

CHAPTER 70 - ZONING

Article I – Zoning Administration

- 70.01 Zoning Administrator
- 70.02 Zoning and Administrative Review Permits
- 70.03 Zoning Permits
- 70.04 Administrative Review Permits
- 70.05 Board of Adjustment
- 70.06 Variances
- 70.07 Special Exceptions
- 70.08 Appeals
- 70.09 Fees
- 70.10 Violations, Penalties, Remedial Action, Enforcement
- 70.11 Definitions.

Article II – General Zoning

- 70.12 Statutory Authorization, Purpose and Finding of Fact
- 70.13 Abrogation and Greater Restriction
- 70.14 Jurisdiction and Effective Date
- 70.15 General Provisions
- 70.16 Site Design Standards
- 70.17 Highway Setback and Access Provisions
- 70.18 Zoning Districts and Zoning Maps
- 70.19 Resource Protection District (RP)
- 70.20 Residential District (R-1)
- 70.21 Multiple Family Residential District (R-2)
- 70.22 Commercial District – Business (CM-B)
- 70.23 Commercial District – Industrial (CM-I)
- 70.24 Recreational District (REC)
- 70.25 Agricultural – Residential Districts (AG-3(2) and AG-3(4))
- 70.26 General Agricultural District (AG-2)
- 70.265 Agriculture Open Space District (AO)
- 70.27 Prime Agricultural District (AG-1)
- 70.275 Farmland Preservation Overlay District (FPO)
- 70.28 General Purpose District (GP)
- 70.29 Planned Development District (PD)
- 70.30 Rural Center District (RC)
- 70.31 Cluster Development Overlay District (CD)
- 70.32 Various Land Uses
- 70.33 Violations, Penalties, Remedial Action, Enforcement
- 70.34 Changes and Amendments
- 70.35 Definitions

Article III – Flood Plain

- 70.36 Statutory Authorization, Finding of Fact, Purpose, and Title
- 70.37 General Provisions
- 70.38 General Standards Applicable to All Floodplain Districts

- 70.39 Floodway District (FW)
- 70.40 Floodfringe District (FF)
- 70.41 General Floodplain Districts
- 70.42 Nonconforming Uses
- 70.43 Administration
- 70.44 Amendments
- 70.45 Enforcement and Penalties
- 70.46 Definitions

Article IV - Shoreland

- 70.47 Statutory Authorization, Finding of Fact, Purpose and Title
- 70.48 Abrogation and Greater Restriction
- 70.49 Jurisdiction
- 70.50 General Provisions
- 70.51 Zoning Provisions
- 70.52 Highway Setbacks
- 70.53 Setbacks from the Shoreline
- 70.54 Removal of Shore Cover Within Shorelands
- 70.55 Shoreline Buffer Restoration
- 70.555 Height
- 70.56 Mitigation
- 70.57 Land Disturbing Activities
- 70.58 Non-Conforming Uses and Structures
- 70.59 Zoning Districts and Maps
- 70.60 Official Shoreland and Zoning Maps
- 70.61 Shoreland-Wetland District
- 70.62 Recreational-Residential District
- 70.63 General Purpose District
- 70.64 Planned Residential Unit Development
- 70.65 Mobile Home Parks
- 70.66 Campgrounds and Travel Trailer Parks
- 70.67 Violations, Penalties, Remedial Action, Enforcement
- 70.68 Changes and Amendments
- 70.69 Definitions

Article V – Mobile Service Support Structures and Wireless Communication Facilities

- 70.70 Statutory Authorization, Purpose, Finding of Fact
- 70.71 Jurisdiction
- 70.72 Applicability
- 70.73 Siting and Construction of any New Mobile Service Support Structure and Facilities and Class 1 Collocation
- 70.74 Class 2 Collocation
- 70.75 Removal/Security for Removal
- 70.76 Structural, Design and Environmental Standards
- 70.77 Information Report
- 70.78 Compliance/Penalties
- 70.80 Definitions

Article I - Zoning Administration

70.01 Zoning Administrator

- A. There is hereby created the office of Zoning Administrator. The Zoning Administrator shall be hired by the Planning & Zoning Committee, hold office at its pleasure and is under its direct supervision and control. The County Board shall fix the Zoning Administrator's salary. The Zoning Administrator may exercise the following duties and powers:
- B. Advise applicants as to the provisions of Chapters 69 Subdivision, 70 Zoning, 71 Building and Mechanical, and 74 Private Onsite Wastewater Treatment System of the Code and assist them in preparing permit applications.
- C. Issue permits and inspect properties for compliance with the Code.
- D. Administer the County Building and Mechanical Code in any municipality that chooses to delegate enforcement authority to the County.
- E. Keep records of all permits issued, inspections made, work approved and other official actions.
- F. Have access to any structure or premises between 8:00 a.m. and 6:00 p.m. for the purpose of performing duties. Application for and issuance of a zoning or building permit shall constitute permission by the owner for said access.
- G. Investigate violations of Chapters 69 Subdivision, 70 Zoning, 71 Building and Mechanical, and 74 Private Onsite Wastewater Treatment System of the Code. Violations shall be reported to the Planning & Zoning Committee.
- H. Issue written orders for correction of Chapter violations.
- I. Issue citations for non-compliance and/or refer violations to Corporation Counsel for prosecution.
- J. Oversee Zoning Office and staff.
- K. Per Section 91.48(2), Wis. Stats., by March 1 of each year, provide to the Department of Agriculture, Trade and Consumer Protection a report of the number of acres that the County has rezoned out of the AG-1 district the previous year and a map that clearly shows the location of those areas.

70.02 Zoning and Administrative Review Permits.

- A. In order to assure compliance with the County Zoning Chapters, a zoning permit is generally required for permitted uses and an administrative review permit is required before an administrative use may occur.

70.03 Zoning Permits.

- A. An application for a zoning permit shall be made to the Zoning Administrator upon forms furnished by the County Zoning Department and shall include the following information:
 - 1. Name and address of the applicant and property owner.
 - 2. Legal description and address of property.
 - 3. A sketch showing the dimensions of the lot and location of existing structures and proposed construction. The dimensions shall provide the following information:
 - a. Distances from lotlines.
 - b. Distances from the centerline of abutting town, county and/or state roads.

- c. Distances from the ordinary high water mark/wetland boundary of abutting waterways, lakes and/or wetlands.
- 4. Distances from private sewage systems.
- B. Any other information that may be requested to determine if the proposed project complies with the Chapter.
- C. The Zoning Administrator shall issue a card certifying that a permit has been issued. The card shall identify the owner, property and construction or use that is covered under the permit. The card shall be posted in a conspicuous place on the premises during construction.
- D. Zoning permits shall be granted or denied in writing by the Zoning Administrator or his/her designee within thirty (30) days from the date the application is received by the Zoning Office.
- E. A zoning permit shall be valid for two (2) years from the date it is issued. A new application accompanied by the proper fee shall be required if a permit expires.
- F. No zoning permit shall be issued where required, until a sanitary permit is issued as required by Wisconsin Administrative Code SPS 383 and Chapter 145, Wis. Stats.
- G. No zoning permit shall be issued where required, if a violation of any County Zoning Chapter exists on the property unless the zoning permit being requested is necessary to correct the violation.
- H. A zoning permit shall be required for the following:
 - 1. Before any building, unit or other structure is erected, moved or structurally altered so as to change the use or increase the area.
 - 2. Before any land use is substantially changed or altered.
 - 3. Where otherwise required by a specific provision of this Chapter.
- I. A zoning permit shall not be required for the following cases, but the construction or use shall otherwise be required to comply with the Zoning Chapter:
 - 1. Construction, alterations or improvements to a structure that consist of less than one hundred (100) sq. ft. in floor space and a cost of not more than one thousand dollars (\$1,000.00). Current market labor rate shall be used for individuals providing their own labor. The burden of proof falls on the property owner to demonstrate the cost of a project.
 - 2. Replacement of windows, installation of siding and roofing.
 - 3. Maintenance repairs that do not expand or alter a structure.

70.04 Administrative Review Permits.

- A. Before an administrative review use may occur, an administrative review permit must be obtained from the Zoning Administrator. The permit may contain conditions and/or restrictions, as the Zoning Administrator deems necessary. The purpose of requiring administrative review of such uses is to provide for appropriate review while at the same time allowing for expedited action on proposed uses that may otherwise be designated Special Exceptions and require a hearing before the Board of Adjustment.
- B. Procedure for Administrative Review Permits.
 - 1. An administrative review permit shall be required for all administrative uses.

2. An administrative review permit application shall be filed, along with the fee, with the Zoning Administrator.
3. The Zoning Administrator may, after initial review, determine that the proposed use fits more closely to a Special Exception use and refer it to the Board of Adjustment. In such cases, the applicant must complete a Special Exception application and submit any difference in fees.
4. After an administrative review use application is determined to be complete by the Zoning Administrator, an administrative review use permit shall be approved or denied within thirty (30) days. If denied, the applicant must be informed in writing and informed of their right to appeal the Zoning Administrator's decision to the Board of Adjustment.
5. The Zoning Administrator may attach special restrictions or conditions to an administrative review permit as deemed necessary to fulfill the requirements of the Zoning Chapter.
6. An administrative review permit shall be reviewed under the criteria for a Special Exception under Section 70.07(B).
7. As an alternative to the administrative review permit procedures, an applicant may choose to have their request reviewed by the Board of Adjustment as a Special Exception. If the applicant chooses to proceed as a Special Exception all appropriate fees must be submitted along with a complete Special Exception application.

70.05 Board of Adjustment.

- A. Statutory Authorization. Pursuant to the authorization contained in § 59.694, Wis. Stats., there is hereby adopted a Board of Adjustment for the County.
- B. Statement of Purpose. The Board shall hear appeals to the Code. The appeal may be in the form of a request for a variance, a special exception or an appeal of a decision by the Zoning Administrator.
- C. Membership and Organization.
 1. The Board of Adjustment shall consist of three (3) members appointed by the Chairperson of the County Board and approved by the County Board of Supervisors. Terms shall be staggered three (3) year periods. Eligibility of members of the Marquette Board shall be that they shall reside within the County and outside the limits of incorporated areas providing however, that no two (2) members shall reside in the same Township. The Board shall choose its own Chairperson. Vacancies shall be filled for unexpired terms in the same manner as appointments for full terms.
 2. The Board of Adjustment shall have two (2) alternate members appointed by the Chairperson of the County Board and approved by the County Board of Supervisors. The alternate members shall be appointed for three (3) year staggered terms and be annually designated, by the Chairperson of the County Board, as first alternate and second alternate. The first alternate shall act, with full power, only when a member of the Board of Adjustment refuses to vote because of a conflict of interest or when a member is absent. The second alternate shall act only when the first alternate refuses to vote because of a conflict of interest or is absent, or if more than one (1) member of the Board of Adjustment refuses to vote because of a conflict of interest or is absent. Eligibility of alternate members of the Board shall be the same as for regular members. Vacancies shall be filled for unexpired terms in the same manner as appointments for full terms.

- D. Notice and Public Hearings. Before passing on an application for a variance, special exception permit, or appeal, the Board of Adjustment shall hold a public hearing. Publication in the newspaper, as required by § 19.84, Wis. Stats., and as set forth in this Chapter, and shall give notice of an application and public hearing.¹¹
- E. The Board of Adjustment shall hear applications and conduct public hearings as outlined in the Board's Rules and By-Laws, which are on file in the County Clerk's office.

70.06 Variances.

- A. The Board of Adjustment has the power to grant variances to the terms of a Zoning Chapter. When special conditions unique to a property will not allow a property owner to meet the dimensional standards of the Chapter, an owner may request a variance. The owner must show unnecessary hardship caused by the Chapter, to be granted a variance. Variances shall uphold the spirit and purpose of the Chapter and preserve public health, safety and general welfare. In addition, the Board shall provide substantial justice in reaching a decision. The following principles shall guide the Board in considering applications:
 - 1. The burden is upon the applicant to prove the need for a variance.
 - 2. Pecuniary hardship, loss of profit and self-imposed hardships are not reasons for granting a variance.
 - 3. The Board is bound to accept the Zoning Chapter and map as correct.
 - 4. The hardship must apply to the applicant's parcel or structure and be unique as compared to other properties in the same district.
 - 5. The variance must not be detrimental to adjacent properties.
 - 6. When a floodplain variance is granted, the Board shall notify the applicant in writing that it may affect flood insurance premiums and risks to life and property. A copy shall be maintained with the variance record.
 - 7. The Board in fulfilling its duties may modify, alter or change any application.

70.07 Special Exceptions.

- A. Permit Required. Any use listed, as a Special Exception in the Zoning Chapter, shall be permitted only upon application to the Zoning Administrator and issuance of a Special Exception permit by the Board of Adjustment.
- B. Evaluation Criteria. Upon consideration of a Special Exception permit, and in determining whether or not the proposed uses is substantially similar to the enumerated special exception uses in a District, the Board shall evaluate the effect of the proposed use under the following criteria:¹²
 - 1. The establishment, maintenance or operation of the proposed use will not be detrimental to public health or safety or be harmful to the general welfare of occupants on adjacent properties.
 - 2. The prevention and control of water pollution including sedimentation and the potential impacts on floodplain and wetlands.

11 County Board Resolution 10-2019

12 County Board Resolution 10-2019

3. The erosion potential of the site based on topography, drainage, slope, soil type and vegetative cover.
 4. The location of the site with respect to access to streets and highways and that ingress and egress is designed to minimize traffic congestion or potential traffic hazards.
 5. The compatibility of the proposed use with uses on adjacent properties.
 6. Valuation factors.
 - a. Year of construction or manufacture.
 - b. Appraised value or estimated cost of construction. In the case of a single wide manufactured home, the appraised value will only be required for structures older than four (4) years. In addition, for those single wide manufactured homes older than four (4) years, the owner shall provide the Board with photographs.¹³
 7. If within the AG-1 district:
 - a. The use and its location in the district are consistent with the purpose of the district.
 - b. The use and its location in district are reasonable and appropriate, considering alternative locations, or are specifically approved under state or federal law.
 - c. The use is reasonably designed to minimize the conversion of land, at and around the site of the use, from agricultural use or open space use.
 - d. The use does not substantially impair or limit the current or future agricultural use of surrounding parcels of land that are zoned for or legally restricted to agricultural use.
 - e. Construction damage to land remaining in agricultural use is minimized and repaired, to the extent feasible.
- C. Conditions. Upon consideration of an application for a Special Exception, the Board may attach such conditions that it deems necessary in furthering the purposes of this Chapter. Violation of any of these conditions shall be a violation of this Chapter. Conditions may include, but are not limited to the following:
1. Restoration of shoreland vegetation.
 2. Erosion control and/or stormwater management plans for the project site.
 3. Sewage and water supply facilities.
 4. Increased setbacks to further the purpose and intent of the Chapter.
 5. Landscaping and planting screens.
 6. Hours of operation for the proposed use.
 7. Location and amount of parking area to service the proposed use.
 8. Number, type, location and dimension of signs.
 9. Type of construction.
 10. Other requirements necessary to fulfill the purpose and intent of this Chapter, and if

within the AG-1 district, Chapter 91, Wis. Stats.

11. Permit duration, transfer, or renewal.¹⁴
 12. Other requirements necessary to further, and avoid conflict with, the County's comprehensive plan.¹⁵
 13. The applicant's ability to present substantial evidence that the application and all requirement and conditions established by the County relating o the conditional use are, or shall be, satisfied.¹⁶
- D. Application Information. In order to secure information upon which to base a determination, the Board may require the applicant to furnish, in addition to a completed application form and the information required for a zoning permit, the following information:
1. A plan of the area showing contours, soil types, high water mark, ground water conditions, bedrock, slope and vegetative cover.
 2. Location of buildings, parking areas, traffic access, driveways, walkways, piers, open spaces and landscaping.
 3. Plans of buildings, sewage disposal systems, water supply systems and arrangements for operation.
 4. Specifications for areas of proposed filling, grading, lagooning or dredging.
 5. Other pertinent information deemed necessary to determine if the proposed use meets the requirements of this Chapter, and if within the AG-1 district, Chapter 91, Wis. Stats.
- E. Evaluation Assistance. The Board in evaluating each application may request the expert assistance of county, state or federal agencies that are available to provide such assistance.
- F. The Board shall hold a public hearing on a permit application following publication of a Class 2 Notice.¹⁷
- G. Conditions Imposed. The Board's conditions will be based on substantial evidence, be reasonable, and to the extent practicable, measurable.¹⁸
- H. Board's Decision. The Board's decision to approve or deny the application will be supported by substantial evidence and shall be issued in writing.¹⁹
- I. Expiration. A Special Exception permit shall expire after two (2) years if the use approved under the permit has not commenced. The Zoning Administrator may grant an extension of up to one (1) year if unique circumstances apply.
- J. An applicant may appeal a decision by the Board to the Circuit Courty within thirty (30)

14 County Board Resolution 10-2019

15 County Board Resolution 10-2019

16 County Board Resolution 10-2019

17 County Board Resolution 10-2019

18 County Board Resolution 10-2019

19 County Board Resolution 10-2019

days of the issuance of the decision.²⁰

- K. The County may revoke the special exception permit if the applicant does not institute or follow the conditions imposed in the permit.²¹

70.08 Appeals.

- A. Appeals. Appeals to the Board of Adjustment, as authorized by § 59.694 (4), Wis. Stats., may be taken by a person aggrieved by an officer, department, board or bureau of the County affected by any decision of the Zoning Administrator. Such appeal shall be taken within a reasonable time, as provided by the rules of the Board, by filing with the officer from whom the appeal is taken and with the Board of Adjustment a notice of appeal specifying the ground thereof. The Zoning Administrator shall forthwith transmit to the Board all the papers constituting the record upon which the action appealed from was taken.
- B. Hearing Appeals. As authorized under § 59.694 (6), Wis. Stats., the Board shall fix a reasonable time for hearing of the appeal and publish a class 2 notice thereof under Chapter 985, Wis. Stats., as well as give due notice to the parties in interest, and decide the same within a reasonable time. A party may appear in person or by agent or attorney.
- C. The final disposition of an appeal or application to the Board of Adjustment shall be in the form of a written resolution or order signed by the Chairman and Secretary of the Board. Such a resolution shall state the specific facts, which are the basis for the Board's determination and shall either affirm, reverse, vary or modify the order, requirements, decision or determination appealed, in whole or in part, dismiss the appeal for lack of jurisdiction or prosecution or grant the application.

70.09 Fees.

- A. The County Board of Supervisors shall establish the fees for permits and applications governed by the Code of the County.
- B. The Zoning Administrator shall charge a double fee for work started before a zoning permit is applied for and issued. A double fee shall not release the applicant from full compliance with this Chapter nor except the applicant from prosecution or other penalties that are permitted under Chapter 100.

70.10 Violations, Penalties, Remedial Action, Enforcement.

- A. Any building or structure hereinafter erected, moved or any use hereinafter established in violation of the provisions of this Chapter by any person, firm, association, corporation (including building contractors or their agent), shall be deemed an unlawful structure or use.
- B. It shall be the duty of the Zoning Administrator, acting under the supervision of the Officer and Zoning Committee to enforce the provisions of this Chapter. The Zoning Administrator is hereby delegated authority to enforce the provisions of this Chapter, including the power to delegate these duties to subordinates, inspect private premises, issue orders for abatement and take action to abate violations of this Chapter.
- C. Whenever in the judgment of the Zoning Administrator it is determined that a violation of the provisions of this Chapter is being committed, exists, or is being maintained in the

20 County Board Resolution 10-2019

21 County Board Resolution 10-2019

County, that Officer may issue a written order of abatement ordering the person committing or maintaining said violation to cease and desist, remove the conditions, or remedy the defects creating the violation. The order for abatement shall include the following information:

1. The name and address of the owner, operator and or occupant and description of the real estate involved.
 2. The nature of the violation and the steps necessary to abate or correct it.
 3. The time period in which the violation must be corrected and or abated which will be no less than five (5) days and not more than thirty (30) days depending on the nature of the violation. Allowance for limited extension of this time period may be permitted if warranted by extenuating circumstances as determined by the Zoning Administrator.
 4. The order of abatement shall be served upon the person committing or maintaining the Zoning violation by either certified mail or registered mail, or in the manner set forth for service of a summons in Chapter 801, Wis. Stats. If the premises are not occupied and the address of the owner is unknown and cannot be determined with due diligence, service on the owner may be accomplished by posting a copy of the order of abatement in a prominent place on the premises. The order of abatement shall require the owner or occupant of such premises, or both, to take reasonable steps within a reasonable period of time to abate and remove the Zoning violation. Whenever an investigation hereunder involves a search of private premises and the owner or other person having equal rights to the use and occupancy thereof does not consent thereto, and absent any exception to the warrant requirement, that Officer shall apply to the Circuit Court of the County for a special inspection warrant pursuant to § 66.0119, Wis. Stats.
- D. Exceptions to the Written Orders. In cases where a violation poses an immediate risk of public health or safety as determined by the Zoning Administrator or in the case of repeated occurrences of the same violation by the same person, the violator shall be considered to be in noncompliance and subject to immediate action under Subsection E of this Section, without issuance of a written abatement order.
- E. Non-compliance with Written Orders. If a person does not comply with a written order from the Zoning Administrator or his/her designee, the violator may be subject to one (1) or more of the following actions and/or penalties:
1. The issuance of a citation under Chapter 100.
 2. Commencement of legal action against the person seeking an injunction to abate the violation and/or correct the violation.
 3. Commencement of legal action against the person seeking a court imposed forfeiture, court costs, and/or the costs of abatement.
 4. The initiation of one (1) action or penalty under this Section does not exempt the violator from any additional actions and/or penalties prescribed by law.
- F. Abatement of Zoning Violations. Where Zoning violations as defined in this Chapter or in the Wisconsin Statutes are encountered on private property which require ordered abatement and/or correction, the Zoning Administrator shall serve on the responsible person a written order as per Subsection C of this Section. If the violation is not abated and/or corrected within the time period specified in the order, the Zoning Administrator may enter upon the property and abate and/or correct the violation or cause such action to be taken. The cost of such abatement and/or correction is to be recovered either directly

from the responsible party or as a special tax assessment on the property.

- G. Penalties. Penalties shall be as set forth in Chapter 100. The Court may order injunctive relief. Failure to comply with an Order for Abatement issued under this Chapter in the time allowed shall constitute a separate violation of this Chapter, and each day of continued violation shall constitute a separate offense.
- H. Initiation of legal action. When there is not compliance with an Order for Abatement, legal action shall be initiated against a violator by issuance of a citation under Chapter 100, and/or referral to the County Corporation Counsel for issuance of a long form Summons and Complaint, in person or in rem. The County Corporation Counsel is hereby delegated the duty of prosecuting violations of this Chapter. The County Corporation Counsel shall take steps to enforce this Chapter and the Order for Abatement by prosecuting the violation, seeking imposition of a forfeiture penalty, and/or seeking appropriate injunctive relief to abate the Zoning violation and enjoin its continuation in the future, and/or recovery of the costs of abatement.
- I. Coordination with State or Federal Agencies. Where a Zoning violation involves non-compliance with a Federal or State-enforced Statute or Administrative Code, the Zoning Administrator may refer the complaint to the appropriate agency for abatement and/or correction in lieu of, or in addition to an enforcement action under this Chapter. If the violation continues without adequate enforcement from the Federal or State agency to cause abatement and/or correction, then the Zoning Administrator or his/her designee shall initiate action under this Section to bring about proper abatement and/or corrections.

70.11 Definitions.

A. Administrative Review Use.

Uses permitted by a Zoning Chapter, which require a detailed review by the Zoning Administrator and that may be subject to special conditions or restrictions as part of a permit being granted.

B. Appeal.

A complaint of an injustice done or error committed in which both the facts and law are reviewed.

C. Special Exception.

A type of land use listed and allowed within a zoning district provided that certain criteria, as stated in the Chapter, are met and the Board of Adjustment grants a Special Exception permit, with or without conditions.

D. Unnecessary Hardship.

A situation where, in the absence of a variance, an owner can make no feasible use of his property, or strict conformity is unnecessarily burdensome. The hardship or difficulty must be peculiar to the parcel in question and different from that of other parcels, not one that affects all parcels similarly. Loss of profit or financial hardship is not in and of itself grounds for a variance nor is a self-imposed hardship grounds for a variance.

E. Variance.

An action that authorizes the construction or maintenance of a building in a manner inconsistent with the standards of a Zoning Chapter. Approval of variances is a power of the Board of Adjustment. A variance may only be granted in cases of unnecessary hardship.

Article II – General Zoning

70.12 Statutory Authorization, Purpose and Finding of Fact.

- A. Statutory Authorization. This Chapter is adopted pursuant to the authorization contained in §§ 59.69, 59.692, 87.30, and 91.30, Wis. Stats.
- B. Statement of Purpose. The provisions of this Article are intended to promote health, safety, comfort, prosperity and general welfare of the public.

70.13 Abrogation and Greater Restriction.

- A. It is not otherwise intended by this Article to repeal, abrogate, annul, impair, or interfere with any existing easements, covenants, deed restrictions, agreements, Chapters, rules, regulations, or permits previously adopted or issued pursuant to law, other than Zoning, to the extent specified in this Article.
- B. Interpretation. In their interpretation and application, the provisions of this Article shall be held to be minimum requirements and shall be liberally construed in favor of the County, except as otherwise limited by Wisconsin Statutes, and shall not be deemed a limitation or repeal of any other powers granted by the Wisconsin Statutes. Nothing in this Article is to be construed as affecting any provision in the County Shoreland Zoning Article, which is in no way affected by this Article.

70.14 Jurisdiction and Effective Date.

- A. This Article shall be effective in every town in the County, in which the County has received the approval of the Town Board and upon its passage by the County Board and publication. The use of any land, the size, type and location of structures on lots, and other provisions regulated herein shall be in full compliance with the terms of this Article.
- B. This Article shall apply to Shorelands, as that term is defined by the County Shoreland Zoning Article, to the extent that it is more restrictive than the Article regulating Shorelands.
- C. The State of Wisconsin shall be exempt from the terms of this Chapter under the legal doctrine of the sovereignty of the State but all other governmental bodies shall be within the jurisdiction of this Chapter, except that the construction of public roadways and bridges is exempt from the provisions of this Chapter.

70.15 General Provisions.

- A. Setback, lot sizes and other dimensional requirements applicable to the various zoning districts are indicated in this Article.
- B. No structure, land, water or air shall hereafter be used without full compliance with the provisions of this Chapter. No structure or part, except as specifically allowed hereunder, shall hereafter be located, erected, moved, reconstructed or altered and no substantial land use change made, without full compliance with this Chapter. For each district the permitted uses are stated, others are specifically classified as requiring special exception permits and any uses not specifically classified shall require special exception permits.
- C. After adoption of this Chapter, no lot area shall be so reduced that the dimensions and yard requirements imposed by this Chapter cannot be met. However, where existing lots do not satisfy such requirements, the Board of Adjustment may grant a variance.
- D. All lots shall abut upon a public street or road to which direct access is permissible and each lot shall have a minimum frontage of at least sixty-six (66) feet. This requirement shall not be construed to conflict with the minimum average lot width standards specified

in this Chapter, inasmuch as irregular shaped lots may meet both the requirements. In the case of a corner lot, the standards specified for setbacks for that district shall apply to those sides of the lot, which abut both streets forming the corner.

- E. Buildings used for human habitation shall provide year-round living area of not less than nine hundred (900) square feet and a minimum dwelling width of twenty (20) feet, except as otherwise provided in Section 70.32(D).
- F. No lot shall have more than one (1) principal building for residential purposes, except as otherwise specified herein.
- G. No provision of this Chapter shall be construed to bar an action to enjoin or abate the use or occupancy of any land or structure as a nuisance under the appropriate laws of the State of Wisconsin.
- H. Any lot legally created and recorded in the Register of Deeds Office prior to the adoption of this Chapter, may be increased in size by the addition of all or part of the adjoining lots or parcels, and such resulting lots may be used for any purpose permitted in the district in which they are located, provided that the resultant lots or parcels shall not be reduced below the minimum requirements of the district or made less conforming.
- I. Any lot legally created and recorded in the Register of Deeds Office prior to the adoption of this Chapter, may be used as a building site, or for any purpose permitted by this Chapter, even though such lot does not conform to the minimum frontage or area requirements of the district in which it is located, provided that all other requirements of the district can be met.
- J. In districts, which permit agricultural uses, the grazing or raising of farm animals shall require a minimum of two (2) acres with a maximum of two (2) animal units for lots less than five (5) acres in size.
- K. Camping Provisions.
 - 1. Camping, parking, or storing a camping unit when located on a lot where a primary residential dwelling does not exist shall be subject to the following conditions:
 - a. No more than one (1) camping unit shall be allowed on a lot.
 - b. Approved sanitary provisions, such as State approved systems, self- contained units, approved non-plumbing sanitation systems or a POWTS shall be used to serve the camping unit.
 - c. Arrangements shall be made for the proper disposal of trash and garbage.
 - d. Camping, parking and or storing a unit on a lot shall only be permitted from April 15, through December 1 except as provided for under Section 70.15(K)(2).
 - e. Occupation of a unit by a person having no other regular place or abode at the time the unit is so occupied is prohibited.
 - f. Camping may take place on an interim basis on a lot where construction of a permitted dwelling is in progress, not to exceed one (1) year.
 - g. Camping shall be permitted in all districts except Residential.
 - h. Camping units shall comply with all setback requirements for the district in which they are located.
 - 2. Camping, parking, and/or storing a camping unit on a lot where a primary residential dwelling does not exist shall be permitted on a year-round basis through an Administrative Review Use Permit under the following conditions:

- a. Lot must be a minimum of five (5) acres and may not be located in a platted subdivision.
- b. Written approval must be received from the Town Board in which the lot is located.
- c. Except for Subparagraph (d) all other provisions of Section 70.15(K)(1) shall apply.
- d. The camping unit for which the Administrative Review Use Permit is issued shall at all times remain currently licensed, road worthy and able to be legally towed or driven on a public road.
- e. No accessory structures or additions may be attached to the camping unit.
- f. The camping unit shall meet the lot line setback for the zoning district in which it is located and be visually screened from adjacent properties and public roads using the screening options contained in Section 70.16(A)(2). Compliance with visual screening standards shall be part of the Administrative Review Use Permit process. 22
- g. An annual permit fee as established by the County Board of Supervisors shall be submitted to the Zoning Administrator by December 1st each year or the Administrative Use Permit shall expire.
- h. The Zoning Administrator shall conduct an annual inspection to determine that all Chapter requirements are being met including any conditions placed on the Administrative Review Use Permit. If the property or use is found to be in non-compliance with the Chapter requirements or permit conditions, the permit may be rescinded after a thirty (30) day written notice to the property owner.

