statutes, Chapter 893 and related statutes.

30. FEDERAL, STATE, AND LOCAL REGULATIONS COMPLIANCE. Purchaser agrees to comply with all applicable OSHA or other federal, state, and local laws or regulations in connection with the performance of this contract.

OSHA Compliance, Danger trees. The Purchaser is responsible to comply with, and assure compliance by all employees or subcontractors with, all Occupational Safety and Health Act (OSHA) requirements for the health and safety of Purchaser's employees, including provisions relating to danger trees. In addition, the Purchaser agrees to notify, and obtain agreement from, the County if the Purchaser intends to modify performance required under this contract for the purpose of compliance with OSHA requirements.

31. AMERICANS WITH DISABILITIES ACT COMPLIANCE. In connection with the performance of work under this contract, Purchaser agrees that no qualified individual with a disability, as defined by the Americans with Disabilities Act, shall, by reason of such disability, be excluded from participation and the benefits of services, programs, or activities, including employment, or be subjected to discrimination. The Purchaser is specifically notified that it is subject to all employment requirements listed under Title I of the Americans with Disabilities Act by virtue of its contract with Marathon County, a public entity. The Purchaser is specifically notified that it is subject to federal requirements to assure participation and access to public facilities, programs, and activities under Title II of the Americans with Disabilities Act by virtue of its contract with Marathon County, a public entity. These requirements mandate separate or special programs or reasonable modification of existing programs, services, and activities without surcharge to disabled individuals as long as safety is not compromised. The Purchaser shall provide a similar notice to all its subcontractors.

32. **FOREST CERTIFICATION.** The area encompassed by this timber sale is certified to the standards of the Sustainable Forestry Initiative® NSF-SFI-FM-1Y943 SFI 100%. Forest products from this sale may be delivered to the mills "SFI 100%" so long as the contractor hauling the forest products is chain-of-custody (COC) certified or covered under a COC certificate from the destination mill. The purchaser is responsible for maintaining COC after leaving the sale area.

REQUIRED INSURANCE

The Purchaser shall not commence work under this contract until all insurance required under this paragraph is obtained, and such insurance has been approved by the County, nor shall the Purchaser allow any subcontractor to commence work on their subcontract until all similar insurance requirements have been obtained and approved.

33. WORKERS COMPENSATION. The Purchaser shall obtain and maintain throughout the duration of this contract statutory Workers' Compensation Insurance for all of its employees employed at the site or while working on this project. In case any work is sublet, the Purchaser shall require the subcontractor similarly to provide statutory Workers' Compensation Insurance for all of the latter's employees, unless such employees are covered by the protection afforded by the Purchaser. Purchaser's (Owners and Sole proprietors) electing exemption from coverage pursuant to WIS STAT 102.075 SHALL provide a signed copy of the endorsement showing non-election of coverage.

34. GENERAL LIABILITY AND PROPERTY DAMAGE INSURANCE. Purchaser shall secure and maintain in force throughout the duration of this contract such General Liability and Property Damage Insurance as shall protect him/her and any subcontractor performing work covered by this contract from claims for damages for personal injuries including accidental death, as well as from claims for property damage, which may arise from operations under this contract, whether such operations be by Purchaser, or by any subcontractor or by anyone directly or indirectly employed by either of them; and the amount of such insurance shall be as follows:

- Comprehensive General Liability $1,000,000 per occurrence and in aggregate for bodily injury and property damage.
- Automobile Liability $1,000,000 per occurrence and in aggregate for bodily injury and property damage.

35. PROOF OF INSURANCE. The Purchaser shall furnish the County with a Certificate of Insurance countersigned by a Wisconsin Resident Agent or Authorized Representative of the insurer indicating that the Purchaser meets the insurance requirements identified above. The Certificates of Insurance shall include a provision prohibiting cancellation of said policies except upon 30 days prior written notice to the County and specify the name of the contract or project covered. A copy of the Certificate of Insurance shall be delivered to the Risk Management Division for approval prior to the execution of this contract. Upon renewal of the required insurance and annually thereafter, the County shall receive a new Certificate of Insurance for three years after completion of the project. The Certificates shall describe the contract by name and or identification number in the "Description of Operations" section of the form and list Marathon County as "additional insured in respect to this agreement".

36. DISPUTE RESOLUTION. If a dispute related to this agreement arises, all parties shall attempt to resolve the dispute through direct discussions and negotiations. If the dispute cannot be resolved by the parties, and if all parties agree, it may be submitted to either mediation or arbitration. If the matter is arbitrated, the procedures of Chapter 788 of the Wisconsin Statutes or any successor statute shall be followed. If the parties cannot agree to either mediation or arbitration, any party may commence an action in any court of competent jurisdiction. If a lawsuit is commenced, the parties agree that the dispute shall be submitted to alternate dispute resolution pursuant to §802.12, Wis. Stats., or any successor statute.

Unless otherwise provided in this contract, the parties shall continue to perform according to the terms and conditions of the contract during the pendency of any litigation or other dispute resolution proceeding.

The parties further agree that all parties necessary to the resolution of a dispute (as the concept of necessary parties is contained in Chapter 803, Wisconsin Statutes, or its successor chapter) shall be joined in the same litigation or other dispute resolution proceeding. This language relating to dispute resolution shall be included in all contracts pertaining to this project so as to provide for expedient dispute resolution.

37. NON-DEBARMENT CLAUSE. Purchaser hereby certifies that neither it nor any of its principal officers or officials have ever been suspended or debarred, for any reason whatsoever, from doing business or entering into contractual relationships with any governmental entity. Purchaser further agrees and certifies that this clause shall be included in any subcontract of this contract.

38. GRATUITIES AND KICKBACKS. It shall be unethical for any person to offer, give, or agree to give any elected official, employee or former employee, or for any elected official, employee or former employee to solicit, demand, accept, or agree to accept from another person, a gratuity or an offer for employment in connection with any decision, approval, disapproval, recommendation, preparation or any part of a program requirement or a purchase request, influencing the contents of any specification or procurement standard, rendering of advice, investigation, auditing, or in any other advisory capacity in any proceedings or application, request for ruling, determination, claim or controversy, or other particular matter, pertaining to any program requirement or a contract or subcontract, or to any solicitation or proposal therefore. It shall be unethical for any payment, gratuity, or offer of employment to be made by or on behalf of a subcontractor or a higher tier subcontractor or any person associated therewith, an inducement for the award of a subcontract, or order.

SCALING REQUIREMENTS AND CONVERSION FACTORS

39. PRODUCT REMOVAL. No forest products shall be removed until scaled or marked by a County representative unless prior arrangements have been made with the County.

40. SAWLOGS. A. All sawlogs must be separated from pulpwood when piled.

B. Purchaser will mark the length of all logs on the small end with a lumber crayon to facilitate scaling.

C. Purchaser will pile all logs with the small end facing the road to facilitate scaling.

D. All logs must be scaled with the Scribner Decimal C Log Rule.

41. PULPWOOD. All pulpwood must be piled for scaling. Piles must be level and square with at least five cords or 20 tons per pile.

42. CONVERSION FACTORS. Conversion of MBF (thousand board feet) to cords or cords to MBF will be 2.44 cords per MBF for softwoods and 2.20 cords per MBF for hardwoods.

43. PEELED CORDWOOD. When peeled cordwood is measured, it is stipulated that 12.5% will be added to hand-peeled or stroke delimber processor peeled volume and 16% to ring debarked volume to compute equivalent unpeeled volume.

44. WEIGHT CONVERSIONS. County will accept mill weight conversion (Mill Scale) unless that conversion results in less volume than those conversions set forth in Wisconsin Department of Natural Resources Handbook 2461.

PULPWOOD TICKET SYSTEM

45. TICKET BOOKS. A. Ticket books shall be purchased periodically as needed.

B. Ticket books are issued for the contract specified on the cover of the ticket book and shall not be used for any other contract.

C. Purchaser must account for all tickets. Unused tickets shall be returned to the County representative upon completion or termination of the contract.

D. All lost or damaged tickets will have the value of $1.00 per ticket number assessed against the performance bond.

46. TICKET USE. A. Tickets shall be used in sequence.

B. Copy one, the top (white) part of the ticket, shall be completely filled out and deposited in the lock box. Tickets must be completely inserted in the box. Hung tickets will be considered the same as failure to deposit tickets.

C. Copy two, the middle (yellow) part of the ticket, shall be in the possession of the person transporting timber from the sale area. County representatives may check scale and inspect haul permit tickets at any time.

D. Copy three, the bottom (hard) part of the ticket will remain in the ticket book for the Purchaser's records.

47. FAILURE TO DEPOSIT TICKETS. Failure by either the Purchaser or Purchaser's employee, officer, official, agent, or designee to deposit a ticket in the lock box each time a load of wood products leaves the sale area will be considered a violation of the State Statutes 26.05 on unauthorized timber removal.

48. LOCK BOXES. Lock boxes will be placed on the premises at points convenient to the Purchaser and County.

49. WOOD DESTINATIONS. The Purchaser shall provide the County representative with a list of all destinations of wood to be removed from the premises. Changes in wood destination shall be reported before hauling to the new destination.

50. FIREWOOD. When wood products such as firewood are delivered to buyers not providing a mill scale slip, the wood must be handscaled by a County representative and payment shall be made prior to wood being hauled.

TREE MEASUREMENT (LUMP SUM)

51. CONSIDERATION. Volume to be cut is estimated, not guaranteed. All timber designated for cutting must be cut and removed by the Purchaser even if volume of timber exceeds the estimate. If there is less timber than estimated, the County has no obligation to make-up the deficiency nor refund any or all monies paid.

52. CONFLICTING SALES. The Purchaser may not haul forest products on the same day from both this sale and a scaled or ticket system timber sale located on land owned by the County without authorization from the County.

53. ATTACHMENTS: Any and all attachments to this contract shall be made a part of this contract and be fully complied with, including: A. prospectus maps(s) or diagram(s) of sale area;

B. Other: NONE

54. OTHER CONDITIONS: The Purchaser shall enter this harvest with equipment clean of soil from the previous harvest. If previous job(s) included entering a stand that was confirmed with Heterobasidion Root Disease, make sure to clean logging equipment (tires, cutting head, etc.) with pressured water prior to entering this harvest.

