

## Chapter 42 - ZONING

## ARTICLE I. - IN GENERAL

## Sec. 42-1. - Authority and scope of regulation.

- (a) This chapter is adopted pursuant to the authority expressed in Wis. Stats. §§ 30.12(3)(c), 30.13(2), 59.03, 59.69, 59.692, 59.694, 59.696, 87.30, and 281.31 and Wis. Stats. chs. 91, 236, 287, 289 and 823.
- (b) This chapter shall constitute a comprehensive revision, as described in Wis. Stats. § 59.69(5)(d), of the following land use ordinances:
- Polk county comprehensive land use ordinance, initially enacted on April 21, 1971, as amended, which prior ordinance is repealed and replaced by the provisions of this chapter.

(Ord. No. 07-19, § 10.1.2, 3-19-2019; Ord. No. 37-20, § 10.1.2, 9-15-2020)

## Sec. 42-2. - Definitions.

The following words, terms and phrases, when used in this chapter, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

*Accessory building.* See *Building, accessory.*

*Accessory structure.* See *Structure, accessory.*

*Animal unit* means a unit of measure used to determine the total number of single animal types or combination of animal types, as specified in Wis. Adm. Code §§ NR 243.11 and 243.05, that are at an animal feeding operation.

*Attached structure* means a structure connected to another structure by a common wall or roof.

*Base farm tract* means all land, whether one lot or two or more contiguous lots, that is in a farmland preservation zoning district and that is part of a single farm at the time of adoption of this chapter from which this section is derived, regardless of any subsequent changes in the size of the farm.

*Bed and breakfast* means any place of lodging that provides eight or fewer rooms for rent to no more than a total of 20 tourists or other transients for more than ten nights in a 12-month period, is 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.

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

*Building* means a structure having a roof supported by columns or walls.

*Building, accessory,* means a subordinate building which is incidental to and customarily found in connection with the primary use of the property limited to 35 feet in height.

*Building envelope* means the three-dimensional space within which a structure is built.

*Building footprint* means the perimeter square footage of enclosed building space.

*Bunkhouse* means a residential accessory structure or part of a residential accessory structure with or without plumbing which is used as temporary sleeping quarters only; no cooking or food preparation facilities; and no greater than 1,000 square feet of enclosed dwelling space.

*Campground* means any lot or tract of land owned by a person, the state or a local government, which is designed, maintained, intended or used for the purpose of providing sites for nonpermanent overnight use by four or more camping units, or by one to three camping units if the lot or tract of land is represented as a campground.

*Camping unit* means any portable device, no more than 400 square feet in area, used as a temporary dwelling, including, but not limited to, a camping trailer/travel trailer, motor home, park model, pick-up truck camping topper or tent.

*Conditional use.* See *Use, conditional.*

*Conservation design development* means a style of development that clusters houses onto smaller lot sizes in order to preserve some feature, function, aspect of the property that is being developed.

*Contractor's storage yard* means the outdoor portion of a lot where construction or service contractor stores and maintains four or more pieces of equipment and other materials in an area greater than 250 square feet customarily used by the construction or service contractor. The term "contractor's storage yard" excludes vehicles which require a Class D driver's license to operate.

*Deck (patio)* means an unenclosed exterior accessory structure that has no roof or sides.

*Development* means any manmade change to real estate, including, but not limited to, the construction of buildings, principal or accessory structures; the construction of additions or substantial alterations to buildings, structures or accessory structures; the placement of mobile homes; ditching, lagooning, dredging, filling, grading, paving, excavation or drilling operations; and the deposition or extraction of earthen materials.

*Direct drainage* means runoff from riparian areas within 300 feet that flow directly into a surface water resource as defined within the ordinance.

*District* means lots or sections of the county for which the regulations for governing the use of land and buildings are uniform.

*Dwelling, multiple-family,* means a structure, or that part of a structure, which is used or intended to be used as a home, residence or sleeping place by more than two families.

*Dwelling, single-family,* means a structure, or that part of a structure, which is used or intended to be used as a home, residence or sleeping place by one person or by two or more persons maintaining a common household, to the exclusion of all others. The term "single-family dwelling" includes manufactured homes, but not mobile homes, camping units, travel trailers, and other temporary sleeping units.

*Dwelling, two-family,* means a structure, or that part of a structure, which is used or intended to be used as a home, residence or sleeping place by two families, to the exclusion of all others.

*Essential services* means services provided by public and private utilities, necessary for the exercise of the principal use or service of the principal structure. The term "essential services" includes underground, surface, or overhead gas, electrical, steam, water, sanitary sewerage, stormwater drainage, and communication systems and accessories thereto, such as poles, towers, wires, mains, drains, vaults, culverts, laterals, sewers, pipes, catch basins, water storage tanks, conduits, cables, fire alarm boxes, police call boxes, traffic signals, pumps, lift stations, and hydrants, but not including those uses listed in the county telecommunications towers, antennas, and related facilities ordinance.

*Excavating* means to remove by scooping or digging out.

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

*Expansion, horizontal (addition),* means expansion of a principal structure outside of its existing building footprint.

*Expansion, vertical,* means expansion of a principal structure either up or down, within its existing building footprint and includes full replacement of roofs and basements/foundations.

*Family* means the body of persons who live together in one dwelling unit as a single housekeeping entity.

*Farm animals* means dairy cattle, beef cattle, swine, sheep, horses, ducks, chickens, turkeys and animals or fowl of similar character and customarily maintained in a large parcel setting for food, recreational, breeding, zoological or similar purposes.

*Farm building* means a building or other structure used to house or feed farm animals, store farm animal feed, or to collect or store waste generated from farm animals.

*Farm residence* means any of the following structures that are located on a farm: A single-family dwelling or two-family dwelling that is the only residential structure on the farm or is occupied by any of the following:

- (1) An owner or operator of the farm.
- (2) A parent or child of an owner or operator of the farm.
- (3) An individual who earns more than 50 percent of his or her gross income from the farm.
- (4) A migrant labor camp that is certified under Wis. Stats. § 103.92.

*Feedlot* means a lot or building, or combination of contiguous lots and buildings, intended for the confined feeding, breeding, raising or holding of animals and specifically designed as a confinement area in which animal waste may accumulate, or where the concentration of animals is such that a vegetative cover cannot be maintained within the enclosure. For purposes of this chapter, open lots used for feeding and rearing of poultry (poultry ranges) and barns, dairy facilities, swine facilities, beef lots and barns, horse stalls, mink ranches and domesticated animal zoos, shall be considered to be animal feedlots.

*Fence, open* means a structure where every segment of the fence (e.g. a section between posts) is composed of at least 50 percent open spaces and less than 50 percent solid materials. For the purposes of this chapter, any legal boundary fence listed under Wis. Stats. ch. 90 shall be considered an open fence. Open fences shall not exceed eight feet in height and are exempt from any side yard setback.

*Fence, privacy* means a structure for enclosure or screening that is greater than four feet in height and greater than 50 percent opaque. Privacy fences shall not be greater than six feet in height.

*Floodplain* means the land which has been or may be hereafter covered by floodwater during the regional flood. The term "floodplain" includes the floodway and the flood fringe as those terms are defined in Wis. Adm. Code ch. NR 116.

*Front yard* means a yard extending the full width of the lot between the front lot line and the nearest part of the principal building, excluding uncovered steps.

*Frontage* means all the property abutting on one side of a road or street between two intersecting roads or streets or all of the property abutting on one side of a street between an intersecting street and the dead end of a street.

*Grading* means the filling, placing or moving of rock and soil material.

*Handicap/ADA access* means any temporary deck extension, walkway, ramp, elevator, or any mechanical device used as a means of movement or access by a handicapped person, which is deemed medically necessary.

*Height* means the elevation from the lowest exposed grade of the structure to the highest peak of the roof, excluding window wells and stairways.

*Home business* means a gainful occupation operated out of a residence or accessory structure, when such occupation is:

- (1) Conducted solely by a member of the resident family.
- (2) Entirely within the residence and incidental to the residential use of the premises.
- (3) No external alterations that would effect a substantial change in the residential character of the building.
- (4) No more than 50 percent of only one floor of the dwelling shall be devoted to such offices.

(5) Not more than two persons not members of the resident family may be employed in any such office.

*Hotel/motel* means a place where sleeping accommodations are offered for pay to transients, in five or more rooms, and all related rooms, buildings and areas.

*Human habitation* means the act of occupying a structure as a sleeping place whether intermittently or as a principal residence.

*Impervious surface* means an area that releases as runoff all or a majority of the precipitation that falls on it. The term "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 Wis. Stats. § 340.01(54), or sidewalks, as defined in Wis. Stats. § 340.01(58), are not considered impervious surfaces.

*Industrial use* means an industrial district restricted as defined within the county comprehensive land use ordinance.

*Inoperable* means not able to perform its normal function.

*Junkyard/salvage yard/recycling center* means an open area where waste or scrap materials are bought, sold, exchanged, stored, baled, disassembled or handled for commercial or noncommercial purposes, including, but not limited to, scrap iron and other metals, paper, rags, rubber tires and bottles. The term "junkyard/salvage yard/recycling center" includes, but is not limited to, an automobile wrecking or dismantling yard or an area where more than one unlicensed or inoperable motor vehicle is kept.

*Kenel* means the use of land, with related buildings or structures, for the breeding, rearing or boarding of household pets five months of age or older.

*Land use runoff rating* means a tool used to determine how much mitigation is needed to reduce the effects of development, particularly impervious surfaces, on water quality.

*Landscaping* means the removal or alteration of topsoil.

*Large outdoor commercial event* means an event, regardless of whether it is singular, annual, or multiple times per year in which payment is accepted, whether by a fee or by donation, in exchange for a public gathering with entertainment, including, but not limited to, music events, motor vehicle rallies, etc.

*Lot* means a parcel of land occupied or designed to provide space necessary for one principal building and its accessory buildings or uses, including the open spaces required by this chapter and abutting on a public street or other officially approved means of access. A lot may be a parcel designated in a plat or described in a conveyance recorded in the office of the register of deeds, or any part of a large parcel when such part complies with the requirements of this chapter as to width and area for the district in which it is located. No land included in any street, highway or railroad right-of-way shall be included in computing lot area.

*Lot, corner,* means a lot located at the intersection of two streets, any two corners of which have an angle of 120 degrees or less, or if bounded by a curved street in which case the chord within the limits of the lot lines form an angle of 120 degrees or less.

*Lot lines* means the lines bounding a lot as herein defined.

*Lot width* means for the purpose of this chapter the width of a lot shall be the shortest distance between the sidelines at the setback line.

*Manufactured home* means any structure, HUD certified and labeled under the National Manufactured Home Construction and Safety Standards Act of 1974 (42 USC ch. 70 (42 USC 5401—5426)), that is, or was as originally constructed, designed to be transported by any motor vehicle upon a public highway and designed, equipped and used primarily for sleeping, eating and living quarters, or is intended to be so used. The term "manufactured home" includes the manufactured home structure, its plumbing, heating, air conditioning and electrical systems, all appliances and all other equipment therein, any additions, attachments, annexes, foundations and appurtenances.

*Manufactured home park* (previously "mobile home park") means an area or premise on which is provided the required space for the accommodation of manufactured home, together with necessary accessory buildings, driveways, walks, screening and other required adjuncts.

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

*Mobile home* means any structure, not HUD certified and labeled under the National Manufactured Home Construction and Safety Standards Act of 1974 (42 USC ch. 70 (42 USC 5401—5426)) or manufactured or assembled before June 15, 1976, that is, or was as originally constructed, designed to be transported by any motor vehicle upon a public highway and designed, equipped and used primarily for sleeping, eating and living quarters, or is intended to be so used. The term "mobile home" includes the mobile home structure, its plumbing, heating, air conditioning and electrical systems, all appliances and all other equipment therein, any additions, attachments, annexes, foundations, and appurtenances.

*Motel*. See *Hotel/motel*.

*Navigable* means all lakes, ponds, flowages, rivers and streams in the county shall be presumed to be navigable if they are listed in the state department of natural resources' publication Surface Waters Resources of Polk County, or are shown on the United States Geological Survey quadrangle maps. Lakes, ponds, flowages, rivers and streams not included in these documents may also be determined to be navigable. Also, Lake Superior, Lake Michigan, all natural inland lakes within the state and all streams, ponds, sloughs, flowages and other waters within the territorial limits of the state, including the state portion of boundary waters, which are navigable under the laws of the state. Under Wis. Stats. § 281.31(2)(d), notwithstanding any other provision of law or administrative rule promulgated there under, shoreland ordinances required under Wis. Stats. § 59.692 and Wis. Adm. Code ch. NR 115 do not apply to lands adjacent to:

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

*Nonconforming structure*. See *Structure, nonconforming*.

*Nonconforming use*. See *Use, nonconforming*.

*Nonfarm residence* means a single-family or multi-family residence other than a farm residence.

*Nonmetallic mining activities* means the excavation, mining or removal of minerals, clay, ceramic or refractor minerals, quarrying of sand, gravel, crushed or broken stone, including the extraction and removal of topsoil, but not including sod farming. The term shall also include such mineral processing operations as aggregate or ready-mix plants, hot mix asphalt plants, mining services, processing of topsoil, washing, refining or processing of nonmetallic mineral materials, when onsite or on a contiguous property.

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

*Ordinary maintenance and repair* means those activities necessary to maintain the structural integrity and current function of the existing structure. The term "ordinary maintenance and repair" may include replacement of windows, doors, siding, insulation, roofing, and roof replacement, provided the pitch does not exceed the pitch necessary to match the existing roof.

*Outlot* means a lot remnant or parcel of land within a plat remaining after platting, which is intended for open space use, for which no development is intended other than that which is accessory to the open space use. An outlot may not be developed for any use or structure that requires a private, onsite wastewater treatment system.

*Parent lot* means the lot and associated acreage of that lot that existed at the time of the adoption of the ordinance from which this chapter is derived.

*Parking lot* means a lot where automobiles are parked or stored temporarily, but not including the wrecking of automobiles or other vehicles or storage for the purpose of repair or wrecking.

*Patio.* See *Deck*.

*Permit* means a written form issued by the zoning department.

*Permitted use.* See *Use, permitted*.

*Preexisting use* means a building, structure, or use, which lawfully existed on the effective date of the ordinance from which this chapter is derived, as revised, and the use of which has been continued uninterrupted and that does not conform to this chapter.

*Reconstruction* means activities that exceed maintenance and repair, structural repair, structural alteration, horizontal expansion or vertical expansion.

*Road* means a public or private thoroughfare which affords a primary means of access to abutting property and includes streets and highways.

*Roadside stand* means a structure having a ground area of not more than 300 square feet, not permanently fixed to the ground, readily removable in its entirety, not fully enclosed and to be used solely for the sale of farm products produced on the premise (or adjoining premise). There shall not be more than one such roadside stand in any single premises.

*Setback* means the minimum horizontal distance between lot lines, the platted center line of the road, from right-of-way line, or the ordinary high-water mark measured to the closest point of the structure.

*Setback lines* means lines established adjacent to the highways, lakes or streams for the purpose of defining limits within which no building, structure or any part thereof shall be erected or permanently maintained except as shown herein. The term "within a setback line" means between the setback line and the highway right-of-way, lake or stream.