L. Salvage Materials and Unlicensed Vehicles.

- 1. No person shall deposit or cause to be deposited or stored on any property, refuse, garbage, litter, waste or salvage material (including but not limited to: metals, paper, rags, tires, bottles, wood, building materials), in excess of normal residential use or periodic maintenance or remodeling. Nor shall any person deposit or cause to be deposited or stored any inoperable appliances, disassembled, inoperable, unlicensed, junked or wrecked motor vehicles, recreational vehicles, boats, mobile homes, semi-trailers or buses, unless it is in connection with a properly licensed automotive, appliance sales, repair, or storage business enterprise located in a properly zoned district, unless entirely enclosed within a building or exempted under Section 70.15(L)(2). This Section shall not apply to farm machinery or equipment, on the premises of an operating farm, located in a properly zoned district.
- 2. Storage of unlicensed/inoperable motor vehicles may be exempt from Section 70.15(3)(L)(1) under the following conditions:
 - a. An Administrative Review Use Permit is issued by the County Zoning Administrator.
 - b. Written permission shall be obtained from the Town Board in which the property is located.
 - c. The maximum number of vehicles stored outside of a building shall be three (3).
 - d. Only one (1) Administrative Review Use Permit shall be issued to a property

owner for contiguous property regardless of the number of lots or parcels owned or the amount of acreage.

- e. Vehicles shall be screened from public roadways and adjacent properties by using the screening options of Section 70.16(A)(2). Approval of screening provisions shall be part of the Administrative Review Use Permit process.
 - f. No such use shall be permitted in a Residential Zoning District or in a platted subdivision.
 - g. Storage area for vehicles must be a minimum of one hundred (100) feet from any lot line.
 - h. Disposal of any fluids, lubricants, coolants, oils or fuel must be done in conformance with applicable State and Federal regulations.
 - i. The Administrative Review Use Permit shall expire five (5) years after date of issue.
 - j. The Zoning Administrator may conduct an inspection during normal business hours to determine that all Chapter requirements are being met including any conditions placed on the Administrative Review Use Permit. If the property or use is found to be in non-compliance with the Chapter requirements or permit conditions the permit may be rescinded after a thirty (30) day written notice to the property owner.
- M. Unless permitted under Section 70.15(N), every structure shall be set back seventy-five (75) feet from a wetland boundary or the ordinary high water mark of a lake, stream, man-made lake or impoundment, as determined by the Zoning Administrator. Building near the above-described boundaries is subject to reduced building setback averaging as defined herein.
- N. On properties abutting man-made lakes that are not under the jurisdiction of the County Shoreland Zoning Article, the following structures shall be exempt from the setback requirements of Section 70.15(M):
- 1. Retaining walls with a maximum depth of eighteen (18) inches and not exceeding two (2) feet in height from original grade prior to installation.
 - 2. One pathway, access and/or walkway may be established from a residence to the ordinary high water mark and shall not exceed four (4) feet in width. The path shall be as perpendicular to the residence as practical.
 - 3. Patios, decks and open air structures that do not exceed two hundred fifty (250) feet in area, twelve (12) inches in height from original grade and are setback a minimum of twenty (20) feet from the ordinary high water mark.
 - 4. Patios, decks and open air structures built adjacent to a residence provided the structure is setback a minimum of fifty (50) feet from the ordinary high water mark.
 - 5. On any single lot or parcel a maximum of one (1) structure may be constructed under the provisions of Section 70.15(N)(3) & 70.15(N)(4) for a total of two (2) structures.
- O. A building setback less than the setback required may be permitted where there are existing buildings within five hundred (500) feet of the proposed site that are built at less than the required setback. In such cases the setback shall be the average of the setbacks of the existing similar buildings in the area. In no case shall a setback of less than fifty (50) feet be allowed except by the granting of a Variance by the Board of Adjustment.

- P. In each quadrant of every public street intersection, excepting those controlled by arterial or all way stop signs and also excepting Class A intersections there shall be a visual clearance triangle bounded by the street centerlines and a line connecting points on them seventy-five (75) feet from the intersection. Objects permitted within highway setback lines and visual clearance triangles are as follows:
1. Open fences.
 2. Telephone, telegraph and power transmission poles, lines and portable equipment and livestock housing that is readily removable in their entirety are permitted where they do not obstruct the view.
 3. The planting and harvesting of crops, shrubbery and trees except that the view within the visual clearance triangle shall not be obstructed.
- Q. The existing lawful use of a structure or premises which is not in conformity with the provisions of this Chapter may be continued subject to the following: ²³
1. No use shall be expanded or enlarged except in conformity with the provisions of this Chapter.
 2. Legal non-conforming structures are permitted unlimited maintenance, repair, renovation, remodeling and rebuilding provided it is confined to the existing building enveloped.
 3. If a nonconforming use is discontinued for twelve (12) consecutive months, any future use of the building or premises shall conform to this Chapter.
- R. Restoration of legal nonconforming structures. As authorized under § 59.69(10m), Wis. Stats., a legal nonconforming structure may be rebuilt if all of the following conditions are met:
1. The structure was damaged or destroyed on or after March 2, 2006.
 2. The damage or destruction was caused by violent wind, vandalism, fire, flood, ice, snow, mold or infestation.
 3. The size of the structure is not increased and it is built in the same location that it occupied prior to being destroyed.
 4. The use of the structure is not changed unless the new use is in conformity with this Chapter.
- S. In all zoning districts, any building or structure that exceeds one hundred (100) feet in height must be setback from all parcel, property lines and lot lines a distance equal to the height of the building or structure.
- T. Mobile service support structures and facilities as defined in § 66.0404(1), Wis. Stats., are a Special Exception in all zoning districts.²⁴
- U. In areas zoned Residential (R-1 or R-2) no accessory building, structure or use shall be constructed or established on any lot or parcel prior to the time of construction or establishment of the principal or main structure to which it is accessory. The owner of an adjacent, vacant lot or parcel shall not construct an accessory building thereon until the owner combines the vacant land with the land containing the principal or main structure or use by certified survey map or other method approved by the Zoning Administrator. If

23 County Board Resolution 23-2018

24 County Board Resolution 48-2019

it is impossible to combine the land into a single lot due to the location of a right of way held in fee, the owner may apply for a Special Exception under Section 70.07 to allow the construction of an accessory building on the vacant lot or parcel. Terms of the Special Exception shall prohibit the sale of the accessory lot separate from the principal or main lot by deed restriction.

- V. The Zoning Administrator may issue a special permit to relax the standards of this ordinance in order to provide reasonable accommodations as required 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. A deed restriction or affidavit for the reasonable accommodation shall be filed with the Marquette County Register of Deeds.

70.16 Site Design Standards.

The following site design standards shall apply for certain types of land uses when required under other Sections of this Chapter. These standards are adopted to promote health, safety, comfort, prosperity and the general welfare of the public. It is the intention of these standards to ensure that future development is designed in a way that compliments community character, increases tax base and ensures lasting quality. A site plan shall be submitted to the Zoning Administrator addressing the following items:

A. Screening.

1. The following areas or features shall be required to be effectively screened by fencing, landscaping, or berms from view from public roadways, and adjacent residential properties:
 - a. Exterior structures related to heating systems, cooling or air conditioning systems;
 - b. Refuse, garbage, dumpsters and recyclable material collection points;
 - c. Outdoor storage areas;
 - d. Loading docks;
 - e. Any other site area or facility if reasonably related to the protection of neighboring properties or the public from distracting, unappealing, or offensive views of on-site activities as determined by the Zoning Administrator.
2. Options for Screening. The following are options for providing required screening where applicable:
 - a. Fencing: The construction of a minimum six (6) -foot high solid fence shall be deemed adequate screening if required. The fence shall be one (1) color and constructed of one (1) type of commonly used fencing materials.
 - b. Rows of trees: The planting of a minimum of two (2) rows of trees staggered with a ten (10) -foot spacing, which are a minimum of four (4) feet tall when planted, shall be deemed adequate screening if required. One (1) row shall be white pine, red pine or a fast growing hybrid poplar. The lot owner shall maintain such planting and any dead trees shall be replaced within six (6) months. Alternate species or planting plan may be substituted if prior approval is received from the Zoning Administrator.
 - c. Existing vegetation: The maintenance of existing native vegetation that, from off

the property during full foliage conditions, provides the appearance of a solid wall of vegetation, shall be deemed adequate screening if required. The final determination as to acceptability of the existing vegetative screen shall be by the Zoning Administrator.

- d. Earthen berms: The construction of an earthen berm to the minimum height of six (6) feet which is to be seeded and/or landscaped with shrubs and maintained by the owner shall be deemed adequate screening.

B. Off Street Parking.

1. Minimum Off-Street Parking Requirements: Off street parking spaces shall be provided in sufficient numbers to address the anticipated amount of traffic to the proposed use.
2. Handicapped Parking Spaces: Parking for the handicapped shall be provided at the number, size and location and with signage as specified by State and Federal regulations.
3. Location: Off-street parking areas shall be located on the same lot as the principal use.
4. Installation of Off-Street Parking Areas: All required off-street parking areas shall be completed prior to building occupancy.
5. Use of Off-Street Parking Areas: The use of off-street parking areas shall be limited to the parking of licensed, registered, and operable vehicles.
6. Depiction on Site Plan: All existing and proposed parking areas on the lot shall be depicted as to their location and configuration on the site plan.

C. Loading Standards.

1. Any nonresidential use, created after the adoption of this Chapter, which has a gross floor area of five thousand (5,000) square feet or more, and which requires deliveries or makes shipments, shall provide at least one (1) off-street loading area.
2. Location: Loading areas shall be provided so that all vehicles loading, maneuvering, or unloading are completely off the public road right-of-way or road easement.
3. Depiction on Site Plan: All existing and proposed loading areas on the lot shall be depicted as to their location and configuration on the site plan.

D. Signage.

1. On premise signs advertising a business or activity shall meet the following standards:
 - a. Wall signs placed against the exterior of a building shall not extend more than one (1) foot from the wall surface and shall not exceed two hundred (200) square feet in area.
 - b. Projecting signs fastened to, suspended from or supported by attached structures shall not exceed fifty (50) square feet on a side.
 - c. Ground signs shall meet all setback requirements, shall not exceed two hundred (200) square feet on a side and shall not exceed thirty-five (35) feet in height above the main grade. The use of monument signs is encouraged rather than pole signs.
 - d. Roof signs shall not exceed ten (10) feet in height above the roof, shall not exceed two hundred (200) square feet on a side and may not extend beyond the building

on which it is located.

70.17 Highway Setback and Access Provisions.

- A. For the purpose of determining the distance buildings and other structures shall be set back from streets and highways, the highways of the County are divided into the following classes:
 - 1. All State and Federal highways are hereby designated as Class A highways.
 - 2. All county trunks are hereby designated as Class B highways.
 - 3. All town roads, public streets and highways not otherwise classified, are hereby designated Class C highways.
- B. The minimum setbacks from the various Class highways are as follows:
 - 1. The setback from a Class A highway shall be one hundred ten (110) feet from the centerline of the highway or fifty (50) feet from the right-of-way line, whichever is greater.
 - 2. The setback from a Class B highway shall be seventy-five (75) feet from the centerline of the highway or forty-two (42) feet from the right-of-way line, whichever is greater.
 - 3. The setback from a Class C highway shall be sixty-three (63) feet from the centerline of the highway or thirty (30) feet from the right-of-way line, whichever is greater.
- C. Permits shall be required for all new access points on Class A, B and C highways.
 - 1. Permit applications for access to Class A highways shall be made with the Wisconsin Department of Transportation, for Class B and C highways shall be made with the County Highway Dept.
 - 2. The agency which issues the permit shall conduct inspections of the point of access to determine compliance with the Chapter and shall maintain permanent records of data submitted, staff recommendations and permits issued.
 - 3. The authority to approve, conditionally approve or reject an application is delegated to the agency, which issues the permit, except if the proposed access does not conform to the access provisions of the Zoning or Subdivision Chapters. Requests for nonconforming accesses shall be subject to review and approval by the Board of Adjustment prior to the issuing agency granting the permit.
- D. Access driveways from abutting properties shall comply with the following requirements:
 - 1. Class A
 - Minimum distance between access points shall be one thousand (1,000) feet and minimum distance between access and the centerline of an intersecting highway shall be one thousand (1,000) feet.
 - 2. Class B
 - Minimum distance between access points shall be six hundred (600) feet and minimum distance between access and the centerline of an intersecting highway shall be six hundred (600) feet.
 - 3. Class C
 - Minimum distance between access points shall be one hundred (100) feet and minimum distance between access and the centerline of an intersecting highway shall be one hundred fifty (150) feet.

- E. Where strict application of spacing standards would deny access to lots in existence prior to adoption of access regulations, new access shall be spaced to provide safe access.
- F. More restrictive spacing standards may be applied for safety reasons.
- G. Where spacing standards permit, driveways shall be located opposite each other.
- H. Where the option exists, access should be granted to a highway with a lower classification than one with a higher classification.
- I. Spacing standard do not apply for field access on Class C highways.
- J. The maximum number and width of access driveways per land use to highways and service roads shall be as follows:
 - 1. Commercial and Industrial.

The maximum number of accesses shall be two (2) and the maximum width shall be thirty-five (35) feet.
 - 2. Residential.

The maximum number of accesses shall be one (1) and the maximum and minimum width shall be thirty-five (35) feet and twenty-four (24) feet, respectively.
 - 3. Agricultural.

The maximum number of accesses shall be one (1) and the maximum and minimum width shall be thirty-five (35) feet and twenty-four (24) feet, respectively.
 - 4. Field Access.

No maximum number of accesses per tax parcel and the maximum and minimum width shall be thirty-five (35) feet and twenty-four (24) feet respectively, if required.
- K. All new driveways shall comply with the following minimum design standards in addition to meeting any other provisions of the access permits issued by the Department of Transportation or the County Highway Department.
 - 1. Culverts, if needed, shall be a minimum of fifteen (15) inches in diameter and be constructed of corrugated metal or concrete.
 - 2. Driveway height shall not exceed the level of the outside edge of the road shoulder to the ditch line.
 - 3. The side slopes of the driveway shall equal or be flatter than the side slope of the main highway but shall not be steeper than three (3) to one (1).
 - 4. No rigid vertical end walls shall be permitted.
- L. Conversion of an access point from one type of use by zoning district to another shall be treated the same as opening a new access point.

70.18 Zoning Districts and Zoning Maps.

- A. Official copies of the zoning maps, together with a copy of this Chapter shall be kept by the Zoning Administrator and shall be available for public inspection during regular office hours. Any changes or amendments affecting zoning boundaries or explanatory matter shall be recorded on the applicable maps. All such changes shall be made in accordance with the provisions of § 59.69, Wis. Stats., and the provisions of this Chapter.
- B. In order to carry out the purpose and provisions of this Chapter, the following zoning districts and zones are hereby established, and may be known by the accompanying

abbreviations:

RP	Resource Protection District
CM-B	Commercial District – Business
CM-I	Commercial District – Industrial
R-1	Single Family Residential District
R-2	Multi Family Residential District
REC	Recreational District
AG-3(2)	Agricultural Residential District (2 acre minimum)
AG-3(4)	Agricultural Residential District (4 acre minimum)
AG-2	General Agricultural District
AO	Agriculture and Open Space District
AG-1	Prime Agricultural District
FPO	Farmland Preservation Overlay District
GP	General Purpose District
PD	Planned Development District
RC	Rural Center District
CD	Cluster Development Overlay District

- C. When the width or length of the boundaries of various zones are not clear, the dimensions shall be determined by the Zoning Administrator. Zone boundaries are normally lot lines, section, quarter, quarter-quarter lines, centerlines and right-of-way lines of highways, railroads and utility easements.
- D. The Zoning Administrator shall deny a zoning permit for any use of any land in a district so substantially different from the stated uses in that district that it is deemed to be inappropriate, subject to any federal, state, or County regulation that affects whether an unlisted use may be allowed, including but not limited to Chapter 91, Wisconsin Statutes and ATCP 49, Wis. Admin. Code.
- E. The Board of Supervisors may rezone to an appropriate district; set conditions on use and buildings for such rezoning; and determine the particular land use to be either a permitted use or special exception in the new district, subject to any federal, state, or County regulation that affects whether an unlisted use may be allowed, including but not limited to Chapter 91, Wisconsin Statutes and ATCP 49, Wis. Admin. Code.
- F. The Board of Adjustment may issue a special exception permit allowing any use it determines to be substantially similar to the enumerated special exception uses in a district, subject to any federal, state, or County regulation that affects whether an unlisted use may be allowed, including but not limited to Chapter 91, Wisconsin Statutes and ATCP 49, Wis. Admin. Code.

70.19 Resource Protection District (RP).

- A. This District provides for the conservation and protection of natural resources. Generally, this zone includes swamps, marshland, wetlands and other lands of natural aesthetic value. Resource Protection District is designed to encourage the preservation, conservation and development of land area for a wide range of conservation and

recreational purposes. This District is intended to preserve, protect, enhance and restore all significant woodlands, scenic areas, submarginal farmlands, archaeological sites, natural watersheds, significant landforms, wildlife habitat and other natural resources that contribute to environmental quality.

- B. Newly created lots and lots or parcels remaining after a land division shall provide a lot area of not less than five (5) acres and have a minimum width of one hundred fifty (150) feet at the building line.
- C. In addition to the setbacks required in Section 70.17, all buildings shall have a minimum setback of ten (10) feet from all lot lines.
- D. The following uses shall be permitted in the Resource Protection District:
 - 1. The harvest of any wild crop such as marsh hay, ferns, moss, wild rice, berries, tree fruits and tree seeds.
 - 2. Forestry.
 - 3. Agricultural use not to exceed five hundred (500) animal units, provided that agricultural buildings that house farm animals are a minimum of one hundred (100) feet from residences on neighboring properties and that the use complies with Section 70.15(J).
 - 4. Preservation of scenic, historic and scientific areas, wildlife preserves.
 - 5. Accessory uses and buildings, including agricultural accessory uses and structures.
 - 6. Hiking, biking, nature and horse trails.
 - 7. Public and private parks.
 - 8. Utilities.
 - 9. Recreational dwelling.
 - 10. Single family dwelling.
 - 11. Governmental uses.
 - 12. Cemeteries.
 - 13. Home occupation.
 - 14. Bunkhouse/temporary guest quarter.
- E. The following uses shall be permitted only on the issuance of a special exception permit:
 - 1. Airfields.
 - 2. Campgrounds.
 - 3. Bed and breakfast establishments.
 - 4. Multifamily dwelling.
 - 5. Kennels.
 - 6. Shooting ranges.
 - 7. Golf courses.
 - 8. Replacement of a legal non-conforming manufactured home.

9. Home based business.²⁵

70.20 Residential District (R-1).

- A. The Residential District is designed to protect the residential character of areas by excluding commercial activities, to encourage a suitable environment for family life by permitting, under certain conditions, such neighborhood facilities as churches, schools and playgrounds, to permit under certain conditions appropriate institutions to be located in residential neighborhoods, to preserve openness of the area and avoid over-crowding, by requiring certain minimum yards, open spaces, and site area, and to make available a variety of locations to serve a wide range of individual requirements.
- B. Newly created lots and lots or parcels remaining after a land division shall provide a lot area of not less than thirty thousand (30,000) square feet and a minimum lot width of one hundred (100) feet at the building line.
- C. In addition to the setbacks required in Section 70.17, all buildings shall have a minimum setback from all lot lines of ten (10) feet.
- D. The following uses shall be permitted in the Residential District:
 - 1. Single family dwellings.
 - 2. Accessory buildings compatible with permitted uses.
 - 3. Hiking, biking, and nature trails.
 - 4. Public and private parks.
 - 5. Home occupations.
 - 6. Bunkhouse/temporary guest quarters.
- E. The following shall be permitted only on the issuance of a special exception permit:
 - 1. Churches and their affiliated uses.
 - 2. Professional offices.
 - 3. Public recreational and community center buildings and grounds.
 - 4. Libraries.
 - 5. Hospital and medical institutions.
 - 6. Funeral homes.
 - 7. Multiple family dwellings.
 - 8. Mobile home parks.
 - 9. Schools.
 - 10. Private clubs and lodges, except those whose chief activity is a service customarily carried on as a business.
 - 11. Uses customarily incident to any of the above uses, provided that no such use generates traffic or noise that would create a public or private nuisance.
 - 12. Condominiums.
 - 13. Governmental uses.

14. Replacement of a legal non-conforming manufactured home.

70.21 Multiple Family Residential District (R-2).

- A. The Multiple Family District is designed to establish and protect the essential characteristics of areas within which mixtures of housing densities should occur along with certain supporting community and recreational uses to serve residents of the District.
- B. Newly created lots and lots or parcels remaining after a land division shall provide a lot area of not less than thirty thousand (30,000) square feet and a minimum lot width of one hundred (100) feet at the building line.
- C. In addition to the setbacks required in Section 70.17, all buildings shall have a minimum setback from all lot lines of ten (10) feet.
- D. There shall be a minimum of two (2) off-street parking spaces for each unit within the building.
- E. There shall be a minimum of five percent (5%) of the total lot area set aside for a play area. This shall be in addition to the setback areas required by this Chapter.
- F. The following uses shall be permitted in the Multiple Residential District:
 - 1. Any use permitted in the Residential District.
 - 2. Multiple family dwellings where such building contains no more than four (4) dwelling units.
- G. The following uses shall be permitted only on the issuance of a special exception permit:
 - 1. Any use requiring a special exception permit as specified in the Residential District, Section 70.20(E).

70.22 Commercial District – Business (CM-B).

- A. The Commercial District – Business is designed to facilitate the development of commercial uses in accordance to the future growth and development of the region; to provide for a wide range of commercial uses of land. These zones are designed to permit development for the respective purposes and to protect nearby residential areas by requiring that certain minimum yard, area, parking and site design standards be met. It is intended that additional areas would be included in these zones as additional commercial facilities are needed to serve new or growing residential areas.
- B. Newly created lots and lots or parcels remaining after a land division shall provide a lot area of not less than thirty thousand (30,000) square feet and a minimum lot width of one hundred (100) feet at the building line.
- C. Where road setbacks have been established by use the setback from roads shall be the average of those setbacks, however, no setback reduction to less than the road right-of-way shall be permitted. In a Commercial District where road setbacks have not been established by use, the road setbacks shall be the same as those stated in Section 70.17.
- D. The minimum lot line setback shall be ten (10) feet.
- E. The design standards contained in Section 70.16 shall apply.
- F. The following uses shall be permitted in a Commercial District – Business:
 - 1. Banks and similar services.
 - 2. Business and professional offices and studios.
 - 3. Commercial entertainment facilities, except those classified as “*adult establishments*”.

4. Dental and medical clinics.
 5. Funeral homes.
 6. Hotels and motels.
 7. Laundromats.
 8. New and used car sales.
 9. Retail stores A & B.
 10. Miniwarehouses.
 11. Woodworking and cabinet shops.
 12. Golf Courses.
 13. Bakery.
 14. Food and beverage establishments.
 15. Auto service stations.
 16. Residential accommodations for shopkeepers located on the same lot as the business, not to exceed one single family dwelling provided that the dwelling has a minimum dwelling width of twenty (20) feet and nine hundred (900) square feet of year-round living area.
 17. Commercial greenhouses.
 18. Farm implement dealer.
 19. Kennels.
 20. Veterinarian clinics and hospitals.
 21. Governmental uses.
 22. Research facility.
 23. Apartments.
- G. The following shall be permitted only upon the issuance of a special exception permit:
1. Microbrewery.
 2. Light manufacturing.
 3. Warehouses.
 4. Body repair shop.
 5. Shooting ranges.
 6. Grain elevator.
 7. Airports.
 8. Salvage yards.
 9. Power plants.
 10. Sawmill.
 11. Quarrying.
 12. "*Adult establishments*" which are more than one thousand (1,000) feet from schools, churches, community living arrangements, day care centers, nursery schools, family

day care homes, parks, playgrounds, other community facilities and other adult establishments.

70.23 Commercial District – Industrial (CM-I).

- A. The Commercial District – Industrial is designed to facilitate the development of commercial uses that have the potential to impact uses on neighboring properties to a greater degree than uses permitted under the Commercial District-Business designation. These zones are designed to permit development for the respective purposes and to protect nearby residential areas by requiring that certain setback, minimum yard area and site design standards are met. It is intended that additional areas would be included in these zones as additional commercial facilities are needed.
- B. Newly created lots and lots or parcels remaining after a land division shall provide a lot area of not less than thirty thousand (30,000) square feet and a minimum lot width of one hundred (100) feet at the building line.
- C. The minimum lot line setback shall be ten (10) feet.
- D. The design standards contained in Section 70.16 shall apply.
- E. The following uses shall be permitted in a Commercial District-Industrial:
 - 1. Any use permitted in Commercial District-Business except Section 70.22(F)(16) & (23).
 - 2. Light and Heavy Manufacturing.
 - 3. Warehouses.
 - 4. Transportation terminals.
 - 5. Quarrying.
 - 6. Body repair shop.
 - 7. Salvage facilities.
 - 8. Sawmill.
 - 9. Power plants.
 - 10. Airports.
- F. The following shall be permitted only upon the issuance of a special exception permit:
 - 1. “*Adult establishments*” which are more than one thousand (1,000) feet from schools, churches, community living arrangements, day care centers, nursery schools, family day care homes, parks, playgrounds, other community facilities and other adult establishments.

70.24 Recreational District (REC).

- A. This District provides for the orderly and attractive grouping of recreational oriented service establishments as well as encouraging the maintenance of the natural resources, forest practices and related uses in those areas best suited to those activities. The intent is to encourage forestry and also to recognize the value of the forest as a recreational resource. The intent is to provide a suitable environment for a single family residential development on large lots.
- B. Newly created lots and lots or parcels remaining after a land division shall provide a lot area of not less than thirty thousand (30,000) square feet and a minimum lot width of one hundred (100) feet at the building line.

- C. In addition to the setbacks provided in Section 70.17, all buildings shall have a minimum setback of ten (10) feet from all lot lines.
- D. The following uses shall be permitted in Recreational Districts:
1. Single family dwellings.
 2. Accessory buildings compatible with permitted uses.
 3. Agricultural use not to exceed five hundred (500) animal units, provided that agricultural buildings that house farm animals are a minimum of one hundred (100) feet from residences on neighboring properties and that the use complies with Section 70.15(J), along with agricultural accessory uses and structures.
 4. Private clubs or lodges, except those whose chief activity is a service customarily carried on as a business.
 5. Forestry.
 6. Governmental uses.
 7. Golf courses.
 8. Public and private parks.
 9. Laundromats.
 10. Retail stores - A.
 11. Hiking, biking, nature, and horse trails.
 12. Utilities.
 13. Food and beverage establishments.
 14. Recreational dwelling.
 15. Cemeteries.
 16. Home occupations.
 17. Bunkhouse/temporary guest quarters.
- E. The following uses shall be permitted only upon issuance of a special exception permit:
1. Any special exceptions permitted in the Residential District.
 2. Commercial greenhouses.
 3. Resorts.
 4. Airfields.
 5. Marinas and boat liveries.
 6. Shooting ranges.
 7. Hotels and motels.
 8. Kennels.
 9. Commercial entertainment facilities, except those classified as “*adult establishments*”.
 10. Educational and recreational camps.
 11. Farm implement dealer.
 12. Quarrying.