Heterobasidion Root Disease (HRD) – Prevention Treatment

The Purchaser shall purchase and apply an approved fungicide (Rotstop C or Cellu-Treat) to all cut pine stumps and horizontal wound surfaces as follows:

1. Pesticide applicators must be certified/licensed by DATCP for this treatment.
2. All stumps shall be treated by the end of each day of cutting from April 1 – November 30. Treatment may be required from December 1 – March 31 if abnormally warm for an extended period of time to be determined by County Forest Representative.
3. All stumps shall be left clear of logging slash to allow for the application and inspection of the approved fungicide.

4. A marker dye shall be added to the solution to monitor application coverage.
5. Extra care must be done to minimize damage to residual trees.
6. If Heterobasidion Root Disease (HRD) is discovered prior to the completion of this harvest, a harvest protocol of infected area(s) shall be established and all harvesting equipment must be cleaned of soil prior to leaving this harvest.

Table 2. Approved Heterobasidion Root Disease Fungicides

Label Name	Active Ingredient	Distributor
Rotstop® C	Phlebiopsis gigantea (P.gigantea)	BioForest Technologies Inc. 59 Industrial Park Crescent Sault Ste. Marie, ON P6B 5P3 Phone: 1-888-236-7378 Order Desk: order@bioforest.ca Technical Support: support@bioforest.ca
Cellu-Treat	disodium octaborate tetrahydate	Crop Production Services N5853 5th Ave Plainfield, WI 54966 715-335-4900 Website: www.uap.com OR Nisus Corp. at 800-264-0870 Website: www.nisuscorp.com

Dated this _____ day of _____, 2019

I acknowledge that I am not an employee of Marathon County, as to this contract or any action arising out of it.

I have read, understand, and agree to abide by the provisions of this document.

PURCHASER'S FEDERAL TAX I.D. NO.: PURCHASER:

_____ _____ _____

(Signature) (Date)

WAUSAU AND MARATHON COUNTY PARKS, RECREATION, AND FORESTRY DEPARTMENT

By:_____ _____

Rev 2/18 (Forest Administrator) (Date)

1010.2 TIMBER SALE EXTENSION / RENEWAL POLICY *

CONTRACT EXTENSION POLICY

Some contractors have expressed some confusion about the policy of contract extensions with Marathon County. In 1996, we started giving longer contract periods to give you more flexibility to cut our timber according to market conditions and your cutting schedules. **However**, at that time we also adjusted the increase you would receive depending on the original contract length.

If extensions of the contracts are deemed reasonable by the County, the stumpage price agreed upon shall be adjusted for the **first extension** as follows:

ORIGINAL CONTRACT LENGTH	1ST EXTENSION OF CONTRACT
1 year contract	5% increase
2 year contract	15% increase
3 year contract	25% increase

Additional extensions (2nd, 3rd, etc.) 10% increase

For example: If the original contact length is 3 years, your first extension would be a 25% increase in stumpage. Additional extensions would be 10% for each extension.

The maximum time duration of a timber sale contract, including extensions, will be four years. Extension beyond this period of time will be considered by the County only in the event of special justification. Special stumpage rate adjustments may be made.

1010.3

MARATHON COUNTY TIMBER SALE CONTRACTOR CHECKLIST: PRE-SALE MEETING

Contract#: **Contractor:** **Date:** _____

Expiration Date:

Performance Bond:	Cash OR LOC	Pre-payment of Lock Box Tickets:	**$_____/book**
Fista Training Certificate:	Yes No	Based on weighted average of	**$_____/ton**
Insurance Up To Date:	Yes No Expiration Date:	Based on average load weight of ___ ton loads	

Check all items discussed or covered. Put N/A (not applicable) to items that do not apply.

Checked Item	Timber Sale Issue	Comments
	1. Review Sale area to discuss treatment types & how to deliniate in field.	
	2. Plan of Operation and progression of work. Equipment to be used.	
	3. Location & specification of roads, landings, and stream/wetland crossings.	
	4. Appropriate permits obtained (e.g. stream crossing, highway permits)	
	5. BMP issues (invasives, equipment restriction zones)	
	6. Residual timber damage and rutting	
	7. Utilization standards	
	8. Slash & Stump height requirements	
	9. Scaling system (e.g. haul tickets, woods scale). Placement of ticket box.	
	10. Log specification. Decking and sorting requirements.	
	11. Spill prevention and control, including trash clean-up.	
	12. Seasonal restrictions	
	13. Special conditions and/or restrictions (snowmobile trails, recreation events, etc.)	
	14. Protection of resources (survey markers, property lines, endangered species)	
	15. Fire suppression contingencies (min. of 1 fully charged $\geq$ ABC fire *extinguisher, USFS approved spark arrestors for chainsaws)*	
	16. Mill destinations	
	17. Gate maintenance, repair, and closure. Issuance of gate keys.	
	18. Sale closeout requirements (roads, landings, culverts, slash disposal, etc)	

COUNTY FORESTER: _____ **CONTRACTOR:**_____

WI DNR HB2461.A23 Aug. 2014

MARATHON COUNTY FOREST

TIMBER SALE CLOSING AND CONTRACT COMPLIANCE

Sale Closure X Timber Sale Inspection:_____ Date:_____

Contract Number:_____

Contractor:_____

Location of Sale:_____

Start Date:_____ Completed Date:_____

% Completed:_____

	Always meets Standards	Meets Standards	Sometimes meets Standards	Never meets Standards	Explain
Cutting Completed					
Hauling Completed/Hot Logging					
Hauling Legal Weights					
Stump Height Acceptable					
Utilization					
Residual Damage					
Slash Treatment					
Trees Cut/Tops Over Line					
Protecting Survey Monuments					
Littering/Garbage					
Landing Maintenance					
Excessive Road Damage					
Timely Payments/Mill Scale					
Excessive Rutting Damage					
BMP's					

Overall Job ☐ **Excellent** ☐ Very Good ☐ Good ☐ Fair ☐ Poor

General Remarks:

Inspected by: _____ Date: _____

1010.5

LINE AGREEMENT (For the purpose of harvesting timber)

AGREEMENT made of this __ day of ____ between

Marathon County Parks, Recreation and Forestry Department, 212 River Dr. Suite #2, Wausau, WI 54403, hereinafter referred to as **OWNER A**

and
_____hereinafter referred to as **OWNER B**.

WHEREAS OWNER A is owner of certain real property specifically described as follows:
_____, hereinafter called PROPERTY A and

OWNER B is owner of certain real property specifically described as follows:
_____, hereinafter called PROPERTY B and

WHEREAS, OWNER A desires to harvest timber on PROPERTY A between the dates of:
_____and _____and

WHEREAS, the exact property line between OWNER A AND PROPERTY B is difficult to discern:

NOW THEREFORE, it is agreed between OWNER A, and OWNER B that the following physical markings will (for the express purpose of expediting the harvest of timber during the above set period) described the boundary between PROPERTY A AND PROPERTY B:

IT IS FURTHER AGREED by OWNER A and OWNER B that this agreement is for the sole purpose of expediting a timber harvest and shall have no future bearing on the determination of the exact location of said property line nor is the agreement to be construed as any admission to or revelation of what may or may not be the true location of the property line.

Property OWNER A

_____
Thomas Lovlien, County Forest Administrator

Property OWNER(S) B

_____

ROAD USE PERMIT

Permit No. ___

Pursuant to authority granted by the Forestry/Recreation Committee of the Marathon County Board of Supervisors, permission is hereby granted by Marathon County, through its designated undersigned agent to (name, address, phone) hereinafter referred to as the Permittee, to use the county road or trail(s) currently in existence across the following described land owned by Marathon County in the (town), Marathon County, State of Wisconsin (legal description) for the purpose of the non-exclusive use of an existing woodlands road across the property described above in order to gain access to Permittee's timber sale as designated on the sketch map labeled "Exhibit A", which is attached hereto and made a part hereof.

This Permit is subject to the following terms and conditions:

1. This Permit shall cover the time period of (date), to (date). This Permit is granted solely for the Permittee to access Permittee's property to which the only reasonable access is across the above-described property owned by Marathon County.

2. Permittee to use road through above-described lands only during that time of year when undue damage will not result and to be responsible for and repair any damage to the road caused by him or members of his party at Permittee's expense.

3. No new roads, roadways, or trails may be constructed.

4. Neither improvements to the access road nor the cutting of any trees shall be done without the prior written consent of the Marathon County Forest Administrator. Said written consent shall set forth all specifications for said road improvements or timber cutting and shall constitute a written codicil to this Permit.

5. Granting of this Permit shall not grant or transfer any rights other than those rights expressly set forth herein. No right of ownership or possession shall vest in the Permittee, through adverse possession or otherwise, solely by virtue of the granting of this Permit. This document contains all the terms and conditions of said Permit, and no other terms, conditions, rights, duties, or obligations shall be inferred or implied. This Permit shall be amended, modified, or continued only by written codicil duly executed by the parties hereto. This Permit is non-assignable and non-transferrable for any reason.

6. The Permittee agrees to indemnify, defend, and hold harmless Marathon County, its officials, officers, representatives, employees, and authorized agents from and against any and all penalties, liabilities, or losses resulting from claims or court actions, whether civil, criminal or in equity, which arise directly or indirectly out of the acts of the Permittee, its agents, servants, employees, guests, or visitors under this Permit, or by reason of any act or omission of such person(s), and/or arising out of duties or obligations under this Permit.

7. Use of road by Permittee shall in no way interfere with the forest and land management activities of the Permitor. This road use permit is not exclusive to Permittee and shall be at all times subject to and subordinate to Permitor's use of the above-described lands and land adjacent or surrounding the road.

8. No road on County owned land may be gated or posted by the Permittee under any circumstances.

9. Neither yarding, loading of timber products, nor dumping of debris will be permitted on County owned lands along this road under any circumstances.

10. Special conditions:

    1.
    2.

11. This permit shall expire (date), unless terminated sooner by the Permitor for any reason or cause considered by Permitor in its sole discretion to be a violation of the above-stated conditions. Furthermore, the Permitor, may, with notice, temporarily suspend use of the road by Permittee because of weather, fire, or conflicting use conditions.

12. A bond in Marathon County's favor in the amount of $500.00 in cash shall be submitted by the Permittee to assure the road is restored to the County's satisfaction following use. The Permittee agrees that the bond shall be forfeited to the County as liquidated damages upon the County's determination a condition or term in this Permit has been breached by the Permittee.

MARATHON COUNTY FORESTRY/RECREATION COMMITTEE

Dated: _____ By: _____

County Forest Administrator

The undersigned Permittee hereby acknowledges receipt of this Permit and further acknowledges reading and understanding all terms and conditions set forth herein. Permittee further agrees to accept and comply with all of the above-stated terms and conditions of this Permit. Failure by Permittee to so comply may result in the immediate cancellation of this Permit in the discretion of the County, who retains the authority and discretion to cancel this Permit if any of the above terms and conditions are not complied with.