*Shoreland* means area landward of the ordinary high-water mark within the following distances: 1,000 feet from a lake, pond or flowage; and 300 feet from a river or stream or to the landward side of the floodplain, whichever distance is greater.

*Shoreland protection area* means a vegetative strip of land 35 feet measured perpendicular from the ordinary high-water mark.

*Shoreland-wetland district* means the zoning district, created as a part of this chapter, comprised of shorelands that are designated as wetlands on the state wetland inventory maps.

*Sign* means any device visible from a public place whose essential purpose and design is to convey either commercial or non-commercial messages by means of graphic presentation of alphabetic or pictorial symbols or representations. Non-commercial flags or any flags displayed from flagpoles or staffs will not be considered to be signs.

*Sign, freestanding,* means a sign principally supported by one or more columns, poles, or braces placed in or upon the ground.

*Sign, off-premises,* means a sign advertising a business that is not conducted on the property or located in the immediate vicinity of the business.

*Sign, on-premises,* means a sign at a business location advertising a business that is conducted on the property and that is located in the immediate vicinity of the business. The term "immediate vicinity" means the sign is within the area bounded by the buildings, driveways and parking areas in which the activity is conducted or within 50 feet of that area. The term "immediate vicinity" does not include any area across a street or road from the area where the business is conducted or any area developed for the purpose of erecting a sign.

*Sign, temporary*, means a sign intended to display either commercial or non-commercial messages of a transitory or temporary nature. Portable signs or any sign not permanently embedded in the ground, not permanently affixed to a building, or attached to a sign structure that is permanently embedded in the ground are considered temporary signs.

*Sign structure* means any structure designed for the support of a sign.

*Story* means the vertical distance between the surface of any floor and the floor next above it, or if there be no floor above it, the space between such floor and the ceiling next above it.

*Structural alteration* means any change in the exterior supporting members, such as bearing walls, columns, beams or girders, footings and piles.

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

*Structure, accessory*, means a subordinate structure which is incidental to and customarily found in connection with the primary use of the property, including, but not limited to, garages, sheds, barns, gazebos, fences, retaining walls, and pedestrian walkways and stairways to surface water.

*Structure, nonconforming*, means a dwelling or other building, structure or accessory building that existed lawfully before the current zoning ordinance was enacted or amended, but that does not conform with one or more of the regulations in the current zoning ordinance.

*Structure, principal, or principal building* means a building that is utilized for the primary use of a lot.

*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 conditional use permit and that reasonable persons would accept in support of a conclusion.

*Tourist or transient* means a person who travels to a location away from his permanent address for a short period of time for vacation, pleasure, recreation, culture, business or employment.

*Tourist roominghouse* means a single-family dwelling in which sleeping accommodations are offered for pay to a maximum of two tourists or transients per bedroom based on the sanitary system serving the dwelling, up to a total of eight from 11:00 p.m. to 7:00 a.m. A maximum of 12 occupants are allowed from 7:00 a.m. to 11:00 p.m. regardless of the number of bedrooms.

*Transient lodge* means any single-family dwelling rented on a short-term basis and has a maximum occupancy of more than eight people.

*Travel trailer* means any vehicle, house car, camp car, or any portable or mobile vehicle either self-propelled or propelled by other means which is used or designed to be used for residential living or sleeping purposes as defined in Wis. Adm. Code ch. ATCP 79.

*Undeveloped lot* means a lot that does not have a well and an installed sanitary system, not including a privy.

*Unnecessary hardship* means for area variances, compliance with the strict letter of the restrictions governing area, setbacks, frontage, height, bulk, or density would unreasonably prevent the owner from using the property for a permitted purpose or would render conformity with such restrictions unnecessarily burdensome. An unnecessary hardship must be based on conditions unique to the property rather than considerations personal to the property owner when reviewing a variance application.

*Use, conditional*, means a use allowed under a conditional use permit, special exception, or other special zoning permission issued by the county, but does not include a variance. Conditional uses, listed by ordinance, are subject to certain conditions specified in the ordinance and/or designated by the environmental services committee.

*Use, nonconforming*, means a building, structure or use of land lawfully existing at the time of enactment of this chapter, and which does not conform to the regulations of the district or zone in which it is located.

*Use, permitted*, means a use permitted in a district whereby a building can be constructed, erected, altered or moved and is consistent with the general intent of the district.

*Use variance* means an authorization by the board of adjustment under this subsection for the use of land for a purpose that is otherwise not allowed or is prohibited by the applicable zoning ordinance.

*Variance (area)* means a modification to a dimensional, physical, or locational requirement such as the setback, frontage, height, bulk, or density restriction for a structure that is granted by the board of adjustment. A variance may only be granted in cases of unnecessary hardship and when the spirit of the ordinance is not violated.

*Viewing and access corridor* means an area in which all trees and shrubs may be removed to create a visual view.

*Vision clearance triangle* means an unoccupied triangular space at the intersection of highways or streets or railroads. Such vision clearance triangle shall be bounded by the intersecting highway, road or railroad right-of-way lines and a setback line connecting points located on such right-of-way lines by measurement from their intersection.

*Wetlands* means those areas where water is at, near or above the land surface long enough to be capable of supporting aquatic or hydrophytic vegetation, and which have soils indicative of wet conditions.

(Ord. No. 07-19, § 10.2, 3-19-2019; Ord. No. 38-19, art. 4, 9-17-2019; Ord. No. 08-20, art. 4, 4-21-2020; Ord. No. 24-21, 5-18-2021; Ord. No. 25-21, 5-18-2021)

#### Sec. 42-3. - Contents.

This chapter consists of two distinct but inseparable and integrated parts: written text and zoning maps. The written text and zoning maps taken together constitute this chapter and, therefore, shall at all times be considered as interrelated and inseparable parts of a whole. In addition, other maps and materials referenced in the text are used to support this chapter.

(Ord. No. 37-20, § 10.1.3, 9-15-2020)

#### Sec. 42-4. - Purpose.

The purpose of this chapter is to promote and protect public health, safety, and other aspects of the general welfare. Further purposes of this chapter are to:

- (1) Aid in the implementation of provisions of the county comprehensive plan.
- (2) Promote planned and orderly land use development.
- (3) Protect property values and the property tax base.
- (4) Fix reasonable dimensional requirements to which buildings, structures, and lots shall conform.
- (5) Prevent overcrowding of the land.
- (6) Advance uses of land in accordance with its character and suitability.
- (7) Provide property with access to adequate sunlight and clean air.
- (8) Aid in protection of groundwater and surface water.
- (9) Preserve water quality, shoreland and wetlands.
- (10) Protect the beauty of landscapes.
- (11) Conserve flora and fauna habitats.
- (12) Preserve and enhance the county's rural characteristics.



- (13) Protect vegetative shore cover.
- (14) Promote safety and efficiency in the county's road transportation system.
- (15) Define the duties and powers of certain county officers and administrative bodies relative to the application, administration and enforcement of this chapter.
- (16) Prescribe penalties in the form of civil forfeitures for violation of this chapter and to facilitate enforcement of the provisions of this chapter by injunctive relief.

(Ord. No. 37-20, § 10.1.4, 9-15-2020)

Sec. 42-5. - Compliance and applicability.

- (a) No land or water shall hereafter be used and no structure or part thereof shall hereafter be used, located, erected, moved, reconstructed, extended, enlarged, converted, or structurally altered without full compliance with the provisions of this chapter or applicable local, county or state regulatory provision.
- (b) State agencies are required to comply when Wis. Stats. § 13.48(13) applies. The state department of transportation is exempt from the requirements of this chapter when Wis. Stats. § 30.12(4) applies.
- (c) Except as otherwise specifically provided, the provisions of this chapter shall be administered and enforced pursuant to the procedural regulations of article II, division 4 of this chapter.

(Ord. No. 37-20, § 10.1.5, 9-15-2020)

Sec. 42-6. - Jurisdiction, force and effective date.

- (a) The jurisdiction of this chapter is the unincorporated areas of the county. This chapter shall affect the unincorporated areas of the county, or applicable portions thereof, as provided in subsection (b)(2) of this section.
- (b) If a town board wishes to withdraw from county zoning prior to a comprehensive zoning ordinance rewrite, they may do so by filing a resolution with the county clerk and governing committee at least one year prior to the effective date of the withdrawal. However, this withdrawal can only happen when a comprehensive plan for the town is developed or revised as required by state law and no more frequently than once every ten years from the original resolution approving the county zoning ordinance and filed with the county clerk.

(Ord. No. 37-20, § 10.1.6, 9-15-2020)

Sec. 42-7. - Abrogation and greater restrictions.

- (a) Except as this chapter may conflict with Wis. Stats. ch. 91, farmland preservation, wherever this chapter imposes greater restrictions than other similar regulations, the provisions of this chapter shall govern.
- (b) Wherever the provisions of this chapter conflict with the provisions of Wis. Stats. ch. 91, farmland preservation, the provisions of Wis. Stats. ch. 91 shall prevail.
- (c) It is not intended by this chapter to repeal, abrogate, annul, impair, or interfere with any existing easement, covenant, deed restriction, or agreement. The provisions of any easement, covenant, deed restriction or like agreement are a matter of private property interest not within the scope of the regulations contained in this chapter. The county shall not enforce any easement, covenant, deed restriction, or agreement to which it is not a party.
- (d) It is not intended by this chapter to repeal, abrogate, annul, impair, or interfere with any permit previously issued pursuant to law.

(Ord. No. 37-20, § 10.1.7, 9-15-2020)

Sec. 42-8. - Interpretation and application.

The provisions of this chapter shall be construed 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 power granted by the state statutes. Further, interpretation and application of the provisions of this chapter shall take into account the purposes of this chapter and any adverse effects that an interpretation may have upon such purposes.

(Ord. No. 37-20, § 10.1.8, 9-15-2020)

Sec. 42-9. - Vesting of rights.

No rights to any particular use vest in any property owner simply because the use is permitted by this chapter. Such use may be prohibited by future amendment to this chapter. However, the approval and issuance of a permit shall vest in the property owner the right to use the property in the manner specifically approved by the permit, unless and until the permit expires. No amendment to this chapter which prohibits a particular use shall be applicable to any property developed under a previously issued permit, except to the extent that such use is rendered nonconforming.

(Ord. No. 37-20, § 10.1.11, 9-15-2020)

Sec. 42-10. - General provisions.

- (a) The use and height of buildings hereafter erected, converted, enlarged or structurally altered and the use of any land shall be in compliance with the regulation established herein for the district in which such land or building is located.
- (b) No lot area shall be so reduced that the yards and open spaces shall be smaller than is required by this chapter, nor shall the density of population be increased in any manner except in conformity with the area regulations hereby established for the district in which a building or premise is located. No part of a yard or other open space provided about any building for the purpose of complying with the provisions of this chapter shall be included as part of a yard or other open space required for another building.
- (c) Every dwelling hereafter erected in the county shall provide not less than 400 square feet of floor area for a one-story building for each family dwelling therein, nor less than 700 square feet for a two-story building for each family dwelling therein.
- (d) Nothing herein contained shall require any change in the plans, construction, size or designated use of any building or structure or part thereof on which construction has started or a particular use has been commenced, or for the construction of a building or structure or part thereof upon which a bona fide contract has been entered into before the effective date of the ordinance from which this chapter is derived.
- (e) There shall be no more than one dwelling per lot, unless otherwise indicated in another part of this chapter.
- (f) Structures including school bus stop shelters, deer stands, dog houses, tree houses and ice-fishing shacks with a footprint of less than 64 square feet shall not be deemed an accessory structure or use, do not require permits, and shall conform to the setbacks and cannot be used for storage.
- (g) Any use not specified herein shall be unpermitted and considered a violation of this chapter.
- (h) The height of a structure is the measurement of the vertical line segment starting at the lowest point of any exposed wall and its intersect with the ground (point "A" in Figure No. 1) to a line horizontal to the highest point of the a structure (point "B" in Figure No. 1), unless specified in another part of this chapter.
- (i) Privacy fences shall have a rear and side yard setback of two (2) feet unless the applicant obtains written permission from their neighbor to construct the fence within the setback area. The fence owner must be able to maintain the fence without trespassing on the neighbor's property, so the type of fence constructed shall be considered and approved by the zoning office.
- (j) Privacy fences shall meet the required road setback unless written approval of a reduced road setback is received from

the governmental unit maintaining the road. A Town may also approve a reduced private road setback; however, at no point should a privacy fence encroach upon any easement or road right-of-way.

- (k) Open fences are exempt from road setbacks but cannot encroach upon any easement or road right-of-way.

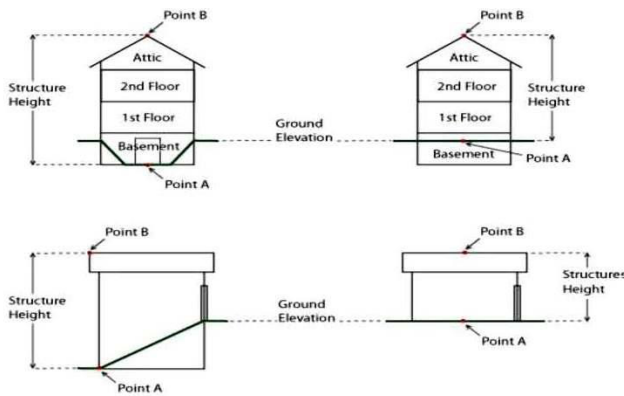


Figure 1. Height of Structure

(Ord. No. 37-20, § 10.3.1, 9-15-2020; Ord. No. 24-21, 5-18-2021)

Sec. 42-11. - Nonconforming uses and nonconforming structures.

- (a) If a nonconforming use of building, premises or lot of land is discontinued for a period of 12 months, any future use of the building, premises or lot of land shall conform to the regulations for the district in which it is located.
- (b) Legal uses and structures that pre-exist the adoption of the ordinance from which this chapter is derived and do not conform to this chapter shall be considered as a legal nonconforming use.
- (c) Nonconforming uses shall not be expanded or extended beyond the scope of such use existing at the time of the adoption of the ordinance from which this chapter is derived. In the case in which a landowner proposes to expand or extend a nonconforming use, the landowner must apply for and obtain a change to a zoning district such that the use conforms to current provision of this chapter.
- (d) Expansion of the nonconforming principal structure cannot make it more nonconforming (cannot expand towards what is making the structure nonconforming).
- (e) Nonconforming principal structures are allowed to horizontally expand up to 50 percent of the original footprint of the structure over the life of the structure, unless otherwise indicated in this chapter.
- (f) Nonconforming principal structures are allowed maintenance and repair, renovation, rebuilding, remodeling, and vertical expansion, unless otherwise indicated in this chapter.
- (g) Nonconforming accessory structures are allowed maintenance and repair, renovation, rebuilding, remodeling, but no expansion, unless otherwise indicated in this chapter.
- (h) Decks and patios that are attached or immediately adjacent to a nonconforming principal structure may be repaired or replaced, but not expanded vertically or horizontally.
- (i) Nonconforming structures may be restored to the size, location, and use, including enlargement, only if necessary for the structure to comply with applicable state or federal requirements, that it had immediately before the damage or destruction occurred, without limits on the costs of the repair, reconstruction, renovation, or improvement if all of the following apply:
  - (1) The nonconforming structure was damaged or destroyed on or after March 2, 2006, Wis. Stats. § 59.69(10m).
  - (2) The damage or destruction was caused by violent wind, vandalism, fire, flood, ice, snow, mold, or infestation.