13. Campgrounds.
14. Replacement of a legal non-conforming manufactured home.
15. Home based business.²⁶

70.25 Agricultural – Residential Districts (AG-3(2) and AG-3(4)).

- A. The Agricultural-Residential Districts are designed to provide for and encourage agricultural uses, related uses, and certain residential uses in a rural and semi-rural environment. There are two Agricultural-Residential Districts, the AG-3(2) and AG-3(4) districts, which differ from each other only in minimum lot size. The primary intent of having two AG-3 districts is to best implement the residential density policy in planned Farmland Preservation Areas, as mapped and described in the County Comprehensive Plan. Where the zoning map indicates “AG-3” zoning, with no further qualifiers, those areas shall be presumed to be zoned AG-3(2).
- B. Newly created lots and lots or parcels remaining after a land division shall provide a lot area of not less than two (2) acres in the AG-3(2) district and four (4) acres in the AG-3(4) district. Minimum lot width in both districts shall be two hundred (200) feet at the building line.
- C. In addition to the setbacks required in Section 70.17, all buildings shall have a minimum setback of twenty (20) feet from all lot lines.
- D. The following uses shall be permitted in the Agricultural-Residential District:
 1. Agricultural use not to exceed five hundred (500) animal units, provided that agricultural buildings that house farm animals are a minimum of one hundred (100) feet from residences on neighboring properties and that the use complies with Section 70.15(J), along with agricultural accessory uses and structures.
 2. Single family dwelling.
 3. Forestry.
 4. Uses customarily incidental to any of the above uses.
 5. Roadside stands for the sale of farm products.
 6. Churches.
 7. Schools.
 8. Cemeteries.
 9. Public and private parks.
 10. Utilities.
 11. Home occupation.
 12. Recreational dwelling.
 13. Hiking, biking, nature, and horse trails.
 14. Governmental uses.
 15. Bunkhouse/temporary guest quarters.
- E. The following uses shall be permitted only on the issuance of a special exception permit:

1. Migrant housing.
2. Quarrying.
3. Campgrounds.
4. Mini-warehouses.
5. Kennels.
6. Multi-family dwelling.
7. Airfields.
8. Replacement of a legal non-conforming manufactured home.
9. Home based business.²⁷

70.26 General Agricultural District (AG-2).

- A. Newly created lots and lots or parcels remaining after a land division shall provide a lot area of not less than ten (10) acres and a minimum lot width of three hundred (300) feet at the building line.
- B. In addition to the setbacks required in Section 70.17, all buildings shall have a minimum setback of thirty-five (35) feet from any lot line.
- C. The following uses shall be permitted in the General Agricultural District:
 1. Agricultural uses, provided that buildings in which farm animals are kept shall be at least one hundred (100) feet from residences on neighboring properties and that the use complies with Section 70.15(J), along with agricultural accessory uses and structures.
 2. Single family dwellings.
 3. Forestry.
 4. Roadside stands for the sale of farm products.
 5. Public and private parks.
 6. Home occupations.
 7. Recreational dwelling.
 8. Hiking, biking, nature, and horse trails.
 9. Cemeteries.
 10. Governmental uses.
 11. Bunkhouse/temporary guest quarters.
- D. The following uses shall be permitted only upon issuance of a special exception permit:
 1. Migrant housing.
 2. Multi-family dwellings.
 3. Shooting range.
 4. Quarrying.

5. Kennels.
6. Airfields.
7. Replacement of a legal non-conforming manufactured home.
8. Home based business.²⁸

70.265 Agriculture and Open Space District (AO).

- A. The Agriculture and Open Space District is designed to allow for agricultural and other types of compatible land uses while maintaining the rural character of the community. It is intended that rural character will be maintained through the requirement for larger parcel sizes.
- B. Newly created lots and lots or parcels remaining after a land division shall provide a lot area of not less than twenty (20) acres and a minimum lot width of three hundred (300) feet at the building line.
- C. In addition to the setbacks required in Section 70.17, all buildings shall have a minimum setback of thirty-five (35) feet from any lot line.
- D. The following uses shall be permitted in the Agriculture and Open Space District:
 1. Agricultural uses, provided that buildings in which farm animals are kept shall be at least one hundred (100) feet from residences on neighboring properties and that the use complies with Section 70.15(J), along with agricultural accessory uses and structures.
 2. Single family dwellings.
 3. Forestry.
 4. Roadside stands for the sale of farm products.
 5. Public and private parks.
 6. Home occupations.
 7. Recreational dwelling.
 8. Hiking, biking, nature, and horse trails.
 9. Cemeteries.
 10. Governmental uses.
 11. Bunkhouse/temporary guest quarters.
 12. Utilities.
- E. The following uses shall be permitted only upon issuance of a special exception permit:
 1. Migrant housing.
 2. Multi-family dwellings.
 3. Shooting range.
 4. Quarrying.
 5. Kennels.

6. Airfields.
7. Replacement of a legal non-conforming manufactured home.
8. Campgrounds.
9. Mini-warehouses.
10. Home base business. 29

70.27 Prime Agricultural District (AG-1).

- A. The AG-1 Prime Agricultural District is intended to preserve prime and other productive agricultural soils for continued farming, provide for a wide range of agricultural uses and agricultural accessory uses, and minimize encroachment of urban and dense rural non-farm uses into planned long-term agricultural zoned areas . Activities typically associated with working farms should be expected in the AG-1 district, including noise, dust, odors, heavy equipment, use of chemicals, and long hours of operation. The AG-1 district also includes undeveloped natural resource and open space areas, and other uses permitted hereunder. The AG-1 district is intended to meet the criteria for Wisconsin Department of Agriculture, Trade and Consumer Protection certification as a farmland preservation zoning district under § 91.38, Wis. Stats., and as such is used only in areas planned as Farmland Preservation Area in the County Comprehensive Plan.
- B. Newly created lots and lots or parcels remaining after a land division where AG-1 zoning is maintained shall provide a minimum lot area of forty (40) acres and a minimum lot width of five hundred (500) feet at the building line. Lots with lesser area and width are allowed following rezoning away from the AG-1 district, if all requirements associated with rezoning away from the AG-1 district in Section 70.34(D) are met.
 1. The rezoning shall be in accordance with Section 70.34(D).
 2. The rezoning and lots to be created shall be in accordance with Farmland Preservation Area policies within the County Comprehensive Plan, including but not limited to residential density and lot area policies.
 3. The associated land division, if for a residential use, is accompanied by a restriction that restricts the further division of such lots.
- C. Buildings used for human habitation shall provide year-round living area of nine hundred (900) square feet and a minimum dwelling width of twenty (20) feet, except that sixteen (16) feet shall be allowed for the second dwelling unit on the lands in contiguous common ownership.
- D. In addition to the setbacks required in Section 70.17, all buildings shall have a minimum setback of fifty (50) feet from all lot lines.
- E. The following uses shall be permitted in the Prime Agricultural District:
 1. Agricultural uses, provided that buildings in which farm animals are kept shall be at least one hundred (100) feet from residences on neighboring properties and that the use complies with Section 70.15(J).
 2. Agricultural accessory uses and structures.
 3. Any residence, aside from a single wide manufactured home, lawfully existing as of January 1, 2014 and its accessory buildings and uses including a home occupation.

Notwithstanding the provisions of Section 70.15(Q) and (R) regarding nonconforming uses and structures, such residence may be added to, altered, repaired, or restored, provided that the use remains residential and the structure complies with all residential dimensional and setback standards of this section and Section 70.17.

4. Undeveloped natural resource and open space areas.

A transportation, utility, communication, pipeline, electric transmission, or drainage use that is required under state or federal law to be located in a specific place, or authorized to be located in a specific place under a state or federal law that specifically preempts the requirement of a special exception permit.

- F. The following uses shall be permitted only upon the issuance of a special exception permit, subject to the criteria in Section 70.07(B)7:
 1. Any transportation, communications, pipeline, electric transmission, utility, or drainage use that is not classified as a permitted use, subject to compliance with § 91.46(4), Wis. Stats.
 2. Governmental, institutional, religious, or nonprofit community uses, subject to compliance with § 91.46(5), Wis. Stats.
 3. Non-metallic mineral extraction operations, subject to compliance with § 91.46(6), Wis. Stats. and Section 70.39(C)(4) of this Chapter as it may apply.
 4. A single wide manufactured residence lawfully existing as of January 1, 2014.

Notwithstanding the provisions of Section 70.15(Q) and (R) regarding nonconforming uses and structures, such residence may be added to, altered, repaired, or restored, provided that the use remains residential and the structure complies with all residential area and setback standards of this section and Section 70.17.

70.275 Farmland Preservation Overlay District (FPO).

- A. The FPO Farmland Preservation Overlay District is intended to enhance the prospect of long-term farmland and open space preservation over areas where it is mapped. The FPO district will generally be mapped over property to track and maintain residential development density policies associated with the Farmland Preservation Area within the County Comprehensive Plan. This will generally occur when a rezoning to accommodate a residential use is approved on contiguous lands in common ownership, in accordance with residential density policies applicable to the planned Farmland Preservation Area. The FPO district may be applied in other circumstances, such as to indicate areas from which development rights have been retired or limited by acquisition of conservation easement, purchase of development rights, or similar program. In all cases where the FPO district is used, the underlying zoning district shall be and remain an agricultural or resource protection zoning district, but permitted and special exception uses shall be limited to those allowed in the FPO district per Section 70.275
- B. Lot area and other dimensional standards shall be per the underlying zoning district.
- C. The following uses shall be permitted in the Farmland Preservation Overlay District:
 1. Agricultural uses, provided that buildings in which farm animals are kept shall be at least one hundred (100) feet from residences on neighboring properties and that the use complies with Section 70.15(J).
 2. Agricultural accessory uses and structures.
 3. Undeveloped natural resource and open space areas.

- D. The following uses shall be permitted only upon the issuance of a special exception permit, subject to the criteria in Section 70.07(B)7:
 - 1. Non-metallic mineral extraction operations, subject to compliance with § 91.46(6), Wis. Stats. and Section 70.39(C)(4) of this Chapter as it may apply.
- E. The following rules and allowances shall govern the mapping and effect of FPO Farmland Preservation Overlay District zoning:
 - 1. The FPO zoning district need not be applied to lands that are contiguous to the lot(s) on which a new dwelling(s) will be constructed, provided that such FPO district is in the same town and mapped over the same prior contiguous common ownership parcel as the lot(s) on which dwelling(s) will be constructed.
 - 2. The boundaries of each PO district shall follow lot lines, tax parcel lines, or some combination wherever possible. A description of lands within each FPO district shall be of sufficient detail that it may be accurately mapped and that the total acreage to be rezoned to FPO may be determined. The Zoning Administrator may require a plat of survey or certified survey map.
 - 3. Land in this FPO district may be sold and exchanged between owners of adjoining lands if the minimum lot size in the underlying zoning district is not violated.
 - 4. Land in the FPO district may not be used to achieve the acreage necessary to build a dwelling under the applicable residential density policies of the County Comprehensive Plan.
 - 5. Where the FPO district is required in conjunction with the rezoning for residential purposes per the density policies referenced in Section 70.275(A), there shall not be a separate application fee associated with the FPO rezoning.

70.28 General Purpose District (GP).

- A. The General Purpose District is potentially suited to a wide range of uses, including industrial, commercial, agricultural, residential, forestry and recreational uses. Selecting prospective locations for these uses and designating districts will require Township planning and mapping. Until such planning and mapping can be enacted, a General Purpose District will be used to allow a wide range of uses, subject to the provisions of this Chapter. Minimum separating distances are provided to reduce conflicting land use between potentially incompatible uses.
- B. Newly created lots and lots or parcels remaining after a land division shall provide a lot area of not less than thirty thousand (30,000) square feet and a minimum lot width of one hundred (100) feet at the building line.
- C. In addition to the setbacks stated in Section 70.17, all buildings shall have a minimum setback of ten (10) feet from all lot lines.
- D. The following uses shall be permitted in the General Purpose District:
 - 1. Any uses permitted in any district except Commercial-Business and Industrial, provided that they comply with the provisions of this Chapter.
- E. The following uses shall be permitted only upon issuance of a special exception permit:
 - 1. Any use permitted in a Commercial-Business or Commercial-Industrial District.
 - 2. Any use listed as a Special Exception in any district except Commercial-Business and Industrial.

70.29 Planned Development District (PD).

- A. The Planned Development District is intended to provide for large scale combined use development. It is especially applicable to a development in which a number of different land uses are combined in a design which provides for desirable and convenient living conditions and which minimizes conflicts between the various land uses involved.
- B. This District shall have no definite and measurable boundaries until a specific planned development shall be approved by the County Board on the recommendation of the Zoning Committee in accordance with the procedures for zoning amendments in § 59.69, Wis. Stats. Plans for the proposed development shall be submitted to the Zoning Committee in the manner specified in Chapter 69 and shall show the locations size and proposed use of all structures and land included in the area involved. The plans may provide for a combination of single family and multi-family residential developments as well as other compatible uses. Each separate planned development shall consist of an area of not less than five (5) acres.
- C. Every such planned development shall be subject to review and consideration by the Zoning Committee with regard to its acceptability under this Section. The following criteria shall be applied to every proposed planned development as a basis for determining its consistency with the letter and spirit of this Chapter.
 - 1. Compatibility with the site, with particular emphasis on the preservation of natural features and the use of open space.
 - 2. Overall compatibility with existing land uses in the vicinity and with probable future land uses in the vicinity.
 - 3. The internal compatibility of the various land uses proposed to be included within the development.
 - 4. Compatibility with existing and probable future transportation facilities in the vicinity and its tendency to increase the demand upon those facilities.
 - 5. The provision of adequate internal circulation facilities, including streets, sidewalks and parking facilities within the development.
 - 6. Compatibility with existing and probable future public utility services and its tendency to increase demand upon these services.
 - 7. The development shall provide adequate open space, public access to streams and bodies of water, preservation of environmental and aesthetic values.
 - 8. The long term economic stability of the proposed development and its economic impact on other properties in the vicinity.
 - 9. The presentation of an adequate and practicable implementation schedule for completion of the development, whether by stages or all in one (1) period, in order to insure that the adverse results of failure to complete the development may be effectively avoided.

70.30 Rural Center District (RC).

- A. The Rural Center District is intended to meet the special needs and problems, which exist in areas of the County where relatively compact development has occurred, but where the size or density of the area is such that incorporation as a village is unlikely or inappropriate.
- B. In addition to the setbacks required in Section 70.17, all buildings shall have a minimum setback from all lot lines of ten (10) feet.
- C. Newly created lots and lots or parcels remaining after a land division shall provide a lot area of not less than thirty thousand (30,000) square feet and a minimum lot width of one

hundred (100) feet at the building line.

- D. The following uses shall be permitted in the Rural Center District:
 - 1. Any use permitted in the Residential District.
 - 2. Banks and similar services.
 - 3. Business and commercial offices and studios.
 - 4. Dental and medical clinics.
 - 5. Funeral homes.
 - 6. Laundromats.
 - 7. Retail stores – A.
 - 8. Food and beverage establishments.
 - 9. Home occupations.
- E. The following uses shall be permitted only upon issuance of a special exception permit:
 - 1. Any use listed as a permitted use in the Commercial – Business District.
 - 2. Any use listed as a Special Exception in any district except Commercial -Business and Industrial.

70.31 Cluster Development Overlay District (CD).

- A. The purpose of the Cluster Development Overlay District is designed to preserve the rural landscape character of the County by maintaining larger tracts of farmland and other areas of open land while providing for an opportunity to permit residential development. The intention being to design cluster developments in a manner that limits and reduces their impact on the scenic beauty of the County. Specific objectives are:
 - 1. To maintain the rural character of the County, to protect environmentally unique and sensitive areas and to discourage development in areas that contain steep slopes, floodplains and other areas depicted as environmental corridors in the County Comprehensive Plan.
 - 2. To preserve scenic views by limiting the visibility of developments from existing public roads.
 - 3. To encourage that the development of building sites be done in a manner that it is hidden through the use of natural features.
 - 4. To permit active and passive recreational use of Common Open Space by residents of the development and in some cases the public.
 - 5. To permit the continuation of agricultural uses in the Common Open Space when compatible with the development.
 - 6. To permit for various means for ownership of the Common Open Space.
 - 7. To implement the objectives of comprehensive plans both at the local and county level.
- B. A Cluster Development Overlay District option may be permitted in areas designated AG-2 or RP provided the minimum tract sizes listed under Section 70.31(H) are met.
- C. The maximum number of lots in a Cluster Development shall be determined by dividing the area of the tract of land by the minimum lot size in the underlying zoning district. In

making the calculation, the following shall not be included in the total area of the tract:

1. Area designated as floodway.
 2. Fifty percent (50%) of areas that meet the Department of Natural Resources definition of wetlands, where the tract proposed for development, contains more than five (5) acres of wetlands.
- D. The Common Open Space shall be protected in perpetuity by a binding legal instrument that is recorded with the deed. The instrument for permanent protection shall include clear restrictions on the use of the Common Open Space. These restrictions shall include notice that no further land divisions of the Common Open Space are permitted.
- E. Permitted Uses for residential lots within a Cluster Development:
1. Single family dwellings.
 2. Home occupation.
 3. Accessory buildings compatible with permitted uses.
 4. Bunkhouse/temporary guest quarters.
- F. On residential lots within a Cluster Development the following shall be permitted only on the issuance of a special exception permit:
1. Multiple family dwellings.
- G. Permitted uses for Common Open Space in a Cluster Development.
1. Agricultural use not to exceed five hundred (500) animal units, provided that agricultural buildings that house farm animals are a minimum of one hundred (100) feet from residences on neighboring properties and that the use complies with Section 70.15(J), along with agricultural accessory uses and structures.
 2. Water supply and POWTS for individual lots within the development or the entire development.
 3. Passive recreation areas, including but not limited to, hiking, biking and nature trails.
 4. Active recreation areas, including but not limited to, playing fields and playgrounds.
 5. Hunting.
- H. Density and Dimensional Standards.

Development standard	AG-2 District	RP District
Minimum tract size	40 acres	20 acres
Maximum density	1du/10 acres	1du/5 acres
Minimum lot area	30,000 sq ft	30,000 sq ft
Minimum lot width	100 ft	100 ft
Minimum setback	10 ft	10 ft
Minimum common open space	50 percent	50 percent

du=dwelling unit		
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Existing dwellings that may or may not be part of the farmstead shall be counted towards the total density.

I. Common Open Space Standards.

1. The Common Open Space in a Cluster Development is the area, which has been set aside for permanent protection and shall meet the following standards:
 - a. The required Common Open Space should include unique natural, cultural and historic features that are part of the site.
 - b. The Common Open Space should preserve significant wildlife habit areas.
 - c. The Common Open Space shall take into consideration any areas depicted as environment corridors in the County or local comprehensive plan.
 - d. At least seventy-five percent (75%) of the Common Open Space shall be in a contiguous tract. The common space shall adjoin any neighboring areas of common space, other protected areas, and non-protected natural areas that may potentially be included in future areas of common space.
 - e. Agriculture buildings and barnyards that are included in the Common Open Space shall be a minimum of one hundred (100) feet from any residential lot that is part of the Custer Development.
 - f. Except as provided in Section 70.31(J)(3), the Common Open Space shall be directly accessible to lots within the Cluster Development. Non-adjoining lots shall be provided with safe, convenient access to the Common Open Space.

J. Ownership and Maintenance of Common Open Space. The following methods may be used, either alone or in combination, to own Common Open Space and its facilities. Ownership may not be transferred unless it conforms to this Section.

1. Homeowners Association. Common Open Space shall be held in common ownership as undivided proportionate interest by the members of a homeowners' association, subject to the provisions set forth herein. The homeowners' association shall be governed according to the following:
 - a. The applicant shall provide to the County Zoning Administrator a description of the organization, including its by-laws, and all documents governing maintenance requirements and use restrictions for the Common Open Space.
 - b. The organization shall be established by the owner or applicant and shall be operating prior to the sale of any lots within the development.
 - c. Membership in the organization shall be mandatory for all purchasers within the development.
 - d. The organization shall be responsible for maintenance and insurance of the common open space and any facilities.
 - e. The organization shall have or hire adequate personnel to administer, maintain and operate the Common Open Space.
 - f. The applicant for any proposed Cluster Development shall arrange with the Town Assessor a method of assessment for the Common Open Space, which will allocate to each tax parcel within the development a share of the total tax assessment for the Common Open Space.

- g. Written notice of the proposed transfer of Common Open Space by the organization must be given to all members of the organization and the Town and the County at least thirty (30) days prior to the transfer.
- 2. Condominium Agreement. Common Open Space shall be controlled through the use of condominium agreement. Such agreements shall be approved by the County and shall comply with the requirements of Chapter 703, Wis. Stats. All Common Open Space and facilities shall be held as common elements by the unit owners in the form of undivided percentage interests in accordance with the condominium documents. A condominium association shall be formed to govern the affairs of the condominium and membership shall be mandatory
- 3. Ownership Retained by Original Landowner. Ownership of common Open Space may be retained by the original landowner provided that resident access to the land is limited only by agreement of the residents of the development, as indicated by documents signed at the time of purchase of individual lots.
- 4. Other methods acceptable and approved by the County Zoning Committee that fulfill the intentions of this Chapter.
- 5. Maintenance and Operation of Common Open Space. A plan and narrative for the use and maintenance of the Common Open Space shall be provided to the County Zoning Department.
- 6. In the event that the organization established to own and/or maintain the Common Open Space, or any successor thereto, fails to maintain all or any portion in reasonable order and condition in accordance with the development plan or applicable laws the County may serve notice upon said organization and owners of the Common Open Space. Such notice shall detail the manner in which the organization has failed to maintain the Common Open Space. Such notice shall set forth the required corrections and the timeline which the corrections need to be made.
- 7. Leasing of Common Open Space Lands. Common Open Space lands may be leased to another person or entity for use, operation and maintenance provided that:
 - a. The residents of the development shall at all times have access to such leased lands, except in the case where the residents, with their agreement, may be restricted from accessing lands.
 - b. The Common Open Space land to be leased is maintained for the purpose set forth in this Chapter.
 - c. The lease, and any transfer of assignment thereof, shall be subject to the approval of the County Zoning Committee.
 - d. The lease agreement is filed with the County Register of Deeds within thirty (30) days from the date it is executed.

70.32 Various Land Uses.

A. Mobile Home Park.

- 1. Mobile home park means a plot or plots of ground upon which three (3) or more units, which are mobile homes, as, defined herein, and occupied for dwelling purposes are located.
- 2. The minimum size of a mobile home park shall be ten (10) acres.
- 3. The maximum number of mobile homes shall be eight (8) per acre.

4. Minimum dimensions of a mobile home site shall be fifty (50) feet wide by one hundred (100) feet long.
 5. All drives, parking areas and walkways shall be surfaced.
 6. In addition to the requirements of this Chapter, there shall be a minimum setback of twenty-five (25) feet from all exterior lot lines.
 7. The parks shall conform to the requirements of the Wisconsin Administrative Code.
 8. Each mobile home site shall be separated from other mobile home sites by a yard not less than twenty (20) feet wide.
 9. There shall be two (2) surfaced automobile parking spaces for each mobile home.
 10. Unless adequately screened by existing vegetative cover, the mobile home park shall be screened by a temporary planting of fast growing material, capable of reaching a height of fifteen (15) feet, or more, the individual trees to be such a number and so arranged that within ten (10) years they will have formed a screen equivalent in capacity to a solid fence or wall. Such permanent planting shall be grown or maintained to a height of not less than ten (10) feet.
 11. Each mobile home park shall set aside at least five percent (5%) of the total area for a recreation area. This shall be in addition to yard or open spaces. The area shall be provided with play equipment furnished and maintained by the park owner.
 12. All mobile home parks shall comply with the County Sanitary Chapter.
- B. Trailer Camps, Campgrounds and Camping Resorts.
1. The minimum size shall be ten (10) acres.
 2. There shall be a maximum of twenty (20) sites per acre.
 3. Each site shall be a minimum of twenty-five (25) feet wide and forty (40) feet long.
 4. Each site shall be plainly marked.
 5. Each site shall be separated from other sites by a yard not less than fifteen (15) feet wide.
 6. There shall be one (1) automobile parking space for each site.
 7. In addition to the setbacks required in Section 70.17, there shall be a minimum setback of one hundred (100) feet from all lot lines.
 8. All shall comply with the Wisconsin Administrative Code.
 9. The screening provisions for mobile homes parks shall be met.
- C. Salvage Yards.
1. No salvage yard shall be permitted in the County except in conformance with a plan approved by the Township and when required, a Special Exception permit granted by the Board of Adjustment.
 2. Salvage yards shall also comply with the following provisions:
 - a. No material shall be stored within one thousand (1,000) feet of the right-of-way of a Class A highway, seven hundred fifty (750) feet of a Class B highway, five hundred (500) feet of a Class C highway, or within one hundred (100) feet of any side or rear lot lines.
 - b. All salvage dealers must also comply with the appropriate Wisconsin Statutes and

Administrative Code.

D. Recreational Dwellings.

1. In Zoning Districts that encourage recreational type activities and enumerate recreational dwellings as a permitted use, such dwelling shall meet the following standards:
 - a. The dwelling shall have a minimum dwelling width of twenty (20) feet and four hundred (400) square feet of year-round living area.
 - b. The lot shall be a minimum of five (5) acres.
 - c. A rural address sign shall be obtained for the lot.
 - d. The dwelling shall have potable water and an approved POWTS or non-plumbing sanitation system.
 - e. The property shall not be located in a platted subdivision.
 - f. The construction shall comply with the County Building and Mechanical Code requirements for a dwelling.
 - g. The exterior of the dwelling shall be completed, as depicted in the plans approved by the County Building inspector, within two (2) years from the date the original permit is issued.

70.33 Violations, Penalties, Remedial Action, Enforcement.

- A. Any building or structure hereinafter erected, moved or any use hereinafter established in violation of the provisions of this Chapter by any person, firm, association, corporation (including building contractors or his or their agent), shall be deemed an unlawful structure or use.
- B. It shall be the duty of the Zoning Administrator, acting under the supervision of the Zoning Committee to enforce the provisions of this Chapter. The Zoning Administrator is hereby delegated authority to enforce the provisions of this Chapter, including the power to delegate these duties to subordinates, inspect private premises, issue orders for abatement and take action to abate violations of this Chapter.
- C. Whenever in the judgment of the Zoning Administrator it is determined that a violation of the provisions of this Chapter is being committed, exists or is being maintained in the County, that officer may issue a written order of abatement ordering the person committing or maintaining said violation to cease and desist, remove the conditions or remedy the defects creating the violation. The order for abatement shall include the following information:
 1. The name and address of the owner, operator and/or occupant and description of the real estate involved.
 2. The nature of the violation and the steps necessary to abate or correct it.
 3. The time period in which the violation must be corrected and or abated which will be no less than five (5) days and not more than thirty (30) days depending on the nature of the violation. Allowance for limited extension of this time period may be permitted if warranted by extenuating circumstances as determined the Zoning Administrator.
 4. The order of abatement shall be served upon the person committing or maintaining the Zoning Violation by either certified mail or registered mail, or in the manner set forth for service of a summons in Chapter 801, Wis. Stats. If the premises are not occupied and the address of the owner if unknown and cannot be determined with

due diligence, service on the owner may be accomplished by posting a copy of the order of abatement in a prominent place on the premises. The order of abatement shall require the owner or occupant of such premises, or both, to take reasonable steps within a reasonable period of time to abate and remove the Zoning Violation. Whenever an investigation hereunder involves a search of private premises and the owner or other person having equal rights to the use and occupancy thereof does not consent thereto, and absent any exception to the warrant requirement, that officer shall apply to the Circuit Court of the County for a special inspection warrant pursuant to § 66.0119, Wis. Stats.

- D. Exceptions to the Written Orders. In cases where a violation poses an immediate risk of public health or safety as determined by the Zoning Administrator or in the case of repeated occurrences of the same violation by the same person, the violator shall be considered to be in non-compliance and subject to immediate action under Subsection E of this Section, without issuance of a written abatement order.
- E. Non-compliance with Written Orders. If a person does not comply with a written order from the Zoning Administrator or his/her designee, the violator may be subject to one (1) or more of the following actions and/or penalties:
 - 1. The issuances of a citation under Chapter 100.
 - 2. Commencement of legal action against the person seeking an injunction to abate the violation and/or correct the violation.
 - 3. Commencement of legal action against the person seeking a court-imposed forfeiture, court costs and/or the costs of abatement.
 - 4. The initiation of one action or penalty under this Section does not exempt the violator from any additional actions and/or penalties prescribed by law.
- F. Abatement of Zoning Violations. Where Zoning Violations as defined in this Chapter or in the Wisconsin Statutes are encountered on private property which require ordered abatement and/or correction, the Zoning Administrator shall serve on the responsible person a written order as per Section 70.33(C). If the violation is not abated and/or corrected within the time period specified in the order, the Zoning Administrator may enter upon the property and abate and/or correct the violation or cause such action to be taken. The cost of such abatement and/or correction is to be recovered either directly from the responsible party or as a special tax assessment on the property.
- G. Penalties. Chapter 100 sets forth the penalties for a violation of this Article. The Court may also grant injunctive relief. Failure to comply with an Order for Abatement issued under this Chapter in the time allowed shall constitute a separate violation of this Chapter, and each day of continued violation shall constitute a separate offense.
- H. Initiation of Legal Action. When there is not compliance with an Order for Abatement, legal action shall be initiated against a violator by issuance of a citation under Chapter 100 and referral to the County Corporation Counsel, or referral to the Corporation Counsel for issuance of a long form Summons and Complaint, in personam or in rem. The Corporation Counsel is hereby delegated the duty of prosecuting violations of this Chapter. The Corporation Counsel shall take steps to enforce this Chapter and the Order for Abatement by prosecuting the violation, seeking imposition of a forfeiture penalty, and/or seeking appropriate injunctive relief to abate the Zoning Violation and enjoin its continuation in the future, and/or recovery of the costs of abatement.
- I. Coordination with State or Federal Agencies. Where a Zoning Violation involves non-compliance with a Federal or State-enforced Statute or Administrative Code, the Zoning

Administrator may refer the complaint to the appropriate agency for abatement and/or correction in lieu of, or in addition to an enforcement action under this Chapter. If the violation continues without adequate enforcement from the Federal or State agency to cause abatement and/or correction, then the Zoning Administrator or his/her designee shall initiate action under this Section to bring about proper abatement and/or corrections.