Dated: _____ By: _____

Permittee:

FIREWOOD CUTTING PERMIT

WAUSAU AND MARATHON COUNTY PARKS, RECREATION, AND FORESTRY DEPARTMENT
212 RIVER DRIVE SUITE 2
WAUSAU WI 54403-5476 TELEPHONE: 715/261-1550

Permit No _____ Date _____

The Parks, Recreation, and Forestry Department through its authorized agent hereby gives permission to:

Name_____ Phone _____
Address _____
Vehicle Year:_____ Make:_____ Model:_____ Color:_____License Plate:_____
To cut tops or down wood on County owned lands described as; _____
_____
Township/Village of _____ for his/her own personal use on the above listed description.
Forest Unit_____
The undersigned applicant:

1. Assumes all responsibility for location of the cutting and is subject to penalties provided by the statute for any cutting outside of the above named description.
2. **No cutting of standing dead trees allowed.**
3. Will use all possible care in the removal of down timber to prevent injury to remaining standing timber.
4. Will cut and remove tops left over from a timber sale or down wood.
5. Will be subject to penalty provided by statutes or ordinance for unauthorized cutting of standing timber.
6. Will scatter brush, tops or debris within 50 feet of the road.
7. Grants authorized agents of Parks, Recreation and Forestry Department permission to inspect wood at applicants home.
8. Waives any and all claims or causes of action against Marathon County related to or arising out of the cutting and/or removal of wood under this permit.
9. No motorized vehicles allowed off designated roads or trails when gathering firewood (except by written permission).
10. If a key is issued, it must be returned no later than 5 days after the expiration date of this permit. Failure to do so will result in loss of key deposit and permittee may not be eligible for future permits. The key deposit is $50.00.
11. Pay a permit fee of $30.00

The undersigned agrees to remove wood before _____.
This permit is revocable at anytime by authorized agent of the Parks, Recreation and Forestry Department.
Applicant's Signature_____
Approved _____
Authorized Agent
Wausau and Marathon County Parks, Recreation, and Forestry Department

Map Provided: Yes ☐ No ☐
Key Deposit: $_____

P619
Revised 5/18

PARTITION FENCE AGREEMENT

In consideration of the mutual promises between Marathon County, hereinafter called COUNTY, and _____, whose address is _____;

IT IS HEREBY AGREED that a partition fence shall be constructed in accordance with Chapter 90, Wis. Stats., at the following location: _____

IT IS FURTHER AGREED as follows:

1. The COUNTY shall provide the following materials for said fence:

   A. 100 steel posts per quarter mile of fence to be constructed (_____posts).

   B. Sufficient barbed wire to construct a four-wire fence (_____rolls of wire).

2. _____ acknowledges receipt of the aforementioned materials and agrees to construct the fence in accordance with the following specifications:

   A. The posts shall be placed between 13 and 14 feet apart wherever practical. In no event shall they be placed more than 16 feet apart.

   B. There will be at least four strands of wire fastened to the posts, said wires to be evenly spaced, and said fence to be 48 inches high.

   C. The fence shall be built on the existing partition line. In the event that no partition division has been properly made, a division shall be requested by the parties prior to any construction being commenced.

IT IS FURTHER AGREED that _____, upon receiving free of charge the above materials, shall construct the entire partition fence between the above stated properties on or before _____.

This agreement is entered into by the parties under the following assumptions:

1. If _____ fails to construct the subject fence on or before the above-mentioned date, all materials furnished by the COUNTY shall be returned in the condition they were received or the COUNTY will be reimbursed by him for the value of the materials received.

2. If _____fails to construct the subject fence on or before the above-mentioned date, COUNTY will proceed in accordance with the procedure set out in Sec. 90.11, Wis. Stats.

3. The parties are entering into this agreement with full knowledge that it is different than the standard partition fence agreement wherein one-half of the labor and materials would be supplied by each party.

4. _____ agrees to build the fence as close to the boundary line as is practical, and both parties hereby relinquish any rights which they may obtain by adverse possession arising out of the fact that the fence has not been constructed exactly on the boundary line. If said fence is not constructed exactly on the boundary line, then for purposes of adverse possession only, and to prevent from taking title under a claim connected with the partition fence, the COUNTY hereby grants permission to _____ to construct the fence in the location which gives rise to his claim.

5. _____ agrees to make ordinary repairs and furnish materials for such repairs as necessary to maintain the fence in accordance with Chapter 90, Wisconsin Statutes.
6. The parties agree that this contract shall be binding upon their heirs, successors and assigns.

   Dated this _____ day of _____, 20____.

In witness whereof the parties have

caused this instrument to be executed

on their behalf by duly authorized persons.

_____

MARATHON COUNTY

BY:

_____

State of Wisconsin)

County of Marathon)

Personally came before me this _____ day of _____ A.D., 20 ____,

the above-named _____ to me known to be the person who executed the foregoing instrument, and acknowledged the same.

_____

Notary Public

My Commission expires

_____

ACCESS ROAD PERMIT

Permit No.

Pursuant to authority granted by the Forestry / Recreation Committee of the Marathon County Board of Supervisors, permission is hereby granted by Marathon County, through its designated undersigned agent to __, hereinafter referred to as the Permittee, to use the county road(s) currently in existence across the following described land owned by Marathon County in the Town of _____, Marathon County, State of Wisconsin:

This Permit is subject to the following terms and conditions:

1. This Permit shall cover the time period of ___ to ___. This Permit is granted solely for the Permittee to access Permittee's property to which the only reasonable access is across the above-described property owned by Marathon County.

2. Granting of this Permit shall not grant or transfer any rights other than those rights expressly set forth herein. No right of ownership or possession shall vest in the Permittee, through adverse possession or otherwise, solely by virtue of the granting of this Permit. This document contains all the terms and conditions of said Permit, and no other terms, conditions, rights, duties, or obligations shall be inferred or implied. This Permit shall be amended, modified, or continued only by written codicil duly executed by the parties hereto. This Permit is non-assignable and non-transferable for any reason.

3. Any damage as a result of use of said road by Permittee to the access road across the above-described property owned by Marathon County shall be repaired by the Permittee.

4. The Permittee agrees to indemnify, defend and hold harmless Marathon County, its officials, officers, representatives, employees, and authorized agents from and against any and all penalties, liabilities, or losses resulting from claims or court actions, whether civil, criminal or in equity, which arise directly or indirectly out of the acts of the Permittee, its agents, servants, employees, guests, or visitors under this Permit, or by reason of any act or omission of such person(s), and/or arising out of duties or obligations under this Permit.

5. Neither improvements to the access road nor the cutting of any trees shall be done without the prior written consent of the Marathon County Forest Administrator. Said written consent shall set forth all specifications for said road improvements or timber cutting and shall constitute a written codicil to this Permit.

6. The Permittee shall be responsible for the maintenance of the roads covered by this Permit and shall maintain said road in at least the same condition as in existence on the effective date of this Permit.

7. No road on County owned land may be gated or posted by the Permittee under any circumstances.

8. Neither yarding, loading of timber products, nor dumping of debris will be permitted on County owned lands along this road under any circumstances.

9. The fee for the existing access road permits as of ____ is $150.00 for five years. The fee for any new access road permits if approved by the Committee is $250.00 for five years.

MARATHON COUNTY FORESTRY / RECREATION COMMITTEE

Dated: _____ By: _____

County Forest Administrator

The undersigned Permittee hereby acknowledges receipt of this Permit and further acknowledges reading and understanding all terms and conditions set forth herein. Permittee further agrees to accept and comply with all of the above-stated terms and conditions of this Permit. Failure by Permittee to so comply may result in the immediate cancellation of this Permit in the discretion of the County, who retains the authority and discretion to cancel this Permit if any of the above terms and conditions are not complied with.

Dated: _____ By: _____

Permittee

Dated: _____ By: _____

Permittee

Key issued # _____ _____

Date

Key deposit #_____ _____

Date

1010.10

VEHICLE USE PERMIT (ATV)

Disabled Person Access

Permit No. _____

Pursuant to authority granted by the Forestry / Recreation Committee of the Marathon County Board of Supervisors, permission is hereby granted by Marathon County, through its designated undersigned agent to *INSERT NAME, ADDRESS, PHONE NUMBER,* hereinafter referred to as the Permittee, to use the county trail referred to as:

Town of *INSERT TOWN, NAME OF FOREST UNIT, ROAD NAME, AND SECTION#*, NO OFF TRAIL USE PERMITTED, Marathon County, Wi.

This Permit is subject to the following terms and conditions:

1. This Permit shall cover the time period of ***INSERT DATES AND YEAR***.
2. Only Class A or C DNR Permit holders or disabled DOT License plate holders are eligible for this permit.
3. The Permittee must possess and carry this permit whenever exercising this privilege.
4. The Permittee must attach a sign that says "DISABLED" or "DISABLED HUNTER" provided by the Parks and Forestry Department to the front or rear of the ATV or snowmobile. This sign must be clearly visible from the front or rear of the vehicle.
5. This Permit is limited to a specific entry point and area described on the permit.
6. The Permittee may use an ATV or snowmobile to get in/out from deer stand. Permittee is not authorized to use the ATV or snowmobile to scout territory.
7. The vehicle use permit holder must occupy the permitted vehicle. One additional person may ride in the vehicle to assist the Permittee.
8. Vehicles used under this permit may not be operated in excess of normal walking speed (judged to be 2-3 miles per hour).
9. Granting of this Permit shall not grant or transfer any rights other than those rights expressly set forth herein. This document contains all the terms and conditions of said Permit, and no other terms, conditions, rights, duties, or obligations shall be inferred or implied. The Permittee must abide by all other laws and regulations. This Permit shall be amended, modified, or continued only by written codicil duly executed by the parties hereto. This Permit is non-assignable and non-transferable for any reason.
10. The Permittee agrees to indemnify, defend and hold harmless Marathon County, its officials, officers, representatives, employees, and authorized agents from and against any and all penalties, liabilities, or losses resulting from claims or court actions, whether civil, criminal or in equity, which arise directly or indirectly out of the acts of the Permittee, its agents, servants, employees, guests, or visitors under this Permit, or by reason by any act or omission of such person(s), and/or arising out of duties or obligations under this Permit.
11. This Permit shall not exceed two weeks.
12. Permittee is required to abide by the conditions of this permit or is subject to revocation of the permit.
13. If a key is issued, it must be returned no later than 5 days after the expiration date of this permit. Failure to do so will result in loss of key deposit and permittee may not be eligible for future permits.