(Ord. No. 37-20, § 10.3.2, 9-15-2020)

Sec. 42-12. - Height and area exceptions.

The regulations contained in this chapter relating to the height of buildings or structures and the size of yards and other open spaces shall be subject to the following exceptions:

- (1) Churches, schools and other public and quasi-public buildings may be erected to a height not exceeding 60 feet or five stories.
- (2) Chimneys, cooling towers, church steeples or spires, tanks, water towers, television antennas, micro-wave radio relay or broadcasting towers, masts or aerials, necessary mechanical appurtenances, farm buildings, and silos for asphalt and concrete mixing plants are hereby exempted from the height regulations of this chapter and may be erected in accordance with other regulations or ordinances of the county.

(Ord. No. 37-20, § 10.3.3, 9-15-2020)

Sec. 42-13. - Substandard lots.

A legally created lot 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 was never reconfigured or combined with another lot by plat, survey, or consolidation by the owner into one property tax parcel.
- (2) The substandard lot has never been developed with one or more of its structures placed partly upon an adjacent lot.
- (3) The substandard lot is developed to comply with all other ordinance requirements.
- (4) In the A-4 district the property must be rezoned or a CUP issued according to Wis. Stats. § 91.46(2) prior to construction commencing.

(Ord. No. 37-20, § 10.3.4, 9-15-2020)

Sec. 42-14. - Setbacks.

- (a) *Road setbacks.* The setback distances at any point for the respective classes of highways shall be as follows in Table 1, unless otherwise indicated in this chapter:

Table 1. Road Setback Distances

Road - Minimum Setback (whichever is greater)	Private Road	Town Road	County Road	State/U.S. Highway
From platted centerline	35 feet	63 feet	75 feet	110 feet
From right-of-way		30 feet	42 feet	50 feet

- (b) *Setback averaging.* There is an exception to the setbacks outlined in subsection (a) of this section (see Figure 2). In order to utilize an established building setback line which sets forth a reduced setback from what is listed in subsection (a) of this section, the following must apply:

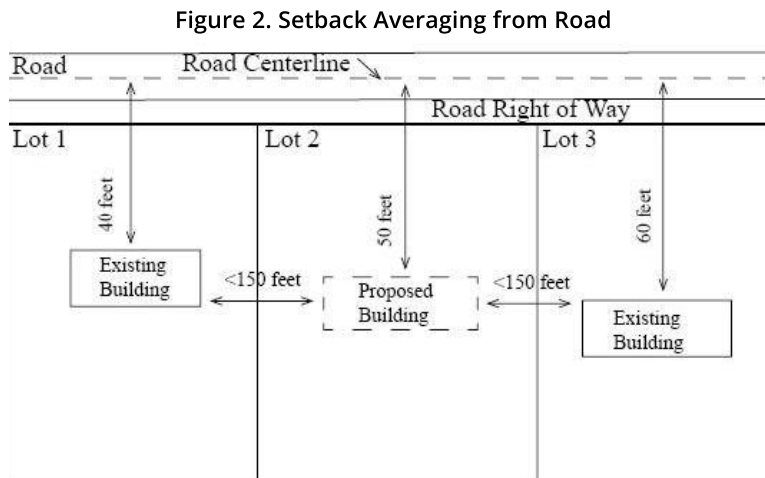
- (1) The reduced setback/established building setback line must be in existence prior to the adoption of the ordinance

from which this chapter is derived.

- (2) There must be two buildings, one on each side adjoining property.
- (3) There must not be more than 150 feet between the proposed building and a building being used to establish the reduced setback.
- (4) The setback for the proposed or moved building shall not be less than the average of the two buildings on the adjoining properties.

(c) *Setback exemptions.*

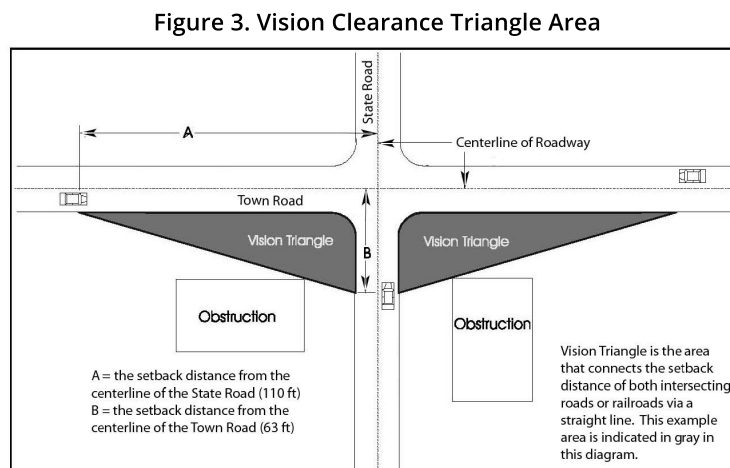
- (1) All fences are exempt from side and rear yard setbacks.
- (2) A permit shall be issued for a reduced town road or private road setback once written town approval (i.e., minutes, letter, resolution) is received if all other requirements of this chapter are met.



(Ord. No. 37-20, § 10.3.5, 9-15-2020)

Sec. 42-15. - Vision clearance triangle.

Structures, screening vegetation and signs are not allowed in the vision clearance triangle. Figure 3 is a diagram of the vision clearance triangle area as defined in this chapter.



(Ord. No. 37-20, § 10.3.6, 9-15-2020)

Sec. 42-16. - Essential services.

Essential services are allowable uses in all zoning districts except the farmland preservation zoning district, in section 42-80.

(Ord. No. 37-20, § 10.3.7, 9-15-2020)

Sec. 42-17. - Conservation design development.

The standards in this section and in the county land division ordinance shall replace the underlying zoning district's standards. Conservation design development is prohibited in the farmland preservation zoning district.

- (1) *Permitted uses.* Land within a conservation design development (CDD) may be used for the following purposes:
  - a. Permitted uses in the residential portion, not the common open space portion, of the conservation design development:
    1. All permitted uses in the underlying zoning district.
  - b. Permitted uses in the common open space portion of the conservation design development shall include:
    1. All uses permitted in the natural resources district, except section 42-81(a)(7).
    2. Drainfields for common sewers with associated easements with the subdivision governing authority and maintenance agreements.
    3. Silent sport activities, including, but not limited to, hiking trails, biking trails, etc.
- (2) *Conditional uses.* The following uses, upon issuance of a conditional use permit as provided in section 42-149, and provided that the use shall not adversely impact the rural character of the development and shall be consistent with the design objectives listed in the county subdivision ordinance, may be allowed:
  - a. Conditional uses in the residential portion, not the common open space portion of the conservation design development: All conditional uses in the underlying zoning district.
  - b. Conditional uses in the common open space portion of the conservation design development.
    1. Conditional uses allowed in the natural resources district.
    2. Equestrian boarding and riding facilities available only to development residents. A manure management plan approved by the county land and water resources department is required.
    3. Swimming pools available only to development residents.
    4. Golf courses.
  - c. Conditional uses will be approved as part of the conservation design development approval process.
- (3) *Density standards.* The total number of dwelling units allowed in a conservation design development is referred to as the residential gross density.
  - a. *Residential base density.* The residential base density, or the base number of allowable dwelling units, is determined by the zoning district in which the property resides. Existing dwellings that may or may not be part of a farmstead that will be retained shall be counted toward the base density.
  - b. *Residential gross density.* The residential gross density, or the total number of dwelling units allowed in a conservation design development, is the residential base density plus 25 percent of the number of dwelling units prescribed by the residential base density.
- (4) *Companion standards.* Companion standards for conservation design development can be found in the county subdivision ordinance.

(Ord. No. 37-20, § 10.3.8, 9-15-2020)

Secs. 42-18—42-41. - Reserved.

ARTICLE II. - DISTRICT REGULATIONS

## DIVISION 1. - GENERALLY

Sec. 42-42. - Districts established; other zoning regulations.

(a) The following are the zoning districts of the county:

- (1) Residential (R-1).
- (2) Hamlet (H-1).
- (3) Residential-Agricultural 5 (RA-5).
- (4) Agriculture 10 (A-1).
- (5) Agriculture 20 (A-2).
- (6) Farmland Preservation (A-3).
- (7) Natural Resources (N-1).
- (8) General Business and Commercial (B-1).
- (9) Recreational Business and Commercial (B-2).
- (10) Small Business and Commercial (B-3).
- (11) Industrial (I-1).
- (12) Mining (M-1).

(b) The following additional county legislation may impact the above listed zoning districts:

- (1) Shoreland overlay.
- (2) Floodplain regulations.
- (3) Lower St. Croix Riverway regulations.
- (4) County sanitary regulations.

(Ord. No. 07-19, § 10.4, 3-19-2019; Ord. No. 37-20, § 10.4, 9-15-2020)

Sec. 42-43. - Official zoning map.

The locations and boundaries of the primary zoning districts established by this article are set forth on zoning maps which are hereby incorporated by reference as though part of this article. It shall be the responsibility of the zoning administrator to maintain and update the zoning maps and any amendments thereto.

(Ord. No. 07-19, § 10.4.1, 3-19-2019; Ord. No. 37-20, § 10.4.1, 9-15-2020)

Secs. 42-44—42-74. - Reserved.

## DIVISION 2. - DISTRICT SPECIFIC STANDARDS AND SPECIFICATIONS

Sec. 42-75. - Residential District (R-1).

- (a) *Purpose and intent.* The purpose and intent of the R-1 Residential District is to promote residential uses and other compatible uses associated with residential neighborhoods.
- (b) *Allowed and permitted uses.* The following uses are allowed or permitted:
  - (1) Single-family and two-family dwellings, including manufactured homes.

- (2) Accessory structures, clearly incidental to the residential use of the property.
  - (3) Gardening, including nurseries for the propagation of plants only.
  - (4) Municipal parks and playgrounds, including swimming pools, golf courses, tennis courts and picnic grounds, provided the parking requirements in section 42-117 are met.
  - (5) Home business, provided the parking requirements in section 42-117 are met.
  - (6) Conservation design development (CDD), according to section 42-17 and the county subdivision regulations.
- (c) *Changes in use that require a land use permit.* The following changes in use require a land use permit:
- (1) Tourist roominghouse, provided they meet the following conditions:
    - a. No recreational vehicles, campers, tents or other means of overnight stay allowed.
    - b. All sleeping accommodations must be within the dwelling unit.
    - c. All parking must be contained on the property.
    - d. Applicant must obtain all proper licensing.
    - e. Applicant must have 24-hour contact number available to the public.
    - f. Property must remain free from citation and charges for nuisance, disorderly conduct or any other illegal activity, and in compliance with county ordinances, state and local laws.
  - (2) Bed and breakfast establishments, provided they meet the following conditions:
    - a. No RVs, campers, tents or other means of overnight stay allowed.
    - b. All sleeping accommodations must be within the dwelling unit.
    - c. All parking must be contained on the property.
    - d. Applicant must obtain all proper licensing.
    - e. Applicant must have 24-hour contact number available to the public.
    - f. Property must remain free from citation and charges for nuisance, disorderly conduct or any other illegal activity, and in compliance with county ordinances, state and local laws.
  - (3) Bunkhouses meeting the conditions in section 42-122 at a minimum.
- (d) *Conditional uses.* The following conditional uses are permitted: Schools, churches, and municipal buildings except sewage disposal plants, garbage incinerators and buildings for the repair or storage of road building or maintenance equipment.
- (e) *Lot, height, yard, and setback requirements.* The following requirements shall apply:
- (1) Minimum lot size is one acre except in CDD areas. Lot dimensions in subdivisions shall be in accordance with the county subdivision regulations.
  - (2) Maximum building height is 35 feet.
  - (3) The side yard setback is ten feet for principal structures and five feet for accessory structures.
  - (4) The rear yard setback is 25 feet for principal structures and five feet for accessory structures.
  - (5) Road setback regulations shall apply to all corner lots.
- (f) *Road setbacks.* Road setbacks shall be pursuant to the provisions of section 42-14.

(Ord. No. 07-19, § 10.4.2, 3-19-2019; Ord. No. 37-20, § 10.4.2, 9-15-2020)

Sec. 42-76. - Hamlet District (H-1).

- (a) *Purpose and intent.* The goal of this district is to allow for land uses that mimic a rural, unincorporated village setting and allow for continuance of that settlement pattern. To allow for smaller lots sizes in areas served by community sewer



systems. In addition, this district will allow for mixed uses of residential and commercial as was typical of the historical development pattern of rural hamlets.

(b) *Allowed and permitted uses.* The following uses are allowed or permitted:

- (1) All allowed and permitted uses in R-1.
- (2) Two-family dwelling and multifamily dwelling, including a manufactured home.
- (3) All uses permitted in the B-3 district.
- (4) Manufactured home park with conditions found in section 42-120.

(c) *Changes in use that require a land use permit.* The following changes in use require a land use permit:

- (1) Tourist roominghouses with conditions in R-1.
- (2) Bed and breakfasts with conditions in R-1.
- (3) Bunkhouse with the conditions in section 42-122 at a minimum.

(d) *Conditional uses.* Conditional uses include all conditional uses permitted in the R-1 district and other similar and compatible use as determined by the environmental services committee.

(e) *Lot, height, yard and setback requirements.* The following requirements shall apply:

- (1) Minimum lot size is 30,000 square feet for private on-site wastewater treatment system (POWTS), 10,000 square feet for public sewer.
- (2) Lot dimensions in accordance with the county subdivision regulations.
- (3) Maximum residential use principal building height is 35 feet.
- (4) Maximum commercial use principal building height is 45 feet or three stories.
- (5) Maximum accessory building height is 35 feet for commercial and residential uses.
- (6) Side yard setback shall be ten feet for principal structures and five feet for accessory structures.
- (7) Rear yard setback shall be 25 feet for principal structures and five feet for accessory structures.
- (8) Road setback shall be five feet from road right-of-way.

(f) *Road setbacks; off-street parking.* Road setbacks shall be governed pursuant to the provisions of section 42-14 and off-street parking shall be regulated by section 42-117.

(Ord. No. 07-19, § 10.4.3, 3-19-2019; Ord. No. 37-20, § 10.4.3, 9-15-2020)

#### Sec. 42-77. - Residential-Agricultural District 5 (RA-5).

(a) *Purpose and intent.* The R-A district 5 is meant to allow for limited residential development in areas that transition from incorporated areas to rural areas and farmland preservation areas.

(b) *Density.* The target density for this district is one residential dwelling per five acres of land or eight dwellings per 40 acres.

(c) *Allowed and permitted uses.* The following uses are allowed or permitted:

- (1) All allowed and permitted uses in the R-1 district.
- (2) Two-family dwelling.
- (3) Multifamily dwelling, when in compliance with density standards of this district.
- (4) Agricultural uses found in A-1 except fur-farming.
- (5) Conservation design development when done in accordance with density standards of section 42-17 and the county subdivision regulations.
- (6) Schools.

- (7) Churches.
  - (8) Municipal buildings.
  - (9) Manufactured home park with conditions found in section 42-120.
- (d) *Changes in use that require a land use permit.* The following changes in use require a land use permit:

- (1) Tourist roominghouses with conditions in R-1.
- (2) Bed and breakfasts with conditions in R-1.
- (3) A bunkhouse with the conditions in section 42-122 at a minimum.
- (4) Cemeteries and burial sites.
- (5) Contractor storage yard, when the design standards of section 42-116 are applied.