70.34 Changes and Amendments.

- A. Whenever the public necessity, convenience, general welfare or good zoning practice require, the County Board of Supervisors may, by this Chapter, change the district boundaries or amend or supplement the regulations established by this Chapter in accordance with the provisions of the Wisconsin Statutes.
- B. A petition for amendment must be made pursuant to the procedures set forth in § 59.69(5)(e), Wis. Stats., and the provisions of that Statute must be followed before any amendment to this Chapter may be considered.
- C. Petition for any change to the district boundaries or amendments to the regulations shall be filed with the County Clerk, describe the premises to be rezoned or the regulations to be amended, list the reasons justifying the petition, specify the proposed use and have attached the following:
 1. Plot plan approved by the Zoning Administrator, showing the area proposed to be rezoned, its location, its dimensions, the location and classification of adjacent zoning districts and the location and existing use of all properties within three hundred (300) feet of the area proposed to be rezoned.
 2. Owner's names and addresses of all properties lying within three hundred (300) feet of the area proposed to be rezoned.
 3. Fee receipt from the Zoning Administrator.
- D. No land in the AG-1 district shall be rezoned to any other zoning district, except for the Farmland Preservation (FPO) overlay district, unless following a public hearing the County Board of Supervisors finds all of the following criteria are or will be met:
 1. The land is better suited for a use not allowed in the AG-1 district.
 2. The rezoning will not substantially impair or limit current or future agricultural use of the surrounding parcels of land that are zoned for or legally restricted to agricultural use.
 3. The rezoning is consistent with the applicable town and County comprehensive plans, including the farmland preservation plan component of the County Comprehensive Plan.
 4. Where the rezoning of land from the AG-1 district would enable one or more residences:
 - a. The owner of each 40 acres of land, and other parcels that are between 40 and 79 acres, shall be eligible for one single family residence, including any preexisting residence.
 - b. The owner of each smaller parcel of land zoned AG-1, if legally created before January 1, 2014, shall be eligible for one single family residence, including any preexisting residence.
 - c. The owner of at least two contiguous $\frac{1}{4}$ $\frac{1}{4}$ sections of land, and other lands in contiguous common ownership that are at least 80 acres, shall be able to rezone AG-1 zoned land for cluster(s) of single family residential lots at a density of one lot/residence for every 40 full acres, including any preexisting residence.

Landowners may develop one or more clusters, if acreage allows. Clusters may be located adjacent to other clusters on adjoining parcels in different ownership.

- d. Any balance of acreage used to enable rezoning for a single family lot/residence lot under subsections a. through c. must be rezoned to the FPO zoning district. Land in the FPO district cannot be used together with other land not in the FPO district to achieve the acreage normally necessary to build another single family residence under subsections a. through c.
- e. Each residence must be on a newly divided lot of between one and five acres created by a land division (e.g., CSM), except that the Zoning Administrator may relax this requirement where the residence is proposed on a sub-40 acre parcel legally created before January 1, 2014.
- f. The associated land division must be accompanied by a restriction on the further division of such lots and by a right-to-farm notice per the Comprehensive Plan, and such restriction and notice must be recorded prior to issuance of a zoning permit for the residence.
- g. Each newly created residential lot must abut a public road, or have an access easement approved by the Zoning Administrator and recorded against the affected parcel(s), prior to zoning permit issuance.
- h. The new residence shall not adversely affect agricultural operations in surrounding areas or be situated such that future inhabitants of the residence might be adversely affected by agricultural operations in surrounding areas.
- i. The new residence and the new driveway needed to serve the residence shall not divide existing farm fields, but instead shall be beyond the farm field or towards the edge of a farm field where location beyond the field is not practical.
- j. The proposed location of the new residence must not be well suited for agricultural use by virtue of being wooded, having unfavorable topography for farming, an odd shape for farming, unsuitable soil characteristics, or other factors that limit its agricultural suitability.

70.35 Definitions.

For the purpose of this Chapter, certain words are defined as follows: words used in the present tense include the future; words in the singular number include the plural numbers and words in the plural number include the singular number; the word “*building*” includes the word “*structure*” and the word “*shall*” is mandatory and not permissive.

A. Accessory Building.

A subordinate building or portion of the main building, the use of which is incidental to the permitted use of the main building. Mobile homes, semi-trailers, camping units, recreational vehicles, mobile office units, shipping containers, buses, motor coaches, trailers and boxcars shall not be used as accessory buildings. 30

B. Accessory Use.

A use on a lot that is incidental and subordinate to the principal use of the lot.

C. Adult Establishments.

Establishments which include, but not limited to, bookstores, clubs, motion picture theaters, bath houses, massage parlors, modeling and body painting studios and cabarets whose principal use is to depict, describe, engage in or relate to “*specified anatomical areas*” or “*specified sexual activities*”.

D. Agricultural Use.

Any of the following activities conducted for a purpose of earning an income or livelihood: crop or forage production; keeping livestock; beekeeping; nursery, sod, or Christmas tree production; floriculture, aquaculture, fur farming, forest management; enrolling land in a federal agricultural commodity payment program or a federal or state agricultural land conservation payment program.

E. Agricultural Accessory Structure.

A building, structure, or improvement that is (a) located on a farm, (b) subordinate to an Agricultural Use, and (c) either integral or incidental to an Agricultural Use. An Agricultural Accessory Structure may be located anywhere on lands in contiguous common ownership as these terms are defined in this section. A farm residence is not considered an Agricultural Accessory Structure. Agricultural Structures do include, but are not limited to:

1. A facility used to store or process raw agricultural commodities, all of which are produced on the farm.
2. A facility used to keep livestock on the farm.
3. A facility used to store or process inputs primarily for agricultural uses on the farm.
4. A wind turbine or solar energy facility that collects wind or solar energy on the farm, and uses or transforms it to provide energy primarily for use on the farm.
5. A manure digester, bio-fuel facility, or other facility that produces energy primarily from materials grown or produced on the farm, primarily for use on the farm.
6. A waste storage or processing facility used to store or process animal waste primarily from animals on the farm and subject to the County’s animal waste management ordinance.

F. Agricultural Accessory Use.

Any of the following land uses on a farm, which may be located anywhere on lands in contiguous common ownership as these terms are defined in this section 70.35(X):

1. A use, activity, or business operation that is an integral part of, or incidental to, an Agricultural Use, including filling, grading, and non-metallic mineral extraction for on-premise use only.
2. A business, activity, or enterprise, whether or not associated with an Agricultural Use, that is conducted by the owner or operator of a farm, that requires no buildings, structures, or improvements other than a Farm Residence or an Agricultural Accessory Structure, that employs no more than four (4) full-time employees annually, and that does not impair or limit the current or future agricultural use of the farm or of other protected farmland. Such activities include, but are not limited to:
 - a. Sale of agricultural and dairy products not produced on the premises and incidental sale of non-alcoholic beverages and snacks.
 - b. The seasonal storage of recreational equipment and motor vehicles owned by

private individuals other than those residing on the premises, but not including the storage of a dealer's inventory.

- c. Agricultural entertainment activities or events, farm related exhibitions, sales or events such as auctions, dairy breakfasts, exhibitions of farm machinery and technology, agricultural association meetings, and similar activities.
- d. Horse boarding stables, riding stables, hay and sleigh rides, and horse training facilities, including the sale of bridles, saddles, grooming supplies and related items at a horse boarding or riding stable facility.
- e. Kennels.
- f. Veterinary services.

G. Airfields.

A takeoff and landing area established for the sole use of the owner of the parcel and not open to the public or used for commercial operations.

H. Airports.

A takeoff and landing area established for use by the public or for commercial operations.

I. Animal unit.

One (1) animal unit shall be defined as being the equivalent of: one (1) horse over six (6) months of age; two (2) horses under six (6) months of age; two (2) llamas; two (2) alpacas or as defined under Administrative Code NR243.03(3) as of April 27, 2004. See *Appendix A* for calculation worksheet.

J. Apartment.

A room or suite of rooms located in the same building as a commercial business and intended to be designed for use as a residence by a single family.

K. Bed and Breakfast.

Establishments licensed as Bed and Breakfasts by the State of Wisconsin. Bed and Breakfast establishment means any place of lodging that provides four (4) or fewer rooms for rent to tourists or other transients for more than ten (10) nights in a twelve (12) month period, in the owner's personal residence, is occupied by the owner at the time of rental and in which the only meal served to guests is breakfast.

L. Boathouse.

Any structure designed for the purpose of protecting or storing boats for non-commercial purposes. Boathouses shall not be used for human habitation.

M. Building.

Anything constructed and designed to stand more or less permanently and occupying a space of land.

N. Building—Principal.

The main building on a lot, intended for primary use as permitted by the regulation of the Zone or district in which it is located.

O. Building Line.

A line established adjacent to highways for the purpose of defining limits within which

no building or structure of and part thereof shall be erected or permanently maintained, except as shown herein.

P. Bunkhouse/temporary guest quarters.

means an accessory structure or part of an accessory structure, which is located on a lot with a dwelling, with or without plumbing that is used as temporary sleeping quarters and does not have kitchen facilities.

Q. Campground.

A lot, parcel or tract of land maintained, intended or used for the purpose of supplying temporary or overnight living accommodations by providing designed areas for the placement of camping units, trailers, tents, buses, automobiles, trucks or sleeping bags, and may include buildings to provide services to patrons such as restrooms, bathing, laundry, recreation and commissary facilities.

R. Camping Unit.

Any portable device no more than four hundred (400) square feet in area, used as a temporary dwelling, including but not limited to a camping trailer, motor home, bus, park model, van, pick-up truck or tent.

S. Church.

A building, together with its necessary buildings and uses, where persons regularly assemble for religious worship and which buildings, together with its accessory buildings and uses is maintained and controlled by a religious body organized to sustain public worship.

T. Club.

See "Lodge".

U. Cluster Development.

A form of residential development that concentrates buildings or lots in one or more parts of the site to allow the remaining lands to be used for Common Open Space, recreation and preservation of environmentally sensitive features. The concentration of lots is facilitated by a reduction in lot size. A cluster development will consist of one (1) or more cluster groups surrounded by Common Open Space.

V. Common Ownership.

Any combination of contiguous parcels singly owned by one uniquely named entity as identified by deed. Such an entity includes, but is not necessarily limited to, an individual person, a married couple or family trust, or a partnership or corporation.

W. Community Living Arrangement.

Facilities licensed or operated or permitted under the authority of the Wisconsin Department of Health and Social Services, including child welfare agencies, group foster homes for children and community-based residential facilities.

X. Contiguous.

Any combination of parcels, lots, or other lands sharing a common boundary, including those that are directly across a public street, rail right-of-way, easement, or navigable river, stream, or creek.

Y. County Comprehensive Plan.

The Comprehensive Plan of Marquette County, Wisconsin, from time to time amended, as prepared and defined under Wisconsin Statutes, and which is intended to guide the physical development of the County over a 20 year planning period. The County Comprehensive Plan integrates a farmland preservation plan under Chapter 91, Wis. Stats.

Z. Day Care Centers.

A licensed facility in which care and supervision is provided for four (4) or more children under the age of seven (7) and less twenty-four (24) hours per day.

AA. District.

A portion or portions of the County for which regulations governing the use of land and building are uniform.

BB. Dwelling.

A detached building designed or used exclusively as a residence or sleeping place, but does not include boarding or lodging houses, motels, hotels, tents or trailers.

CC. Dwelling Width.

The narrowest dimension of a dwelling unit as measured on the exterior of the structure at the elevation of the first flood. When measuring the dwelling unit width of a manufactured home only those portions of the structure produced by the original manufacturer are included.

DD. Family Day Care Home.

A licensed facility located in a residential dwelling and operated by a resident family, providing care and supervision for four (4) to eight (8) children.

EE. Farm.

All land under contiguous common ownership that is primarily devoted to agricultural use.

FF. Farm Division Residences.

A residence that existed before January 1, 2014 and all of its accessory buildings, but which is no longer connected to the farm operation as a result of the sale of contiguous lands, often referred to as a farm consolidation.

GG. Farm Residence.

Either a single family residence that is occupied by a person who is both the owner and operator of the farm, a parent or child of an owner-operator of the farm, and/or an individual who earns more than 50 percent of his or her gross income from the farm; or a migrant labor camp that is certified under § 103.92, Wis. Stats.

HH. Fence.

A barrier intended to prevent escape or intrusion or to mark a boundary.

II. Food and Beverage Establishment.

An establishment whose principal business is the sale of food and/or beverages to customers in a ready-to-consume state on and/or off premises provided that all portions of the facility are approved and licensed by the Department of Health.

JJ. Frontage.

The smallest dimension of a lot abutting a public street measured along the street line.

KK. Forestry.

Managing forest lands and their related resources, including trees and other plants, animals, soil, water and air.

LL. Governmental Use.

Any building, land area or other premises, or a portion thereof, owned or used by a governmental entity with taxing authority under the State of Wisconsin, including: county, towns, municipal and State buildings, structures and properties.

MM. Home Based Business.³¹

A primarily family based business established on the same parcel as the business operator's one or two family home where the business is incidental and subordinate to the residential use, and where the business conducted would not detract from neighboring land uses, would not pose a threat to public safety, health or the environment, and where such business can be conducted in such a manner where it would not prevent the property from converting back to a residential use if the business were ever abandoned. A home based business would generally not have customers coming and going from the property and would have no outside storage unless approved by the Board of Adjustment. Home based businesses include construction and carpentry, landscaping, plumber, well and septic installers and other similar family run operations.

NN. Home Occupation.

Any occupation for gain or support conducted by resident occupants entirely in buildings provided the use does not alter the appearance of the premises, does not produce noise, vibration, light, odor, dust, smoke or other pollution detectable outside the parcel by persons with normal sensitivities, is not identifiable by an on-premises sign larger than six (6) square feet, and there is only one (1) such use on any lot. The use shall be incidental and subordinate to the primary or principal use of the property and no stock in trade shall be kept or sold except that made on the premises nor shall any non-resident be employed.

OO. Interchange.

A grade separated highway intersection with one or more turning lanes for travel between intersecting roads or highways.

PP. Kennel.

Premises where five (5) or more dogs, cats or other household pets, not including offspring below the age of six (6) months, are maintained, boarded, bred, trained or cared for in return for remuneration or are kept for the purpose of sale or adoption.

QQ. Kitchen facility.

A room or area of a room that includes kitchen fixtures such as cabinets, sinks, refrigerators, microwaves and stoves or other articles intended to be used for cooking.

RR. Livestock.

Domestic animals traditionally used in Wisconsin in the production of food, fiber, or

other animal products. Livestock includes bovine animals, equine animals, goats (except pigmy), poultry, sheep, swine (except potbellied pigs), farm-raised deer, farm-raised game birds, camelids, ratites, and farm-raised fish.

SS. Lodge.

Small mean of people organized for a common purpose to pursue common goals, interest or activities and usually characterized by certain membership qualifications, payment of dues, regular meeting and constitution and by-laws. Food and alcoholic beverages may be served on the premises provided such service is secondary and incidental to the principal use and that the use of the premises is restricted to members and their guests.

TT. Lot.

A parcel or tract of land defined by a metes and bounds, certified survey, recorded subdivision plat, or other legal means of description recorded with the Register of Deeds and separated from other lots by such description. Also referred to as "*lot of record.*"

UU. Lot, Corner.

A lot abutting on two (2) or more streets at their intersection.

VV. Lot Lines and Area.

The peripheral boundaries of a parcel of land and total area lying within such boundaries.

WW. Lot Depth.

The mean horizontal distance between the front and rear lot lines.

XX. Lot Width.

The distance between side lines of the lot at the building line.

YY. Man-Made Lake or Pond.

A body of water created by human activity where there are more than three (3) lots with riparian rights or ownership rights to that body of water.

ZZ. Manufacturing, Light.

The manufacturing, compounding, processing, assembling, packaging or testing of goods or equipment, including research activities, conducted entirely within an enclosed structure or an open yard, serviced by a modest volume of trucks or other service vehicles, and imposing a negligible impact on the surrounding environment by noise, vibration, smoke, dust or pollutants.

AAA. Manufacturing, Heavy.

The manufacturing, compounding, processing, packaging, treatment or assembly of products and materials that may emit objectionable and offensive influences beyond the lot on which the use is located. Such uses include, but are not limited to, the following: refineries, commercial feedlots, acid, cement, explosives, flour, seed and grain milling or storage, meat packing, coal or tar asphalt distillation, rendering of fat, grease, lard or tallow, alcoholic beverages, poisons, exterminating agents, glue or size, lime, gypsum, plaster of Paris, tanneries, paper and paper products, glass, chemicals, plastics, crude oil and petroleum products, vinegar works, foundry, forge, casting of metal products, rock, stone, and cement products.

BBB. Manufactured Home.

A structure that is designed to be used as a dwelling with or without a permanent foundation and this is certified by the Federal department of housing and urban development as complying with the standards established under § 42 USC 5401 to 5426.

CCC. Mini-Warehouse.

A secure storage facility consisting of individual compartments that are for rent or lease.

DDD. Mobile Home.

A vehicle manufactured or assembled before June 15, 1976, designed to be towed as a single unit or in sections upon a highway by a motor vehicle and equipped and used, or intended to be used, primarily for human habitation, with walls of rigid collapsible construction, which has an overall length in excess of forty-five (45) feet. *"Mobile home"* includes the mobile home structure, its plumbing, heating, air conditioning and electrical systems, all appliances and other equipment carrying a manufacturer's warranty.

EEE. Mobile Home Park.

A plot or plots of land upon which three (3) or more units, which are mobile homes are located and occupied as dwellings.

FFF. Motor Vehicle.

Any automobile, truck, truck-tractor, tractor, bus, vehicle or other conveyance that is self-propelled by an internal combustion engine or motor, which may be licensed for highway use.

GGG. Multi-Family Dwelling.

A building designed or intended to be used by more than two (2) families living independently of each other.

HHH. Nonconforming Use or Structure.

Any structure, land or water lawfully used, occupied or erected at the time of the effective date of this Chapter or amendments thereto which does not conform to the regulations of this Chapter or amendments thereto.

III. Non Plumbing Sanitation System.

Sanitation systems and devices within the scope of Wisconsin Administrative Code SPS 391, which are approved alternatives to water carried waste plumbing fixtures and drain systems; including, but not limited to, incinerating toilets, composting toilets and privies.

JJJ. Nursery School.

A use where care is provided for four (4) or more children under kindergarten age.

KKK. Ordinary Highwater Mark.

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

LLL. Parcel.

A piece of land which may or may not coincide with a lot of record.

MMM. POWTS.

Private Onsite Wastewater Treatment System, a sewage disposal system other than a public sewage disposal system, including septic tank, soil absorption systems, holding tanks and privately owned common sewage facilities.

NNN. Primary Residence.

Means the residence, whether owned or rented, that is used as the primary dwelling for income and property tax purposes.

OOO. Prime Farmland.

An area with a Class I, Class II, or Class III land capability classification as identified within the County Comprehensive Plan, or a more detailed soil survey for the affected property.

PPP. Property Owner.

A holder or proprietor of a parcel or parcels of land regardless of the number of individuals included on the deed for the property.

QQQ. Protected Farmland:

Lands that meet at least one of the following requirements:

1. Located in the AG-1 Prime Agricultural zoning district.
2. Covered by a farmland preservation agreement under Chapter 91, Wis. Stats.
3. Covered by an agricultural conservation easement under § 93.73, Wis. Stats.
4. Otherwise legally protected from nonagricultural development.

RRR. Private Park.

An area owned by an organization, such as a homeowners' association, which is operated for the convenience and recreation of the owners and other authorized individuals.

SSS. Public Park.

An area owned by the County or a municipality within the County, operated for the convenience and recreation of the public, and containing such facilities as the owning municipality shall see fit.

TTT. Quarrying.

The removal of rock, slate, gravel, sand, topsoil or other natural material from the earth by excavating, stripping, leveling or any other such process.

UUU. Recreational Dwelling.

A dwelling meeting the conditions of Section 70.32(D).

VVV. Resort.

A development consisting of three (3) or more recreational dwellings that provide living accommodations to the public for recreational or educational purposes with each dwelling unit meeting the requirements of Section 70.32.

WWW. Retail Store—A.

A business that specializes in the sale of goods and merchandise, which is located in a building that does not exceed ten thousand (10,000) square feet in floor area and is the only use located within the building.

XXX. Retail Store—B.

A business that specializes in the sale of goods and merchandise, which is located in a building that exceeds ten thousand (10,000) square feet in floor area and is the only use located within the building.

YYY. Roadside Stand.

A building used or intended to be used solely by the owner or tenant of the farm on which such building is located for the sale of farm products.

ZZZ. Salvage Yard.

An area consisting of buildings, structures or premises where junk, waste, discarded or salvage materials are bought, sold, exchanged, stored, baled, packed, disassembled or handled, including automobile salvage yards, as a for-profit operation, or in excess of normal residential use.

AAAA. Setback.

The minimum allowable horizontal distance from a given point or line of reference, such as a thoroughfare, right of way, water line or prospective line to the nearest vertical wall or other element of a building or structure.

BBBB. Shooting Range.

An area on private or public land designed and operated for the use of rifles, shotguns, pistols, silhouettes, skeet, trap, black powder, archery or any other similar shooting activities.

CCCC. Shorelands.

All lands lying within one thousand (1,000) feet of the normal high water mark of navigable lakes, ponds, flowages or within three hundred (300) feet of the normal high water mark of a river or stream, or to the landward side of a floodplain as designated in the Shoreland Zoning Code Chapter.

DDDD. Sign.

A display, device, notice, figure, painting, drawing, message, placard, poster, billboard or other thing, which is designed, intended or used to advertise or inform any part of the advertising or informative contents of which is visible from a private or public road or neighboring property.

EEEE. Single Family Dwelling.

A residential building containing one (1) dwelling unit.

FFFF. Specified Anatomical Areas.

Less than completely and opaquely covered human genitals, pubic regions, buttocks, female breast below a point immediately above the top of the areola and human male genitals in a discernibly turgid state even if completely or opaquely covered.

GGGG. Specified Sexual Activities.

Activities where human genitals are in a state of sexual stimulation or arousal; acts of

masturbation, sexual intercourse or sodomy, fondling or other erotic touching of the human genitals, pubic region, buttocks or female breast.

HHHH. Structure.

A structure includes any manmade object with form, shape and utility, either permanently or temporarily attached to, placed upon or in the ground, or an attachment to something on a premises, including but not limited to dwellings, accessory buildings, additions, decks, platforms, porches, balconies, gazebos, boathouses, stairs, walkways, sidewalks, piers, wharves, patios, bridges and retaining walls.

IIII. Structural Alteration.

Any change in the supporting members of a structure, such as walls, columns, beams, girders or any substantial change in the roof and exterior walls in excess of one thousand dollars (\$1,000.00) value.

JJJJ. Substandard Lot.

A substandard lot is one that does not conform to the dimensional requirements of this Code.

JJJJ.1 Substantial Evidence.

Substantial evidence means facts and information, other than merely personal preferences or speculation, directly pertaining to the requirements and conditions an applicant must meet to obtain a special exception permit and that a reasonable person would accept in support of a conclusion. Public comment that provides reasonable facts and information is acceptable to establish substantial evidence.³²

KKKK. Trail.

A designated land corridor that provides recreational, aesthetic, alternate transportation or educational opportunities to both motorized and non-motorized users.

LLLL. Unnecessary Hardship.

That circumstance where special conditions, which were not self-created, affect a particular property and make strict conformity with restrictions governing area, setbacks or frontage unnecessarily burdensome or unreasonable in light of the purpose of this Chapter.

MMMM. Use.

The purpose or activity for which the land or buildings thereon is designed, arranged or intended or for which it is occupied or maintained.

NNNN. Utilities.

Shall mean public and private facilities such as water wells, water and sewage pumping stations, water storage tanks, power and communication transmission lines, electrical power substations, static transformer stations, telephone and telegraph stations.

OOOO. Variance.

A departure from the terms of this Chapter as applied to a specific building, structure or parcel of land, which the Board of Adjustment may permit, contrary to the regulations of the Chapter for the district in which such building or structure or parcel is located. When the Board finds, after a public hearing that a literal application of such regulation will effect a limitation on the use of the property, which does not generally apply to other properties in the same district, and for which there is no compensating gain to the public health, safety or welfare. A variance shall not permit a use, which is not permitted in the district in which it is proposed.

Article III - Floodplain Zoning.

70.36 Statutory Authorization, Finding of Fact, Purpose, and Title.

This Chapter is adopted pursuant to the authorization in §§ 59.69, 59.692, and 59.694, Wis. Stats., and the requirements in § 87.30, Wis. Stats.

- A. 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.
- B. Statement of Purpose. To regulate development in flood hazard areas to protect life, health and property, the governing body does ordain:
 - 1. The purpose of these rules is to provide a uniform basis for the preparation, implementation and administration of sound floodplain regulations for all floodplains within the unincorporated lands of the County 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.
- C. Title. This Chapter shall be known as the Floodplain Zoning Chapter for the County.

70.37 General Provisions.

- A. Areas to be Regulated. This Chapter 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 (1) map or revision is referenced, the most restrictive information shall apply.
- B. Official Maps and Revisions. 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 70.44) before it is effective. No changes to RFE's on non-FEMA maps shall be effective until approved by the DNR. These maps and revisions are on file in the office of the County Zoning Administrator. If more than one (1) map or revision is referenced, the most current approved information shall apply.

1. Official Maps: Based on the FIS

- a. Flood Insurance Rate Map (FIRM), community number 550601 dated December 18, 2012 with corresponding profiles that are based on the Flood Insurance Study (FIS) 55077CV00A dated December 18, 2012. Panel Numbers:

55077C0010D, 55077C0015D, 55077C0019D, 55077C0020D, 55077C0030D,
55077C0035D, 55077C0038D, 55077C0040D, 55077C0045D, 55077C0055D,
55077C0060D, 55077C0065D, 55077C0070D, 55077C0080D, 55077C0085D,
55077C0090D, 55077C0095D, 55077C00110D, 55077C00112D, 55077C00114D,
55077C00115D, 55077C00119D, 55077C00120D, 55077C00130D, 55077C00135D,
55077C00138D, 55077C00139D, 55077C00140D, 55077C00141D, 55077C00142D,
55077C00143D, 55077C00144D, 55077C00153D, 55077C00154D, 55077C00161D,
55077C00162D, 55077C00163D, 55077C00164D, 55077C00166D, 55077C00168D,
55077C00169D, 55077C00179D, 55077C00180D, 55077C00187D, 55077C00188D,
55077C00189D, 55077C00191D, 55077C00193D, 55077C00205D, 55077C00207D,
55077C00210D, 55077C00215D, 55077C00218D, 55077C00219D, 55077C00220D,
55077C00226D, 55077C00227D, 55077C00229D, 55077C00233D, 55077C00235D,
55077C00238D, 55077C00239D, 55077C00240D, 55077C00241D, 55077C00242D,
55077C00243D, 55077C00244D, 55077C00256D, 55077C00257D, 55077C00260D,
55077C00265D, 55077C00270D, 55077C00276D, 55077C00280D, 55077C00290D

Approved by: Wisconsin DNR and FEMA

2. Official Maps: Based on other studies

- a. Harrisville Dam-Dam Failure Hydraulic Shadow Map title "Town of Harris Harrisville Dam Hydraulic Shadow and 100 year No Dam in place Delineation" from study dated November 1997.

Prepared by Mead and Hunt and approved by Wisconsin DNR on July 13, 1998.

- b. Lake Emery Dam-Dam Failure Hydraulic Shadow, Study title "Lake Emery "Richards Mill" Dam Marquette County, Wisconsin" dated June 28, 2010, prepared by Vierbicher Associates, Inc. and approved by the Wisconsin DNR on November 9, 2010.

Map titled "Lake Emery Dam failure Analysis-Hydraulic Shadow Map" Floodway data table titled "HEC-RAS Plan 07 River: Lake Emery Reach 1 Profile 1"

- c. Briggsville Dam-Dam Failure Hydraulic Shadow Study titled "Town of Douglas

Briggsville Dam on Mason Lake Dam Break Analysis” dated March 1992 and amended May 1992. Prepared by Mid-State Associates and approved by the Department on November 17, 1992. Map title “Location Sketch Briggsville Dam Mason Lake.” Flood profile titled “Flood Crest Summary River Bottom and Peak Water Surface Profile.”