MARATHON COUNTY FORESTRY / RECREATION COMMITTEE

Dated _____ By _____

County Forest Administrator

The undersigned Permittee hereby acknowledges receipt of this Permit and further acknowledges reading and understanding all terms and conditions set forth herein. Permittee further agrees to accept and comply with all of the above-stated terms and conditions of this Permit. Failure by Permittee to so comply may result in the immediate cancellation of this Permit in the discretion of the County, who retains the authority and discretion to cancel this Permit.

Dated_____ By_____

Permittee

Key Deposit: $_____

Key Provided: Yes ☐ No ☐

Type of Vehicle:_____

Lic#:_____

1010.10.1 Disabled Person Hunter Sign

DISABLED HUNTER

PERMIT NO. _____

WAUSAU AND MARATHON COUNTY

PARKS, RECREATION AND FORESTRY DEPT

1000-81

1010.11

CAMPING PERMIT – MARATHON COUNTY FOREST UNITS

Wausau and Marathon County Parks, Recreation and Forestry Department
212 River Drive Suite 2 Wausau WI 54403-5476 Phone: 715/261-1550 Fax: 715/261-1565
Email: parkforestry@co.marathon.wi.us

EACH CAMPING UNIT REQUIRES ITS OWN PERMIT

Name: _____ Address: _____ Contact Phone: _____

City: _____ State _____ Zip_____ E-mail: _____

Permit is subject to the following conditions:

1. This permit is authorized by the Forestry / Recreation Committee of the County Board of Supervisors, as provided in the Marathon County Forestry Ordinance.
2. The permittee shall take all reasonable precaution to prevent and suppress fires and must observe all fire regulations set forth by the Department of Natural Resources.
3. The permittee must not block forest unit gates with vehicles or they will be towed at owners expense.
4. The permittee must carry out all garbage and other litter and police their campsite so as to leave it in as natural a condition as possible before vacating the campsite.
5. If available, the permittee must use any toilet in the vicinity of the camp site, otherwise bury human waste in a one-sit hole, 6-8 inches deep at least 200 feet from any waterway or trail. Remember to pack out your toilet paper and feminine hygiene products.
6. The permittee is prohibited from bringing any firewood to the County Forest Unit. The permittee is permitted to utilize dead and down trees found at the County Forest Unit for fuelwood. No standing live or dead trees are to be cut.
7. This permit may be revoked at any time when the permittee or any member of his family or guests shall have been convicted of a violation of the State game laws or forest fire laws, or the regulations of this permit as herein provided. Furthermore, in the event of such conviction, no future permits will be issued to said permittee for a period of five (5) yrs.
8. The individual making the reservations(s) will be responsible for the actions and conduct of all persons at any campsite(s) during the reservation period(s).
9. This permit cannot be reassigned and is subject to all valid claims.

County Forest Unit:_____ Parking Lot/Location:_____

Arrival Date: _____ Leave Date:_____ Number of Nights: _____
(maximum stay is 14 nights)

Vehicle Make #1:_____ Model #1:_____ License Plate #1:_____

Vehicle Make #2:_____ Model #2:_____ License Plate #2:_____

No. of People Camping:_____ Type of Camping Unit:_____
(tents may be pitched in the forest)

Applicant agrees to indemnify and save harmless the Forestry/Recreation Committee and Marathon County, and their employees, elected and appointed officials, and agents from any and all liability from claims of bodily injury, property damage, or any other nature whatsoever arising out of the use of Wausau or Marathon County properties herein specified.

I have read and agree to abide by the above conditions formulated by the Forestry/Recreation Committee for the use of Marathon County Forest Units. Applicant understands that inaccurate information is grounds for cancellation of any reservation granted and may jeopardize future reservations.

Applicant Signature:_____ Date:_____

Marathon County Forestry/Recreation Committee

By: _____ Date:_____

County Forest Administrator or designee

$15 Charge Paid on _____ Receipt No:_____
Cash_____ Check_____ Credit Card_____

P620
Revised 03/2017

Constructing or using permanent, elevated stands for hunting is not permitted on Marathon County Forest Land.

Marathon County Ordinance 16.06(3):

A "permanent, elevated stand" is any stand that is nailed, bolted or otherwise affixed to trees, or any elevated scaffold or elevated device, that is not completely removed from the tree each day at the close of hunting hours.

Portable stands shall be removed from the tree each day at the close of hunting hours.

Portable stands may be chained or locked to the base of a tree.

Portable stands and trail cameras shall NOT cause permanent or temporary damage to a tree or vegetation.

Portable stands and trail cameras left in the woods must bear the name, address, and phone # of the owner affixed permanently to the stand or camera.

Portable stands and trail cameras without identifying information that is clearly visible are subject to removal by County officials.

Trail cameras may be chained or locket to vegetation.

Portable stands and trail cameras must be removed from County Forest lands within seven days after the close of any deer or bear hunting season.

Your stand OR camera has been seized by enforcement personnel. To claim your property, contact the Recreation Deputy at 715/261-1557

1010.13

MARATHON COUNTY

Budget Transfer Authorization Request Form

This form must be completed electronically and emailed to **Alicia Richmond** and to your Department Head. This email will confirm that your Department Head acknowledges approval of this transfer. Forms that are incomplete, incorrect, out-of-balance, or that have not been sent to your Department Head will be returned. The Finance Department will forward completed forms to the Marathon County Human Resources, Finance & Property Committee.

DEPARTMENT: Click here to select your department **BUDGET YEAR:** Enter Year

TRANSER FROM:

Action	Account Number	Account Description	Amount
Select action	Click to enter GL Account	Click here to enter account description	Enter amount

TRANSER TO:

Action	Account Number	Account Description	Amount
Select action	Click to enter GL Account	Click here to enter account description	Enter amount

I, the undersigned, respectfully request that the Human Resources, Finance & Property Committee approve the following change in budget / transfer of funds as discussed in the attached supplemental information.

Requested By: Enter the name of the person that completed this form **Date Completed:** Select Date

COMPLETED BY FINANCE DEPARTMENT:

Approved by Human Resources, Finance & Property Committee: _____ Date Transferred: _____

MARATHON COUNTY

Budget Transfer Authorization Request – Supplemental Information

Attach this supplemental information to the original Budget Transfer Authorization Request Form. All questions must be completed by the requesting department, or the Budget Transfer Authorization Request Form will be returned.

C. What is the name of this Program/Grant? (DO NOT use abbreviations or acronyms)

Click here to enter program/grant name

D. Provide a brief (2-3 sentence) description of what this program does.

Click here to enter description

E. This program is: (Check one)

☐ An Existing Program.

☐ A New Program.

F. What is the reason for this budget transfer?

☐ Carry-over of Fund Balance.

☐ Increase/Decrease in Grant Funding for Existing Program.

☐ Increase/Decrease in Non-Grant Funding (such as tax levy, donations, or fees) for Existing Program.

☐ Set up Initial Budget for New Grant Program.

☐ Set up Initial Budget for New Non-Grant Program

☐ Other. Please explain: Click here to enter description

G. If this Program is a Grant, is there a "Local Match" Requirement?

☐ This Program is not a Grant.

☐ This Program is a Grant, but there is no Local Match requirement.

☐ This Program is a Grant, and there is a Local Match requirement of: (Check one)

☐ Cash (such as tax levy, user fees, donations, etc.)

☐ Non-cash/In-Kind Services: (Describe) Click here to enter description

H. Does this Transfer Request increase any General Ledger 8000 Account Codes? (Capital Outlay Accounts)

☐ No.

☐ Yes, the Amount is Less than $30,000.

☐ Yes, the Amount is $30,000 or more AND: (Check one)

☐ The capital request HAS been approved by the CIP Committee.

☐ The capital request HAS NOT been approved by the CIP Committee.

COMPLETED BY FINANCE DEPARTMENT:

Is 10% of this program appropriation unit or fund? _____ Is a Budget Transfer Resolution Required? _____

NINE MILE COUNTY FOREST EVENT AND USE REGULATIONS FINAL Approved Jan. 7 2020

1. Sustainable timber management (timber harvests) will continue following the approved County Forest Comprehensive Land Use Plan and the County Forest Law(28.11 Wis. Stats). Some trails may be periodically closed to allow harvesting due to the following:

    - It has become increasingly difficult to manage the timber resource with insect and disease restrictions that prohibit harvesting during specific time periods.
    - Cross country skiing has reduced harvesting in the winter within the core ski trail area.
    - In upland areas of Nine Mile harvesting may only occur between August 10 and November 15 in certain timber stands due to threatened and endangered species guidance. The Department of Natural Resources continues to draft new species guidance each year making timber harvesting from May 1-August 31 more challenging.
    - There are few areas that harvests may occur in year round.
    - Attempts will be made to minimize conflicts on recreational trail activities.

2. Dispersed recreation such as hunting, trapping, fishing, bird watching, hiking, backpacking and berry picking will continue to occur on all County Forest Lands according to the County Forest Law and Department of Natural Resources seasons and regulations.

3. Mountain biking and horseback riding season at Nine Mile County Forest begins May 1 to May 15, depending on trail conditions, to October 15 each year. If trail conditions allow opening during the first three weeks of May, mountain biking and horseback riding will be allowed after 12:00pm daily to accommodate spring turkey hunters.

4. County ordinance prohibits the use of bicycles or riding horses on any designated trail seasonally closed.

5. Snow biking is prohibited on cross country ski or snowshoe trails due to user conflicts and the biking season being closed. Exception: One winter triathlon event is approved utilizing fat tire bikes. (Approved by Forestry/Recreation Committee May 2019.)

6. Electric mountain bikes (eMTB) falls under the definition of a self-propelled motor bicycle and are prohibited by ordinance.

7. Cross country skiing, snowshoeing and snowmobiling are allowed on designated trails when there is sufficient snow cover as determined by the Parks, Recreation and Forestry Department.

8. Cross country skiing and snowshoeing are allowed at any time off the designated trails according to County Forest Law.

9. Up to four high school cross country running races may be allowed at Nine Mile on or before October 15 each year. (Required Conference Cross Country Running Races are approved the 3rd Saturday in October, if two Conference events are requested for the same Saturday, one will be held in the AM and one will be held in the PM (Approved by Forestry/Recreation Committee January 2020.)