(e) *Lot sizes.* The following restrictions on lot sizes shall apply:

- (1) *Traditional development.* For a traditional development, the density standard is one dwelling unit per five acres. The minimum lot size is one acre except in conservation development design.
- (2) *Determining residential lots per parent lot.* In the residential-agricultural district (RA-5), a maximum of eight lots will be allowed per 40 acres, which includes any original principal structure or dwelling, except for lots created using the conservation development design provision. To calculate the number of lots available for development in this district, divide the gross site area of the contiguous lands held in single ownership as of the date of adoption of this chapter by five. This is the total number of residential lots or dwelling units that will be allowed on the lands from the effective date of this chapter forward.
- (3) *Table and sample calculation.* Table 2 below indicates the number of residential lots that can be created based on the number of acres owned at the time of the adoption of this chapter. Round up if any fractional amount is equal to one-half or greater. Example calculations:
  - a. A 32-acre lot is allowed six residential lots ( $32/5 = 6.4$  which rounds down to six).
  - b. 19 acres = four residential lots ( $19/5 = 3.8$  which rounds up to four).

Table 2. Calculation of Residential Parcels Allowed

Size of Base Tract of Land	Total Allowed Dwelling Lots
Less than 7.5 acres	1
7.5 to less than 12.5 acres	2
12.5 to less than 17.5 acres	3
17.5 to less than 22.5 acres	4
22.5 to less than 27.5 acres	5
27.5 to less than 32.5 acres	6
32.5 to less than 37.5 acres	7
37.5 to less than 40 acres	8

(f) *Height, yard, and setback requirements.* The following requirements shall apply:

- (1) Maximum building height is 35 feet.
- (2) Side yard setback is ten feet for principal structures and five feet for accessory structures.
- (3) Rear yard setback is 25 feet for principal structures and five feet for accessory structures.
- (4) Road setback regulations shall apply to all corner lots.

(g) *Road setbacks.* Road setbacks shall be governed pursuant to the provisions of section 42-14.

(Ord. No. 07-19, § 10.4.4, 3-19-2019; Ord. No. 37-20, § 10.4.4, 9-15-2020)

Sec. 42-78. - Agricultural 10 District (A-1).

(a) *Purpose and intent.* The Agricultural 10 District (A-1) is meant to allow for the continuation of agriculture and agricultural production with limited residential development. This district will have a density of principal structures not to exceed four per 40 acres.

(b) *Allowed and permitted uses.* The following uses are allowed or permitted:

(1) Agricultural uses, including any of the following:

- a. Crop or forage production.
- b. Keeping livestock.
- c. Beekeeping.
- d. Nursery, sod, or Christmas tree production.
- e. Floriculture.
- f. Aquaculture.
- g. Fur-farming.
- h. Forest management.
- i. Enrolling land in a federal agricultural commodity payment program or a federal or state agricultural land conservation payment program.
- j. Accessory structure that is an integral part of, or is incidental to, an agricultural use.
- k. Roadside stand.
- l. Personal stable.

(2) A single-family and two-family dwelling, when in compliance with the density standards of this district.

(3) Accessory buildings incidental to the residential use of the property.

(4) Home business.

(5) Conservation design development when done in accordance with density standards, section 42-17, and the county subdivision regulations.

(6) Schools.

(7) Churches.

(8) Undeveloped natural resource and open space areas.

(9) One additional farm residence, which shall be sited so that it may be separated from the original farm parcel on which it is located in compliance with the county subdivision regulations.

(10) Contractor storage yard.

(c) *Changes in use that require a land use permit.* The following changes in use require a land use permit:

- (1) Tourist roominghouses with conditions in R-1.
- (2) Bed and breakfasts with conditions in R-1.
- (3) Cemeteries/burial sites.
- (4) A bunkhouse with the conditions in section 42-122 at a minimum.

(d) *Conditional uses.* The following conditional uses are permitted:

- (1) Agriculturally-related businesses, such as, but not limited to:
  - a. Feed mills.
  - b. Commercial stables.
  - c. Implement dealers.
  - d. Agricultural cooperatives.
  - e. Veterinarians.
  - f. Wineries.
  - g. Composting sites.
  - h. Other similar and compatible agriculturally-related businesses.
- (2) Kennels when at least 300 feet from property lines.
- (3) Animal shelters when at least 300 feet from property lines.
- (4) Junkyards/salvage yards.
- (5) Airports/airstrips.
- (6) Large, outdoor commercial events.

(e) *Lot restrictions.* The following requirements shall apply:

- (1) *Target density standard.* Target density standard for the Agricultural 10 District (A-1) is four residential lots per 40 acres.
- (2) *Minimum lot size.* Minimum lot size is one acre, except in conservation development design.
- (3) *Determining residential lots per parent lot.* In the Agricultural 10 District (A-1), a maximum of four non-farm dwellings will be allowed per 40 acres, which includes any original principal structure or dwelling, except for lots created using the conservation development design provision.
- (4) *Table and sample calculation.* To calculate the number of lots available for development in this district, divide the gross site area of the contiguous lands held in single ownership as of the date of adoption of this chapter by ten. This is the total number of residential lots or dwelling units that will be allowed on the lands from the effective date of this chapter forward. Round up if any fractional amount is equal to one-half or greater (see Table 3). Example calculations:
  - a. 32-acre lot is allowed three residential lots ( $32/10 = 3.2$  which rounds down to three).
  - b. 16 acres = two residential lots ( $16/10 = 1.6$  which rounds up to two).

Table 3. Calculation of Residential Lots Allowed in A-10

Size of Base Tract of Land	Total Allowed Lots
Up to 15 acres	1

15 acres or greater, but less than 25 acres	2
25 acres or greater, but less than 35 acres	3

(f) *Height, yard, and setback requirements.* The following requirements shall apply:

- (1) Maximum building height is 35 feet.
- (2) Farm buildings are exempt from these height restrictions.
- (3) Side yard setback is 25 feet for all structures.
- (4) Rear yard setback is 25 feet for all structures.
- (5) Road setback regulations shall apply to all corner lots.

(g) *Road setbacks.* Road setbacks shall be governed pursuant to the provisions of section 42-14.

(Ord. No. 07-19, § 10.4.5, 3-19-2019; Ord. No. 37-20, § 10.4.5, 9-15-2020)

Sec. 42-79. - Agricultural 20 District (A-2).

- (a) *Purpose and intent.* The Agricultural 20 District (A-2) is meant to allow for the continuation of agriculture and agricultural production with limited residential development. This district will have a density of principal structures not to exceed two per 40 acres.
- (b) *Allowed and permitted uses.* All uses allowed and permitted in the A-1 district are allowed in the A-2 district.
- (c) *Conditional uses.* All conditional uses allowed and permitted in the A-1 district are allowed in the A-2 district.
- (d) *Lot restrictions.* The following requirements shall apply:
  - (1) *Density standard.* The density standard for the Agricultural 20 District (A-2) is a maximum of two lots/principal structures per 40 acres.
  - (2) *Minimum lot size.* Minimum lot size is one acre except in conservation development design.
  - (3) *Residential lots per parent lot.* In the Agricultural District 20 (A-2), a maximum of two lots/principal structures will be allowed per 40 acres, which includes any original principal structure or dwelling, except for lots created using the conservation development design provision.
  - (4) *Table and sample calculation.* To calculate the number of lots available for development in this district, divide the gross site area of the contiguous lands held in single ownership as of the date of adoption of this chapter by 20. This is the total number of new residential lots or dwelling units that will be allowed on the lands from the effective date of this chapter forward. Round up if any fractional amount is equal to one-half or greater (see Table 4). Example calculation: A 32-acre lot is allowed two residential lots (32/20 = 1.6 which rounds up to two).

Table 4. Calculation of Residential Lots Allowed in A-20

Size of Base Tract of Land	Total Allowed Lots
Less than 30 acres	1
30 acres or greater	2

(e) *Height, yard, and setback requirements.* The following requirements shall apply:

- (1) Maximum building height is 35 feet.
- (2) Farm buildings are exempt from these height restrictions.
- (3) Side yard setback is 25 feet for all structures.
- (4) Rear yard setback is 25 feet for all structures.
- (5) Road setback regulations shall apply to all corner lots.

(f) *Road setbacks.* Road setbacks shall be governed pursuant to the provisions of section 42-14.

(Ord. No. 07-19, § 10.4.6, 3-19-2019; Ord. No. 37-20, § 10.4.6, 9-15-2020)

Sec. 42-80. - Farmland Preservation District (A-3).

(a) *Purpose and intent.* The intent of this district is to maintain highly productive agricultural lands in food and fiber production by effectively limiting encroachment of non-agricultural development and minimizing land use conflicts among incompatible uses.

(b) *Allowed and permitted uses.* The following uses are allowed or permitted:

- (1) Agricultural uses, meaning any of the following activities conducted for the purpose of producing an income or livelihood:
  - a. Crop or forage production.
  - b. Keeping livestock.
  - c. Beekeeping.
  - d. Nursery, sod, or Christmas tree production.
  - e. Floriculture.
  - f. Aquaculture.
  - g. Fur-farming.
  - h. Forest management.
  - i. Enrolling land in a federal agricultural commodity payment program or a federal or state agricultural land conservation payment program.
  - j. Any other use that the state department of agriculture, by rule, identifies as an agricultural use.
- (2) A farm residence including a manufactured home.
- (3) Accessory buildings incidental to the residential use of the property.
- (4) Accessory structure that is an integral part of, or is incidental to, an agricultural use.
- (5) Home business that meets Wis. Stats. § 91.01(1) requirements.
- (6) Undeveloped natural resource and open space areas.
- (7) Transportation, utility, communication, or other use that is required under state or federal law to be located in a specific place or that is authorized to be located in a specific place under a state or federal law that preempts the requirement of a special use permit for that use.
- (8) Other uses identified by state department of agriculture rule.

(c) *Changes in use that require a land use permit.* The following changes in use require a land use permit:

- (1) Tourist roominghouses with conditions in R-1.
- (2) Bed and breakfasts with conditions in R-1.

- (3) A bunkhouse with the conditions in section 42-122 at a minimum.
- (4) Contractor storage yard with conditions in RA-5.
- (d) *Conditional uses*. The following conditional uses are permitted:
  - (1) Agriculturally-related businesses, such as, but not limited to:
    - a. Feed mills.
    - b. Commercial stables.
    - c. Implement dealers.
    - d. Agricultural cooperatives.
    - e. Veterinarians.
    - f. Wineries.
    - g. Composting sites.
  - (2) Creation of a nonfarm residence or conversion of a farm residence to a nonfarm residence through a change in occupancy, subject to the following requirements:
    - a. The ratio of nonfarm residential acreage to farm acreage on the base farm tract on which the residence is or will be located will not be greater than 1:20 after the residence is constructed or converted to a nonfarm residence.
    - b. There will not be more than four dwelling units in nonfarm residences, nor more than five dwelling units in residences of any kind, on the base farm tract after the residence is constructed or converted to a nonfarm residence.
    - c. The location and size of the proposed nonfarm residential lot, and, for a new nonfarm residence, the location of the nonfarm residence on that nonfarm residential lot, will not do any of the following:
      1. Convert prime farmland from agricultural use or convert land previously used as crop land, other than a woodlot, from agricultural use if on the farm there is a reasonable alternative location or size for a nonfarm residential lot or a nonfarm residence.
      2. Significantly impair or limit the current or future agricultural use of other protected farmland.
  - (3) Creation of a nonfarm residential cluster that covers more than one nonfarm residence if all of the following apply:
    - a. The lots on which the nonfarm residences would be located are contiguous.
    - b. Each nonfarm residence constructed in the nonfarm residential cluster must satisfy the requirements of conditional uses in subsection (d)(2) of this section.
  - (4) Governmental, institutional, religious, nonprofit community uses, transportation, communication, pipeline, electric transmission, utility, or drainage uses, if all of the following apply:
    - a. The use and its location in the farmland preservation zoning district are consistent with the purposes of the farmland preservation zoning district.
    - b. The use and its location in the farmland preservation zoning 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 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 lots 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.
- (e) *Lot restrictions*. The density standard for the farmland preservation district is as described in subsections (d)(2) and (3) of this section.

- (f) *Height, yard, and setback requirements.* The following requirements shall apply:
- (1) Maximum building height is 35 feet.
  - (2) Farm buildings are exempt from these height restrictions.
  - (3) Side yard setback is 25 feet for all structures.
  - (4) Rear yard setback is 25 feet for all structures.
  - (5) Road setback regulations shall apply to all corner lots.
- (g) *Road setbacks.* Road setbacks shall be governed pursuant to the provisions of section 42-14.
- (h) *Rezoning land out of a farmland preservation zoning district.* The following restrictions apply:
- (1) Except as provided in subsection (h)(2) of this section, the county may not rezone land out of the farmland preservation zoning district unless the county finds all of the following in writing, after public hearing, as part of the official record of the rezoning:
    - a. The rezoned land is better suited for a use not allowed in the farmland preservation zoning district.
    - b. The rezoning is consistent with any applicable comprehensive plan.
    - c. The rezoning is substantially consistent with the county farmland preservation plan, which is in effect at the time of the rezoning.
    - d. The rezoning will not substantially impair or limit current or future agricultural use of other protected farmland.
  - (2) Subsection (h)(1) of this section does not apply to any of the following:
    - a. A rezoning that is affirmatively certified by the state department of agriculture, trade and consumer protection under Wis. Stats. ch. 91.
    - b. A rezoning that makes the farmland preservation zoning ordinance map more consistent with the county farmland preservation plan map, certified under Wis. Stats. ch. 91 which is in effect at the time of the rezoning.
  - (3) By March 1 of each year the county shall provide to the state department of agriculture, trade and consumer protection a report of the number of acres that the county has rezoned out of the farmland preservation zoning district under subsection (h)(1) of this section during the previous year and a map that clearly shows the location of those acres.

(Ord. No. 07-19, § 10.4.7, 3-19-2019; Ord. No. 37-20, § 10.4.7, 9-15-2020)

Sec. 42-81. - Natural Resources District (N-1).

- (a) *Purpose and intent; allowed and permitted uses.* To protect and preserve the natural character of certain lands for their values to wildlife, water conservation, flood control, forestry and other public purposes in the natural resources district, no building or premises shall be used and no building shall be erected, moved or structurally altered, unless otherwise provided in this chapter except for one or more of the following uses:
- (1) Grazing.
  - (2) The harvesting of wild crops such as wild hay, ferns, moss, berries, fruit trees and seeds.
  - (3) Hunting, fishing, trapping.
  - (4) Nonresidential buildings and structures used solely in conjunction with the raising of wildlife and fish and the practice of forestry, including buildings and structures used by public or semi-public agencies or groups for research in or the rehabilitation of natural resources.
  - (5) Sustainable logging, pulping and other forest crop harvesting.
  - (6) Public or private parks.
  - (7) Temporary residential uses by permit such as hunting cabins or travel trailers with conditions listed in section 42-



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- (b) *Conditional uses.* Conditional uses for this district are licensed game farms.
- (c) *Lot, height, and yard requirements.* The following requirements shall apply:
- (1) Minimum lot size is one acre.
  - (2) Maximum building height is 35 feet.
  - (3) Side yard setback is 25 feet for all structures.
  - (4) Rear yard setback is 25 feet for all structures.
- (d) *Road setbacks and parking.* Road setbacks shall be governed pursuant to the provisions of section 42-14 and off-street parking shall be regulated by section 42-117.