- d. Neshkoro Dam-Dam Failure Hydraulic Shadow. Study titled “Dam Failure Analysis and Assessment for Neshkoro Dam dated March 2014. Prepared by General Engineering Co. and approved by the Wisconsin DNR on March 6, 2014. Map titled “DFA Site Map Dam Failure Analysis Village of Neshkoro. Floodway data table titled “Exhibit 3 Floodway Data for Dam Failure Condition.” Profile titled “Exhibit 4 Dam Failure Condition Profile.”
- e. Lake of the Woods Dam, Dam Failure Hydraulic Shadow. Study titled “Dam Failure Analysis and Assessment for the Lake of the Woods Dam.” dated December 31, 2014, prepared by General Engineering Co. and approved by the Wisconsin DNR on January 14, 2014. Map titled “Exhibit 2 100-yr Flood Map-Dam Failure Condition.” Floodway data table titled “Exhibit 4 Floodway Data for Dam Failure Condition.” Profile titled “Exhibit 5-No Fail, Dam Nonexistent and Failure Profile Comparison.
- f. Lawrence Lake Dam-Dam Failure Hydraulic Shadow. Study titled “Hydraulic Shadow Lawrence Lake” date April 22, 1987. Prepared by Donohue and Associates and approved by the Department on July 2, 1987. Map titled “Attachment 11 Hydraulic Shadow Floodplain Westfield Creek Marquette County.” Profile titled “Attachment 10 Westfield Creek Flood Profiles.”
- g. Lower Germania Dam-Dam Failure Hydraulic Shadow. Study titled “Lower Germania Dam” dated June 1, 2013. Prepared by Mach IV and approved by the Wisconsin DNR on November 10, 2014. Map titled “Lower Germania Dam Failure Analysis FP-3. Profiles titled “Lower Germania Dam Failure Analysis sheets HP-1 thru HP12.” Flood data table titled “HEC-RAS Plan Dam fail River; Mekan Reach; Germania Profile 16 May 2008.”
- h. Grand River Marsh Dam-Dam Failure Hydraulic Shadow. Study titled “Grand River Marsh Dam Marquette County Dam Failure Analysis dated September 1990 with revisions on February 1991 and October 22, 1991. Prepared by the US Army Corp of Engineers and approved by the Wisconsin DNR on October , 1991. Map titled “Floodplain Delineation Plate 5.” Profile titled “Grand River Marsh Dam Break Plate 4.” Revision Memo Dated October 2, 1991. Revision Map FIRM Panel 150 of 150 with Floodway table Dated September 27, 1991.
- i. Duffy’s Marsh Dam-Dam Failure Hydraulic Shadow. Study titled “Hydraulic and Hydrology Analysis for Duffy’s Marsh Dam” dated May 24, 2001. Prepared by NRCS and approved by the Wisconsin DNR on August 1, 2001. Map titled “Duffy’s Marsh 100 year Dam Failure Boundary” dated May 24, 2001. Profile titled “HEC-RAS Generated Water Surface Profile For Dam Failure” dated May 24, 2001. Floodway data table titled “Dam Failure Flood Profile” dated May 24, 2001.

C. Establishment of Districts.

1. The regional floodplain areas are divided into three 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 with AE Zones on the FIRM;

- b. The Flood Fringe District (FF) is that portion of the floodplain between the regional flood limits and the floodway and displayed as AE Zones on the FIRM;
- c. The General Floodplain District (GFP) includes all areas that have been or 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.

D. Locating Floodplain Boundaries.

- 1. Discrepancies between boundaries on the official floodplain zoning map and actual field conditions shall be resolved using the criteria in Subparagraphs (2) or (3) below. If a significant difference exists, the map shall be amended according to Section 70.45. The Zoning Administrator can rely on a boundary derived from a profile elevation to grant or deny a zoning permit, whether or not a map amendment is required. The Zoning Administrator shall be responsible for documenting actual pre-development field conditions and the basis upon which the district boundary was determined and for initiating any map amendments required under this Chapter. Disputes between the Zoning Administrator and an applicant over the district boundary line shall be settled according to this Chapter.
- 2. 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.
- 3. Where flood profiles do not exist, the location of the boundary shall be determined by the map scale, visual on-site inspection and any information provided by the Department.

E. Removal of Lands from Floodplain. Compliance with the provisions of this Chapter shall not be grounds for removing land from the floodplain unless it is filled at least two (2) 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 70.45.

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

G. Municipalities and State Agencies Regulated. Unless specifically exempted by law, all cities, villages, towns, and counties are required to comply with this Chapter and obtain all necessary permits. State agencies are required to comply if § 13.48(13), Wis. Stats., applies. The construction, reconstruction, maintenance and repair of state highways and bridges by the Wisconsin Department of Transportation is exempt when § 30.2022(4)(a), Wis. Stats., applies.

H. Abrogation and Greater Restrictions.

- 1. This Chapter supersedes all the provisions of any municipal Zoning Chapter enacted under §§ 59.69, 59.692 or 59.694, Wis. Stats., relating to floodplains. If another Chapter is more restrictive than this Chapter, that Chapter shall continue in full force and effect to the extent of the greater restrictions, but not otherwise.
- 2. This Chapter is not intended to repeal, abrogate or impair any existing deed restrictions, covenants or easements. If this Chapter imposes greater restrictions, the provisions of this Chapter shall prevail.

I. Interpretation. In their interpretation and application, the provisions of this Chapter 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 Chapter, required by Chapter NR 116, Wisconsin Administrative Code, is unclear, the provision shall be interpreted in light of the standards in effect on the date of the adoption of this Chapter or in effect on the date of the most recent text amendment to this Chapter.

- J. **Warning and Disclaimer of Liability.** The flood protection standards in this Chapter are based on engineering experience and scientific research. Larger floods may occur or the flood height may be increased by man-made or natural causes. This Chapter does not imply or guarantee that non-floodplain areas or permitted floodplain uses will be free from flooding and flood damages. Nor does this Chapter create liability on the part of, or a cause of action against, the municipality or any officer or employee thereof for any flood damage that may result from reliance on this Chapter.
- K. **Severability.** Should any portion of this Chapter be declared unconstitutional or invalid by a court of competent jurisdiction, the remainder of this Chapter shall not be affected.
- L. **Annexed Areas for Cities and Villages.** The 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 a chapter that meets the requirements of Chapter NR 116, Wisconsin Administrative Code and the National Flood Insurance Program (NFIP). These annexed lands are described on the municipality's official zoning map. The County floodplain zoning provisions are incorporated by reference for the purpose of administering this Section and are on file in the office of the Zoning Administrator. All plats or maps of annexation shall show the regional flood elevation and the location of the floodway.
- M. **General Development Standards.** The community shall review all permit applications to determine whether proposed building sites will meet the requirements of this Chapter. If a proposed building site is in a flood-prone area, all new construction and substantial improvements shall be designed or modified and adequately anchored to prevent flotation, collapse or lateral movement of the structure resulting from hydrodynamic and hydrostatic loads; be constructed with materials resistant to flood damage; be constructed by methods and practices that minimize flood damages; and be constructed with electrical, heating, ventilation, plumbing and air conditioning equipment and other service facilities designed and/or located so as to prevent water from entering or accumulating within the components during conditions of flooding.

Subdivisions shall be reviewed for compliance with the above standards. All subdivision proposals (including manufactured home parks) shall include regional flood elevation and floodway data for any development that meets the subdivision definition of this ordinance and all other requirements in s. 70.43(C). 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.

70.38 General Standards Applicable to All Floodplain Districts.

The community shall review all permit application 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 70.43(C). 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.

A. Hydraulic and Hydrologic Analyses.

1. No floodplain development shall:
 - a. Obstruct flow, defined as development which blocks the conveyance of floodwaters by itself or with other development, increasing regional flood height; or
 - b. Cause any increase in the regional flood height due to floodplain storage area lost.
2. The Zoning Administrator shall deny permits if it is determined the proposed development will obstruct flow or cause any increase regional flood heights, based on the officially adopted FIRM or other adopted map, unless the provisions of Section 70.44 are met.

B. Watercourse Alterations.

1. No land use permit to alter or relocate a watercourse in a mapped floodplain shall be issued until the local zoning official has notified in writing all adjacent municipalities, the DNR and FEMA regional offices and require the applicant to secure all necessary state and federal permits. The standards of Section 70.38(A) must be met and the flood carrying capacity of any altered or relocated watercourse shall be maintained.
2. As soon as is practicable, but not later than six (6) months after the date of the watercourse alteration or relocation, and pursuant to Section 70.44, 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.

C. Sections 30 and 31, Wis. Stats., Development. Development that requires a permit from the DNR, under §§ 30 and 31, Wis. Stats., such as docks, piers, wharves, bridges, culverts, dams and navigational aids, may be allowed if the necessary permits are obtained and amendments to the floodway lines, water surface profiles, BFE's established in the FIS, or other data from the officially adopted FIRM, or other floodplain zoning maps or the Floodplain Zoning Chapter are made according to Section 70.44.

D. Public or Private Campgrounds.

1. Public or private campgrounds shall have a low flood damage potential and shall meet the following provisions:
 - a. The campground is approved by the Department of Health and Family Services;
 - b. A special exception permit has been issued by the Board of Adjustment for campgrounds starting operations after the effective date of this Chapter;
 - c. The character of the river system and the elevation of the campground is such that a seventy-two (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 County Emergency Government Coordinator and the chief law enforcement official which specifies the flood elevation at which evacuation shall occur, personnel responsible for monitoring flood elevations, types of warning systems to be used and the procedures for notifying at-risk parties, and the methods and personnel responsible for conducting the evacuation;
- e. This agreement shall be for no more than one (1) calendar year, at which time the agreement shall be reviewed and updated by the officials identified in Subsection (D) to remain in compliance with all applicable regulations, including those of the Wisconsin Department of Health and Family 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 one hundred eighty (180) consecutive days, at which time the camping unit must be removed from the floodplain for a minimum of twenty-four (24) hours.
- h. All camping units that remain on site for more than thirty (30) days shall be issued a limited authorization by the campground operator, a written copy of which is kept on file at the campground. Such authorization shall allow placement of a camping unit for a period not to exceed one hundred eighty (180) days and shall ensure compliance with all the provisions of this Chapter;
- 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 one hundred eighty (180) consecutive days must meet the applicable requirements in either Section 70.39 or Section 70.40 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, natural gas lines, propane tanks, private onsite wastewater treatment systems and wells shall be properly anchored and placed at or floodproofed to the flood protection elevation.

70.39 Floodway District (FW).

- A. Applicability. This Section applies to all floodway areas on the floodplain zoning maps and those identified pursuant to Section 70.41(D).
- B. Permitted Uses.
 - 1. The following open space uses are allowed in the Floodway District and the floodway areas of the general Floodplain District provided that they are not prohibited by any other Chapter, and provided they meet the standards in Section 70.39(C) and Section 70.39(C)(5), and provided that all permits or certificates have been issued according to Section 70.44.
 - a. Agricultural uses, such as: farming, outdoor plant nurseries, horticulture, viticulture and wild crop harvesting.

- b. Nonstructural industrial and commercial uses, such as loading areas, parking areas and airport landing strips.
 - c. Nonstructural recreational uses, such as golf courses, tennis courts, archery ranges, picnic grounds, boat ramps, swimming areas, parks, wildlife and nature preserves, game farms, fish hatcheries, shooting, trap and skeet activities, hunting and fishing areas and hiking and horseback riding trails, subject to the fill limitations of Section 70.39(C)(4).
 - d. Uses or structures accessory to open space uses, or classified as historic structures that comply with Section 70.39(C) and Section 70.39(C)(5).
 - e. Extraction of sand, gravel or other materials that comply with Section 70.39(C)(4).
 - f. Functionally water-dependent uses, such as docks, piers or wharves, dams, flowage areas, culverts, navigational aids and river crossings of transmission lines, and pipelines that comply with §§ 30 and 31, Wis. Stats.
 - g. Public utilities, streets and bridges that comply with Section 70.39(C)(3).
- C. Standards for Developments in Floodway Areas.
- 1. General.
 - a. Any development in floodway areas shall comply with Section 70.38 and have minimal flood damage potential.
 - b. Applicants shall provide the following data to determine the effects of the proposal according to Section 70.38(A):
 - i. A cross-section elevation view of the proposal, perpendicular to the watercourse, showing if the proposed development will obstruct flow; or
 - ii. An analysis calculating the effects of this proposal on regional flood height.
 - c. The Zoning Administrator shall deny the permit application if the project will increase flood elevations upstream or downstream, based on the data submitted for Subparagraph (ii) above.
 - 2. Structures.
 - a. 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:
 - i. The structures are not designed for human habitation, do not have a high flood damage potential and is constructed to minimize flood damage;
 - ii. Shall have a minimum of two (2) openings on different walls having a total net area not less than one (1) square inch for every square foot of enclosed area, and the bottom of all such openings being no higher than one (1) 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.
 - iii. Structures must be anchored to resist floatation, collapse and lateral movement.
 - iv. Mechanical and utility equipment must be elevated or flood proofed to or above the flood protection elevation; and
 - v. It must not obstruct flow of flood waters or cause any increase in flood levels

during the occurrence of the regional flood.

3. Public Utilities, Streets and Bridges.
 - a. Public utilities, streets and bridges may be permitted, if:
 - i. Adequate floodproofing measures are provided to the flood protection elevation; and
 - ii. Construction meets the development standards of Section 70.38(A).
4. Filling and Deposition of Materials.
 - a. Fills or deposition of materials may be permitted, if:
 - i. The requirements of Section 70.38(A) are met;
 - ii. No material is deposited in the navigable channel unless a permit is issued by the Department pursuant to § 30, Wis. Stats., and a permit pursuant to Section 404 of the Federal Water Pollution Control Act, Amendments of 1972, 33 U.S.C. 1344 has been issued, if applicable and the other requirements of this Section are met;
 - iii. The fill or other materials will be protected against erosion by riprap, vegetative cover, sheet piling or bulkheading; and
 - iv. The fill is not classified as a solid or hazardous waste material.
5. Prohibited Uses.
 - a. All uses not listed as permitted uses in Section 70.39(B) are prohibited, including the following uses:
 - i. Habitable structures, structures with high flood damage potential, or those not associated with permanent open-space uses;
 - ii. Storing materials that are buoyant, flammable, explosive, injurious to property, water quality, or human, animal, plant, fish or other aquatic life;
 - iii. Uses not in harmony with or detrimental to uses permitted in the adjoining districts;
 - iv. Any private or public wastewater treatment system, except portable latrines that are removed prior to flooding and systems associated with recreational areas and campgrounds approved by the Wisconsin Department of Health and Family Services that meet the applicable provisions of local ordinances and Chapter SPS 383, Wisconsin Administrative Code.
 - v. Any public or private wells that are used to obtain potable water, except those for recreational areas that meet the requirements of local ordinances and Chapters NR 811 and NR 812, Wisconsin Administrative Code;
 - vi. Any solid or hazardous waste disposal sites;
 - vii. Any wastewater treatment ponds or facilities, except those permitted under Section NR 110.15(3)(b), Wisconsin Administrative Code;
 - viii. 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.

70.40 Flood Fringe District (FF).

- A. Applicability. This Section applies to all flood fringe areas shown on the floodplain zoning maps and those identified pursuant to Section 70.41(D).
- B. Permitted Uses. Any structure, land use, or development is allowed in the Flood Fringe District if the standards in Section 70.40(C) are met, the use is not prohibited by this or any other Chapter or regulation and all permits or certificates specified in Section 70.43 have been issued.
- C. Standards for Development in flood fringe Areas. All of the provisions of Section 70.38(A) shall apply in addition to the following requirements according to the use requested. Any existing structure in the flood fringe must meet the requirements of Section 70.42.
- D. Residential Uses.
 - 1. Any structure, including a manufactured home, which is to be newly constructed or moved into the flood fringe area, shall meet the following standards. Any existing structure in the floodfringe must meet the requirements of Section 70.42 Non-conforming uses:
 - a. The elevation of the lowest floor, excluding the basement or crawlway, shall be at or above the flood protection elevation on fill. The fill shall be one (1) foot or more above the regional flood elevation extending at least fifteen (15) feet beyond the limits of the structure;
 - b. The basement or crawlway floor may be placed at the regional flood elevation if it is floodproofed to the flood protection elevation. No basement or crawlway floor is allowed below the regional flood elevation;
 - c. Contiguous dryland access shall be provided from a structure to land outside of the floodplain, except as provided in Subparagraph (d);
 - d. In developments where existing street or sewer line elevations make compliance with Subparagraph (c) impractical, the municipality may permit new development and substantial improvements where access roads are at or below the regional flood elevation, if:
 - i. The municipality has written assurance from police, fire and emergency services that rescue and relief will be provided to the structure(s) by wheeled vehicles during a regional flood event; or
 - ii. The municipality has a natural disaster plan approved by Wisconsin Emergency Management and the Department.
- E. Accessory Structures or Uses. Accessory structures shall be constructed on fill with the lowest floor at or above the regional flood elevation.
- F. Commercial Uses. Any commercial structure, which is erected, altered, or moved into the flood fringe area, shall meet the requirements of Section 70.40(D). Subject to the requirements of Section 70.40(H), 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.
- G. Manufacturing and Industrial Uses. Any manufacturing or industrial structure which is erected, altered or moved into the flood fringe area shall have the lowest floor elevated to or above the flood protection elevation or meet the floodproofing standards in **Section 70.43(G)**. Subject to the requirements of Section 70.40(H), 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.

- H. 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 70.43(G). Adequate measures shall be taken to ensure that such materials will not enter the water body during flooding.
- I. Public Utilities, Streets and Bridges. All utilities, streets and bridges shall be designed to be compatible with comprehensive floodplain development plans; and
 - 1. When failure of public utilities, streets and bridges would endanger public health or safety, or where such facilities are deemed essential, construction of and substantial improvements to such facilities may only be permitted if they are floodproofed in compliance with Section 70.43(G) to the flood protection elevation;
 - 2. Minor roads or nonessential utilities may be constructed at lower elevations if they are designed to withstand flood forces to the regional flood elevation.
- J. Private Onsite Wastewater Treatment (POWTS). All POWTS shall be floodproofed, pursuant to Section 70.43(G), to the flood protection elevation and shall meet the provisions of all local ordinances and Chapter SPS 383, Wisconsin Administrative Code.
- K. Wells. All wells shall be floodproofed, pursuant to Section 70.43(G), to the flood protection elevation and shall meet the provisions of Chapters NR 811 and NR 812, Wisconsin Administrative Code.
- L. Solid Waste Disposal Sites. Disposal of solid or hazardous waste is prohibited in flood fringe areas.
- M. Depositions of Materials. Any deposited material must meet all the provisions of this Chapter.
- N. 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 flood fringe in Section 70.40(D).
- O. Mobile Recreational Vehicles. All mobile recreational vehicles that are on site for one hundred eighty (180) consecutive days or more or are not fully licensed and ready for highway use shall meet the elevation and anchoring requirements in Section 70.40(N). 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.

70.41 General Floodplain Districts.

- A. Applicability. The provisions for this District shall apply to all floodplains mapped as A, AO

or AH zones.

B. Permitted Uses.

1. Pursuant to Section 70.41(D), it shall be determined whether the proposed use is located within a floodway or flood fringe area.
2. Those uses permitted in floodway (Section 70.39(B)) and flood fringe areas (Section 70.40(B)) are allowed within the general Floodplain District, according to the standards of Section 70.41(C), provided that all permits or certificates required under Section 70.43 have been issued.

C. Standards for Development in the General Floodplain District. Section 70.39 applies to floodway areas; Section 70.40 applies to flood fringe areas. The rest of this Chapter applies to either District.

1. In AO/AH Zones, the structure's lowest floor must meet one of the conditions listed below whichever is higher:
 - a. At or above the flood protection elevation; or
 - b. Two (2) feet above the highest adjacent grade around the structure; or
 - c. The depth as shown on the FIRM.
2. In AO/AH Zones, provide plans showing adequate drainage paths to guide floodwaters around structures.

D. Determining Floodway and Flood Fringe Limits.

1. Upon receiving an application for development within the general Floodplain District, the Zoning Administrator shall:
 - a. Require the applicant to submit two (2) copies of an aerial photograph or a plan which shows the proposed development with respect to the general Floodplain District limits, stream channel, and existing floodplain developments, along with a legal description of the property, fill limits and elevations, building floor elevations and flood proofing measures; 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:
 - i. A hydrologic and Hydraulic Study as specified in Section 70.43(C)(1)(c).
 - ii. 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;
 - iii. Specifications for building construction and materials, floodproofing, filling, dredging, channel improvement, storage, water supply and sanitary facilities.

70.42 Nonconforming Uses.

- A. Applicability. If these standards conform with § 59.69(10), Wis. Stats., they shall apply to all modifications or additions to any nonconforming use or structure and to the use of any structure or premises which was lawful before the passage of this Chapter or any amendment thereto.
- B. Legal Non-Conforming Structures and Uses.

1. The existing lawful use of a structure or its accessory use, which is not in conformity with the provisions of this Chapter, may continue subject to the following conditions:
 - a. No modifications or additions to a nonconforming use or structure shall be permitted unless they comply with this Chapter. 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.
 - b. If a nonconforming use or the use of a nonconforming structure is discontinued for twelve (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 Chapter;
 - c. The County Zoning Department shall keep a record which lists all nonconforming uses and nonconforming structures, their present equalized assessed value, the cost of all modifications or additions which have been permitted after the effective date of this Chapter, and the percentage of the structure's total current value those modifications represent;
 - d. No modification or addition to any nonconforming structure or any structure with a nonconforming use, which over the life of the structure would exceed fifty percent (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 Chapter. Contiguous dry land access must be provided for residential and commercial uses in compliance with Section 70.40(D). The costs of elevating a nonconforming building or a building with a nonconforming use to the flood protection elevation are excluded from the provisions of this Paragraph;
 - e. No maintenance to any nonconforming structure or any structure with a nonconforming use, the cost which would equal or exceed fifty percent (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 Chapter. Contiguous dry land access must be provided for residential and commercial uses in compliance with Section 70.40(D).
 - f. If on a per event basis the total value of the work being done under Subsections (d) and (e) equals or exceeds fifty percent (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 Chapter. Contiguous dry land access must be provided for residential and commercial uses in compliance with Section 70.40(D).
 - g. Except as provided in Subsection (h), if any nonconforming structure or any

structure with a nonconforming use is destroyed or is substantially damaged, it cannot be replaced, reconstructed or rebuilt unless the use and the structure meet the current Chapter requirements. A structure is considered substantially damaged if the total cost to restore the structure to its pre-damaged condition exceeds fifty percent (50%) of the structure's present equalized assessed value.

- h. For nonconforming buildings that are substantially damaged or destroyed by a nonflood disaster, the repair or reconstruction of any such nonconforming 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.

- 1. Residential Structures.

- a. Shall have the lowest floor, including basement, elevated to or above base flood elevation using fill, pilings, columns, posts or perimeter walls. Perimeter walls must meet the requirements of Section 70.43(G)(2).
- b. Shall be anchored to prevent floatation, 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.
- c. 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.
- d. In A Zones, obtain, review and utilize any flood data available from a federal, state or other source.
- e. In AO Zones with no elevations specified, shall have the lowest floor, including basement, meet the standards in Section 70.41(C).
- f. In AO Zones, shall have adequate drainage paths around structures on slopes to guide floodwaters around and away from the structure.

- 2. Nonresidential Structures.

- a. Shall meet the requirements of Section 70.42(B)(2)(a-b) and (e-f).
 - ii. 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 70.43(G)(1) or (2).
 - iii. In AO Zones with no elevations specified, shall have the lowest floor, including basement, meet the standards in Section 70.41(C).
 - iv. A nonconforming historic structure may be altered if the alteration will not preclude the structures continued designation as a historic structure, the alteration will comply with Section 70.39(C)(1), flood resistant materials are used and construction practices and floodproofing methods that comply with Section 70.43(G) are used. Repair or rehabilitation of historic structures shall be exempt from the development standards of Section 70.42(B)(1)(h) 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.

C. Floodway District

1. No modification or addition shall be allowed to any nonconforming structure or any structure with a nonconforming use in a floodway area, unless such modification or addition:
 - a. Has been granted a permit or variance, which meets all Chapter requirements;
 - b. Meets the requirements of Section 70.42;
 - c. Will not increase the obstruction to flood flows or regional flood height; and
 - d. Any addition to the existing structure shall be floodproofed, pursuant to Section 70.43(G), by means other than the use of fill, to the flood protection elevation.
 - e. If any part of the foundation below the flood protection elevation is enclosed, the following standards shall apply:
 - i. The enclosed area shall be designed by a registered architect or engineer to allow for the efficient entry and exit of flood waters without human intervention. A minimum of two (2) openings must be provided with a minimum net area of at least one (1) square inch for every one (1) square foot of the enclosed area. The lowest part of the opening can be no more than twelve (12) inches above the adjacent grade;
 - ii. The parts of the foundation located below the flood protection elevation must be constructed of flood resistant materials;
 - iii. Mechanical and utility equipment must be elevated or flood proofed to or above the flood protection elevation; and
 - iv. The use must be limited to parking, building access or limited storage.
2. No new POWTS, or addition to an existing POWTS, except where an addition has been ordered by a government agency to correct a hazard to public health, shall be allowed in a floodway area. Any replacement, repair or maintenance of an existing POWTS in a floodway area shall meet the applicable requirements of all municipal chapters, Section 70.43(G)(3), and Chapter SPS 383, Wisconsin Administrative Code.
3. No new well or modification to an existing well used to obtain potable water shall be allowed in a floodway area. Any replacement, repair or maintenance of an existing well in a floodway area shall meet the applicable requirements of the Code, Section 70.43(G)(3), and Chapters NR 811 and NR 812, Wisconsin Administrative Code.

D. Flood Fringe areas.

1. No modification or addition shall be allowed to any nonconforming structure or any structure with a nonconforming use unless such modification or addition has been granted a permit or variance by the municipality and meet the requirements of Section 70.40(C), except where Section 70.42(D)(2) is applicable.
2. Where compliance with the provisions of par. 1 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, using the procedures established in the County Zoning Administration Chapter, may grant a variance from those provisions of Subparagraph (1) for modifications or additions, using the criteria

listed below. Modifications or additions, which are protected to elevations lower than the flood protection elevation, may be permitted if:

- a. No floor is allowed below the regional flood elevation for residential or commercial structures;
 - b. Human lives are not endangered;
 - c. Public facilities, such as water or sewer, will not be installed;
 - d. Flood depths will not exceed two (2) feet; and
 - e. Flood velocities will not exceed two (2) feet per second; and
 - f. The structure will not be used for storage of materials described in Section 70.40(H).
3. All new POWTS, or addition to, replacement, repair or maintenance of a POWTS shall meet all the applicable provisions of all local ordinances and Chapter SPS 383, Wisconsin Administrative Code.
 4. All new wells, or addition to, replacement, repair or maintenance of a well shall meet the applicable provisions of this Chapter, Section 70.43(G)(3) and Chapter NR 811 and NR 812, Wisconsin Administrative Code.

70.43 Administration.

- A. Administration of Chapter. Where a Zoning Administrator, Planning Agency or a Board of Adjustment has already been appointed to administer a Zoning Chapter adopted under §§ 59.69, 59.692 or 62.23(7), Wis. Stats., these officials shall also administer this Chapter.
- B. Zoning Administrator.
 1. The Zoning Administrator is authorized to administer this Chapter and shall have the following duties and powers:
 - a. Advise applicants of the Chapter 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 Chapter and issue certificates of compliance where appropriate.
 - c. Inspect all damaged floodplain structures and perform a substantial damage assessment to determine if substantial damage to the structures has occurred.
 - d. Keep records of all official actions such as:
 - i. All permits issued, inspections made and work approved;
 - ii. Documentation of certified lowest floor and regional flood elevations for floodplain development;
 - iii. Records of water surface profiles, floodplain zoning maps and chapters, nonconforming uses and structures including changes, appeals, variances and amendments; and
 - iv. All substantial damage assessment reports for floodplain structures.
 - v. List of nonconforming structures and uses.
 - e. Submit copies of the following items to the Department Regional office:
 - i. Within ten (10) days of the decision, a copy of any decisions on variances,

appeals for map or text interpretations, and map or text amendments;

- ii. Copies of any case-by-case analyses, and any other information required by the Department including an annual summary of the number and types of floodplain zoning actions taken; and
 - iii. Copies of substantial damage assessments performed and all related correspondence concerning the assessments.
- f. Investigate, prepare reports, and report violations of this Chapter to the municipal zoning agency and attorney for prosecution.
 - g. Submit copies of text and map amendments and biennial reports to the FEMA Regional office.

C. Zoning Permit.

1. A permit shall be obtained before any new development or any repair or change in the use of a building or structure, including sewer and water facilities, may be initiated. Application to the Zoning Administrator shall be made on a form provided by the Zoning office and shall include:
 - a. General Information.
 - i. Name and address of the applicant, property owner and contractor; and
 - ii. Legal description, proposed use, and whether it is new construction or a modification;
 - b. Site Development Plan.
 - i. 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 highwater mark of any abutting navigable waterways;
 3. Location of any structures with distances measured from the lot lines and street centerlines;
 4. Location of all existing or proposed POWTS and private water supply systems;
 5. Location and elevation of existing or future access roads;
 6. Location of floodplain and floodway limits as determined from the official floodplain zoning maps or as determined by a certified surveyor;
 7. 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);
 8. 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 Section 70.39 or Section 70.40 are met; and
 9. Data to determine if the proposed development could cause an obstruction to flow or an increase in regional flood height or discharge according to Section 70.38(A). This may include any of the information noted in Section 70.39(C).

c. 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 development.

i. Zone A Floodplains:

1. Hydrology

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

2. Hydraulic modeling

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

- i. Determination of the required limits of the hydraulic model shall be based on detailed study information for downstream structures (dam, bridge, culvert) to determine adequate starting WSEL for the study.
- ii. Channel sections must be surveyed.
- iii. Minimum four (4) foot contour data in the overbanks shall be used for the development of cross section overbank and floodplain mapping.
- iv. A maximum distance of five hundred (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.
- v. The most current version of HEC_RAS shall be used.
- vi. A survey of bridge and culvert openings and the top of road is required at each structure.
- vii. 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 five hundred (500) feet.
- viii. 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.
- ix. The model must extend past the upstream limits of the difference in the existing and proposed flood profiles in order to provide a tie-in to existing studies. The height difference between the proposed flood profile and the existing study profiles shall be no more than 0.00 feet.