10. Organizers may apply to hold a special event by completing a Facility Use Agreement form available at the Park office. All events or trail based activities will be considered if the Parks, Recreation and Forestry Department receives an application no more than one year prior(365 days) to the year of the event and will receive priority. Any applications received less than six months prior to the event will be considered but may be rejected. If some events or trail based

activities are not approved, Parks, Recreation and Forestry staff will assist in finding a different venue appropriate to be held if possible.

Applications will be evaluated using the criteria below:

- Resource Protection
- Safety
- Potential for User Conflicts
- Number of Events Already Scheduled (cap on events)
- Benefits to the Community
- Revenue Generation
- Date of Requested Event
- Community Support
- Evaluation of Event Plan
- Necessity to close down portions of the facility to the public
- Previously held Events

A maximum of six(6) weekend trail based special events can be held from May through October 15th. And of those six(6), only two(2) will be allowed between September 1st and October 15th to accommodate fall hunting seasons. Exception: An Ironbull bike gravel race is approved located on the Snowmobile trail only may occur the Saturday following October 15 each year. (Approved by Forestry/Recreation Committee May 2019.)

11. Charging fees for vehicle parking or admission fees for spectators to any events is prohibited at all County Forest Units under any circumstances.

12. The Park Commission has jurisdiction over the event or program if there is a conflict of use or multiple applications for events on the same date.

13. The Forestry/Recreation Committee has jurisdiction over all land use on the County forest. Any future changes or additions to these regulations will be presented to the Forest Citizen's Advisory Subcommittee for a recommendation to the Forestry/Recreation Committee. The decision of the Forestry/Recreation Committee will be final.

pkdata/tom/policies/ninemileregsJan2020

1010.15 Nine Mile Cross Country Ski and Snowshoe Opening Policy

1. Chalet will not be opened or staffed during any firearm deer seasons.
2. Ski/snowshoe trails will not officially open during any firearm deer season due to serious safety concerns.
3. Usable snow will be groomed and packed during the firearm deer seasons only at night as a courtesy to the hunting community.
4. Trail lights will be turned on for night skiing as a courtesy to the skiing community.
5. Chalet will not be available for private rentals after December 1 of each year in anticipation of the ski season.
6. Chalet will be staffed and trails will open typically in mid-December after the last gun deer season determined by the Parks, Recreation and Forestry Department.

1010.16 Road Maintenance Policy for Primary County Forest Roads

Maintenance on primary forest roads receiving county forest road aid payments will include a monitoring program, which will ensure that Best Management Practices for Water Quality (BMPs) are providing adequate environmental protection, and drainage structures are in proper working condition. Such monitoring will be ongoing, at regular intervals as needed. Road segments with more intensive use will be identified and examined more frequently to verify that water quality protection structures have not been degraded. Monitoring results will be documented and will be used to assist with locating portions of road that have more recurrent repair needs. Restoration of failing structures will be done in a timely manner to assure that BMP standards are being upheld. The Wisconsin County Forests Association (WCFA) will continue to pursue additional funding for maintenance on primary forest roads receiving road aid payments. County Forest Road 707 that runs through Nine Mile Forest will be the only primary forest road that is maintained by snowplowing during the winter.

1010.17 **Request for Additional Services**

Purpose: The Wausau & Marathon County Parks, Recreation, and Forestry Department has a desire to always provide high quality recreational services and facilities. With restricted financial and personnel resources the Department needs a process to evaluate requests for additional services. Additional services being defined as additions to programs and facilities or new programs and facilities.

In order to fully evaluate and stimulate thought on the complete aspects of additional services, please provide the Department with a request that includes the following (all items may not pertain and may not be known by requestor):

- Please describe program or facility where additional services are being requested.

Click here to enter text.

- Please describe additional services/facility being requested.

Click here to enter text.

Why do you think this additional service/facility is needed?

Click here to enter text.

What exactly is being asked of the Department (funding, maintenance, construction)?

Click here to enter text.

- What are the total costs for the additional services/facilities (not only initial costs but future costs)?

Click here to enter text.

- How would it be funded (what is the County/City being asked to contribute, what is the group willing to contribute, grants, donations, etc.)?

Click here to enter text.

- Who will provide maintenance in the future (will it be turned over to the Department upon completion, will there be maintenance funds put aside, group to provide some maintenance, who repairs damage, etc.)?

Click here to enter text.

- What are the expectations of the County/City once it is complete?

Click here to enter text.

- What is the timeline for completion?

Click here to enter text.

Wausau & Marathon County
Parks, Recreation
& Forestry

Pkdata/PKforms/p667RequestforAdditional Services

WCFA ATV/UTV Sustainable Trail Guidance

This document is meant to be used as guidance in the development or rehabilitation of state funded, "summer" use, county sponsored ATV/UTV trails

In an attempt to simplify and standardize ATV/UTV grant applications from WCFA member counties, the following guidelines have been developed for new trail construction or trail rehabilitation projects. The guidance is not meant to apply to existing trails but should be followed when developing new trails and when trail managers determine rehabilitation is necessary due to environmental or safety issues.

It is understood these trail guidelines cover normal situations on many of the trails, but in some cases there is good reason for building trails above and beyond the guidelines. In those cases, make sure you clearly explain and justify your reasoning for requesting more than standard amounts. In a case where trail development or rehabilitation projects do not require the trail manager to achieve recommendations provided in this guidance and there are no environmental concerns, the application should explain and justify project circumstances. The goal of a trail manager should be to develop and rehabilitate trails so they are sustainable and manageable for years to come when routine maintenance is applied.

Some trail development or trail rehabilitation projects may only entail crowning and ditching of existing natural materials, most notably on trails that do not receive extensive use on a regular basis. When developing and rehabilitating heavily used trails, managers should consider adding a base layer of material to allow for routine trail grooming and maintenance.

"The trail design should minimize the ecological impact of the trail and should retain the trail's basic stability and shape through time without abrupt changes, recognizing there are both the human and natural forces at work on the trail surface. The concept of sustainability also recognizes that appropriate maintenance and management are also necessary" [1]

Trails will be developed and maintained in a sustainable manner to meet *Wisconsin Forestry BMPs for Water Quality* guidelines and all WDNR permit requirements, including new stormwater discharge permit requirements, in an effort to prevent water runoff, soil rutting and erosion that may result in environmental degradation.

[1] "So You Want to Build an ATV Trail" WDNR PUB-CF-018 2005

Sustainability – For the purpose of ATV/UTV trails, the term "sustainability" is intended to mean the development of a trail surface that is maintainable. It appears evident there are no circumstances where an ATV/UTV trail can be considered sustainable without intensive maintenance. Of primary importance, trail surfaces need to be conducive to periodic grading or restoration that promotes water runoff from the trail surface and eliminates the opportunity for water flow to gain velocity, causing erosion. Trails should be built with a slight crown and appropriate ditching to allow for adequate and proper water dispersal.

Width – Trail widths should be adequate for intended uses, one-way trails can be built to a 9 foot width. It is recommended two-way trails have a 12 foot wide maintained trail running surface with 2 feet cleared on each side. Trails should be wider where turns/corners are required. Adequate width may also be dependent on slope, aspect, and visibility on curves. Please note that in most cases, total trail width must accommodate periodic maintenance equipment such as graders and dump trucks.

General Design - All trails should be developed with a crowned or sloped surface (2 – 4% slope) to direct cross flow of water off the trail surface and into adjacent vegetation. Trail design, rehabilitation and maintenance should be done in a manner preventing water from traveling parallel to trail direction. All slopes should contain drainage structures at intervals as follows:

Table 4-2. **Recommended Maximum Distances Between Drainage Structures on Forest Roads and Skid Trails**

Road Grade (%)	Maximum distance between water bars (feet)		Maximum distance between all other drainage structures (feet)	
	High Erosion Risk (most sandy soils and silt soils)	Low Erosion Risk (most rocky soils and clay soils)	High Erosion Risk (most sandy soils and silt soils)	Low Erosion Risk (most rocky soils and clay soils)
0–3	175	250	250	350
4–6	125	200	175	250
7–9	100	175	125	175
10–12	75	150	75	125
13–15	60	100	60	100
16–20	50	75	50	75
21–30	40	65	40	65
30+	30	50	30	50

Note: Broad-based dips generally become ineffective on slopes greater than 10%.

(Table 4-2 taken from "Wisconsin's Forestry Best Management Practices for Water Quality" – WDNR PUB FR-093 2010)

Cross drainage structures should be primarily in the form of diversion ditches but may also utilize cross drain culverts, broad based dips, or water bars.

Slopes Greater than 10% - Steeper slopes should be avoided when possible. In areas where there is no other alternative, slopes should be armored with material other than gravel or native soils. 2" or larger fractured rock spread at a minimum of 4" deep is preferable. Maximum erosion control is obtained when this material is compacted and incorporated into native soil. Mat materials or concrete blocks stacked upright are also feasible alternatives on extreme slopes. Depending on soil type, other alternatives such as 1 ½" rock to a desired depth, incorporated with appropriate amounts of gravel or other suitable material, are acceptable.

Surface Material – Trail surfaces may be crushed gravel or native soils, depending on conditions, but should provide for the ability to grade/reshape/restore the trail surface and cross drainage patterns periodically. Consider grading trail surfaces a minimum of twice during a riding season depending on traffic load and surface materials. All trail surfaces should be adequately maintained to ensure longevity of base material and address environmental and safety concerns.

Culverts – Evaluate the entire trail project to identify areas with periodic cross-trail water flow and install appropriately sized culverts at these locations. Note that any stream crossing with a defined bed and bank will require a Chapter 30 permit for either a culvert or bridge.

Trail Rehabilitation – Trail Rehabilitation projects should be considered a major reconstruction of the trail surface and should occur at no less than 8 year intervals, with exceptions for unusual circumstances. The need for trail rehabilitation is somewhat dependent on terrain, soil type, and amount of use on a given trail. A project should be considered as rehabilitation only if a minimum of 50% of the trail segment requires significant reconstruction. Projects with less than 50% reconstruction should be considered part of annual maintenance.

Bridge Rehabilitation – Bridge rehabilitation on ATV/UTV trail systems will follow snowmobile bridge rehabilitation guidelines contained in Wisconsin's Snowmobile Trail Aids Program.

Construction/Rehabilitation Standards by Soil Type

It is highly recommended trail sponsors research and understand soil types in project areas. Consult county soil survey data or NRSC web soil data for reference in determining soil suitability for motorized use. When relying on information contained in soil survey data, keep in mind mapped soil types in an individual county or specific area may not always accurately depict actual on the ground conditions. Recreational trail projects require on-site visits and knowledgeable managers. Most ATV/UTV trail systems require soil surfaces that can accommodate vehicular traffic for adequate maintenance, this often means accommodating loaded dump trucks and graders.