(Ord. No. 07-19, § 10.4.8, 3-19-2019; Ord. No. 37-20, § 10.4.8, 9-15-2020)

Sec. 42-82. - General Business and Commercial (B-1).

- (a) *Purpose and intent.* The purpose and intent of this section is to provide a district for business and commercial enterprises that limits incompatible land uses.
- (b) *Allowed and permitted uses.* In the general commercial district, no building or premises shall be used and no building shall be erected, moved or structurally altered, unless otherwise provided in this chapter, except for one or more of the following uses: Commercial buildings and uses, including, but not limited to:
- (1) Appliances sales and service.
  - (2) Antique stores.
  - (3) Art galleries.
  - (4) Auto sales and service.
  - (5) Banks, credit unions or other financial institutions.
  - (6) Barbershop, beauty shop.
  - (7) Bars/taverns.
  - (8) Bowling alleys.
  - (9) Business and professional offices or clinics.
  - (10) Car washes.
  - (11) Clothing stores.
  - (12) Community center.
  - (13) Coffee shop.
  - (14) Convenience stores.
  - (15) Day care center.
  - (16) Drug store or pharmacy.
  - (17) Essential services.
  - (18) Farm implement - repair and sales.
  - (19) Feed mill.
  - (20) Florist.
  - (21) Firework stands.
  - (22) Fruit and vegetable market, grocery, meat and fish market or other food products store.
  - (23) Funeral homes.

- (24) Furniture, office equipment stores.
- (25) Gas stations.
- (26) Gyms and exercise facilities.
- (27) Hardware and paint store.
- (28) Indoor storage facilities.
- (29) Internet cafe.
- (30) Jewelry store.
- (31) Landscaping sales.
- (32) Laundromat.
- (33) Liquor store.
- (34) Lumber yard.
- (35) Manufacture or storage in connection with any of the above uses, when clearly incidental to the conduct of the retail business on the premises.
- (36) Marine sales and service.
- (37) Motels/hotels.
- (38) Museums.
- (39) Music and musical instrument sales and service.
- (40) Pet shop.
- (41) Radio, televisions, and other electronics sales and service.
- (42) Real estate offices.
- (43) Restaurant, drive-in food service, supper club, and catering.
- (44) Sporting goods and accessories.
- (45) Small engine repair.
- (46) Truck stop.
- (47) Theater.
- (48) Veterinarians.
- (49) Video sales and rental.
- (50) There may be one single-family dwelling unit on the premises, either attached or detached in connection with any of the above uses.

(c) *Conditional uses.* The following conditional uses are permitted:

- (1) Airport.
- (2) Hospital.
- (3) Breweries, brewpubs, wineries.
- (4) Outdoor storage facilities.
- (5) Other similar and compatible use as determined by the environmental services committee.

(d) *Lot, height, yard, and setback requirements.* The following requirements shall apply:

- (1) Minimum lot size: one acre with private onsite wastewater treatment system, one-half acre with public sewer.
- (2) Maximum structures lot coverage: 40 percent.
- (3) Minimum landscaped area: ten percent.

- (4) Maximum commercial building height: three stories or 45 feet.
- (5) Maximum residential use structure height: two stories and 35 feet.
- (6) Commercial principal building rear/side minimum setbacks: ten feet.
- (7) Accessory structures rear/side yard minimum setback: five feet.
- (8) Residential principal structure side yard setback: ten feet.
- (9) Residential principal structure rear yard setback: 25 feet.
- (e) *Road setbacks and parking.* Road setbacks shall be governed pursuant to the provisions of section 42-14 and off-street parking shall be regulated by section 42-117.

(Ord. No. 07-19, § 10.4.9, 3-19-2019; Ord. No. 37-20, § 10.4.9, 9-15-2020)

Sec. 42-83. - Recreational Business and Commercial (B-2).

- (a) *Purpose and intent.* The purpose of this section is to allow for recreationally-based businesses to exist in appropriate locations in the county.
- (b) *Allowed and permitted uses.* In the recreational business and commercial district, no building or premises shall be used and no building shall be erected, moved or structurally altered, unless otherwise provided in this chapter, except for one or more of the following uses:
  - (1) Sporting goods.
  - (2) Recreational sales and service.
  - (3) Restaurants and taverns.
  - (4) Resorts.
  - (5) Marinas, including sales and service.
  - (6) Bait shops.
  - (7) Miniature golf.
  - (8) Recreational camps.
  - (9) Campgrounds with conditions in section 42-123.
  - (10) Manufactured home park with conditions in section 42-120.

There may be one single-family dwelling unit on the premises, either attached or detached in connection with any of the above uses.

- (c) *Conditional uses.* The following conditional uses are permitted:
  - (1) Ski resorts.
  - (2) Paint ball.
  - (3) Go-cart tracks.
  - (4) Archery range.
  - (5) Gun range.
  - (6) Sportsmen's clubs.
  - (7) Stock car, all-terrain vehicle, and dirt bike raceways and courses.
  - (8) Other similar and compatible use as determined by the environmental services committee.
- (d) *Lot, height, yard, and setback requirements.* The following requirements shall apply:
  - (1) Minimum lot size is one acre.

- (2) Maximum building lot coverage is 40 percent.
- (3) Minimum landscaped area is ten percent.
- (4) Maximum building height is two stories and 35 feet.
- (5) Principal building rear/side minimum setbacks is 25 feet.

(e) *Other requirements.* The following additional requirements apply:

- (1) Road setbacks shall be governed pursuant to the provisions of section 42-14.
- (2) Off-street parking shall be regulated by section 42-117.
- (3) Provisions of section 42-116, design standards.

(Ord. No. 07-19, § 10.4.10, 3-19-2019; Ord. No. 37-20, § 10.4.10, 9-15-2020)

#### Sec. 42-84. - Small Business and Commercial District (B-3).

(a) *Purpose and intent.* The purpose of this section is to allow for commercial development while allowing for more control over building size, location and aesthetics.

(b) *Allowed and permitted uses.* In the small business/commercial district, no building or premises shall be used and no building shall be erected, moved or structurally altered, unless otherwise provided in this chapter, except uses allowed and permitted in B-1 with a building footprint up to 20,000 square feet.

(c) *Conditional uses.* The following conditional uses are permitted:

- (1) All conditional uses in the B-1 district.
- (2) Commercial buildings and uses with a building footprint over 20,000 square feet.

(d) *Lot, height, yard, and setback requirements.* The following requirements shall apply:

- (1) Minimum lot size is one acre.
- (2) Maximum building lot coverage is 40 percent.
- (3) Minimum landscaped area is ten percent.
- (4) Maximum building height is two stories and 35 feet.
- (5) Principal building rear/side minimum setbacks is 25 feet.

(e) *Other requirements.* The following additional requirements apply:

- (1) Road setbacks shall be governed pursuant to the provisions of section 42-14.
- (2) Off-street parking shall be regulated by section 42-117.
- (3) Provisions of section 42-116, design standards.

(Ord. No. 07-19, § 10.4.11, 3-19-2019; Ord. No. 37-20, § 10.4.11, 9-15-2020)

#### Sec. 42-85. - Industrial District (I-1).

(a) *Purpose and intent.* The purpose of this section is to provide locations within the county for industrial uses to occur and prevent land use conflicts with inappropriate uses.

(b) *Allowed and permitted uses.* The allowed and permitted uses in this district are as follows:

- (1) Light and general manufacturing, including, but not limited to:
  - a. Metal, glass, plastic and wood assembly, fabrication and manufacturing.
  - b. Electronics assembly, fabrication and manufacturing.
  - c. Clothing.
  - d. Bottling facilities.

- (2) General warehousing and storage directly connected with the permitted uses under this section, provided they are not
- (3) There may be one single-family dwelling unit and an associated residential accessory building on the premises, either attached or detached in connection with any of the above uses.

(c) *Conditional uses.* The following conditional uses are permitted:

- (1) Acid, ammonia, bleach, chlorine or soap manufacture.
- (2) Ammunition or explosives manufacture or storage.
- (3) Asphalt, coal, coal tar or coke manufacture, asphalt, and hot mix asphalt plants.
- (4) Cement or lime manufacture, cement, or concrete mixing plants.
- (5) Bone distillations, fat rendering or any other form of dead animal reduction.
- (6) Fertilizer manufacture.
- (7) Forge plant.
- (8) Gelatin or glue manufacture.
- (9) Inflammable gasses or liquids, refining or manufacture of; overground tank farms.
- (10) Utility-scale energy generation, including, but not limited to, solar farms/fields, large wind generators, and power plants.
- (11) Salvage and recycling facilities.
- (12) Solid waste disposal operations, sanitary landfill sites.
- (13) Slaughterhouse, stockyard.
- (14) Smelting or foundry operations.
- (15) Any similar or compatible industrial enterprise subject to the approval of the environmental services committee.

(d) *Lot sizes, dimensions and setbacks.* The following requirements shall apply:

- (1) Minimum lot size is one acre.
- (2) Maximum industrial use building height is 50 feet.
- (3) Maximum residential use building height is 35 feet.
- (4) The side yard setbacks for residential uses shall be the same as R-1 side yard setbacks.
- (5) Side yard setbacks for lots adjacent to residentially zoned lots are 25 feet.
- (6) Side yard setbacks for industrial uses is zero feet except that if buildings on abutting lots are not constructed with a common wall or with walls contiguous to one another, then a side yard of not less than ten feet shall be provided.
- (7) Rear yard setback is 25 feet except that no rear yard setback shall be required when abutting a railroad right-of-way. Any such rear yard which abuts a boundary of a residential zoning district shall be not less than 50 feet in depth; provided that no stock pile, waste or salvage pile, equipment storage yard or other accumulation of material or equipment in the open shall be stored or placed in such rear yard.

(e) *Other requirements.* The following additional requirements apply:

- (1) Road setbacks shall be governed pursuant to the provisions of section 42-14.
- (2) Off-street parking shall be regulated by section 42-117.
- (3) Provisions of section 42-116, design standards.

(Ord. No. 07-19, § 10.4.12, 3-19-2019; Ord. No. 37-20, § 10.4.12, 9-15-2020)

Sec. 42-86. - Mining District (M-1).

(a) *Purpose and intent.* The purpose of this district is to allow for mining activities to take place in the county in appropriate

areas that reduce incompatible land uses and land use conflicts.

(b) *Allowed and permitted uses.* The following uses are allowed and permitted in this district:

- (1) All allowed and permitted uses in section 42-78 for the A-1 district.
- (2) Preexisting non-metallic mining activities. Preexisting non-metallic mining activities are those operations involving the excavation, removal or processing of materials which operations are classified as unreclaimed acres by the county's non-metallic mining reclamation ordinance or had expansions of the mine outlined in the original plans that were submitted for the mine.
- (3) Limited, short-term non-metallic mining activities. Limited short-term non-metallic mining activities are those operations which:
  - a. Do not satisfy the definitions and standards for preexisting non-metallic mining activities;
  - b. Will be commenced and completed within a one year period from the date of the permit; and
  - c. Will be limited to not more than one acre in area open at one time.

If the original mine was approved with conditions attached, those conditions continue to be in effect even if the mine is placed in this district.

(c) *Condition uses.* The following conditional uses are allowed in this district:

- (1) Nonmetallic mining activities that do not meet the definition outlined in subsections (b)(2) and (3) of this section.
- (2) Applications for conditional use permits to conduct mining or processing activities shall include all information required by the county approved application form.
  - a. Reapplication to the environmental services committee for renewal shall be required with alterations to operational plans or noncompliance with the standards of the district.
  - b. Requests for additional information prior to a decision being made on the conditional use permit may be made by the environmental services committee. Upon determination by the board of supervisors that additional information is required, on behalf of the board of supervisors, the board of supervisors may employ independent technical experts to review materials submitted by the applicant.

(d) *Lot sizes, dimensions and setbacks.* The following requirements shall apply:

- (1) Minimum lot size is five acres.
- (2) Minimum right-of-way setback is 200 feet.
- (3) Minimum property line setback is 100 feet. Overburden, berms, and topsoil piles are allowed to be within the setback area, however at no time shall stockpiles of the targeted material, active extraction activities or processing equipment be within the setback area.
- (4) Setback and height restrictions for A-1 district apply (section 42-78).
- (5) Maximum height for mining related structures is 50 feet.

(e) *Other requirements.* The following additional requirements apply:

- (1) Road setbacks shall be governed pursuant to the provisions of section 42-14.
- (2) Off-street parking shall be regulated by section 42-117.
- (3) Provisions of section 42-116, design standards.

(Ord. No. 07-19, § 10.4.13, 3-19-2019; Ord. No. 37-20, § 10.4.13, 9-15-2020)

Secs. 42-87—42-115. - Reserved.

DIVISION 3. - ADDITIONAL REGULATIONS

## Sec. 42-116. - Design standards.

- (a) *Purpose and intent.* The intent of the design standards in this section includes, but is not limited to, providing aesthetic controls on development, minimizing conflicts between uses, minimizing effects of outdoor lighting, while maintaining functional use, safety and security of properties.
- (b) *Lighting standards.* Lighting standards shall be required in the following zoning districts: B-2, B-3, industrial, and mining. Design standards may also be required as part of a conditional use permit, site plan, or other county approval of a development. The applicable lighting standards are as follows:
- (1) All lighting must be fully shielded in a manner that light rays emitted by the fixture, either directly from the lamp or indirectly from the fixture, are projected below a horizontal plane running through the lowest point on the fixture where the light is emitted.
  - (2) Lighting must be directed away from adjacent properties to prevent light from trespassing or spilling on to those properties.
  - (3) There shall be no flashing, revolving or intermittent lighting, which could be considered a nuisance or distraction to vehicular traffic.
  - (4) There shall be no search lights, laser source lights, or any similar high-intensity light, except in emergencies by police and fire personnel or at their direction.
  - (5) Outdoor athletic fields, courts, tracks, ski resorts, and airports are exempt from these lighting requirements, but may have restrictions on hours of operation.
  - (6) Temporary lighting, which does not conform to the provisions of this section, may be allowed for a total period of no longer than 30 days within a year without a permit.
- (c) *Vegetation and screening standards.* Vegetation and screening standards shall be required in the following zoning districts: B-2, B-3, industrial, and mining. Design standards may also be required as part of a conditional use permit, site plan, or other county approval of a development. The following areas or features may be required to be effectively screened by fencing, landscaping, or berms from view from public roadways, and adjacent residentially zoned properties:
- (1) Exterior structures related to heating systems, cooling or air conditioning systems;
  - (2) Refuse, garbage, dumpsters and recyclable material collection points;
  - (3) Outdoor storage areas;
  - (4) Loading docks;
  - (5) Any other site area or facility as required for the specific land use by the county approval authority, if reasonably related to the protection of neighboring properties or the public from distracting, unappealing, or offensive views of on-site activities.
- (d) *Options for screening.* The following are options for providing required screening where applicable:
- (1) *Rows of trees.* Trees and other screening shrubs shall be planted in such a manner and of such spacing that the vegetation covers up to six feet tall with 75 percent opacity upon installation. No species on the state's invasive species list may be used. The lot owner shall maintain such planting and any dead trees/shrubs that are part of the approved screening plan shall be replaced within one year. Alternate species or planting plan may be substituted if prior approval is received from the zoning administrator.
  - (2) *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. The final determination as to acceptability of the

existing vegetative screen shall be by the zoning administrator.