3. Mapping.

A work map of the reach studied shall be provided, showing all cross

section locations, floodway/floodplain limits based on best available topographic data, geographic limits of the proposed development and whether the proposed development is located in the floodway.

- i. If the proposed development is located outside of the floodway, then it is determined to have no impact on the regional flood elevation.
- ii. 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.

ii. Zone AE Floodplains.

1. Hydrology.

If the proposed hydrology will change the existing study, the appropriate method to be used shall be based on Chapter NR 116.07(3), Wisconsin Administrative Code, *Hydrologic Analysis: Determination of Regional Flood Discharge*.

2. Hydraulic Model.

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

i. 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 profits and the elevations shown in the Floodway Data Table in the FIS report to within 0.1 foot.

ii. 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.

iii. 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.

iv. 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.

v. All changes to the Duplicate Effective Model and subsequent models

must be supported by certified topographic information, bridge plans, construction plans and survey notes.

- vi. 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 topwidths 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 meet the following conditions:

- i. 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.
- ii. 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.
- iii. Annotated FIRM panel showing the revised one percent (1%) and two-tenths percent (0.2%) annual chance floodplains and floodway boundaries.
- iv. 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.
- v. The revised floodplain boundaries shall tie into the effective floodplain boundaries.
- vi. 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.
- vii. Both the current proposed floodways shall be shown on the map.
- viii. The stream centerline, or profile baseline used to measure stream distances in the model shall be visible on the map.

d. Expiration.

All permits issued under the authority of this Chapter shall expire no more than one hundred eighty (180) days after issuance. The permit may be extended for a maximum of one hundred eighty (180) days for good and sufficient cause.

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

1. The certificate of compliance shall show that the building or premises or part thereof,

- and the proposed use, conform to the provisions of this Chapter;
2. Application for such certificate shall be concurrent with the application for a permit;
 3. If all Chapter provisions are met, the certificate of compliance shall be issued within ten (10) days after written notification that the permitted work is completed;
 4. The applicant shall submit a certification signed by a registered professional engineer or registered 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 registered architect that floodproofing measures meet the requirements of Section 70.43.
- E. Other Permits. Prior to obtaining a zoning permit the applicant must secure all necessary permits from federal, state, and local agencies, including those required by the U.S. Army Corps of Engineers under Section 404 of the Federal Water Pollution Control Act, Amendments of 1972, 33 U.S.C. 1344.
- F. Zoning Committee.
1. The County Zoning Committee shall:
 - a. Oversee the functions of the office of the Zoning Administrator; and
 - b. Review and advise the Governing body on all proposed amendments to this Chapter, maps and text.
- G. Floodproofing.
1. No permit or variance shall be issued until the applicant submits a plan certified by a registered professional engineer or architect that the floodproofing measures will protect the structure or development to the flood protection elevation and submits a FEMA Floodproofing Certificate.
 2. For a structure designed to allow the entry of floodwaters, no permit or variance shall be issued until the applicant submits a plan either:
 - a. Certified by a registered professional engineer or architect; or
 - b. Meets or exceeds the following standards:
 - i. A minimum of two (2) openings having a total net area of not less than one (1) square inch for every square foot of enclosed area subject to flooding;
 - ii. The bottom of all openings shall be no higher than one (1) foot above grade; and
 - iii. Openings may be equipped with screens, louvers, valves or other coverings or devices provided that they permit the automatic entry and exist of floodwaters.
 3. Floodproofing measures shall be designed to:
 - a. Withstand flood pressures, depths, velocities, uplift and impact forces and other regional flood factors;
 - b. Protect structures to the flood protection elevation;
 - c. Anchor structures to foundations to resist flotation and lateral movement; and
 - d. Minimize or eliminate infiltration of flood waters.
 - e. Minimize or eliminate discharges into flood waters.

H. Public Information.

1. Place marks on structures to show the depth of inundation during the regional flood.
2. All maps, engineering data and regulations shall be available and widely distributed.
3. All real estate transfers should indicate which floodplain zoning district any real property is in.

70.44 Amendments.

A. Obstructions or increases may only be permitted if amendments are made to this Chapter, the official floodplain zoning maps, floodway lines and water surface profiles, in accordance with Section 70.44(B).

1. 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 Chapter, the official flood plain zoning maps, floodway lines and water surface profiles, in accordance with Section 70.44(B). Any such alterations must be revised and approved by FEMA and the DNR.
2. In A Zones increases equal to or greater than one (1) foot may only be permitted if the applicant receives a Conditional Letter of Map Revision from FEMA and amendments are made to this Chapter, the official floodplain maps, floodway lines and water surface profiles in accordance with Section 70.44(B).

B. General.

1. The governing body may change or supplement the floodplain zoning district boundaries and this Chapter in the manner outlined in Section 70.44(C) provided by law. Actions that require an amendment and/or submittal of 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 heights;
 - b. Any change to the floodplain boundaries and/or watercourse alterations of the FIRM;
 - c. Any changes to any of the officially adopted floodplain maps listed in Section 70.37(B);
 - 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 Chapter text required by Chapter NR 116.05, Wisconsin Administrative Code, or otherwise required by law, or for changes by the municipality; or
 - g. All channel relocations and changes to the maps to alter floodway lines or to remove an area from the floodway or the flood fringe that is based on a base flood elevation from a FIRM requires prior approval by FEMA.

C. Procedures.

1. Chapter amendments may be made upon petition of any interested party according to the provisions of § 59.69, Wis. Stats. Such petitions shall include all necessary data

required by Section 70.41(D) and Section 70.43(C). The zoning permit shall not be issued until a LOMR 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 § 59.69, Wis. Stats.
- b. No amendments shall become effective until reviewed and approved by the Department.
- c. All persons petitioning for a map amendment that obstructs flow, increasing regional flood height 0.01 foot or more, shall obtain flooding easements or other appropriate legal arrangements from all adversely affected property owners and notify local units of government before the governing body can approve the amendment.

70.45 Enforcement and Penalties.

The provisions of this Chapter shall be enforced under direction of the County Board of Supervisors, through the Zoning Committee and the Zoning Administrator. For forfeitures and penalties related to non-compliance with this Chapter, refer to Section 70.09 and Chapter 100.

70.46 Definitions.

Unless specifically defined below, words and phrases used in this Chapter shall have the same meaning as they have at common law and to give this Chapter it's most reasonable application. 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 not discretionary.

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.

B. Accessory Structure or Use.

A facility, structure, building or use that is accessory or incidental to the principal use of a property, structure or building.

C. 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.

D. Base Flood.

Means the flood having a one percent (1%) chance of being equaled or exceeded in any given year, as published by FEMA as part of a FIS and depicted on a FIRM.

E. Basement.

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

F. Building.

See “Structure”.

G. Bulkhead Line.

A geographic line along a reach of navigable water that has been adopted by a municipal Chapter and approved by the Department pursuant to § 30.11, Wis. Stats., and which allows limited filling between this bulkhead line and the original ordinary highwater mark, except where such filling is prohibited by the floodway provisions of this Chapter.

H. Campground.

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

I. Camping Unit.

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

J. 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 Chapter.

K. Channel.

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

L. Crawlways (Crawl Space).

An enclosed area below the first usable floor of a building, generally less than five (5) feet in height, used for limited access to plumbing and electrical utilities.

M. Deck.

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

N. Department.

The Wisconsin Department of Natural Resources.

O. 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.

P. 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.

Q. Encroachment.

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

R. Existing Manufactured Home Park or Subdivision.

A parcel of land, divided into two (2) 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 Chapter. 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.

S. Expansion to Existing Manufactured Home Park.

The preparation of additional sites by the construction of facilities for servicing the lots on which the manufactured homes are to be affixed. The manufactured homes are to be affixed. This includes installation of utilities, construction of streets and either final site grading, or the pouring of concrete pads.

T. Federal Emergency Management Agency (FEMA).

The federal agency that administers the National Flood Insurance Program.

U. Flood Insurance Rate Map (FIRM).

A map of a community on which the Federal Insurance Administration has delineated both special flood hazard areas (the floodplain) and the risk premium zones applicable to the community. This map can only be amended by the Federal Emergency Management Agency.

V. Flood (Flooding).

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

1. The overflow or rise of inland waters,
2. The rapid accumulation or runoff of surface waters from any source,
3. The inundation caused by waves or currents of water exceeding anticipated cyclical levels along the shore of Lake Michigan or Lake Superior, or
4. The sudden increase caused by an unusually high water level in a natural body of water, accompanied by a severe storm, or by an unanticipated force of nature, such as a seiche, or by some similarly unusual event.

W. 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.

X. Flood Fringe.

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.

Y. 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.

Z. 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.

AA. Floodplain.

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

BB. Floodplain Island.

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

CC. Floodplain Management.

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

DD. 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.

EE. 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.

FF. Flood Protection Elevation.

An elevation of two (2) feet of freeboard above the water surface profile elevation designated for the regional flood. (Also see: FREEBOARD.)

GG. Flood Storage.

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

HH. Floodway.

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

II. 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.

JJ. Habitable Structure.

Any structure or portion thereof used or designed for human habitation.

KK. Hearing Notice.

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

LL. 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.

MM. Historic Structure.

Any structure that is either:

1. 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,
2. 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,
3. 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
4. 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.

NN. Increase in Regional Flood Height.

A calculated upward rise in the regional flood elevation, equal to or greater than 0.01 foot, based on a comparison of existing conditions and proposed conditions which is directly attributable to development in the floodplain but not attributable to manipulation of mathematical variables such as roughness factors, expansion and contraction coefficients and discharge.

OO. Land Use.

Any nonstructural use made of unimproved or improved real estate. (Also see "Development")

PP. Lowest Adjacent Grade.

Elevation of the lowest ground surface that touches any of the exterior walls of a building.

QQ. Lowest Floor.

The lowest floor of the lowest enclosed area (including basement). For nonconforming structures, a finished 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.

RR. 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.

SS. 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*."

TT. Mobile/Manufactured Home Park or Subdivision.

A parcel (or contiguous parcels) of land, divided into two (2) or more manufactured home lots for rent or sale.

UU. Mobile Recreational Vehicle.

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

VV. 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.

WW. Model Duplicate Effective.

A copy of the hydraulic analysis used in the effective FIS and referred to as the effective Model.

XX. Model Effective.

The hydraulic engineering model that was used to produce the current effective FIS.

YY. 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 effective date of the effective model, then this model would be identical to the Corrected Effective Model or Duplicate Effective Model.

ZZ. Municipality (Municipal).

The County, the city or village governmental units enacting, administering and enforcing this Chapter.

AAA. North American Vertical Datum (NVD).

Elevations referred to mean sea level datum, 1929 adjustment.

BBB. National Geodetic Vertical Datum (NGVD).

Elevations referenced to mean sea level datum, 1929 adjustment.

CCC. 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.

DDD. Nonconforming Structure.

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

EEE. Nonconforming Use.

An existing lawful use or accessory use of a structure or building that is not in conformity with the provisions of this Chapter for the area of the floodplain that it occupies. (Such as a residence in the floodway.)

FFF. Obstruction to Flow.

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

GGG. Official Floodplain Zoning Map.

That map, adopted and made part of this Chapter, as described in Section 70.37(B), which has been approved by the Department and FEMA.

HHH. Open Space Use.

Those uses having a relatively low flood damage potential and not involving structures.

III. Ordinary Highwater Mark.

The point on the bank or shore up to which the presence and action of surface water

is so continuous as to leave a distinctive mark such as by erosion, destruction or prevention of terrestrial vegetation, predominance of aquatic vegetation, or other easily recognized characteristic.

JJJ. Person.

An individual, or group of individuals, corporation, partnership, association, municipality or state agency.

KKK. Private Onsite Wastewater Treatment (POWTS).

A sewage disposal system other than a public sewage disposal system, including septic tank, soil absorption systems, privies, holding tanks and private owned common sewage facilities, including package treatment plants, lagoons and irrigation systems.

LLL. 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.

MMM. 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.

NNN. 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.

OOO.State 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 one hundred eighty (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.

PPP. Structure.

A structure includes any man-made object with form, shape and utility, either permanently or temporarily attached to, placed upon or in the ground, or an attachment to something on a premises, including but not limited to dwellings, accessory buildings, additions, decks, platforms, porches, balconies, gazebos, boathouses, stairs, walkways, sidewalks, piers, wharves, patios, bridges and

retaining walls.

QQQ. Subdivision.

Has the meaning given in § 236.02(12), Wis. Stats.

RRR. 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 fifty percent (50%) of the equalized assessed value of the structure before the damage occurred.

SSS. Substantial Improvement.

Any repair, rehabilitation, addition or improvement of a building or structure, the cost of which equals or exceeds fifty percent (50%) of the equalized assessed value of the structure before the improvement or repair started. If the structure has sustained damage any repairs are not 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 that are the minimum necessary to assure safe living conditions; or any alterations of a historic structure provided that the alteration will not preclude the structure's continued designation as a historic structure.

TTT. 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 Chapter.

UUU. 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 standards contained in the Floodplain Zoning Chapter.

VVV. Violation.

The failure of a structure or other development to be fully compliant with the Floodplain Zoning Chapter. 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.

WWW. Watershed.

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

XXX. 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.

YYY. Well.

An excavation opening in the ground made by digging, boring, drilling, driving or other methods, to obtain groundwater regardless of its intended use.

Article IV - Shoreland

70.47 Statutory Authorization, Finding of Fact, Purpose and Title.

- A. Statutory Authorization. This Chapter is adopted pursuant to the authorization contained in §§ to implement 59.692, and 281.31, Wis. Stats.
- B. Purpose. For the purpose of promoting public health, safety, convenience and Welfare, this Chapter has been established to:
 - 1. Further the maintenance of safe and healthful conditions and prevent and control water pollution by limiting structures to areas where soil and geological conditions are suitable for such construction, establishing minimum lot sizes and controlling filling and grading to minimize soil erosion.
 - 2. Protect spawning ground, fish and aquatic life by preserving wetlands and other aquatic habitat, regulating pollution sources and controlling shoreline alterations, dredging and lagooning. Establishing minimum lot sizes and shoreland buffer standards to limit cumulative impacts to aquatic life habitat.
 - 3. Control placement of structures and land uses by establishing minimum lot sizes, widths and setbacks and prohibiting uses that may be detrimental to the shoreland area.
 - 4. Preserve shore cover and natural beauty by restricting the removal of natural shoreland cover, establishing minimum setbacks from the shoreline and controlling shoreland excavation.
- C. Finding of Fact. Uncontrolled use of the shorelands and pollution of the navigable waters of the County would 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 Marquette County.

70.48 Abrogation and Greater Restriction.

- A. It is not otherwise intended by this Chapter to repeal, abrogate, annul, impair, or interfere with any existing easements, covenants, deed restrictions, agreements, rules, regulations, or permits previously adopted or issued pursuant to law, other than zoning, to the extent specified in this Chapter.
- B. Interpretation. In their interpretation and application, the provisions of this Chapter shall be held to be minimum requirements and shall be liberally construed in favor of the County and shall not be deemed a limitation or repeal of any other powers granted by the Wisconsin Statutes.
- C. This Chapter shall not require approval or be subject to disapproval by any Town or Town Board.
- D. This ordinance may establish standards to regulate matters that are not regulated in NR 115, but that further the purposes of shoreland zoning as described in section 70.47 (B) of this ordinance,
- E. Counties may not establish shoreland zoning standards in a shoreland zoning ordinance that requires any of the following:

1. 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.
 2. Requires any inspection or upgrade of a structure before the sale or other transfer of the structure may be made.
- F. (s.59.692(7),Stats) The construction and maintenance of a facility is considered to satisfy the requirements of a shoreland zoning if:
1. The department has issued all required permits or approvals authorizing the construction or maintenance under ch. 30, 31, 281 or 283. 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.
- G. Severability. 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.

70.49 Jurisdiction.

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

- A. Within one thousand (1,000) feet of the ordinary high-water mark of navigable lakes, ponds and flowages. Lakes, ponds and flowages of the County shall be presumed to be navigable if they are listed in the Department of Natural Resources publication FH-800 2009 “Wisconsin Lakes”, or are shown on the United States Geological Survey Quadrangle map or otherwise determined to be navigable by the Wisconsin Department of Natural Resources.
- B. 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 of the County shall be presumed navigable if they are designated as perennial or intermittent waterways on the United States Geological Survey Quadrangle map or otherwise determined to be navigable by the Wisconsin Department of Natural Resources.
- C. 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 s. 13.48 (13), Stats, 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 s. 30.2022 (1), Stats, applies. (NR 115.02) Shoreland zoning requirements in annexed or incorporated areas are provided in s. 61.353 and s. 62.233, Stats.
- D. Under s. 281.31 (2m) Wis. Stats., notwithstanding any other provision of law or administrative rule promulgated thereunder, this ordinance does not apply to:
 1. Lands adjacent to farm drainage ditches if:
 - a. Such lands are not adjacent to a 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.

70.50 General Provisions.

- A. The Zoning Administrator or his/her designee shall determine the ordinary high-water mark/wetland boundary of a navigable water in the County. The Zoning Administrator may request assistance from the Wisconsin Department of Natural Resources if he/she determines such assistance is appropriate.
 - B. The floodplain boundary shall be determined using flood hazard maps or other floodplain zoning maps that have been adopted by the County, for the purpose of determining the jurisdictional extent of this Chapter.
 - C. No structure, land, water or air shall hereafter be used without full compliance with the provisions of this Chapter. No structure or part, except as specifically allowed hereunder, shall hereafter be located, erected, moved, reconstructed or altered and no substantial land use change made or land disturbing activity performed, without full compliance with this Chapter. For each District the permitted uses are stated, others are specifically classified as requiring special exception permits and any uses not specifically classified, shall require special exception permits.
 - D. No lot shall have more than one (1) building for residential purposes.
 - E. Any lot or parcel legally created and recorded in the Register of Deeds Office prior to the adoption of this Chapter, may be increased in size by the addition of all or part of the adjoining lots or parcels, and such lots or parcels may be used for the purpose permitted in the district in which they are located, provided that the resultant lots or parcels shall not be reduced below the minimum requirements contained herein.
 - F. 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 (1) property tax parcel.
 2. The substandard lot or parcel has never been developed with one (1) 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 Chapter requirements.
- Note: The intent of this provision is to allow lots that were legally created that currently do not meet the minimum lot width and area requirements to be considered a building site provided all ordinance requirements can be met. Substandard lots that have been reconfigured by a certified survey map or consolidated into one legal description with the register of deeds, which result in a larger (closer to conforming) lot should be allowed to be utilized as a building site. Additionally, lots that have a legal description for each substandard lot on record with the Register of Deeds but have one tax parcel number assigned by the Real Property Lister or Assessor for taxing/assessing purposes should be considered separate building sites and should not be considered consolidated. Lots that have had development over the lot lines should be combined with a legal description and recorded with a new deed prior to new development occurring.
- G. Buildings used in whole or in part for single or two (2)-family residential purposes shall

have not less than nine hundred (900) square feet of year around living space per dwelling unit and shall have a minimum width of twenty (20) feet.

H. Camping Provisions.

1. Camping, parking or storing a camping unit when located on a lot where a primary residential dwelling does not exist shall be subject to the following conditions:
 - a. An owner of record of any lands being used for camping shall either be personally present or have provided written permission to those camping.
 - b. Approved sanitary provisions shall be provided. Where determination of approved provisions is required, the Zoning Administrator shall be the governing authority.
 - c. Arrangements shall be made for the proper disposal of trash and garbage.
 - d. No more than one (1) camping unit shall be allowed on a lot.
 - e. Camping, parking or storing a unit on a lot or parcel, which does not have a dwelling, shall not be permitted between December 1st and April 15th.
 - f. Occupation of a unit by a person having no other regular place of abode at the time the unit is so occupied is prohibited.
 - g. Camping may take place on an interim basis while construction of a permitted dwelling is in progress, not to exceed one (1) year.
 - h. Camping shall comply with all other requirements of this Chapter.

I. In each quadrant of every public street intersection, excepting those controlled by arterial or stop signs and also excepting Class A intersections, there shall be a visual clearance triangle bounded by the street centerlines and a line connecting points on them seventy-five (75) feet from the intersection. Objects permitted within highway setback lines and visual triangles are as follows:

1. Open fences.
2. Telephone, telegraph and power transmission poles, lines and portable equipment and livestock housing that is readily removable in their entirety are permitted where they do not obstruct the view.
3. The planting and harvesting of crops, shrubbery and trees except that the view within the visual triangle shall not be obstructed.

J. Prohibited Uses. On lands within the County that are under the jurisdiction of this Chapter the following activities are prohibited:

1. High Capacity Wells. Except as set forth in Subparagraph (3) below, the construction of any high capacity well to extract water intended for retail consumption or the construction of any high capacity well system to extract water intended for retail consumption shall be prohibited.
2. High Capacity Property. Except as set forth in Subparagraph (3) below, the designation of property, as high capacity property is prohibited.
3. Exceptions. Prohibitions set forth in this Subsection shall not apply to uses by the County Municipalities or political subdivisions, nor shall it apply to agricultural uses.

K. Shoreland Signage. Commercial signs, which are visible from public waters may only be located on the premises which they serve. Temporary real estate signs may be placed on properties offered for sale. Signs under this Section must meet the setback requirements of Section 70.53.

- L. No accessory building, structure or use shall be constructed or established on any lot or parcel prior to the time of construction or establishment of the principal or main structure to which it is accessory. The owner of an adjacent, vacant lot or parcel shall not construct an accessory building thereon until the owner combines the vacant land with the land containing the principal or main structure or use by certified survey map or other method approved by the Zoning Administrator. If it is impossible to combine the land into a single lot due to the location of a right of way held in fee, the owner may apply for a Special Exception under Section 70.07 to allow the construction of an accessory building on the vacant lot or parcel. Terms of the Special Exception shall prohibit the sale of the accessory lot separate from the principal or main lot by deed restriction.
- M. The Zoning Administrator may issue a special permit to relax the standards of this ordinance in order to provide reasonable accommodations as required 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. A deed restriction or affidavit for the reasonable accommodation shall be filed with the Marquette County Register of Deeds.

70.51 Zoning Provisions.

- A. Minimum Lot Size:
 - 1. Sewered Lots. The minimum lot area shall be 10,000 sq. ft. and the minimum average width shall be 65 feet:
 - a. The width shall be calculated by averaging measurements at the following 3 locations:
 - i. The ordinary highwater mark.
 - ii. The building setback line.
 - iii. The rear lot line.
 - 2. Unsewered lots. The minimum lot area shall be 20,000 sq. ft. and the minimum average lot width shall be 100 feet with at least 100 feet of frontage at the ordinary highwater mark.
 - a. The width shall be calculated by averaging measurements at the following 3 locations:
 - i. The ordinary highwater mark.
 - ii. The building setback line.
 - iii. The rear lot line.
- B. The minimum setback for a structure to a lot line shall be ten (10) feet measured from the overhang or closest point of construction.
- C. An application for a zoning permit to expand an existing dwelling shall include a County Septic System inspection form. The inspection report must be signed by an individual licensed by the Wisconsin Department of Safety and Professional Services to inspect private on-site wastewater treatment systems (POWTS) and certify that the septic system is functioning properly and meets all applicable County Sanitary Chapter requirements.

70.515 Land Division Review

- A. The county shall review, pursuant to s. 236.45, 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:
 - 1. Hazards to the health, safety or welfare of future residents.
 - 2. Proper relationship to adjoining areas.
 - 3. Public access to navigable waters, as required by law.
 - 4. Adequate stormwater drainage facilities.
 - 5. Conformity to state law and administrative code provisions.

70.52 Highway Setbacks.

- A. For the purpose of determining the distance buildings and other structures shall be set back from streets and highways, the highways of the County are divided into the following classes:
 - 1. All State and Federal highways are hereby designated as Class A highways.
 - 2. All county trunks are hereby designated as Class B highways. For the purpose of this Chapter, any road will be considered a county trunk after it has been placed on the County Trunk System by the County Board and approved by the Wisconsin Department of Transportation.
 - 3. All town roads, public streets and highways not otherwise classified, are hereby-designated Class C highways.
- B. The minimum setbacks from the various Class highways are as follows:
 - 1. The setback from a Class A highway shall be one hundred ten (110) feet from the centerline of the highway or fifty (50) feet from the right-of-way line, whichever is greater.
 - 2. The setback from a Class B highway shall be seventy-five (75) feet from the centerline of the highway or forty-two (42) feet from the right-of-way line, whichever is greater.
 - 3. The setback from a Class C highway shall be sixty-three (63) feet from the centerline of the highway or thirty (30) feet from the right-of-way line, whichever is greater.
- C. Permits shall be required for all new access points to Class A, B and C highways. Applications for Class A highways shall be made with the Wisconsin Department of Transportation. Applications for Class B or C shall be made with the County Highway Department.
- D. On Class A highways where more restrictive setbacks are required by State law, the more restrictive setback shall apply.
- E. On lots or parcels, which abut a Class B or C highway and where the requirements of the Chapter cannot be met, a reduced setback from the road may be permitted when there is an existing pattern of development. The setback shall be the average of the setbacks on adjoining properties within five hundred (500) feet. For purpose of averaging the setbacks shall be for comparable structures. In no case shall the average be less than fifty (50) feet from the centerline of the highway.

70.53 Setbacks from the Shoreline.

- A. Except as set forth in Subparagraphs (D & E) below, all buildings and structures, except

piers and boat hoists, which may require a lesser setback, shall be set back at least seventy-five (75) feet from the ordinary high water mark/wetland boundary.

- B. All distances, unless otherwise specified, shall be measured horizontally. The measurement shall be taken from the ordinary high water mark to the closest point of a building or structure, including steps, decks, overhangs, eaves or landings.
- C. An Administrative Review Permit application may be submitted to the Zoning Administrator for stairways, walkways and motorized lifts. The Zoning Administrator may permit such structures, within the seventy-five (75) foot shoreland setback area, if it is determined they are necessary for access to the water. If approved, stairs and railing structures shall be restricted to a five (5) foot maximum width, landings shall not exceed forty (40) square feet in area and permanent benches or tables are not permitted. As part of the permit approval, the Zoning Administrator may establish conditions or restrictions to further the intent of this Chapter.
- D. As authorized under § 59.692(1v), Wis. Stats., the placement of a structure within seventy-five (75) feet of the ordinary high water mark shall be permitted under the following conditions:
 - 1. The structure is located a minimum of thirty-five (35) feet from the ordinary high water mark.
 - 2. The total area for all structures located within the legal setback area shall not exceed two hundred (200) square feet.
 - 3. The structure has open or screened sides.
 - 4. The property owner implements a Shoreland Buffer Restoration plan that meets the standards under Section 70.54.
- E. Exempt structures: All of the following structures are exempt from the shoreland setback standards in 70.53(A):
 - 1. Boathouses located entirely above the ordinary highwater mark and entirely within the access and viewing corridor that do not contain plumbing and are not used for human habitation and meet the following requirements:
 - a. The construction or placement of boathouses below the ordinary highwater mark of any navigable water is prohibited.
 - b. Boathouses shall be designed and constructed solely for the storage of boats and related equipment.
 - c. One boathouse is permitted on a lot as an accessory structure.
 - d. Boathouses shall not exceed one story in height and 200 square feet in area.
 - e. Boathouse roofs shall have a minimum 4/12 pitch.
 - f. Boathouses shall have a maximum width of 12 feet.
 - g. The main door shall face the water.
 - h. Patio doors, fireplaces and other features inconsistent with the use of the structure exclusively as a boathouse are not permitted.
 - 2. 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.
 - 3. Utility transmission and distribution lines, poles, towers, water towers, pumping

stations, well pump house covers, private onsite wastewater treatment systems and other utility structures that have no feasible alternative location outside of the minimum setback and employ best management practices to infiltrate or otherwise control storm water runoff from the structure.

F. Reduced Principal Structure Setback

A setback less than the 75' required setback from the ordinary high water mark shall be permitted for a proposed principal structure and shall be determined as follows:

1. Where there are existing principal structures in both directions, the setback shall equal the average of the distances the two existing principal structures are set back from the ordinary high water mark provided all of the following are met:
 - a. Both of the existing principal structures are located on adjacent lot to the proposed principal structure.
 - b. Both of the existing principal structures are located within 250' of the proposed principal structure and are the closest structure.
 - c. Both of the existing principal structures are located less than 75' from the ordinary high water mark.
 - d. The average setback shall not be reduced to less than 35' from the ordinary high water mark of any navigable water.
 - e. Functional appurtenances that are accessory structures such as porches that are attached to the proposed structure must comply with the reduced principal structure setback but shall not be used in the calculation of the reduced principal structure setback.³³

70.54 Removal of Shore Cover Within Shorelands.

- A. Regulation of vegetation removal in the shoreland area is necessary to protect scenic and natural beauty, provide wildlife habitat, control erosion and reduce sediment and nutrient flow from the shoreland. There shall be a vegetation protection area on each parcel that shall extend from the ordinary high water mark to a line thirty-five (35) feet inland, which runs parallel to the shoreline. Within this area, the removal of vegetation (including trees, shrubs and ground cover) and other land disturbing activities are prohibited with the following exceptions:
 1. One (1) viewing corridor no more than thirty-five (35) feet in width may be established for every one hundred (100) feet of frontage. The viewing corridor may run contiguously for the entire maximum width of shoreline frontage owned. The corridor shall be more or less perpendicular to the shoreline. Except as provided for in Subparagraph (3) below, within this corridor trees, shrubs and ground cover shall not be removed, however selective pruning and trimming is permitted for the purpose of providing a view of the water.
 2. On parcels, which are less than one hundred (100) feet in width, the viewing corridor width requirement shall be reduced proportionately.
 3. One (1) access corridor no more than ten (10) feet in width may be established for every one hundred (100) feet of frontage. Access corridors may run contiguously for the entire maximum width of shoreline frontage owned. The access corridor shall be located within the view corridor and sufficient vegetative cover shall be maintained in

33 County Board Resolution 10-2019

this area to prevent erosion and sedimentation. In no case shall the complete removal of vegetation be permitted.