When applying surface material consider the following options:

Sandy Soils – Establishment of ATV trails on native sand soils tends to result in "blown out" trails once the minimal organic layer on the surface of these soils is disturbed. Underlying soils are extremely loose and often deep, resulting in difficult and dangerous riding conditions. Gravel surfaces are necessary on most of these soil types in order to create safe riding conditions and to minimize erosion and water quality issues.

- Trail surfaces require 6" loose / 4" compacted gravel on a majority of trail systems occurring in this soil type.
- Deep sand pockets and corners may require an underlying road fabric or geo-textile. Any fabric materials must be covered with a minimum of 10" of rock, gravel or a combination of materials.

Loamy Sand/Sandy Loam Soils – These soil categories provide a better opportunity to utilize native soils for the trail surface. These soils do, however, present a greater risk of erosion. Trail design must incorporate cross drainage and drainage structures that shed water from the trail surface before it can gain enough velocity to erode trail surfaces.

- Trail projects on these types normally allow for at least a portion of the trail to lie on native soils.
- Pockets of heavier soils, especially on the wetter end of sandy loams, will require gravel, or other suitable material, surfaces.
- Particular attention must be paid to slopes on these types
- Soil types with larger rock components may require more gravel, or other suitable material, to permit trail maintenance and grading activities.

Silt Loam/Loam/Clay Soils – These heavier soil types present special challenges. While they may support periodic motorized traffic without causing damage, sustained use on native soils may cause rutting and soil compaction. These ruts typically become water logged and continual motorized use degrades the trail surface rapidly to the point where they become impassable. An additional concern on these soils is once water pockets begin to form, many riders bypass the rough areas and extremely wide areas of damage rapidly develop.

- Projects on these soil types typically require a minimum of 6" loose/4" compacted finish material. Some projects may require a maximum 4" – 6" crushed stone over a 6" base course of graded rock. A maximum of 12" loose / 6" compacted is accepted for these types
- It may be more feasible on certain sites , especially those with long distance slopes (it is common to find slopes of ¼ mile or more on terminal end moraines with these soil types), to add a larger diameter crushed rock as a base layer and a lighter gravel, or other suitable material, cap over the top. Rock armoring on these slopes is intended for spot applications only and not the entire trail surface.

Hydric Soils – Hydric soils are typically considered as wetland and trail development should be considered only as a last resort. Trails on these soil types normally require wetland fill permits, either in the form of puncheon bridges or solid fill. The permit process will likely dictate the majority of trail design on these soils.

- Evaluate any alternatives to trails on hydric soils
- If crossing hydric soils is the only alternative, consult with WDNR Water Regulations Staff to determine options
- For existing trails with wetland impacts already occurring, and less than 1 acre in size, consider a wetland fill permit with geo-textile and larger crushed rock.
- For short crossing distances (generally less than 40 feet) consider a clear span bridge.
- For longer crossing distances, evaluate the use of puncheon/floating bridges.

Trail Types

Rail Road Corridors - Use existing ballast as base layer. If grading only 1-2 times per year no other material is needed. If grooming on a weekly/bi-weekly basis, consider adding 6” of gravel compacted to 4” and maintain with grooming equipment.

Multi-Use Trails - Apply a manageable base layer and follow suggested guidance contained in this document

Troute/Hybrid Trails - Apply a manageable base layer and follow suggested guidance contained in this document.

1015 FACILITIES AND REPORTS

1015.1 RECREATIONAL INVENTORY

1. Bitzke Birdwalk Nature Trail – 1.9 miles
2. Snowmobile Trails – 42.28 miles
3. ATV/UTV Summer Trails – 11 miles
4. ATV/UTV Winter Trails – 42.28 miles
5. Mountain Bike Single Track Trails – 13.45 miles
6. Mountain Bike Double Track Trails – 19.50 miles
7. Cross country ski trails – 19.50 miles
8. Snowshoe Trails – 6.7 miles
9. Equestrian trails – 28 miles
10. Duane Corbin Shooting Range Park
11. Nine Mile Forest Ski Chalet and Maintenance Garage

1015.2 STATEMENT OF COUNTY FOREST LOAN

Wisconsin Department Of Natural Resources
Report 15
Statement Of County Forest Loan Accounts as of June 30, 2020

Report: 53A
Page: 1 of 1

County	Variable Acreage Share Loans				Project Loans				Balance Owed DNR
	DNR Issued Loans		County Repayments		DNR Issued Loans		County Repayments		
	FY 2020	Tot To Date	FY 2020	Tot To Date	FY 2020	Tot To Date	FY 2020	Tot To Date	
Ashland	20,152.60	690,598.26	-113,176.85	690,598.26	0.00	1,125,780.74	153,482.05	1,125,780.74	0.00
Barron	0.00	122,285.69	-208,686.33	122,285.69	0.00	874,219.80	208,686.33	874,219.80	0.00
Bayfield	0.00	2,327,946.84	-155,724.53	2,327,946.84	0.00	300,000.00	155,724.53	300,000.00	0.00
Burnett	55,572.96	2,511,234.66	-534,335.23	2,511,234.66	12,000.00	2,025,672.27	815,351.21	1,786,261.48	239,410.79
Chippewa	0.00	552,019.26	-77,698.98	552,019.26	0.00	161,000.51	77,698.98	161,000.51	0.00
Clark	0.00	1,161,477.30	-44,887.51	1,161,477.30	0.00	53,000.00	44,887.51	53,000.00	0.00
Douglas	0.00	1,876,638.45	-115,805.60	1,876,638.45	0.00	529,850.00	115,805.60	529,850.00	0.00
Eau Claire	0.00	526,533.23	-79,177.97	526,533.23	0.00	126,933.08	79,177.97	126,933.08	0.00
Florence	0.00	444,068.78	-336,412.94	444,068.78	0.00	1,677,376.82	336,412.94	1,677,376.82	0.00
Forest	0.00	236,907.91	15,667.57	236,907.91	342,205.00	4,750,417.53	-5,478.51	404,010.06	4,346,407.47
Iron	0.00	2,701,711.99	-387,817.57	2,701,711.99	0.00	767,860.74	387,817.57	767,860.74	0.00
Jackson	0.00	1,876,477.59	-455,361.73	1,876,477.59	262,500.00	1,200,507.00	514,257.53	938,007.00	262,500.00
Juneau	0.00	116,824.82	-174,000.51	116,824.82	0.00	1,213,470.63	309,028.06	937,106.88	276,363.75
Langlade	0.00	555,874.24	0.00	555,874.24	0.00	0.00	0.00	0.00	0.00
Lincoln	0.00	590,731.41	-436,811.99	590,731.41	0.00	1,220,980.00	436,811.99	1,220,980.00	0.00
Marathon	14,811.24	595,486.56	106,143.50	595,486.56	0.00	2,545,511.00	17,244.00	1,331,448.89	1,214,062.11
Marinette	0.00	1,104,208.02	-38,000.00	1,104,208.02	0.00	38,000.00	38,000.00	38,000.00	0.00
Monroe	0.00	21,340.37	-27,775.40	21,340.37	0.00	328,770.00	41,509.18	143,785.48	184,984.52
Oconto	0.00	219,031.59	-161,643.90	219,031.59	0.00	450,000.00	161,643.90	450,000.00	0.00
Oneida	0.00	1,186,720.14	-220,421.48	1,186,720.14	0.00	439,010.00	220,421.48	439,010.00	0.00
Polk	8,231.22	323,941.93	-135,541.13	315,710.71	0.00	840,353.50	143,763.99	840,353.50	8,231.22
Price	0.00	1,491,622.00	-308,194.71	1,491,622.00	0.00	804,427.48	308,194.71	804,427.48	0.00
Rusk	44,541.79	2,147,849.67	38,903.14	2,136,157.28	0.00	136,950.00	-4,302.85	136,950.00	11,692.39
Sawyer	0.00	1,172,316.95	-634,571.78	1,172,316.95	0.00	1,000,000.00	634,571.78	1,000,000.00	0.00
Taylor	0.00	204,461.52	-20,446.16	204,461.52	0.00	36,398.28	20,446.16	36,398.28	0.00
Vernon	0.00	0.00	0.00	0.00	84,358.99	978,838.53	0.00	22,516.16	956,322.37
Vilas	0.00	779,307.74	-302,676.73	779,307.74	0.00	678,019.42	302,676.73	678,019.42	0.00
Washburn	74,737.18	3,312,826.65	-406,948.13	3,312,826.65	0.00	930,724.71	481,685.31	930,724.71	0.00
Wood	0.00	259,901.61	-54,717.30	259,901.61	0.00	77,000.00	54,717.30	77,000.00	0.00
State Total :	**218046.99**	**29110345.18**	**-5270120.25**	**29090421.57**	**701063.99**	**25311072.04**	**6050235.45**	**17831021.03**	**7499974.62**

NOTE: Severance Payments " in the mail " OR Otherwise still in Process are not in this Report. This Report is on a Fiscal Year basis.