- (3) *Fencing.* The construction of a minimum six-foot high solid fence with at least 90 percent opacity. The finished fence side of the fence must be facing outward.
- (4) *Earthen berm.* The construction of an earthen berm to the minimum height of six feet which is to be seeded or landscaped with shrubs or trees and maintained by the owner.
- (5) *Distance requirements.* Purposely planted trees or shrubs, as measured from its center, shall be a minimum of five feet off a driveway or public street right-of-way or easement.
- (6) *Vision clearance triangle.* All screening and landscaping must be kept out of the vision clearance triangle.
- (e) *Landscaping standards (general yard landscaping).* The requirements of this subsection shall apply to new commercial land development projects and all additions, expansions, or site modifications to such uses to the extent practical in the B-2 and B-3 districts where required. The following shall apply:
  - (1) *Existing vegetation.* To the greatest extent possible, each development shall retain existing trees outside of proposed building and parking areas.
  - (2) *Landscaping coverage.* The lot shall be landscaped with an effective combination of living trees, groundcover, and shrubbery as indicated by a percentage in the districts above. Landscaping shall be emphasized in street yards, adjacent to residentially zoned lots, within and adjacent to parking lots, and near principal building foundations. Landscaped area can be utilized as part of the stormwater management area of the site.
  - (3) *Distance requirements.* Purposely planted trees or shrubs, as measured from its center, shall be a minimum of five feet of a driveway or public street right-of-way or easement.
  - (4) *Vision clearance triangle.* All screening and landscaping must be kept out of the vision clearance triangle.
  - (5) *Installation and maintenance.* All proposed and approved landscaping shall be installed according to accepted planting procedures with quality plant materials. The lot owner shall maintain such plantings and all dead plantings shall be replaced.

(Ord. No. 07-19, § 10.5.1, 3-19-2019; Ord. No. 37-20, § 10.5.1, 9-15-2020)

#### Sec. 42-117. - Parking.

- (a) *Off-street parking requirements.*
  - (1) One off-street parking space shall be 220 square feet of area, exclusive of adequate ingress and egress driveways to connect with a public thoroughfare. A single stall in any garage may replace any single required parking space.
  - (2) No parking spaces required under this chapter may be used for any other purpose; provided, however, that open spaces required by this chapter for setback and side yards may be used for such parking spaces or approaches thereto except that on corner lots there shall be no parking in the vision clearance triangle.
  - (3) All parking spaces shall be graded and drained so as to prevent the accumulation of surface water.
  - (4) All parking spaces in the commercial or industrial districts and residential parking lots in the residential and agricultural district containing three or more parking spaces shall be provided with a dust-free surface.
  - (5) Parking lots containing five or more parking spaces which are located in the residential district or adjacent to residential lots, shall be screened along with the side or sides of such lots which abut the lot lines of residential lots by a solid wall, fence, evergreen planting or equivalent plantings or equally effective means built or maintained at a minimum height of four feet. If parking lots so located are lighted, the lights shall be so shielded as to prevent undesirable glare or illumination of adjoining residential property.
- (b) *Parking spaces required.*
  - (1) Multiple-family dwellings shall provide one off-street parking space for each family for which the accommodations



are provided in the building plus one.

- (2) Except as detailed elsewhere in this section, retail or local business places, professional offices and home businesses shall provide at least one off-street parking space for each 300 square feet of sales floor area.
- (3) Theaters, churches, auditoriums, lodges or fraternity halls and similar places of public assemblage shall provide at least one parking space for each seven seats.
- (4) Motels, hotels, and dormitories shall provide at least one parking space for each guest room.
- (5) Restaurants, taverns and similar places for eating and refreshments shall provide at least one parking space for each 50 square feet of floor space devoted to the use of patrons.
- (6) Funeral homes and mortuaries shall provide at least one parking space for each 50 square feet of floor space devoted to parlors.
- (7) Bowling alleys shall provide at least five parking spaces for each alley.
- (8) Garages and service stations shall provide adequate off-street parking space to prevent the parking of vehicles waiting to be serviced or repaired on the public street or highway.
- (9) Industrial uses shall provide at least one parking space for each employee on the premises at any one time, plus at least one additional space for each vehicle operated in connection with such use for which parking on the premises is required.

(Ord. No. 07-19, § 10.5.2, 3-19-2019; Ord. No. 37-20, § 10.5.2, 9-15-2020)

#### Sec. 42-118. - Signs.

##### (a) *General provisions.*

- (1) Any sign erected shall conform to the provisions of this chapter and the provisions of any other ordinance or regulation of the county.
- (2) No sign other than an official traffic sign or similar sign shall be erected within the right-of-way lines of any street, road, highway, or public way unless specifically authorized by other ordinances or regulations of the county or by specific authorization of the zoning administrator.
- (3) Signs projecting over public walkways may do so subject to a minimum clearance height of ten feet from grade level to the bottom of the sign.
- (4) Notwithstanding the provisions of subsection (d) of this section, no sign or structure shall be erected at the intersection of any road in such a manner as to obstruct the free and clear vision of a driver of any motor vehicle, nor at any location whereby its position, shape or color it may interfere with or obstruct the view of or be confused with any authorized traffic sign, signal or device.
- (5) If a commercially or industrially zoned premises contains more than one property usage, the sign areas for each unique usage will be computed separately.
- (6) Every sign permitted by this chapter must be kept in good condition and repair. When any sign becomes insecure, in danger of falling, or is otherwise deemed unsafe by the zoning administrator, or if any sign is unlawfully installed, or erected, in violation of any of the provisions of this chapter or state law, the owner thereof or the person or firm using the sign shall, upon written notice of the zoning administrator forthwith in the case of immediate danger and in any case within not more than ten days, remove or repair the sign. If the order is not complied with, the zoning administrator may remove or cause such sign to be removed at the expense of the owner or the user of the sign.
- (7) Any sign legally existing at the time of passage of this chapter that does not conform to the provisions of this chapter, shall be considered a protected nonconforming use and may continue in such status until such time as it is either abandoned or removed by its owner. Maintenance of the sign for purposes of changing the sign message shall

not be considered an alteration requiring conformance with this chapter.

- (8) A double-faced sign shall only be allowed with the two faces displayed back to back or with an interior angle of no greater than 30 degrees. Such sign will be considered one sign structure. Each face of a double-faced sign shall be considered a separate sign for purposes of display area size restrictions.
- (9) Temporary signs, unless otherwise regulated by specific provisions of this chapter related to size, use, and district in which placed, shall be subject to the following regulations:
  - a. No temporary sign shall be permitted to be displayed for a period in excess of 90 days in any one period of 365 days, unless a longer span of display time is approved by the zoning administrator.
  - b. The size and spacing of any temporary sign shall conform to requirements of subsections (d)(1) and (2) of this section.
  - c. Subdivision development signs. The zoning administrator may issue a special permit for a temporary sign in any district in connection with the marketing of lots or structures within a subdivision provided the sign is located entirely on the property being developed, and must apply to all applicable building setback requirements specified in this chapter. The signs must not exceed 96 square feet. One sign is allowed for each major road adjacent to the subdivision. Such permits may be issued for a period of one year and may be reviewed for additional periods of up to one year upon written application at least 30 days prior to its expiration.
- (10) All signs are prohibited from all zoning districts in the county unless specifically authorized to be located in the district in accordance with the provisions of this chapter.

(b) *Sign placement.*

- (1) On-premises signs are allowed in any district subject to space and size requirements as provided for in subsection (d) (2) of this section.
- (2) Off-premises signs are only allowed in commercial and industrial districts and subject to space and size requirements as provided for in subsection (d)(1) of this section.
- (3) Other districts. Natural resources district and farmland preservation district signs are allowed by conditional use permits only and must conform to setbacks and all other standards.
- (4) Signs not requiring a permit as described in subsection (e)(4) of this section are permitted in any district.

(c) *Prohibited signs.*

- (1) Lighting shall be sufficiently shielded to prevent stray light from becoming a nuisance to neighboring property, or to the enjoyment of a body of water.
- (2) No sign shall contain, include, nor be composed of any conspicuous animated or moving parts.
- (3) No sign shall be painted upon or attached to trucks or other vehicles, or parts thereof, and parked on a lot for purposes of visual display. Vehicles operating in the normal course of business (other than used solely for the display of signs) are exempt from this provision.
- (4) Electronic, internally illuminated signs greater than 40 square feet

(d) *Sign dimensions and spacing.*

- (1) *Off-premises signs (Table 7).*

Table 7. Off-Premises Signs

Class of Highway	Spacing Between Sign Structures on Same Side of Road	Spacing from Public Road Intersection *	Area/Size of Signs (per direction)	Height Limit
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Town road	1,000 feet	300 feet *	64 square feet	30 feet
County road	1,000 feet	300 feet *	96 square feet	30 feet
State and U.S. highway	1,000 feet	300 feet *	240 square feet	30 feet
Interstate highway	1,000 feet	300 feet *	As state permits	30 feet

\* As measured from intersection of road rights-of-way

(2) *On-premises signs (Table 8).*

Table 8. On-Premises Signs

Zoning District	Total Number of Signs	Maximum Sign Area	Height Limit
R-1 Residential RA-5	1	<u>32</u> square feet	10 feet
All Commercial Industrial Hamlet A-1 and A-2	1 freestanding sign plus no limit on other signs	Maximum 96 square feet with a total of 288 square feet	35 feet
Natural Resources Farmland Preservation	By conditional use permit	96 square feet	30 feet

(e) *Sign permits.*

- (1) A permit must be obtained from the zoning administrator for the erection of all signs or sign structures, except for those noted in subsection (e)(4) of this section.
- (2) Before any permit is granted for the erection of a sign or sign structure requiring such permit, plans and specification shall be filed with the zoning administrator showing the dimensions and materials to be used. The permit application shall be accompanied by the written consent of the owner or lessee of the premises on which the sign is to be erected.
- (3) No sign or sign structure shall be enlarged or relocated except in conformity to the provisions herein, nor until a proper permit, if required, has been secured. The changing of copy, display or graphic matter, or the content of any sign shall not be deemed an alteration.
- (4) Signs not requiring a permit:
  - a. Vehicular signs on trucks, trailers buses or other vehicles while operating in the normal course of business, which is not in the display of signs.
  - b. Interior window signs in commercial or industrial districts which are visible from a public right-of-way.
  - c. On-premises temporary advertising banners, provided the banners do not exceed 32 square feet and are

displayed for no more than 30 consecutive days.

- d. Any size sign that meets the criteria for a temporary sign in subsection (a)(9) of this section.
- e. A single faced sign equal to or less than 16 square feet in size.

(Ord. No. 07-19, § 10.5.3, 3-19-2019; Ord. No. 37-20, § 10.5.3, 9-15-2020)

Sec. 42-119. - Manufactured homes and mobile homes.

The following conditions shall apply for all manufactured homes:

- (1) The area beneath a manufactured or mobile home must be completely enclosed with a skirting material of a quality and strength which assures the durability of the skirting material and which does not distract from the general aesthetic quality of the manufactured or mobile home and the surrounding area.
- (2) All manufactured and mobile homes which are abandoned, burned or otherwise destroyed or substantially damaged must be removed from the lot or site on which they are located within one year after abandonment, burning, destruction or substantial damage occurred.
- (3) Cannot be used for storage.

(Ord. No. 07-19, § 10.5.4, 3-19-2019; Ord. No. 37-20, § 10.5.4, 9-15-2020)

Sec. 42-120. - Manufactured home parks.

The following conditions shall apply for all manufactured home parks:

- (1) The minimum lot size for manufactured home parks shall be five acres.
- (2) The maximum number of manufactured homes shall be eight per acre.
- (3) The minimum dimensions of a manufactured home site shall be 50 feet wide by 100 feet long.
- (4) In addition to the setback requirements set forth in the section 42-14, there shall be a minimum setback of 40 feet from all other lot lines.
- (5) Each manufactured home site shall be separated from any other manufactured home site by a yard of at least 15 feet.
- (6) All drives, parking areas and walkways shall be hard surfaced or graveled, maintained in good condition, have natural drainage, and the driveways shall be lighted at night.
- (7) There shall be two hard-surfaced automobile parking spaces provided for each manufactured home site.
- (8) Screening requirement of section 42-116 apply.

(Ord. No. 07-19, § 10.5.5, 3-19-2019; Ord. No. 37-20, § 10.5.5, 9-15-2020)

Sec. 42-121. - Travel trailers.

Travel trailers are considered camping units for the purposes of this chapter.

- (1) *Storage of travel trailers.* The subject lot must have a dwelling or principal structure in order to store one travel trailer on that property;
- (2) *Non-storage use of travel trailers.*
  - a. The zoning district must allow a single-family residence on that lot as an allowable use.
  - b. The subject lot has no existing principal structure.
  - c. A travel trailer is allowed to be used on a lot 14 out of every 60 days without a permit, unless subsection (2)d or (2)e of this section apply.

- d. An annual, seasonal permit may be obtained from the zoning office which would allow for the utilization of the travel trailer on the subject property from May 15 through December 1 annually. To obtain the above seasonal permit, the following requirements apply:
    - 1. A non-plumbing sanitary system is installed. If there is a well, a state sanitary system must be installed in compliance with the county private onsite wastewater (POWTS) regulations.
    - 2. Must meet all setbacks on property for an accessory structure.
    - 3. Must be removed once season is over.
  - e. A travel trailer may be placed on a property for more than 14 days in any 60 consecutive days if a land use permit is obtained and all the following criteria are met:
    - 1. The property owner has at least 25 acres in one parcel or parcels adjacent to each other with common ownership.
    - 2. The travel trailer will not be used as a permanent residence.
    - 3. The setbacks required for an accessory building are met.
    - 4. A non-plumbing sanitary system is installed. If there is a well, a state sanitary system must be installed in compliance with the county private onsite wastewater (POWTS) regulations.
- (3) *Septic system installation.* A temporary permit may be issued if the property owner has installed a state approved septic system and well and the zoning administrator has issued a permit to begin constructing a dwelling within one year. Must meet all setbacks on property for an accessory structure.

(Ord. No. 07-19, § 10.5.6, 3-19-2019; Ord. No. 37-20, § 10.5.6, 9-15-2020)

#### Sec. 42-122. - Bunkhouses.

A single (one per lot) bunkhouse will be permitted only in districts which permit it by land use permit and the following conditions apply:

- (1) A bunkhouse shall have a maximum of 1,000 square feet of bunkhouse floor area. Square footage is measured as all area within the exterior walls of a residential accessory building with or without plumbing used for temporary sleeping quarters only. Storage area must be separate and segregated from any bunkhouse area (can have a door from the bunkhouse areas to the storage area).
- (2) All of the setback requirements for an accessory structure are met.
- (3) Leasing, rental or use as a residence is strictly prohibited.
- (4) Sanitary systems must be sized for the total number of bedrooms on the lot after the bunkhouse is built. No affidavits allowed for undersized systems.
- (5) The bunkhouse shall be built to Uniform Dwelling Code compliance. A copy of the completed and passed final inspection of the bunkhouse by the town's building inspector is due to the zoning office within two years of obtaining the land use permit, as proof that this condition has been satisfied.
- (6) Height of the structure is limited to 35 feet.
- (7) Maximum of one bathroom allowed per bunkhouse.
- (8) Cannot be split from original property.
- (9) Cooking facilities are prohibited.
- (10) Cannot be built on an outlot.
- (11) Cannot be the first building on a lot.
- (12) An affidavit is recorded in the register of deeds outlining use restrictions.