4. All pedestrian accesses, walkways and stairways must be located within the access corridor. In addition, they must comply with all other regulations contained in this Chapter.
5. The placement of piers, wharves and boatlifts must be within or adjacent to the viewing/access corridor.
6. Outside of the viewing/access corridor, the removal of dead, dying and diseased vegetation may be permitted if they pose a safety hazard or with a recommendation from the County Forester, County Conservationist or the Department of Natural Resources.
7. The removal of nuisance and exotic species may be permitted with a recommendation from the County Forester, County Conservationist or the Department of Natural Resources provided they are replaced with comparable native species as soon as practical.
8. The County may authorize by permit additional vegetation management activities in the vegetative buffer zone. The permit shall require that all management activities comply with detailed plans approved by the County Conservationist 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.
9. The cutting and removal of vegetation from outside of the thirty-five (35) foot buffer area shall be done with consideration of its effect on natural and scenic beauty. In addition, it shall be done using best forestry and soil conservation practices, as described in the Department of Natural Resources Wisconsin Forestry Best Management Practices Field Guide Document number PUB-FR-093 95 or similar publications that are subsequently approved, and in a manner that protects water quality.

Note: Section 59.692(1f)(a), Stats, prohibits counties from requiring a property owner to establish a vegetative buffer zone on previously developed land or expand an existing vegetative buffer zone. However, as part of a counties shoreland mitigation standards, the establishment or expansion of the vegetative buffer may remain an option.

70.55 Impervious Surface Standards.

- A. 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 nonriparian lot or parcel that is located entirely within 300 feet of the ordinary highwater mark of any navigable waterway.
- B. 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 highwater mark by the total surface area of the lot or parcel, and multiplied by 100. Impervious surfaces described in 70.55(E) shall be excluded from the calculation of impervious surface on the lot or parcel. If an outlot lies between the ordinary highwater mark and the

developable lot or parcel and both are under common ownership, the lot or parcel and the outlot shall be considered on lot or parcel for the purposes of calculating the percentage of impervious surface.

- C. General Impervious Surface Standard: Except as allowed in Section 70.55(E) allow up to 15% impervious surface on the portion of a lot or parcel that is within 300 feet of the ordinary highwater mark.
- D. Maximum Impervious Surface: A property may exceed the impervious surface standard under C provided the following standards are met:
 - 1. For properties where the general impervious surface standard applies under C, 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 highwater mark with an approved mitigation plan (one (1) point for every 5% increase) under 70.56.
- E. Treated Impervious Surfaces: Impervious surfaces that can be documented to show they meet either of the following standards shall be excluded from the impervious surface calculations under B.
 - 1. The impervious surface is treated by devices such as stormwater ponds, constructed wetlands, infiltration basins, rain gardens, bio-swales, or other engineered systems.
 - 2. 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.

Note: The provisions in section 70.55 (E) are an exemption from the impervious surface standards and as such should be read and construed narrowly. As such, a property owner is entitled to this exemption only when the runoff from the impervious surface is being treated by a sufficient (appropriately sized) treatment system, treatment device or internally drained. Property owners that can demonstrate that the runoff from an impervious surface is being treated consistent with section 70.55 (E) will be considered pervious for the purposes of implementing the impervious surface standards in this ordinance. If a property owner or subsequent property owner fails to maintain the treatment system, treatment device or internally drained area, the impervious surface is no longer exempt under section 70.55 (E).

- F. 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 C. or the maximum impervious surface standard in Section D., the property owner may do any of the following:
 - 1. Maintain and repair the existing impervious surfaces;
 - 2. Replace existing impervious surfaces with similar surfaces within the existing building envelope;
 - 3. 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 zoning ordinance, and the impervious surface meets the applicable setback requirements in Section 70.53.

Note: The impervious surface standards in this ordinance shall not be construed to supersede other provisions in the county shoreland ordinance. All of the provisions of the county shoreland ordinance still apply to new or existing development.

70.555 Height.

- A. To protect and preserve wildlife habitat and natural scenic beauty, new construction within 75 feet of the ordinary highwater mark of any navigable water is limited to 35 feet in height.
- B. Structure height is the measurement of the vertical line segment starting at the lowest point of any exposed wall and to a line horizontal to the highest point of the structure.

70.56 Mitigation.

- A. A plan to mitigate for the adverse effects of construction, on a waterfront property, within three hundred (300) feet of the ordinary high water mark of a navigable water is required under other Sections of this Chapter. The number of mitigation points necessary for a zoning permit depends on the type, size and location of the construction activity. The Zoning Department must approve a mitigation plan and an affidavit shall be filed with the property deed. The following activities will be awarded the number of points indicated:
 - 1. The removal of a legal non-conforming structure, which is non-conforming because it does not meet the requirements of Section 70.53(A) and which is less than one hundred (100) square feet in area (two (2) points).
 - 2. The removal of a legal non-conforming structure, which is non-conforming because it does not meet the requirements of Section 70.53(A) and which is greater than one hundred (100) square feet in area (three (3) points).
 - 3. The implementation of a shoreland buffer restoration plan in compliance with Section 70.54, which is on the property of the proposed construction (three (3) points).
 - 4. Partial restoration of vegetative buffer zone through a plan approved by the Marquette County Land and Water Conservation Department. (one (1) point for every 750 sq. ft.)
 - 5. Removal of a boathouse, which existed prior to September 20, 2016, that is within 35 feet of the OHWM (three (3) points).
 - 6. Removal of shoreland structures (e.g. seawalls, bulkheads, artificial beaches and fire pits) through a plan approved by the Marquette County Land and Water Conservation Department (up to three (3) points as determined by Zoning Administrator).
 - 7. Removal of impervious surfaces to less than 30 percent of lot coverage (1 point for every 5 percent reduction).
 - 8. At the discretion of the Zoning Administrator and with the approval of the Zoning Committee, up to three (3) mitigation points may be approved for an activity that provides significant benefits to meet the objectives of this Chapter.

70.57 Land Disturbing Activities.

- A. Filling, grading, lagooning, dredging, ditching, clearcutting and excavating are considered land disturbing activities and shall be permitted in the shoreland area subject to the following conditions:
 - 1. All land disturbing activities are prohibited within thirty-five (35) feet of the ordinary high-water mark/wetland boundary.
 - 2. All land disturbing activities are prohibited on slopes exceeding forty percent (40%).
 - 3. The land disturbing activity must be in compliance with all other Sections of this Chapter and not prohibited by applicable Federal and State regulations.
 - 4. All land disturbing activities, which involve the construction of a structure, shall require an Erosion Control/Stormwater Management Plan to be approved by the Land Conservation Department.

5. Land disturbing activities, between thirty-five (35) – seventy-five (75) feet of the ordinary high water mark exceeding five hundred (500) square feet in area, shall require an Erosion Control/Stormwater Management Plan to be approved by the Land Conservation Department.
 6. Land disturbing activities, between seventy-five (75) – three hundred (300) feet of the ordinary high water mark exceeding one thousand (1,000) square feet in area, shall require an Erosion Control/Stormwater Management Plan to be approved by the Land Conservation Department.
 7. Land disturbing activities, which are greater than three hundred (300) feet from the ordinary high water mark exceeding ten thousand (10,000) square feet in area, shall require an Erosion Control/Stormwater Management Plan to be approved by the Land Conservation Department.
 8. Land disturbing activities that occur greater than thirty-five (35) feet from the ordinary high water mark, but are less than the square footage listed under items 4, 5, 6 and 7 of this Section, shall comply with appropriate best management practices as specified in the Wisconsin Construction Site Best Management Practice Handbook published by the Department of Natural Resources, or similar publications that are subsequently approved.
 9. The installation of a septic system shall be exempt from the requirements of this Section, but if occurring within three hundred (300) feet of the ordinary high water mark, a silt fence shall be properly installed prior to construction and the site shall be seeded and mulched immediately after backfilling.
 10. Agricultural practices are exempt from the requirements of this Section.
- B. A Special Exception Permit, under Section 70.07, shall be required for filling, grading, lagooning, dredging, ditching, clearcutting and excavating of any area within the jurisdiction of this Chapter, which has surface drainage into a navigable water or associated wetland, and meets the following condition:
1. The land disturbing activity exceeds ten thousand (10,000) square feet in area.
- C. An Administrative Review Permit, under Section 70.04, shall be required for filling, grading, lagooning, dredging, ditching, clearcutting and excavating of any area within the jurisdiction of this Chapter, which has surface drainage into a navigable water or associated wetland, and meets any of the following conditions:
1. The land disturbing activity is on a slope of twenty percent (20%) or greater.
 2. The land disturbing activity exceeds five thousand (5,000) square feet on a slope of twelve percent (12%) – twenty percent (20%).
- D. A Stormwater Management Plan, approved by the Land Conservation Department, shall be required for all approved subdivision plats on lands located within the jurisdiction of this Chapter.

70.58 Non-Conforming Uses and Structures.

The lawful use of a building, structure or property existing at the time of adoption of this Chapter or any amendment to this Chapter, may be continued, subject to the following conditions:

- A. Non-conforming Uses.
1. No such use shall be expanded or enlarged except in conformity with the provisions of this Chapter.

2. If such use is discontinued for twelve (12) consecutive months, any future use of the building, structure, or property shall conform to this Chapter.
3. Uses or adjuncts thereof which are nuisances shall not be permitted to continue as non-conforming uses.
4. The property owner bears the burden of proof when claiming that a use is legal non-conforming because it predates a zoning provision.

B. Maintenance, Repair, Replacement or Vertical Expansion of Nonconforming 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 or rebuilt or remodeled if the activity does not expand the footprint of the nonconforming 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 the lowest point of any exposed wall.

Note: Sections 59.692(1k)(a) 2,4 and (b), Stats., prohibits counties from requiring any approval or imposing any fee or mitigation requirement for the activities specified in section 70.58. 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.

C. Lateral Expansion of a Nonconforming Principal Structure within the Shoreland Setback.

An existing principal structure that was lawfully placed when constructed but that does not comply with the required setbacks in Sections 70.53(A) & (F) may be expanded laterally, provided all of the following requirements are met:

1. The use of the structure has not been discontinued for a period of 12 months or more if a nonconforming use.
2. The existing principal structure is at least 35 feet from the ordinary highwater mark.
3. 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 highwater mark than the closest point of the existing principal structure.
4. Expansion under this Section requires a mitigation plan (three (3) points) that shall be approved by the Zoning Administrator and implemented by the date designated on the zoning permit. The mitigation plan shall meet the standards found in Section 70.56.
5. All other provisions of the shoreland ordinance shall be met.

D. Expansion of a Nonconforming 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 Sections 70.53(A) may be expanded horizontally, landward or vertically provided the expanded area meets the building setback required under Sections 70.53(A) and that all other provisions of this ordinance are met. A mitigation plan may be required under Section 70.56.

E. A legal non-conforming principal structure that was lawfully placed when constructed that does not comply with the required setback in Section 70.53(A) may be relocated on the property provided all of the following requirements are met:

1. The use of the structure has not been discontinued for a period of twelve (12) months or more if a nonconforming use.
2. The legal non-conforming principal structure is at least thirty-five (35) feet from the ordinary highwater mark.
3. No portion of the replaced or relocated structure is located any closer to the ordinary highwater mark than the closest point of the existing principal structure.
4. The Zoning Administrator determines that no other location is available on the property to build a principal structure of comparable size to the structure proposed for replacement or relocation that will result in compliance with the setback requirement in Section 70.53(A).
5. A mitigation plan (three (3) points) under Section 70.56 is approved by the Zoning Administrator.
6. All other provisions of this Chapter are met.
7. As authorized under § 59.692 (1s), Wis. Stats., legal nonconforming structures that are damaged or destroyed are permitted to be rebuilt subject to the following conditions:
 - a. The non-conforming structure was damaged or destroyed after October 14, 1997.
 - b. The damage or destruction was caused by violent wind, vandalism, fire or a flood.
 - c. The structure is restored to the location, size and use it had immediately before the damage occurred.
 - d. No limits are imposed on the cost of the reconstruction.
 - e. An increase in size is permitted if necessary to comply with State or Federal regulations.

70.59 Zoning Districts and Maps.

- A. The shorelands of the County are hereby divided into the following Zoning Districts:
 1. Shoreland-Wetland District
 2. Recreational-Residential District
 3. General Purpose District

70.60 Official Shoreland and Zoning Maps.

- A. The following maps are hereby incorporated by reference and made a part of this Chapter:
 1. Shoreland Zoning Maps adopted July 15, 1969.
 2. Wisconsin Wetlands Inventory Maps for the County as depicted in the DNR web site Surface Water Data Viewer.
 3. Flood Hazard Boundary Maps dated December 18, 2012.
 4. United States Geological Survey Quadrangle Maps.
 5. Wisconsin Department of Natural Resources Wetland Survey dated April 26, 1991 as delineation of the Wisconsin Wetlands Inventory Maps for the County.
- B. All maps developed after the effective date of this Chapter, upon adoption by the County Board, shall supersede any existing maps.
- C. All official maps are to be kept on file in the office of the Zoning Administrator for the

County.

- D. Determination of the exact location of district boundaries shall be decided by the Zoning Administrator subject to appeal to the Board of Adjustment.

70.61 Shoreland-Wetland District.

- A. This District includes all shorelands subject to regulation under Section 70.49 which are designated as wetlands on the Wisconsin Wetlands Inventory Maps incorporated by reference and made a part of this Chapter by Section 70.60 except that wetlands under five (5) acres in size shall not be regulated under this Section.

- B. Locating Shoreland-Wetland District boundaries.

Where an apparent discrepancy exists between the Shoreland-Wetland District shown on the official wetland maps and actual field conditions at the time the maps were adopted, the Zoning Administrator shall contact the appropriate district or area office of the Department of Natural Resources to determine if the Shoreland-Wetland District as mapped is in error. If the Department staff concur with the Zoning Administrator that a particular area was incorrectly mapped as a wetland, the Zoning Administrator shall have the authority to immediately grant or deny a zoning permit in accordance with the regulations applicable to the correct zoning district. The Zoning Administrator shall be responsible for initiating a map amendment to correct mapping errors within a reasonable period of time.

- C. The purpose of the Shoreland-Wetland District is 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 wetlands, it should occur in a manner that minimizes adverse impacts upon the wetland.

- D. Permitted Uses:

1. The harvesting of wild crops such as, marsh hay, ferns, mosses, wild rice, berries, fruits and seeds, in a manner that is not injurious to the natural reproduction of such crops.
2. The practice of silviculture, including the planting, thinning and harvesting of timber.
3. Grazing of livestock (on parcels of more than five (5) acres).
4. Agricultural uses (on parcels of more than five (5) acres).
5. Temporary water level stabilization measures, in the practice of silviculture, which are necessary to alleviate abnormally wet or dry conditions that would have an adverse impact on the conduct of silviculture activities if not corrected.
6. Ditching, tilling, dredging, excavating, or filling done to maintain or repair existing agricultural use. This includes the minimum filling necessary for disposal of dredged spoil adjacent to the drainage system, provided that the dredged spoil is placed on existing spoil banks where possible.
7. Limited excavating and filling necessary for the maintenance, repair, replacement and reconstruction of existing town and county roads and bridges.
8. Parks and recreational areas.
9. Historic and scientific areas.
10. Wildlife refuges.

11. Game farms.
12. Fish hatcheries.
13. Public boat launch facilities.
14. Public utilities installations.

E. Rezoning of lands in the Shoreland-Wetland District.

1. For all proposed text and map amendments to the Shoreland-Wetland District, the appropriate district and area office of the Department of Natural Resources shall be provided with the following:
 - a. A copy of every petition for a text or map amendment to the Shoreland-Wetland District within five (5) days of the filing of such a petition with the County Clerk;
 - b. Written notice of the public hearing to be held on a proposed amendment, at least ten (10) days prior to such a hearing;
 - c. A copy of the County Zoning Agency's findings and recommendations on each proposed amendment, within ten (10) days of the submission of those findings and recommendations to the County Board; and
 - d. Written notice of the County Board's decision on the proposed amendment, within ten (10) days after it is issued.
2. 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:
 - a. Storm and flood water storage capacity;
 - b. 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;
 - c. Filtering or storage of sediments, nutrients, heavy metals or organic compounds that would otherwise drain into navigable waters;
 - d. Shoreline protection against soil erosion;
 - e. Fish spawning, breeding, nursery or feeding grounds;
 - f. Wildlife habitat; or
 - g. Areas of special recreational, scenic or scientific interest, including scarce wetland types.
3. If the Department of Natural Resources notifies the County Zoning Agency that a proposed amendment to the Shoreland-Wetland District may have a significant adverse impact upon any of the criteria listed in Section 70.61(E)(2), that amendment, if approved by the County Board, shall contain the following provision:

"This amendment shall not take effect until more than thirty (30) days have elapsed since the written notice of the County Board's approval of this amendment was mailed to the Department of Natural Resources. During that thirty (30) day period the Department may notify the County Board that it will adopt a superseding Shoreland Chapter for the County under § 59.692 (6), Wis. Stats. If the Department does so notify the County Board, the effect of this amendment shall be stayed until the adoption procedure in § 59.692 (6), Wis. Stats., is completed or otherwise terminated."

70.62 Recreational-Residential District.

- A. This District includes all shorelands not within the Shoreland-Wetland or General Purpose districts and designated Recreational-Residential on the Shoreland Zoning Map of County.
- B. The purpose of the Recreational-Residential District is to protect the waters and shorelands of the County by providing for safe and orderly shoreland development. Recreational-Residential shorelands are particularly suited for residential and recreational uses.
- C. Permitted Uses:
 - 1. Single family dwellings.
 - 2. Agriculture uses (on parcels of more than two (2) acres) provided that farm animals shall be housed a least one hundred (100) feet from any non-farm residence with a limit of 2 animal units on parcels that are two (2) to five (5) acres in size. Farm buildings housing animals, barnyards or feedlots shall be at least one hundred (100) feet from any navigable water and shall be so located that manure will not pollute any navigable water.³⁴
 - 3. Camping as regulated under Section 70.40(I).
 - 4. Accessory buildings.
 - 5. Bunkhouse/temporary guest quarters.
- D. The following uses shall be permitted upon the granting of a Special Exception:
 - 1. Hotels and motels.
 - 2. Restaurants.
 - 3. Multi-family dwellings.
 - 4. Recreational camps.
 - 5. Campgrounds and travel trailer parks.
 - 6. Mobile home parks.
 - 7. Gift and specialty shops.
 - 8. Marinas.
- E. The following uses shall be permitted upon the granting of an Administrative Review Permit:
 - 1. Home occupations.

70.63 General Purpose District.

- A. This District includes all shoreland not within the Shoreland-Wetland or Recreational-Residential Districts and designated as General Purpose on the Shoreland Zoning Map of the County. Areas other than those contained in the Shoreland-Westland District and Recreational-Residential District are potentially suited to a wide range of uses, including industrial, commercial, agricultural, residential, forestry and recreational uses. Selecting prospective locations for these uses and designating specific zones for each of them along navigable waters will require detailed, county-wide comprehensive planning. Until such

planning is undertaken and more detailed amendments to this Chapter can be enacted, a General Purpose District will be used to allow a wide range of uses, subject to the general provisions of this Chapter which are designed to: further the maintenance of safe and healthful conditions; protect spawning grounds, fish and aquatic life; and preserve shore cover and natural beauty. Minimum separating distances are provided to reduce conflicting land uses between potentially incompatible uses.

B. Permitted uses:

1. Any use permitted in a Shoreland-Wetland or Recreational-Residential District.

C. The following uses will be permitted upon the granting of a Special Exception:

1. Commercial uses.
2. Industrial uses.
3. Any uses listed as a Special Exception under Section 70.62.
4. The following uses shall be permitted upon the granting of an Administrative Review Permit: Home occupations.

70.64 Planned Residential Unit Development.

- A. Purpose. In some instances, where an individual lot or small tract of land has unique characteristics, such as terrain, which would result in unnecessary hardship if the owner were required to comply with one or more of the requirements for minimum lot sizes, width and setbacks, the Board of Adjustment may grant a variance. In other instances, where much larger areas are involved, the appropriate method for seeking a relaxation of the same minimum is by a limited rezoning procedure so as to establish for the area a Planned Residential Unit Development Overlay. The Planned Residential Unit Development is intended to permit smaller lots and setbacks where the physical layout of the lots is so arranged (often by setting them back farther from the navigable water) 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 the special conditions placed upon the Planned Residential Unit Development at the time of its approval. A condition of all planned unit developments would require the preservation of certain open spaces, preferably on the shoreland, in perpetuity.
- B. The County Board may in its discretion upon its own motion or upon petition approve a Planned Residential Unit Development either by approving first an overlay and then a plat or by approving only a plat for the specific planned residential project on finding after a public hearing that all of the following facts exist:
1. Size. The area proposed for the planned residential unit is at least forty (40) acres in size.
 2. Pollution Control. The location and nature of the septic systems which will serve the homesites individually or collectively is such as to assure that effluent from the septic tank(s) will not reach the ground or surface waters in a condition which will contribute to health hazards, taste, odor, turbidity, fertility or impair the aesthetic character of the adjacent or nearby navigable waters.
 3. Preservation of Ground Cover. The location of homesites and the restriction placed on part of the land for use by the public or residents of the Planned Unit Development are such as to preserve the ground cover of the shoreland and the scenic beauty of the navigable water and prevent erosion and the other pertinent factors listed in Section 70.49. Excess land 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 homeowners' association or similar legally constituted body shall be created to maintain the open space land. Any restriction placed on platted land by covenant, grant or 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 homesites will not exceed those which would have been possible if the same land were platted in accordance with the minimum lot sizes, setbacks and widths provided by the applicable provisions of this Chapter. This figure should be determined by dividing the total area of the subdivision, excluding streets, by the minimum lot size provided in this Chapter and Chapter 69.
 5. Lot Sizes, Width, Setbacks and Tree Cutting. The lot sizes, width and setbacks shall not be less than those provided for in current statutes and shall not be so small as to cause pollution or erosion along streets or other public ways and waterways or so small as to substantially depreciate the property values in the immediate neighborhood. Shore cover provisions in Section 70.54 shall apply.
- C. The procedure for establishing limited rezoning in the form of a Planned Residential Unit Development District shall be as follows:
1. A petition setting forth all of the facts required by Section 70.64(B) shall be submitted to the County Clerk with sufficient copies to provide for distribution by the Clerk as required by Subparagraph (2) below. If the County, regional planning commission or other appropriate agency shall have prepared factual data clearly responsive to one or more of the requirements of Section 70.64(B), such data may be incorporated by reference in the petition.
 2. The petition shall be submitted to the County Zoning Agency established as required by § 59.69(5)(e), Wis. Stats., which shall hold a public hearing thereon and make a report to the County Board as required by law. Copies of the petition and notice of the hearing shall also be sent to the District offices of the Department of Natural Resources and the office of the regional planning commission in which the County is located. The County Zoning Agency's report to the County Board shall reflect the recommendations of the above agencies and of any other federal or state agency, which the County Zoning Agency may consult. If a petition seeks approval of a planned use development plat without first seeking the granting of any overlay, a hearing must be held on such plat as on any regular amendment to the Zoning Chapter. If, however, a hearing is first held on the overlay for a planned residential district, a second public hearing need not be held in connection with the approval of a subsequent plat or plats which complies with the overlay district as approved.
 3. The County Board shall make written findings as to the compliance or noncompliance of the proposed overlay district with each of the applicable requirements set forth in Section 70.64(B). If the petition is granted in whole or part, the County Board's approval shall attach such written conditions to the approval as shall be required by or be consistent with Section 70.64(B). The condition of approval shall in all cases establish the specific restrictions applicable with regard to minimum lot sizes width, setbacks, and the location of septic tanks and the preservation of ground cover and/or open space.

4. A landowner or petitioner may at his own expense develop the facts required to establish compliance with the provisions of Section 70.64(B) or may contribute funds to the County to defray all or part of the cost of such studies being undertaken by the County or any agency or person with whom the County contracts for such work.

70.65 Mobile Home Parks.

- A. Mobile home park means a plot or plots of ground upon which three (3) or more units which are mobile homes, as defined herein, and occupied for dwelling purposes are located.
- B. The minimum size of a mobile home park shall be ten (10) acres.
- C. The maximum number of mobile homes shall be eight (8) per acre.
- D. Minimum dimensions of a mobile home site shall be fifty (50) feet wide by one hundred (100) feet long.
- E. All drives, parking areas and walkways shall be surfaced.
- F. In addition to the requirements of this Chapter, there shall be a minimum setback of twenty-five (25) feet from all exterior lot lines.
- G. The parks shall conform to the requirements of the Wisconsin Administrative Code.
- H. Each mobile home site shall be separated from other mobile home sites by a yard not less than twenty (20) feet wide.
- I. There shall be two (2) surfaced automobile parking spaces for each mobile home.
- J. Unless adequately screened by existing vegetative cover, the mobile home park shall be screened by a temporary planting of fast growing material, capable of reaching a height of fifteen (15) feet, or more, the individual trees to be such a number and so arranged that within ten (10) years they will have formed a screen equivalent in capacity to a solid fence or wall. Such permanent planting shall be grown or maintained to a height of not less than ten (10) feet.
- K. Each mobile home park shall set aside at least five percent (5%) of the total area for a recreation area. This shall be in addition to yard or open spaces. The area shall be provided with play equipment furnished and maintained by the park owner.
- L. All mobile home parks shall comply with the County Sanitary Chapter.

70.66 Campgrounds and Travel Trailer Parks.

- A. The minimum size shall be ten (10) acres.
- B. There shall be a maximum of twenty (20) sites per acre.
- C. Each site shall be a minimum of twenty-five (25) feet wide and forty (40) feet long.
- D. Each site shall be plainly marked.
- E. Each site shall be separated from other sites by a yard not less than fifteen (15) feet wide.
- F. There shall be one (1) automobile parking space for each site.
- G. In addition to the setbacks required in Section 70.52, there shall be a minimum setback of one hundred (100) feet from all lot lines.
- H. All shall comply with the Wisconsin Administrative Code.
- I. The screening provisions for mobile home parks shall be met.

70.67 Violations, Penalties, Remedial Action, Enforcement.

The provisions of this Chapter shall be enforced under direction of the County Board of Supervisors, through the Zoning Committee and the Zoning Administrator. For forfeitures and penalties related to non-compliance with this Chapter, refer to Section 70.10 and Chapter 100.

70.68 Changes and Amendments.

- A. Whenever public necessity, convenience, general welfare or good zoning practice require, the County Board of Supervisors may, by chapter, change the district boundaries or amend or supplement the regulations established by this Chapter in accordance with the provisions of the Wisconsin Statutes.
- B. A petition for amendment must be made pursuant to the procedures set forth in § 59.69(5)(e), Wis. Stats., and the provisions of that statute followed before any amendment to this Chapter may be considered.
- C. Petition for any change to the district boundaries or amendments to the regulations shall be filed with the County Clerk, describe the premises to be rezoned or the regulations to be amended, list the reasons justifying the petition, specify the proposed use and have attached the following:
 - 1. Plot plan approved by the Zoning Administrator, showing the area proposed to be rezoned, its location, its dimensions, the location and classification of adjacent zoning districts and the location and existing use of all properties within three hundred (300) feet of the area proposed to be rezoned.
 - 2. Owner's names and addresses of all properties lying within three hundred (300) feet of the area proposed to be rezoned.
 - 3. Fee receipt from the Zoning Administrator.

70.69 Definitions.

For the purposes of this Chapter, certain words are defined as follows: words used in the present tense include the future; words in the singular number include the plural number, and words in the plural number include the singular number; the word "*building*" includes the word "*structure*" and the word "*shall*" is mandatory and not permissive.

A. Accessory Building.

A subordinate building or portion of the main building, the use of which is incidental to the permitted use of the main building. Mobile homes, semitrailers, camping units, recreational vehicles, mobile office units, cargo boxes, buses, motor coaches, trailers and boxcars shall not be used as accessory buildings.

B. Access and viewing corridor.

Means a strip of vegetated land that allows safe pedestrian access to the shore through the vegetative buffer zone.

C. Administrative Review Permit.

A permit for a use designated as an administrative review use in the Chapter, which requires a more detailed review by the Zoning Administrator than a permitted use, but allows for a more expedited review than a special exception.

D. Agricultural Use.

Beekeeping; commercial feedlots; dairying; egg production; floriculture; fish or fur farming; forest and game management; grazing; livestock raising; orchards; plant

greenhouses and nurseries; poultry raising; raising of grain, grass, mint and seed crops; raising of fruits, nuts and berries; sod farming; placing land in federal programs in return for payments in kind; owning land, at least thirty-five (35) acres of which is enrolled in the conservation reserve program under 16 USC 3831 to 3836; participating in the milk production termination program under 7 USC 1446 (d); and vegetable raising.