Prepared by Division of Forestry, July 1, 2020
WI. Department Of Natural Resources

1020 MISCELLANEOUS MAPS AND BROCHURES

1020.1 COUNTY SNOWMOBILE MAP

https://www.co.marathon.wi.us/Departments/ParksRecreationForestry/Recreation/Snowmobiling/TrailMaps.aspx

1020.2 COUNTY ATV/UTV SUMMER TRAILS

https://www.co.marathon.wi.us/Departments/ParksRecreationForestry/Recreation/ATVUTVRiding.aspx

1020.3 COUNTY NON-MOTORIZED RECREATIONAL TRAILS

Mountain Biking Trails

https://www.co.marathon.wi.us/Departments/ParksRecreationForestry/Recreation/Biking.aspx

Cross Country Skiing and Snowshoeing Trails

https://www.co.marathon.wi.us/Departments/ParksRecreationForestry/Recreation/CrossCountrySkiingSnowshoeing.aspx

Hiking Trails

https://www.co.marathon.wi.us/Departments/ParksRecreationForestry/Recreation/Hiking.aspx

Bitzke Birdwalk Nature Trail

https://www.co.marathon.wi.us/Departments/ParksRecreationForestry/Recreation/BirdWatching.aspx

Equestrian Trails

https://www.co.marathon.wi.us/Departments/ParksRecreationForestry/ParksandFacilities/Horsetrails.aspx

Forest Unit Maps and Trails

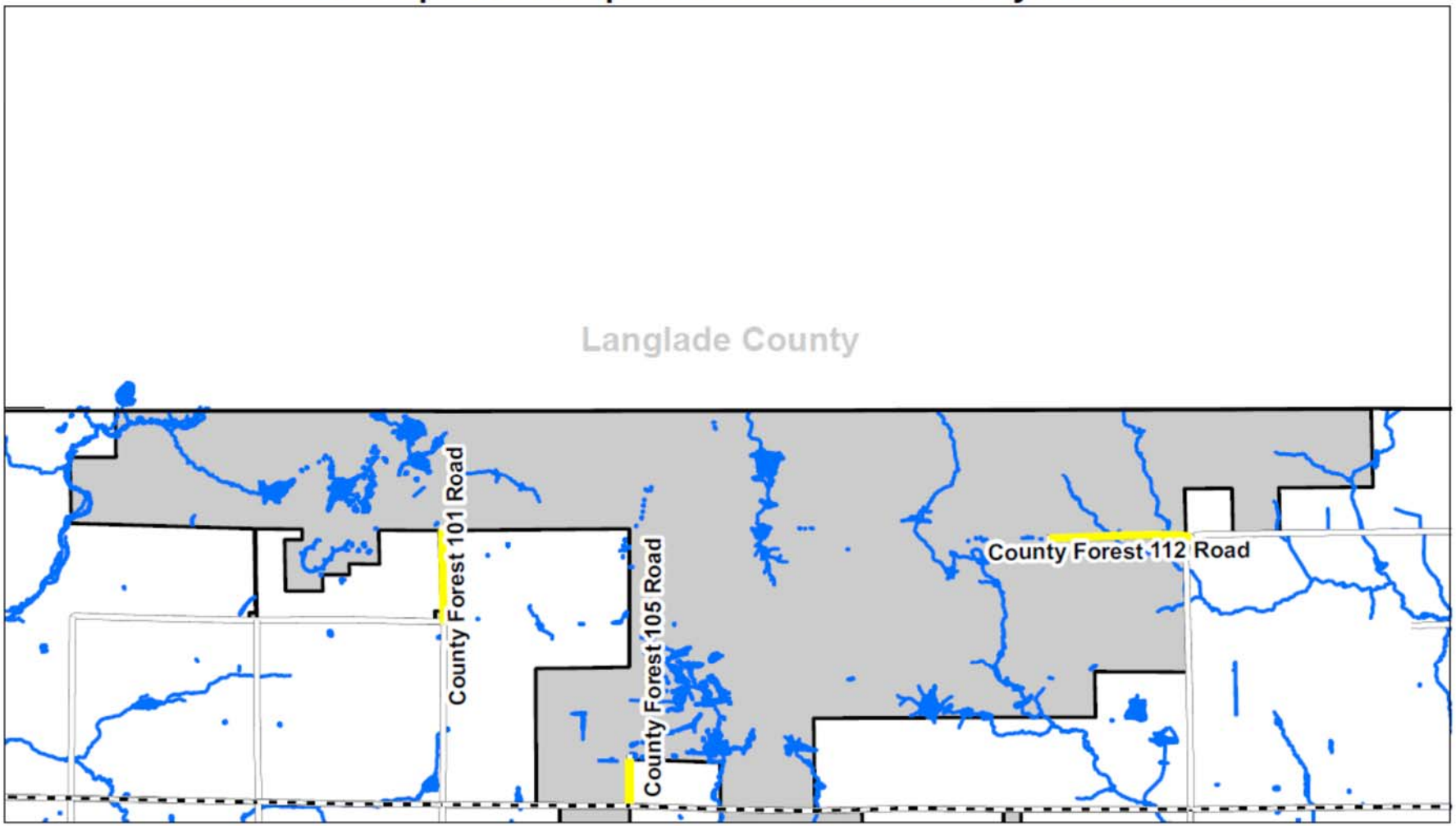
https://www.co.marathon.wi.us/Departments/ParksRecreationForestry/CountyForests/ForestUnits.aspx

1020.4 CERTIFIED COUNTY FOREST ROAD MAPS

1020.4.1

Marathon County Forest: Hewitt-Harrison Forest Unit (North)

Wisconsin Dept. of Transportation Certified County Forest Roads



Legend

- County Forest Roads-Certified
- Town Roads
- County Roads
- State & US Highways
- Lakes/Ponds
- Streams/Rivers

0 0.5 1 2 Miles

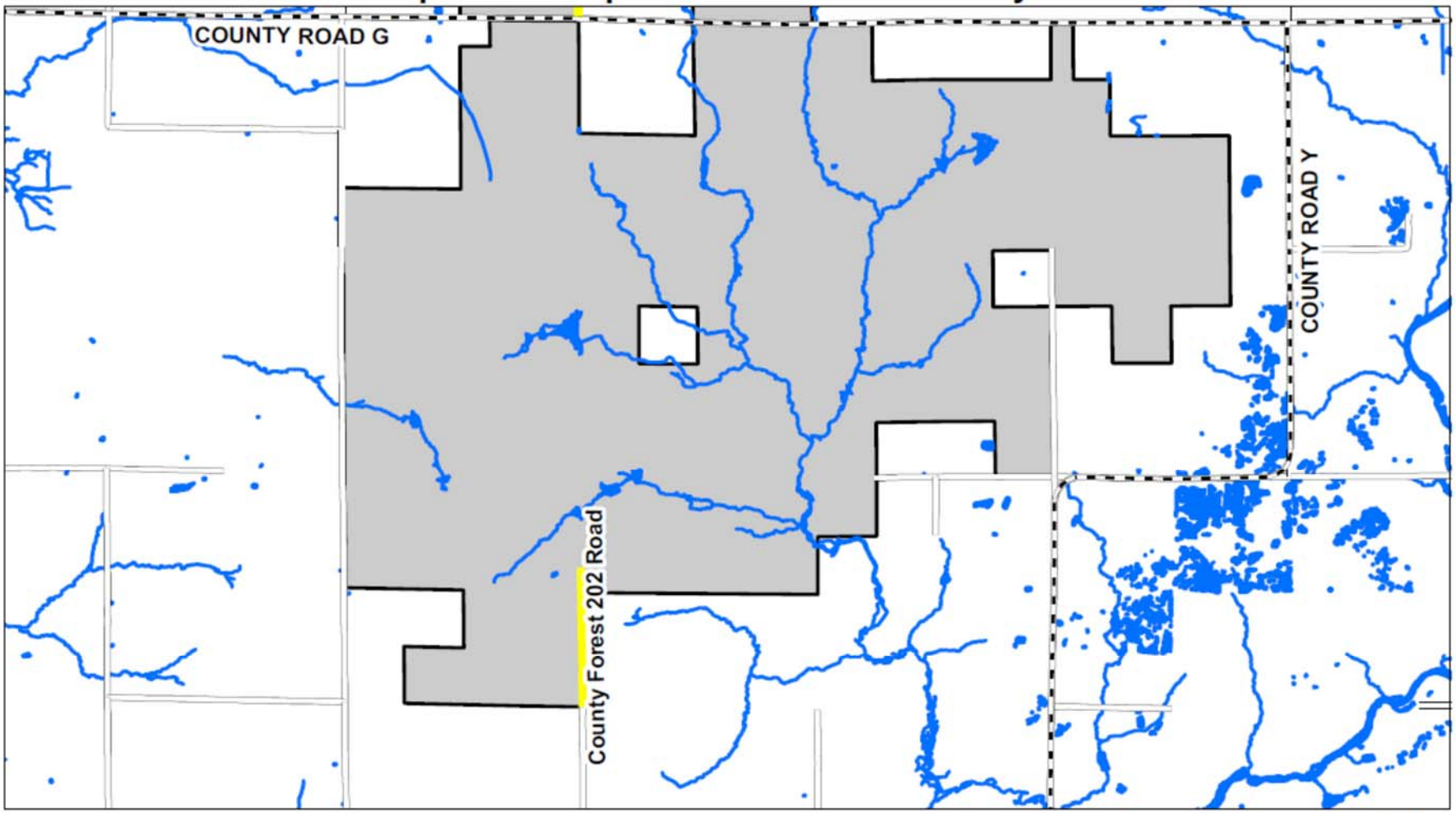
Total Length-1.57 Miles

01/29/2020

1020.4.2

Marathon County Forest: Hewitt-Harrison Forest Unit (South)

Wisconsin Dept. of Transportation Certified County Forest Roads



Legend

- County Forest Roads-Certified
- Town Roads
- County Roads
- State & US Highways
- Lakes/Ponds
- Streams/Rivers