- (13) Boathouses cannot become bunkhouses.
- (14) Only allowed in zoning districts where single-family residential uses are allowed.
- (15) Bunkhouses created on riparian lots shall be required to install and maintain mitigation as described in the Polk County Shoreland Protection Zoning Ordinance. For the purposes of this section, changing the use of a structure to a bunkhouse counts as the same additional square footage of impervious surface (in shoreland areas) as a vertical expansion.
- (16) Use of accessory structures in a manner consistent with the definition of bunkhouse prior to enactment of the ordinance from which this section is derived is prohibited by this section and such use is not a nonconforming use as defined in Wis. Stats. § 59.69(10)(ab) and (am) and section 42-11. Accordingly, any and all accessory structures that are to be used as bunkhouses must comply with the above conditions regardless of prior existing use.

(Ord. No. 07-19, § 10.5.7, 3-19-2019; Ord. No. 37-20, § 10.5.7, 9-15-2020; Ord. No. 24-21, 5-18-2021; Ord. No. 25-21, 5-18-2021)

#### Sec. 42-123. - Campgrounds.

- (a) The minimum size of the campground shall be five acres.
- (b) The maximum number of sites shall be 20 per acre.
- (c) Minimum dimensions of a site shall be 25 feet by 40 feet.
- (d) Each site is separated from other camping units by a yard not less than ten feet wide.
- (e) There shall be 1½ automobile parking spaces for each site.
- (f) There shall be a minimum setback of 40 feet from all other exterior lot lines.
- (g) Applicant must obtain all proper licensing.
- (h) The screening standards of section 42-116 must be met.

(Ord. No. 07-19, § 10.5.8, 3-19-2019; Ord. No. 37-20, § 10.5.8, 9-15-2020)

#### Secs. 42-124—42-144. - Reserved.

### DIVISION 4. - ADMINISTRATION AND ENFORCEMENT

#### Subdivision I. - In General

#### Sec. 42-145. - Zoning administrator.

The zoning administrator and his designees and other county staff as authorized by the zoning administrator shall have the following duties and powers:

- (1) Advise applicants on the provisions of this chapter and assist them in preparing permit applications and appeal forms.
- (2) Issue permits and inspect properties for compliance with this chapter.
- (3) Keep records of all permits issued, inspections made, work approved and other official actions.
- (4) Submit copies of variances, conditional uses and decisions on appeals for map or text interpretation and map or text amendments within ten days after they are granted or denied to the state department of natural resources.
- (5) Report all violations of this chapter to the department head and the governing committee.

(Ord. No. 07-19, § 10.6.1, 3-19-2019; Ord. No. 37-20, § 10.6.1, 9-15-2020)

## Sec. 42-146. - Land use permits.

- (a) *When required.* Except where another section of this chapter specifically exempts certain types of activities or development from this requirement, a land use permit shall be obtained from the zoning administrator before any activity or development, reconstruction, structural alteration, or structural repair is initiated, including, but not limited to, building or structure, or any change to a structure.
- (b) *Application.* An application for a land use permit shall be made to the zoning administrator upon forms furnished by the county and shall include, for the purpose of proper enforcement of these regulations, the following data:
- (1) Name and address of applicant and property owner.
  - (2) Legal description of the property and type of proposed use.
  - (3) A sketch of the dimensions of the lot and location of existing buildings and distance of proposed buildings from the lot lines, centerline of abutting highways and the ordinary high-water mark at the day of the sketch.
  - (4) Whether a private water or septic system is to be installed.
- (c) *Expiration.* Land use permits for land use changes shall expire 12 months from their date of issuance where no action has been taken to accomplish such changes or two years after issuance.

(Ord. No. 07-19, §§ 10.6.2, 10.6.3, 3-19-2019; Ord. No. 37-20, § 10.6.2, 9-15-2020)

## Sec. 42-147. - Revocation.

Where the conditions of a land use permit, conditional use permit or a variance is violated, the same are deemed revoked.

(Ord. No. 07-19, 3-19-2019; Ord. No. 37-20, § 10.6.3, 9-15-2020)

## Sec. 42-148. - Board of adjustment.

The county administrator shall appoint a board of adjustment under Wis. Stats. § 59.69, consisting of five members, with no less than one of the members being a riparian landowner, and the county board shall adopt such rules for the conduct of the business of the board of adjustment as required by Wis. Stats. § 59.69(3).

- (1) *Powers and duties.* The board of adjustment shall have the following powers and duties:
- a. The board shall adopt rules as it deems necessary and may exercise all of the powers conferred on such boards by Wis. Stats. § 59.69. Supplemental information is available in the county board of adjustment procedural ordinance.
  - b. Administrative appeals. The board shall hear and decide appeals where it is alleged there is an error in any order, requirements, decision or determination made by an administrative official in the enforcement or administration of this chapter.
    1. Appeals to the board of adjustment may be taken by any person aggrieved or by an officer, department, board or bureau of the county affected by any decision of the zoning administrator or other administrative officer.
    2. Appeals shall be taken within a feasible time, as provided by the rules of the board of adjustment.
  - c. Variances. The board shall authorize upon application, in specific cases, such variances from the terms of this chapter as shall not be contrary to the public interest, where owing to special conditions, a literal enforcement of this chapter will result in an unnecessary burden.
    1. In the issuance of a variance, the spirit of the ordinance shall be observed and substantial justice done. No variance shall have the effect of granting or increasing any use of property, which is prohibited in that zoning district by this chapter.

2. Variances do not expire but remain with the property.
- d. Permit denials, when brought by appeal for denial of permits under this article.

(2) *Application/review process/procedure.*

- a. *Notice of public hearing.* Before acting upon an application, the board of adjustment shall hold a public hearing within a reasonable time. Notice of such public hearing, specifying the time, place, and matters to come before the board of adjustment, shall be given as a Class 2 notice under Wis. Stats. ch. 985, and notice shall be mailed to the appropriate district office of the department of natural resources, when applicable, at least ten days prior to the hearing, as well as to all property owners within 300 feet of the site under consideration.
- b. *Recording.* An appropriate record shall be made of any decision made by the board of adjustment.
  1. A decision regarding the application appeal shall be made as soon as practical and a copy shall be submitted to the department of natural resources when applicable within ten days after the decision is issued.
  2. The board of adjustment shall state in writing the grounds for their decision and shall state the specific facts which are the basis of the board determination.
  3. All decisions may be reviewed by a court of competent jurisdiction.

(Ord. No. 37-20, § 10.6.4, 9-15-2020)

Sec. 42-149. - Environmental services committee.

- (a) *Responsibility of committee.* The committee shall be responsible for hearing all conditional use permit applications submitted to the county zoning office in accordance with the procedure set forth in this section.
- (b) *Application.* Any use listed as a conditional use in this chapter shall be permitted only after an application has been submitted and an appropriate application fee paid to the zoning administrator and a conditional use permit has been granted by the environmental services committee.
- (c) *Standards applicable to all conditional uses.* The environmental services committee shall evaluate the effect of the proposed use upon the following criteria:
  - (1) The maintenance of safe and healthful conditions.
  - (2) Creation or increase of smoke, dust, noxious and toxic gases and odors, noise or vibrations from heavy equipment.
  - (3) The prevention and control of water pollution, including sedimentation.
  - (4) Existing topographic and drainage features and vegetative cover on the site.
  - (5) The location of the site with respect to floodplains and floodways of rivers and streams.
  - (6) The erosion potential of the site based upon degree and direction of slope, soil type, and vegetative cover.
  - (7) The location of the site with respect to existing and future access roads.
  - (8) Heavy vehicular traffic and increased traffic.
  - (9) The need of the proposed use.
  - (10) Its compatibility with uses on adjacent land.
  - (11) The amount of septic waste to be generated and the adequacy of the proposed disposal system.
  - (12) Location of uses that:
    - a. Within an area, are not inherently a source of pollution, shall be preferred over uses that are or may be a pollution source; and
    - b. Within an area, tend to minimize the possibility of pollution shall be preferred over use locations tending to increase that possibility.
- (d) *Conditions attached to conditional use permit.* Upon consideration of the factors listed above, the environmental



services committee shall attach such conditions, in addition to those required elsewhere in this chapter, as are necessary to further the purposes of this chapter. Violations of any of the imposed conditions shall be deemed a violation of this chapter and result in immediate revocation of the conditional use permit. Such conditions may include, without limitation of a specific enumeration:

- (1) Type of shore cover;
- (2) Increased setbacks and yards;
- (3) Specific sewage disposal and water supply facilities;
- (4) Landscaping and planting screens;
- (5) Period of operation;
- (6) Operational control;
- (7) Sureties;
- (8) Bonding;
- (9) Deed restrictions;
- (10) Location of piers, docks, parking and signs; and
- (11) Type of construction.

(e) *Information requests by committee.* To secure information upon which to base its determination, the environmental services committee may require the applicant to furnish, in addition to the information required for a conditional use permit, the following information:

- (1) A plan of the area showing contours, soil types, ordinary high-water marks, groundwater conditions, bedrock, slope and vegetative cover.
- (2) Location of buildings, parking areas, traffic access, driveways, walkways, piers, open space and landscaping.
- (3) Plans of buildings, sewage disposal facilities, water supply systems and arrangements of operations.
- (4) Specifications for areas of proposed filling, grading, lagooning or dredging.
- (5) Other pertinent information necessary to determine if the proposed use meets the requirements of this chapter.

(f) *Notice and public hearing.* Before passing upon an application for a conditional use permit, the environmental services committee shall hold a public hearing. Notice of such public hearing, specifying the time, place, and matters to come before the environmental services committee, shall be given as a Class 2 notice under Wis. Stats. ch. 985, and notice shall be provided to the appropriate district office of the state department of natural resources at least ten days prior to the hearing as well as all property owners within 300 feet of the site under consideration. The environmental services committee shall state in writing the grounds for refusing a conditional use permit.

(g) *Recording.* When a conditional use permit is approved, an appropriate record shall be made of the land use and structures permitted and such permit shall be applicable solely to the structures, use and property so described. A copy of any decision on a conditional use permit shall be provided to the appropriate district office of the state department of natural resources within ten days after application for the conditional use permit is granted or denied.

(h) *Revocation.* When the conditions of a conditional use permit are violated, the conditional use permit shall be revoked by the zoning department.

(i) *Expiration.* Conditional use permits for construction, alteration or removal of structures shall expire 12 months from their date of issuance if no building activity has begun within such time.

(Ord. No. 07-19, § 10.6.5, 3-19-2019; Ord. No. 37-20, § 10.6.5, 9-15-2020)

The environmental services committee may, by motion, adopt fees for land use permits, public hearings, conditional use permits, appeals to the board of adjustment, variances and other services as necessary.

(Ord. No. 07-19, § 10.6.6, 3-19-2019; Ord. No. 37-20, § 10.6.6, 9-15-2020)

Sec. 42-151. - Enforcement and penalties.

- (a) Any development, building or structure constructed, moved or structurally altered, or any use established after the effective date of the ordinance from which this article is derived contrary to the provisions of this article, by any person, firm, association, corporation (including building contractors or their agents) shall be deemed a violation. As authorized by Wis. Stats. ch. 66, the zoning administrator or the county zoning agency shall issue citations for any violations of this article. Any person, firm, association, or corporation who violates or refuses to comply with any of the provisions of this article shall be subject to a forfeiture of not less than \$200.00 nor more than \$1,000.00 per offense, together with the taxable costs of action. Each day of continued violation shall constitute a separate offense. Every violation of this article is a public nuisance and the creation thereof may be enjoined and the maintenance there may be abated by action at suit of the county, the state, or any citizen thereof pursuant to Wis. Stats. § 87.30(2). The county also retains the summons and complaint avenue for forfeitures and remedial action as provided by Wis. Stats. § 59.69(11).
- (b) There shall be an administrative penalty of two times the regular permit fee in those cases where building is commenced without first obtaining a land use permit, providing the structure is in conformance with the provisions of this article. In cases where the project cannot be permitted without a variance, the penalty fee shall be applied towards the variance application fee.
- (c) The environmental services committee may issue an on-site stop work order, as appropriate, whenever it determines that a violation of this article or the building permit is taking place.

(Ord. No. 07-19, § 10.6.7, 3-19-2019; Ord. No. 38-19, art. 20, 9-17-2019; Ord. No. 08-20, art. 22, 4-21-2020; Ord. No. 37-20, § 10.6.7, 9-15-2020)

Secs. 42-152—42-170. - Reserved.

Subdivision II. - Appeal Procedure

Sec. 42-171. - Definitions.

The following words, terms and phrases, when used in this subdivision, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

*Aggrieved person* means any person whose substantial interests are adversely affected by a determination. An aggrieved person may file appeals or appear in opposition to an application.

*Appeal* means a complaint of an injustice done or error committed in which both the facts and the law are reviewed. The board of adjustment shall hear and decide appeals regarding interpretations of county zoning regulations.

*Brief* means a concise and brief statement expounding on the legal issues and the authorities.

*Certiorari* means a written order from a higher court to a lower court demanding a transcript of the proceedings of a case for review.

*Conditional use* means a use allowed under a conditional use permit, special exception, or other special zoning permission issued by the county, but does not include a variance.

*Findings of fact* means a statement of rationale of the board of adjustment behind the decision and facts that support the decision.

*Hearing de novo* means to hear anew, a remedy the court may grant if a decision was based on insufficient evidence or the findings of fact are insufficiently recorded.

*Self-imposed hardship* means a hardship created by oneself. Examples of the term "self-imposed hardship" include excavating a pond on a vacant lot and then arguing that there is no suitable location for a home, claiming hardship for a substandard lot after selling off portions that would have allowed building in compliance, and claiming hardship after starting construction without required permits or during a pending appeal.

*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 conditional use permit and that reasonable persons would accept in support of a conclusion.

*Unnecessary hardship* means, for area variances, compliance with the strict letter of the restrictions governing area, setbacks, frontage, height, bulk, or density would unreasonably prevent the owner from using the property for a permitted purpose or would render conformity with such restrictions unnecessarily burdensome. An unnecessary hardship must be based on conditions unique to the property rather than considerations personal to the property owner when reviewing a variance application.

*Use variance* means an authorization by the board of adjustment for the use of land for a purpose that is otherwise not allowed or is prohibited by the applicable zoning regulation.

*Variance, area*, means a modification to a dimensional, physical, or locational requirement such as the setback, frontage, height, bulk, or density restriction for a structure that is granted by the board of adjustment. A variance may only be granted in cases of unnecessary hardship and when the spirit of the zoning regulations is not violated.