E. Boathouse.

Means a permanent structure used for the storage of watercraft and associated materials and includes all structures which are totally enclosed, have roofs and walls or any combination of these structural parts.

F. Building envelope.

Means the three dimensional space within which a structure is built.

G. Building—Principal.

The main building on a lot, intended for primary use as permitted by the regulation of the Zone or district in which it is located.

H. Bunkhouse/temporary guest quarters.

Means an accessory structure or part of an accessory structure, which is located on a lot with a dwelling, with or without plumbing that is used as temporary sleeping quarters and does not have kitchen facilities.

I. Campground.

A parcel or tract of land maintained, intended or used for the purpose of supplying temporary or overnight living accommodations by providing designated areas for the placement of trailers, tents, buses, automobiles, trucks or sleeping bags, and may include buildings to provide services to patrons such as restrooms, bathing, laundry, recreation and commissary facilities.

J. Department.

The Department of Natural Resources.

K. Drainage System.

One (1) or more artificial ditches, tile drains or similar devices which collect surface run-off or groundwater and convey it to a point of discharge.

L. Dwelling.

A detached building designed or used exclusively as a residence or sleeping place, but does not include boarding or lodging houses, motels, hotels, tents, or trailers.

M. District.

A portion or portions of the County for which regulations governing the use of land and building are uniform.

N. Existing development pattern.

Means that principal structures exist within 250 feet of a proposed principal in both directions along the shoreline.

O. Floodplain.

The land which has been or may be hereafter covered by flood during the regional

flood. The floodplain includes the floodway and the flood fringe as those terms are defined in NR 116, Wisconsin Administrative Code.

P. Floodproofing.

Any treatment of land or buildings and their attendant water supply and sanitary sewage disposal facilities that reduces flood damage and water contamination hazard. This includes sealing, anchoring, elevating and filling, but is not restricted thereto.

Q. High Capacity Well.

High capacity well means a well-constructed on a high capacity property.

R. High Capacity Well Property.

High capacity property means one property on which a high capacity well system exists or is to be constructed.

S. High Capacity Well System.

High capacity well system means one or more wells, drillholes or mine shafts used or to be used to withdraw water for any purpose on one (1) property, if the total pumping or flowing capacity of all wells, drillholes or mine shafts on one (1) property is seventy (70) or more gallons per minute based on the pump curve at the lowest system pressure setting, or based on the flow rate.

T. Home Occupation.

Any occupation for gain or support conducted by resident occupants entirely in buildings provided the use does not alter the appearance of the premises, does not produce noise, vibration, light, odor, dust, smoke or other pollution detectable outside the parcel by persons with normal sensitivities, is not identifiable by an on-premises sign of more than square feet in area, and there is only one such use on any lot. The use shall be incidental and subordinate to the primary or principal use of the property and no stock in trade shall be kept or sold except that made on the premises nor shall any non-resident be employed unless specifically approved by the County Board of Adjustment.

U. Impervious surface.

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), Wis. Adm. Code, or sidewalks as defined in s. 340.01(58), Wis. Adm. Code, are not considered impervious surfaces.

V. Junk Yard.

An area consisting of buildings, structures or premises where junk, waste, discarded, or salvage materials are bought, sold, exchanged, stored, baled, packed, disassembled, or handled, including automobile salvage yards, as a for profit operation, or in excess of normal residential use.

W. Kennel.

Premises where five (5) or more dogs, cats, or other household pets, not including offspring below the age of six (6) months, are maintained, boarded, bred, trained, or cared for in return for remuneration or are kept for the purpose of sale.

- X. **Kitchen facility.**
Is a room or area of a room that includes kitchen fixtures such as cabinets, sinks, refrigerators, microwaves and stoves or other articles intended to be used for cooking.
- Y. **Lagoon.**
An artificial enlargement of a waterway.
- Z. **Lot.**
A parcel of land described in a recorded plat or deed.
- AA. **Lot, Corner.**
A lot abutting on two (2) or more streets at their intersection.
- BB. **Lot Lines and Area.**
The peripheral boundaries of a parcel of land and total area lying within such boundaries.
- CC. **Lot Depth.**
The mean horizontal distance between the front and rear lot lines.
- DD. **Lot Width.**
The distance between side lines of the lot.
- EE. **Manufacturing.**
The manufacturing, compounding, processing, assembling, packaging or testing of goods or equipment, including research activities, conducted entirely within an enclosed structure or an open yard, serviced by a modest volume of trucks or other service vehicles, and imposing a negligible impact on the surrounding environment by noise, vibration, smoke, dust or pollutants.
- FF. **Mini-Warehouse.**
A secure storage facility consisting of individual compartments that are for rent or lease.
- GG. **Mitigation.**
Means balancing measures that are designed, implemented and function to restore natural functions and values that are otherwise lost through development and human activity.
- HH. **Mobile Home.**
A single family dwelling which does not require substantial onsite fabrication and is transportable on its own chassis in one (1) unit. This definition does not include double-wide units, which are not transportable on their own chassis.
- II. **Mobile Home Park.**
A plot or plots of land upon which three (3) or more units, which are mobile homes and occupied for dwelling purposes, are located, along with the necessary accessories.
- JJ. **Navigable waters.**
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 the boundary waters, which are navigable under the laws of this State. Under s.281.31(2)(d), Wis. Stats, notwithstanding any other provision of law or administrative rule promulgated thereunder, shoreland ordinances required under s.59.692, Wis. Stats, and ch. NR115, Wis. Adm. Code, 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 navigable water body.

KK. Non-conforming Lot, Use or Structure.

Any structure, land or water lawfully used, occupied, or erected at the time of the effective date of this Chapter or amendments thereto which does not conform to the regulations of this Chapter or amendments thereto.

LL. Ordinary Highwater Mark.

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

MM. Private Sewage Disposal System.

A sewage disposal system other than a public sewage disposal system, including septic tank, soil absorption systems, privies, holding tanks and private owned common sewage facilities, including package treatment plants, lagoons and irrigation systems.

NN. Public Sewage Disposal Systems.

Sewer and sewage treatment facilities used in connecting therewith which are maintained and operated by a municipality or sanitary district.

OO. Quarrying.

The removal of rock, slate, gravel, sand, top soil, or other natural material from the earth by excavating, stripping, leveling or any other such process.

PP. Regional Flood.

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 year.

QQ. Routine maintenance of vegetation.

Means normally accepted horticultural practices that do not result in the loss of any layer of existing vegetation and do not require earth disturbance.

RR. Setback.

The minimum allowable horizontal distance from a given point or line of reference, such as a thoroughfare, right of way, water line, or prospective line to the nearest vertical wall or other element of a building or structure.

SS. Shorelands.

All lands lying within one thousand (1,000) feet of the normal high water mark of navigable lakes, ponds, flowages or within three (300) feet of the normal high water mark of a river or stream or to the landward side of a floodplain.

TT. Silvercultural Thinning.

A woodland management practice which, for the purpose of this Chapter, improves or maintains the quality of adjacent surface water through responsible cutting in shorelands and by which long lived species are perpetuated and provision is made for efficient methods of slash disposal.

UU. Special Exception.

A use which is permitted by this Chapter provided that certain conditions specified pursuant to the Chapter are met and that a permit is granted by the Board of Adjustment.

VV. Single Family Dwelling.

A residential building containing one (1) dwelling unit.

WW. Structure.

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

XX. Structural Alteration.

Any change in the supporting members of a structure, such as walls, columns, beams, girders, or any substantial change in the roof and exterior walls.

YY. Travel Trailer.

A portable vehicle, designed to be towed by a motor vehicle and used as a temporary dwelling for travel, recreation and vacation use, which does not fall within the definition of a mobile home.

ZZ. Unnecessary Hardship.

That circumstance where special conditions, which were not self-created, affect a particular property and make strict conformity with restrictions governing area, setbacks, or frontage unnecessarily burdensome or unreasonable in light of the purposes of this Chapter.

AAA. Use.

The purpose or activity for which the land or buildings thereon is designed, arranged or intended or for which it is occupied or maintained.

BBB. Variance.

A departure from the terms of this Chapter as applied to a specific building, structure, or parcel of land, which the Board of Adjustment may permit, contrary to the regulations of the Chapter for the district in which such building or structure or parcel is located. When the Board finds, after a public hearing that a literal application of such regulation will effect a limitation on the use of the property, which does not generally apply to other properties in the same district, and for which there is no compensating gain to the public health, safety or welfare. A variance shall not permit a use which is not permitted in the district in which it is proposed.

CCC. Wetlands.

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.

Article V – Mobile Service Support Structures and Wireless Communication Facilities.

70.70 Statutory Authorization, Purpose, Finding of Fact.

- A. Statutory Authorization. This Article is adopted pursuant to the authorization contained in §§ 59.69 and 66.0404, Wis. Stats.
- B. The purpose of this Article is to regulate by zoning permit (1) the siting and construction of any new mobile service support structure and facilities; (2) with regard to a class 1 collocation, the substantial modification of an existing support structure and mobile service facilities; and (3) with regard to a class 2 collocation, collocation on an existing support structure which does not require the substantial modification of an existing support structure and mobile service facilities.

70.71 Jurisdiction.

This Article shall be effective in the unincorporated areas of the County except those areas where a Town enacts an ordinance after the effective date of this Article.

70.72 Applicability.

This Article does not apply to:

- A. The installation of any tower or antenna that is owned and/or operated by a federally licensed amateur radio operator or is used exclusively for receive only antennas.
- B. The use of all receive-only television antenna and satellite dishes, or mobile services providing public information coverage of news events of temporary or emergency nature are exempt from this Article.
- C. The siting, construction or collocation of any new mobile service support structure or facility used for the provision of governmental police or emergency services purposes.

70.73 Siting and Construction of any New Mobile Service Support Structure and Facilities and Class 1 Collocation.

- A. Application Process.
 - 1. A Special Exception permit under Section 70.07 is required for the siting and construction of any new mobile service support structure and facilities and for Class 1 Collocation.³⁵
 - 2. A written permit application must be completed and submitted to the Zoning Department. The application must contain the following information:
 - a. The name and business address of, and the contact individual for, the applicant.
 - b. The location of the proposed or affected support structure.
 - c. The location of the proposed mobile service facility.
 - d. If the application is to substantially modify an existing support structure, a construction plan which describes the proposed modifications to the support structure and the equipment and network components, including antennas,

35 County Board Resolution 48-2019

transmitters, receivers, base stations, power supplies, cabling, and related equipment associated with the proposed modifications.

- e. If the application is to construct a new mobile service support structure, a construction plan which describes the proposed mobile service support structure and the equipment and network components, including antennas, transmitters, receivers, base stations, power supplies, cabling, and related equipment to be placed on or around the new mobile service support structure.
 - f. If an application is to construct a new mobile service support structure, an explanation as to why the applicant chose the proposed location and why the applicant did not choose collocation, including a sworn statement from an individual who has responsibility over the placement of the mobile service support structure attesting that collocation within the applicant's search ring would not result in the same mobile service functionality, coverage, and capacity; is technically infeasible; or is economically burdensome to the mobile service provider.
 - g. For purposes of Subsection (2)(f), "search ring" shall be, at a minimum, a five (5) mile radius from the proposed site of a new mobile service support structure.³⁶
 - h. For purposes of Subsection (2)(f), the applicant shall identify the current mobile service functionality, coverage and capacity, within the search ring regardless of the whether or not the applicant is the provider of that service. ³⁷
 - i. For an application to construct a new mobile service support structure, the applicant shall submit \$3,000.00 advance fees for use of a 3rd party consultant to review the information provided in the application, and to provide such other information to the Zoning Department that it deems necessary to review the application. The Zoning Department will not use advance fees to pay for any travel expenses incurred in the consultant's review of the application. The Zoning Department will use such fees to the extent necessary to reimburse the Zoning Department for its actual and reasonable expense in reviewing and considering the application. Any unused fees will be returned to the applicant. If the Zoning Department's actual and reasonable review costs exceed this amount, the applicant shall reimburse the Zoning Department for the same prior to the issuance of a permit. No permit will be issued if the applicant fails to comply with the provisions of this section. ³⁸
 - j. A description of how the applicant will comply with the other requirements of this Article including, but not limited to, Sections 70.76(A)(6) and (7) and (C)(2). ³⁹
 - k. Signed, sworn statements from each person or entity that intends to locate on the mobile service support structure.⁴⁰
3. A permit application will be provided by the Zoning Department upon request to any

36 County Board Resolution 48-2019

37 County Board Resolution 48-2019

38 County Board Resolution 48-2019

39 County Board Resolution 48-2019

40 County Board Resolution 48-2019

applicant.

- B. Completed Applications. If an applicant submits to the Zoning Department an application for a permit to engage in an activity described in the Article, which contains all of the information required under the Article, the Zoning Department shall consider the application complete. If the Zoning Department does not believe that the application is complete, the Zoning Department shall notify the applicant in writing, within ten (10) days of receiving the application, that the application is not complete. The written notification shall specify in detail the required information that was incomplete. An applicant may resubmit an application as often as necessary until it is complete.
- C. Marquette County Responsibilities. Within ninety (90) days of its receipt of a complete application, the Zoning Department shall complete all of the following or the applicant may consider the application approved, except that the applicant and the Zoning Department may agree in writing to an extension of the ninety (90) day period:
 - 1. Review the application to determine whether it complies with all applicable aspects of the County's building code and, subject to the limitations in this Section.
 - 2. Make a final decision whether to approve or disapprove the application.
 - 3. Notify the applicant, in writing, of its final decision.
 - 4. If the decision is to disapprove the application, include with the written notification substantial evidence which supports the decision.
- D. Disapproval. The Zoning Department may disapprove an application if an applicant refuses to comply with the provisions of Section 70.73(A)(2). ⁴¹
- E. Application of Set Back/Fall Zone. Mobile service support structures shall meet all applicable setbacks as set forth in the Code. If an applicant provides the Zoning Department with an engineering certification showing that a mobile service support structure, or an existing structure, is designed to collapse within a smaller area than the height of the structure, the setback shall be the required setback for the zoning district or the distance shown in the engineering certification, whichever is greater. The setback distance may be increased if the Zoning Department provides the applicant with substantial evidence that the engineering certification is flawed.
- F. Self Supporting. Mobile service support structures shall be self-supporting monopoles or lattice towers except where satisfactory evidence is submitted to the Zoning Department that only a guyed tower is feasible.
- G. Guyed Tower Requirements⁴²
 - 1. Each and every guy wire (not just external wires) should be clearly marked for the length of the wire.
 - 2. Starting at the top of the guy wire, the first marker must be placed within the first 15 feet of length. The last marker can be no more than 15 feet from the ground at the end of the guy wire. Markers should be of a color that does not blend with the wire.
 - 3. Choice of marker and spacing of the markers along the guy wire must use one of the following options.

41 County Board Resolution 48-2019

42 County Board Resolution 48-2019

- i. Spiral flight diverters (i.e., open-ended BIRD FLIGHT™ diverter or closed SWAN FLIGHT™ diverter or equivalent technology) spaced at intervals no greater than 15 feet apart.
 - ii. "FireFly™" 'flapper' secured with a dropped forged galvanized cable (u-bolt) clamp or equivalent technology, spaced at intervals no greater than 30 feet apart.
 - iii. In an alternating pattern, FireFly™ (or equivalent technology), and spiral flight diverters (e.g., open-ended BIRD FLIGHT™ diverter or closed SWAN FLIGHT™ diverter or equivalent technology) at spacing intervals of 15 feet apart.
 - 4. Applicants must comply with manufacturer recommendations when using the methods outlined above.
 - 5. If an applicant proposes an alternative method of marking guy wires, and the County approves of an alternative installation, the County may require applicant to change that method if the County determines the alternatives result in bird fatalities (including scavenger and detectability correction factor studies).
 - 6. Avoid placing lines within wetlands, over canyons, or within important avian movement corridors (i.e., between foraging and nesting sites).
 - 7. Lights are sometimes used to mark guy wires and power lines. Because lights can both attract and confuse migrating birds, use lights only if lighting is needed for aviation safety. Unless otherwise, if required by the Federal Aviation Administration, use only the minimum number of strobed, strobe-like, or blinking incandescent lights with a minimum intensity, maximum "off-phased" dual strobe lights. No steady burning lights (e.g., L-810) should be used. All lights should illuminate simultaneously.
 - 8. If fatalities are observed, they must be reported to the County.
- H. Fees. The fee for the permit is three thousand dollars (\$3,000.00).
- I. Limitations. Zoning Permits for Siting and Construction for any new mobile service support structure and facilities and zoning permits for Class 1 Colocations shall only be granted provided the following conditions exist:
- 1. If the location of the proposed mobile service support structure or mobile service facility is on leased land, the lease agreement does not preclude the lessee from entering into leases on the site with other provider(s) and there is no other lease provision operating as a bar to collocation of other providers.
 - 2. The applicant has obtained Federal Communications Commission (FCC) license numbers and registration numbers if applicable.
 - 3. The applicant and/or agent have copies of Findings of No Significant Impacts (FONI) statement from the Federal Communications Commission (FCC) or Environmental Assessment or Environmental Impact Study (EIS), if applicable.
 - 4. The applicant and/or agent have copies of the determination of no hazard from the Federal Aviation Administration (FAA) including any aeronautical study determination or other findings, if applicable.
 - 5. The applicant and/or agent have plans indicating security measures (i.e. access, fencing, lighting, etc.).

6. For new mobile service support structures, the applicant has obtained a report prepared by an engineer licensed by the State of Wisconsin certifying the structural design of the tower and its ability to accommodate additional antennas.
7. The applicant and/or agent have proof of liability coverage.
8. The applicant and/or agent have copies of an Affidavit of Notification indicating that all operators and owners of airports located within five (5) miles of the proposed site have been notified via certified mail.
9. The Facility or collocation is designed to promote site sharing, such that space is reasonably available to collocutors and such that telecommunication towers and necessary appurtenances, including but not limited to parking areas, access road, and utilities, are shared by site users whenever possible.

70.74 Class 2 Collocation.

A. Application Process.

1. A zoning permit is required for a Class 2 collocation.
2. A written permit application must be completed by any applicant and submitted to the Zoning Department. The application must contain the following information:
 - a. The name and business address of, and the contact individual for, the applicant.
 - b. The location of the proposed or affected mobile service support structure.
 - c. The location of the proposed mobile service facility.
3. A permit application will be provided by the Zoning Department upon request to any applicant.

B. Requirements. A Class 2 collocation is subject to the same requirements for the issuance of a zoning permit to which any other type of commercial development is subject, except that the maximum fee for a zoning permit shall be one hundred fifty dollars (\$150.00).

C. Completed Applications. If an applicant submits to the Zoning Department an application for a permit to engage in an activity described in this Article, which contains all of the information required under this Article, the Zoning Department shall consider the application complete. If any of the required information is not in the application, the Zoning Department shall notify the applicant in writing, within five (5) days of receiving the application, that the application is not complete. The written notification shall specify in detail the required information that was incomplete. An applicant may resubmit an application as often as necessary until it is complete.

D. Marquette County Requirements. Within forty-five (45) days of its receipt of a complete application, the Zoning Department shall complete all of the following or the applicant may consider the application approved, except that the applicant and the Zoning Department may agree in writing to an extension of the forty-five (45) day period:

1. Make a final decision whether to approve or disapprove the application.
2. Notify the applicant, in writing, of its final decision.
3. If the application is approved, issue the applicant the relevant permit.
4. If the decision is to disapprove the application, include with the written notification substantial evidence which supports the decision.

70.75 Removal/Security for Removal.

- A. It is the express policy of the County and this Article that mobile service support structures be removed once they are no longer in use and not a functional part of providing mobile service and that it is the mobile service support structure owner's responsibility to remove such mobile service support structures and restore the site to its original condition or a condition approved by the County Zoning Department. This restoration shall include removal of any subsurface structure or foundation, including concrete, used to support the mobile service support structure down to five (5) feet below the surface. After a mobile service support structure is no longer being used for mobile service that is in operation, the mobile service support structure owner shall have one hundred eighty (180) days to effect removal and restoration unless weather prohibits such efforts. Permittee shall record a document with the County Register of Deeds showing the existence of any subsurface structure remaining below grade. Such recording shall accurately set forth the location and describe the remaining structure.
- B. Security for Removal. The owner of any mobile service support structure other than a municipality or other unit of government shall provide to the County, prior to the issuance of the zoning permit, a performance bond in an amount based on a written estimate of a qualified remover of said types of structures, or twenty thousand dollars (\$20,000.00), whichever is less, to guarantee that the mobile service support structure will be removed when no longer in operation. The County will be named as obligee in the bond and must approve the bonding company. The County may require an increase in the bond amount after five (5) year intervals to reflect increases in the Consumer Price Index, but at no point shall the bond amount exceed twenty thousand dollars (\$20,000.00). The provider shall supply any increased bond within a reasonable time, not exceeding sixty (60) days, after the County's request. A permittee may submit a letter of credit in the amount set forth above, or, in the alternative, a permittee with several sites in the County may submit a master bond to cover all of said sites. A master bond or letter of credit may, in the Zoning Committee's discretion, be in an amount sufficient to secure removal from one (1) site if the master bond or letter of credit provides for replenishing any amount used as the master bond or letter of credit covers any other site in the County.

70.76 Structural, Design and Environmental Standards.

- A. Mobile Service Support Structure, Antenna and Facilities Requirements. All mobile service facilities and mobile service support structures, except exempt facilities as defined in Section 70.72 shall be designed to reduce the negative impact on the surrounding environment by implementing the measures set forth below:
 - 1. Mobile Service support structures shall be constructed of metal or other nonflammable material, unless specifically permitted by the County to be otherwise.
 - 2. Satellite dish and parabolic antennas shall be situated as close to the ground as possible to reduce visual impact without compromising their functions.
 - 3. Equipment compounds shall be constructed of nonreflective materials (visible exterior surfaces only). Equipment compounds shall be designed to blend with existing architecture in the area or shall be screened from site by mature landscaping, and shall be located or designed to minimize their visibility.
 - 4. Mobile service facilities, support structures and antennas shall be designed and constructed in accordance with the State of Wisconsin Uniform Building Code, National Electrical Code, Uniform Plumbing Code, Uniform Mechanical Code, and Uniform Fire Code, the County Subdivision Article, the County Sanitation Article, Electronic Industries Association (EIA), American National Steel Institute Standards (ANSI), and American National Standards Institute (ANSI) in effect at the time of

manufacture.

5. Mobile service facilities and support structures shall not interfere with or obstruct existing or proposed public safety, fire protection or Supervisory Controlled Automated Data Acquisition (SCADA) operation telecommunication facilities. Any actual interference and/or obstruction shall be corrected by the applicant at no cost to the County.
6. Comply with the most recent Recommended Best Practices for Communication Tower Design, Siting, Construction, Operation, Maintenance, and Decommissioning as set forth by the U.S. Fish and Wildlife Service.⁴³
7. Lighting shall comply with the following:⁴⁴
 - i. No tower lighting is the preferred option if Federal Aviation Administration (FAA) regulations and lighting standards (FAA 2015, Patterson 2012) permit.
 - ii. For some towers, the FAA can permit an Aircraft Detection Lighting System (ADLS), which maintains a communication tower of any height to be unlit until the ADLS radars detect nearby aircraft, at which time the tower lighting system is triggered to illuminate until the aircraft is out of radar range.
 - iii. If taller (> 199 ft. AGL) towers requiring lights for aviation safety must be constructed, the minimum amount of pilot warning and obstruction avoidance lighting required by the FAA should be used. Unless otherwise required by the FAA, only white or red flashing lights should be used at night, and these should follow FAA obstruction and marking standards with regards to the minimum number of lights, minimum intensity (< 2,000 candela), and minimum number of flashes per minute (i.e., longest duration between flashes and "dark phase"). Avoid using non-flashing warning lights at night (FAA 2015, Patterson 2012). Owners of existing towers lit with lighting systems that include non-flashing lights should submit plans to the FAA explaining how and when they will transition to the new standards.
 - iv. Security lighting for on-ground facilities, equipment, and infrastructure should be motion- or heat-sensitive, down-shielded, and of a minimum intensity to reduce nighttime bird attraction and eliminate constant nighttime illumination while still allowing safe nighttime access to the site and any other guidelines established by the United States Fish and Wildlife Service for such facilities.

B. Site Development. A leased parcel intended for the location of new mobile service facilities, mobile service support structures, and equipment compounds shall be located so as to permit expansion for mobile service facilities to serve all potential customers.

C. Vegetation protection and facility screening.

1. Except exempt facilities as defined in Section 70.72, all mobile service facilities shall be installed in a manner as to minimize disturbance to existing native vegetation and shall include suitable mature landscaping to screen the facility, where necessary. For purposes of this Section, "*mature landscaping*" shall mean trees, shrubs or other vegetation of a minimum initial height of five (5) feet that will provide the appropriate

43 County Board Resolution 48-2019

44 County Board Resolution 48-2019

level of visual screening immediately upon installation.

2. With regard to invasive species, the owner(s)/operator(s) shall comply with the following: ⁴⁵
 - i. Plan activities to limit the potential for the introduction and spread of invasive species, prior to construction.
 - ii. Select appropriate species for revegetation and landscaping activities.
 - iii. Minimize soil disturbance which may include using existing roads, access points, staging areas and alternative construction
 - iv. Prior to moving equipment out of an infested area and then into an uninfested area, clean soils, seeds, plant parts, or invertebrates from exterior surfaces, to the extent possible.
 - v. Locate and use staging areas that are free of invasive plants to avoid spreading seeds and other viable plant parts.
 - vi. Inspect and clean clothing, footwear and gear for soils, seeds, plant parts, and invertebrates before and after activities.
 - vii. Carefully dispose of soils, seeds, plant parts or invertebrates found during inspection and cleaning.
 - viii. Manage stock piles to limit the spread of invasive species.
 - ix. Keep and reuse onsite materials rather than importing new materials.
 - x. Stabilize disturbed soils as soon as possible.
 - xi. Use non-invasive cover crops or native seed for revegetation.
 - xii. Provide appropriate resources so that workers can identify invasive species.
 3. Upon project completion, the owner(s)/operator(s) of the facility shall be responsible for maintenance and replacement of all required landscaping as long as a telecommunication facility is maintained on the site.
- D. Fire Prevention. All mobile service facilities shall be designed and operated in accordance with all applicable codes regarding fire prevention.
- E. Noise and Traffic. All mobile service facilities shall be constructed and operated in such a manner as to minimize the amount of disruption caused to nearby properties. To that end the following measures shall be implemented for all mobile service facilities, except exempt facilities as defined in Section 70.72:
1. Noise producing construction activities shall take place only on weekdays (Monday through Saturday, non-holiday) between the hours of 6:00 a.m. and 6:00 p.m., except in times of emergency repair; and
 2. Backup generators, if present, shall be operated only during powers outages and for testing and maintenance purposes.

70.77 Information Report.

The purpose of the report under this Subsection is to provide the County with accurate and current information concerning the mobile service facility owners who offer or provide mobile

services within the County, or that own or operate mobile service facilities within the County, to assist the County in enforcement of this Subsection, and to assist the County in monitoring compliance with local, state and federal laws.

- A. Information Report. All mobile service support structure owners of any new mobile service support structure shall Submit to the planning and Zoning Department a Telecommunications Facility Information Report (the “*Report*”) within forty-five (45) days: (1) following land use approval; (2) of receipt of a written request from the Planning and Zoning Department; and (3) of any change in occupancy of the mobile service facility. The Report shall include the mobile service support structure owner’s name(s), address(es), phone number(s), contact person(s), and proof of bond as security for removal. The support structure owner shall supply the mobile service support structure height or current occupancy, if applicable, the number of colocation positions designated, occupied or vacant. This information shall be submitted on the County form provided and designated for such use, and shall become evidence of compliance.

70.78 Compliance/Penalties.

- A. Abandonment. Any antenna, mobile service facility, or mobile service support structure that is not operated for a continuous period of twelve (12) months shall be considered abandoned. Upon application, the Committee may extend the time limit to abandon once for an additional twelve (12)-month period. Such extension shall be based on the finding that the owner or permit holder is actively seeking tenants for the site. After the expiration of the time periods established above, the following shall apply:
1. The owner of such antenna, mobile service facility or mobile service support structure shall remove said antenna, mobile service facility or mobile service support structure, including all supporting equipment, building(s) and foundations within ninety (90) days of receipt of notice from the Zoning Administrator notifying the owner of such abandonment. If removal to the satisfaction of the Zoning Administrator does not occur within said ninety (90) days, the Zoning Administrator may order removal utilizing the established bond as provided under 70.75(B) and salvage said antenna, mobile service facility or mobile service support structure, including all supporting equipment and building(s). If there are two (2) or more users of a single mobile service support structure, then this provision shall not become effective until all operations of the mobile service support structure cease.
 2. The current owner or operator of any antenna, mobile service facility or mobile service support structure shall notify the Zoning Administrator within forty-five (45) days of the date when the mobile service facility is no longer in operation.
- B. Penalties. Any person, partnership, corporation, or other legal entity that fails to comply with the provisions of this Article shall be subject to the penalty provision set forth in Article 100. Each day a violation exists or continues constitutes a separate offense under this Article. In addition, the Planning and Zoning Department may seek injunctive relief from a court of record to enjoin further violations.

70.79 Definitions.

All definitions contained in § 66.0404(1), Wis. Stats., are hereby incorporated by reference.