0 0.5 1 2 Miles

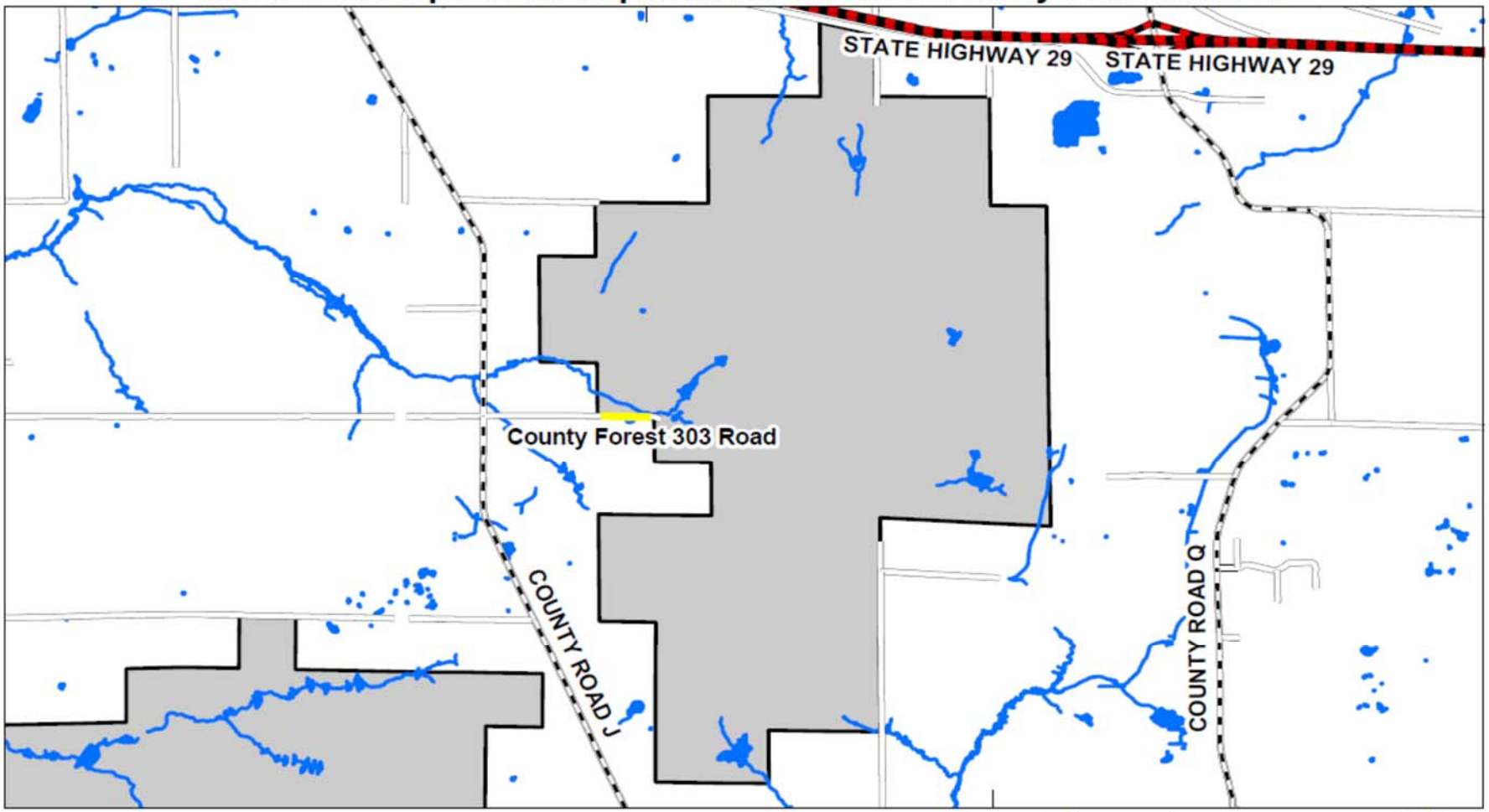
Total Length-0.60 Miles

01/29/2020

1020.4.3

Marathon County Forest: Ringle Marsh Forest Unit

Wisconsin Dept. of Transportation Certified County Forest Roads



Legend

- Town Roads
- County Roads
- County Forest Roads-Certified
- State & US Highways
- Lakes/Ponds
- Streams/Rivers

0 0.5 1 2 Miles

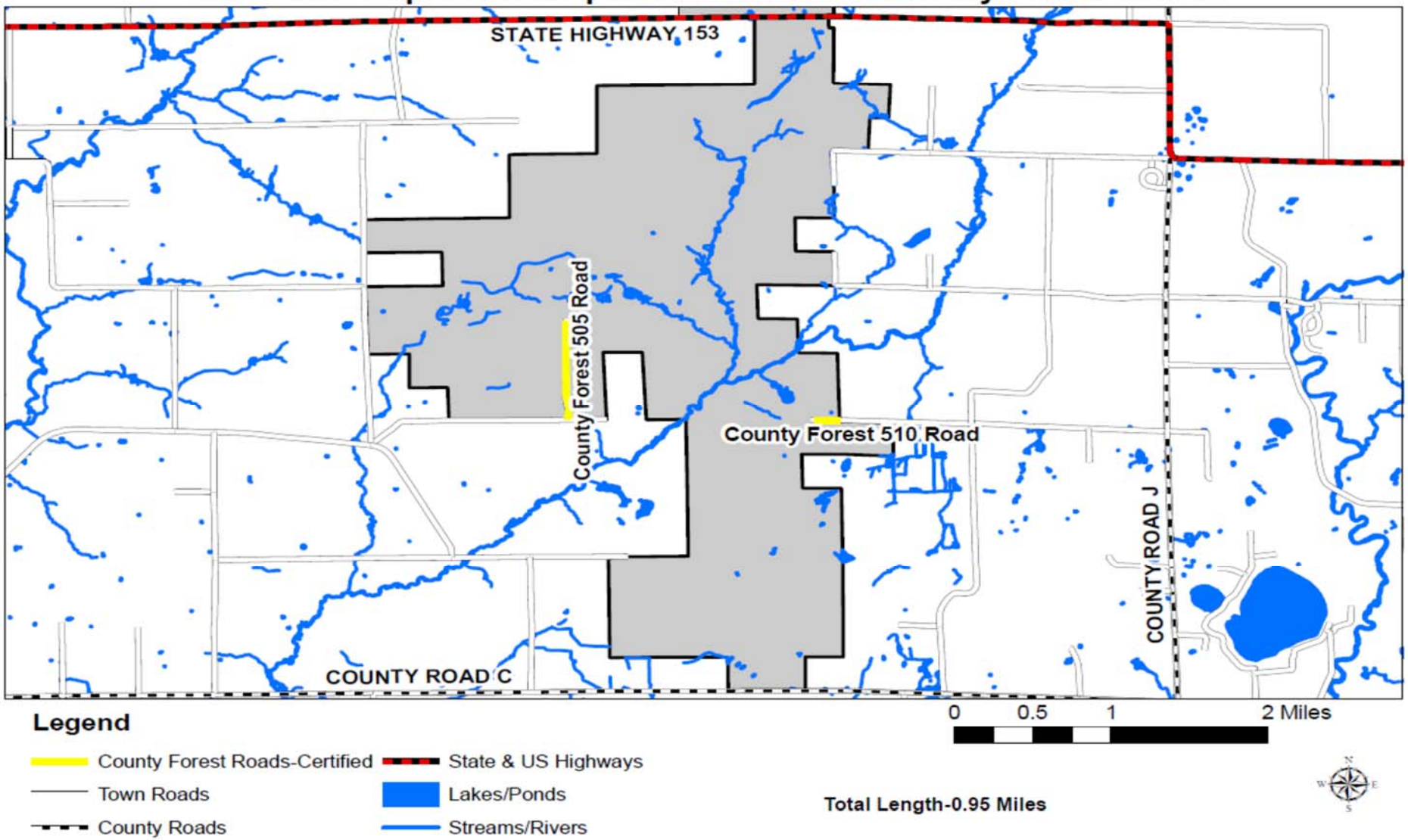
Total Length-0.25 Miles

01/29/2020

1020.4.4

Marathon County Forest: Leather Camp Forest Unit

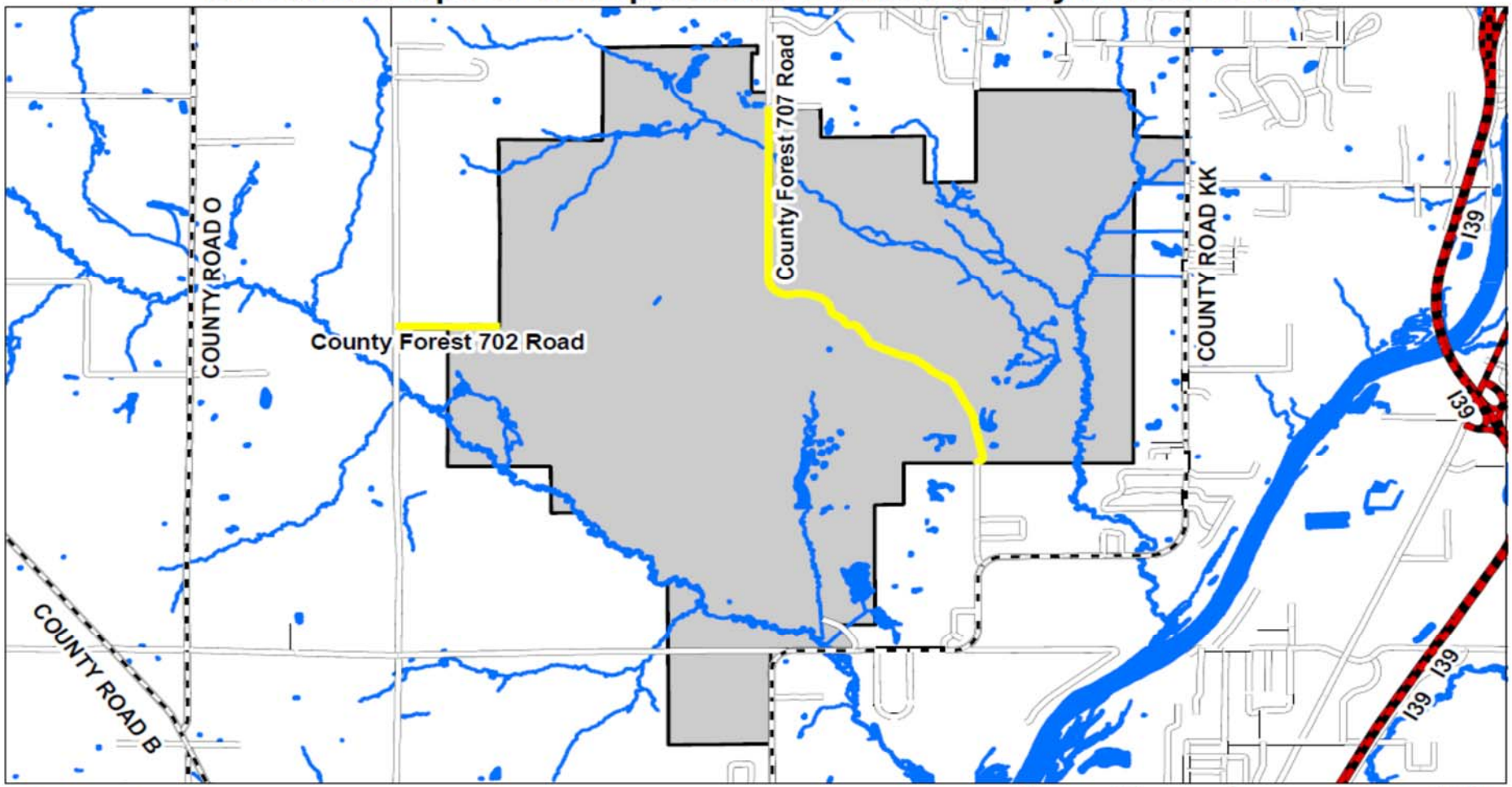
Wisconsin Dept. of Transportation Certified County Forest Roads



1020.4.5

Marathon County Forest: Nine Mile Forest Unit

Wisconsin Dept. of Transportation Certified County Forest Roads



Legend

- County Forest Roads-Certified
- Town Roads
- County Roads
- State & US Highways
- Lakes/Ponds
- Streams/Rivers

0 0.5 1 2 Miles

Total Length-3.11 Miles

01/28/2020