(Ord. No. 69-18, § 13.0, 8-21-2018)

#### Sec. 42-172. - Filing appeal.

- (a) *Who may file.* The applicant or appellant, his agent or attorney shall file applications to the board of adjustment and appeals from the zoning administrator's decisions with the zoning administrator. Appeals may be filed by any person aggrieved or by any officer, department, board, or bureau of the county or town affected by the zoning administrator's decision. An applicant may file an application or appeal personally or by an agent or attorney.
- (b) *Distribution of copies.* The zoning administrator shall transmit copies of the application or appeal as follows: Original to the board of adjustment, a copy to the applicant, a copy to the zoning administrator's files, and a copy to the clerk of the town board or village council, where applicable as to variances. In the case of applications or appeals affecting property within the wetland/shorelands, one copy shall also be sent to the state department of natural resources and to any affected lake association or lake protection and rehabilitation district.
- (c) *Time for filing.* Appeals from the zoning administrator's decision must be filed within 30 days after the decision in writing is made and filed.
- (d) *Required information.* Failure of the applicant to supply the required information within 60 days of filing an application or appeal may be considered by the board of adjustment as a failure to comply with the application and appeal procedure and the case may be dismissed for failure of timely filing. Applications or appeals shall be made on forms provided by the zoning administrator. Any communication except on prescribed forms, purporting to be an appeal shall be deemed a mere notice of intention to file and shall not be deemed a filing to comply with requirements of timely filing.
- (e) *Reasons to be stated.* The reason for the application or appeal must be stated and the reasons why the request should

be granted must also be stated by the applicant. If a variance is requested, facts should be stated for the need of a variance and the request must meet the three criteria necessary for the board of adjustment of granting the variance. If an appeal is based upon an alleged error or abuse of discretion of the zoning administrator, facts should be stated as to the nature thereof.

- (f) *Dismissal.* The board may refuse to hear a case upon the failure of the applicant to supply the required information called for on the forms and as further reasonably required by the zoning administrator.
- (g) *Owner's signature and acknowledgment of filing required.* The forms shall bear the signature of the owner of the property affected or shall be accompanied by a letter from the owner acknowledging the filing of the form.

(Ord. No. 69-18, §§ 5.1—5.7, 5.10, 8-21-2018)

Sec. 42-173. - Notice of proceeding and hearing.

- (a) *Distribution of copies of notice of hearing.* The secretary of the board of adjustment shall give, or cause to be given, notice of each hearing as required by law and these rules. This shall include at least the following:
  - (1) Publication of a Class 2 hearing notice in the official county newspaper;
  - (2) Mailing a notice of the hearing to the applicant, and where required to the area office of the state department of natural resources at least ten days before the hearing;
  - (3) Mailing a notice of the hearing to the town clerk of the town in which the property is located, no less than ten calendar days before the date of the hearing;
  - (4) Mailing a notice of the hearing to the village clerk and village president when the property affected lies within 1.5 air miles of the closest city or village limits, no less than ten calendar days before the date of the hearing;
  - (5) Mailing a notice of the hearing to any affected lake association or lake protection and rehabilitation district, no less than ten calendar days before the date of the hearing;
  - (6) Mailing a notice to all property owners within 300 feet of the property affected by the request.
- (b) *Distribution of copies of application or petition for variance.* A copy of the application for a variance shall be sent to the town clerk, and when applicable to the village clerk, of the municipality in which the property is located. A copy shall also be sent to any affected lake association or lake protection and rehabilitation district. The board of adjustment may consider the decision of the municipality, lake association, or lake protection and rehabilitation district in granting or denying the variance requested.
- (c) *Comments from adjacent landowners.* When a hearing involves an application or petition for a variance, the notice shall include the information required for a hearing and shall provide the recipient the opportunity to indicate whether they are in favor or opposed to the application. Comments from surrounding property owners may be considered by the board of adjustment in granting or denying the variance requested. A signature is required in order for the comments to receive consideration by the board of adjustment. The failure of such notice to reach any property owner shall not invalidate any decision made on a variance. Such notice shall be mailed at least ten days before the hearing.

(Ord. No. 69-18, §§ 5.81—5.83, 8-21-2018)

Sec. 42-174. - Effect of appeal.

An appeal shall stay all proceedings and furtherance of the action appealed from, unless the officer from whom the appeal is taken, shall certify to the board of adjustment, after the notice of appeal shall have been filed with him, that by reason of facts stated in the certificate, a stay would cause imminent peril to life or property. In such case, proceedings shall not be stayed, otherwise than by a restraining order, which may be granted by the board of adjustment, or by a court of record on application and notice to the officer from whom the appeal is taken and on due cause shown.

(Ord. No. 69-18, § 5.9, 8-21-2018)

Sec. 42-175. - Fees.

The applicant shall pay such fees as may be from time to time established by the environmental services committee, which amount shall be paid for each application filed before a public hearing will be scheduled.

(Ord. No. 69-18, § 5.11, 8-21-2018)

Sec. 42-176. - Hearing procedure.

- (a) *Summary of order subject to hearing.* Hearings on cases shall normally follow this order:
- (1) Reading of the application.
  - (2) Determination of jurisdiction, if requested.
  - (3) Submission of the file, which may include the town board decision or village council decision, maps or surveys, inspection reports, opinion letters, letters of correspondence, soil tests results, plot plans or sketches, and photographs.
  - (4) Reading of the appeal.
  - (5) Applicant's statements and presentation of evidence.
  - (6) Others in support of applicant make statements and present evidence.
  - (7) Objector's statements and presentation of evidence.
  - (8) Staff recommendations.
  - (9) Questions by board members.
  - (10) Rebuttals as permitted by the board of adjustment.
  - (11) Deliberations and decision by the board of adjustment.
- (b) *Appearances; motion to table, recess or adjourn.* At the time of the hearing, the applicant may appear in his own behalf or be represented by his counsel or agent. A motion passed to table a request or a recess or adjournment of a hearing, made at a noticed hearing date, to a time and place certain is adequate notice to the members and the public of a new hearing date.
- (c) *Board may compel attendance and disclosure of identity of witnesses.* The chairperson or vice-chairperson may compel the attendance of witnesses and may require those wishing to testify to state their names and interests in the matter before the board of adjustment.
- (d) *Testimony of witnesses.* Persons having an interest in the case may attend the hearing and may request an opportunity to testify provided they identify themselves.
- (e) *Witnesses to take oath.* Testimony shall be taken under oath administered by the chairperson or vice-chairperson.
- (f) *Preliminary matters.* Following the reading of the application or appeal, the board of adjustment may hear arguments on the question of jurisdiction and request that briefs be filed on the point. The board may proceed with the hearing and the taking of testimony in any event and reserve its determination on a jurisdictional question until after hearing all testimony and render a decision on the merits as if it had jurisdiction. The board may make an immediate determination and close the hearing finding that it lacks jurisdiction. If the board of adjustment determines by motion that it lacks jurisdiction, the secretary shall record the decision as a vote to deny the request.
- (g) *Orderly procedure to be enforced.* Orderly procedure requires that each side shall proceed without interruption by the other, and that all arguments and pleadings shall be addressed to the board of adjustment. There shall be no questioning or arguments between individuals.

- (h) *Questions and debate.* During the hearing, the chairperson, board members, and members of the staff may ask questions ; make appropriate comments pertinent to the case; however, no member should debate or argue an issue with the applicar chairperson and board members may direct any question to the applicant or to any person speaking in order to bring out a relevant facts, circumstances, and conditions affecting the case and may call for questions from members of the staff.
- (i) *Presentation of evidence.* All supporting evidence for and against each case shall be presented to the assembled board. The applicant shall be responsible for the presentation of all information supporting his case. The board may take administrative notice of the ordinances of the county and laws of the state and other relevant facts not reasonably subject to dispute on its own motion or motion of a party.
- (j) *Postponements; deferrals.* The board may take a case under advisement for later consideration and determination, or may table or defer action whenever it concludes that additional evidence is needed or further study is required.
- (k) *Rules of evidence.* The board shall not be bound by court rules of evidence, but it may exclude irrelevant, immaterial, incompetent, unduly argumentative, or repetitious testimony or evidence.
- (l) *Chairperson to rule on admissibility.* The chairperson shall rule on all questions relating to the admissibility of evidence, which may be overruled by a majority of the board of adjustment members.
- (m) *Record of hearing.* All proceedings at a hearing shall be audio recorded. The secretary shall prepare a summary of motions, witnesses, appearances, roll call, votes, and all other matters constituting the substance of the proceedings. The proceedings shall become part of the written record filed in the office of the board of adjustment and open to the public. Verbatim transcripts of recorded proceedings shall not be prepared unless ordered by the circuit court by a writ of certiorari.
- (n) *Adjournments.* When all applications or appeals cannot be disposed of on the day set, the board of adjustment may adjourn from day to day or to a day certain, as it may order, and such adjourned day shall be construed as a continuance of the hearing. Notice of such adjournment shall be given to the absent members of the board of adjustment.
- (o) *Withdrawal of application.* An applicant or appellant may withdraw an application or appeal at any time prior to the decision, but a pending motion to grant or deny the application shall have precedence over withdrawal. Withdrawal of the application or appeal shall not entitle the applicant to remission of the filing fee.

(Ord. No. 69-18, §§ 6.1—6.14, 8-21-2018; Ord. No. 07-19, § 10.6.4(B), 3-19-2019)

Sec. 42-177. - Decisions of the board.

- (a) *Majority vote required.* The concurring vote of a majority of the members present, when such is sufficient to constitute a quorum of the board of adjustment shall be necessary to approve, deny, or table any matter upon which it is required under any ordinance in which the board of adjustment has jurisdiction, unless otherwise required by law.
- (b) *Decisions to be written and based on facts.* All decisions shall be in writing and contain the facts upon which the decision is based.
- (c) *Distribution of copies of decision.* Within ten days of the close of the hearing to which the decision relates, written copies of such decision shall be mailed to the applicant, the local municipality, environmental services committee, those sworn in, and, if applicable, to the following: adjoining local municipality, state department of natural resources, affected lake association or lake protection and rehabilitation district and state or federal highway department. The approval or granting by the board of adjustment is deemed to constitute an order to the zoning official to issue a permit. A denial of the application or appeal by the board of adjustment is deemed to be an order to deny the permit.
- (d) *Findings of fact.* In acting on any matters before it, the board of adjustment shall make findings supporting its actions. In every case where a variance from the zoning regulations is granted by the board of adjustment, the minutes of the board of adjustment shall affirmatively show that an unnecessary hardship or practical difficulty exists and the records

of the board of adjustment shall clearly show in what particular and specific respects an unnecessary hardship or practical difficulty is created.

- (e) *Disqualifications.* A member may disqualify himself from voting whenever the member has a personal or monetary interest in the property concerning the case, will be directly affected by the decision of the board of adjustment, has or believes he has any conflict of interest under state statutes. A member may also disqualify himself whenever the applicant or the applicant's agent has sought to influence the vote of the member on his case outside the public hearing.
- (f) *Decisions to be made by motion at public hearing.* All decisions of the board of adjustment shall be made at a public hearing by the motion made, seconded, and passed. A motion, which decides the issue, shall be in the form of findings of fact and shall state the reasons for the findings by the board of adjustment. If conditions are imposed in the granting of a variance, such conditions shall be included in the motion.
- (g) *Decision relates only to specific property.* The decision of the board of adjustment shall be deemed as applying to the property rather than to the individual and is valid only for the specific premises in the case and is not transferable to other properties.
- (h) *Informal advice, opinions and information not binding.* Any advice, opinion, or information given by any board member, or any other official or employee of the county shall not be binding on the board of adjustment.
- (i) *No binding precedent; cases to be determine individually.* No action of the board of adjustment shall set a binding precedent. Each case shall be decided upon its merits and upon the attendant circumstances, provided the board of adjustment shall not act arbitrarily or capriciously.
- (j) *Shoreland-wetland related decisions to be filed with state.* Copies of decisions within the shorelands or affecting the wetland-shoreland district shall be sent to the appropriate district office of the state department of natural resources.
- (k) *Writs of certiorari.* Any person or persons jointly or severally aggrieved by any decision of the board of adjustment, or any taxpayer, or any officer, department, board, or bureau of the county may commence an action in the circuit court for writ of certiorari to review the legality of such decision in whole or in part, within 30 days after the filing of the decision in the office of the board of adjustment.

(Ord. No. 69-18, §§ 7.01—7.10, 8-21-2018)

Sec. 42-178. - Refiling, rehearing, reconsideration, and closing; judicial appeal.

- (a) *One year refiling rule.* No matter which has been acted upon by the board of adjustment concerning the same or part of the same property shall be considered again with one year from the date of the action, except as hereinafter provided.
- (b) *Reopenings and rehearings prohibited; exception.* The board may not reopen any case upon which a previous hearing has been held, except to correct a manifest error.
- (c) *Case closure.* A case will be considered as heard and closed at such time as the board of adjustment approves or rejects an application or appeal by motion or when it is considered closed by operation of these rules.
- (d) *Reconsideration by motion of board member.* A decision of the board of adjustment may be reconsidered only if a member of the prevailing vote request that the decision be reconsidered. Such a request must be made at the same meeting or at the next scheduled board meeting.
- (e) *Reconsideration tolls time for filing judicial proceeding.* The filing of a motion for reconsideration shall stop the running of the 30-day period in which a petition to the circuit court must be made. The 30-day period will run in such event from the date of a decision not to reconsider is made by the board of adjustment, or if the matter is reconsidered, from the date the decision on the reconsidered matter is filed in the office of the board of adjustment.

(Ord. No. 69-18, §§ 8.1—8.5, 8-21-2018)

Secs. 42-179—42-209. - Reserved.

## ARTICLE III. - SHORELAND PROTECTION

## DIVISION 1. - GENERALLY

## Sec. 42-210. - Statutory authorization.

- (a) This article consists of two distinct but inseparable and integrated parts: written text and zoning maps. The written text and zoning maps taken together constitute this article and, therefore, shall at all times be considered as interrelated and inseparable parts of a whole. In addition, other maps and materials referenced in the text are used to support this article.
- (b) This article is adopted pursuant to the authority expressed in Wis. Stats. §§ 30.12(3)(c), 30.13(2), 59.03, 59.69, 59.692, 59.694, 59.696, 87.30, and 281.31 and Wis. Stats. chs. 91, 236, 287, 289 and 823.
- (c) This article shall constitute a comprehensive revision, as described in Wis. Stats. § 59.69(5)(d), of the county shoreland protection zoning ordinance, effective May 1, 2020.

(Ord. No. 38-19, art. 2, 9-17-2019; Ord. No. 08-20, art. 2, 4-21-2020)

## Sec. 42-211. - Purpose and intent.

- (a) The purpose of these shoreland regulations is to ensure the proper management and development of the shoreland of all navigable lakes, ponds, flowages, rivers and streams in the unincorporated areas of the county. The intent of these regulations is to further the maintenance of safe and healthful conditions; prevent and control water pollution; protect spawning ground for fish and aquatic life; control building sites, placements of structures, land uses; and preserve shore cover and natural beauty. For those reasons, development and alterations that may affect the natural function of the shorelands of the county shall be controlled and regulated so as to cause no harm. The shoreland protection zoning ordinance shall be interpreted in harmony with federal, state, and local laws, including, but not limited to, the county comprehensive zoning ordinance, county nuisance ordinance, county floodplain ordinance, county subdivision ordinance, and others. Where any provision is inconsistent with applicable federal, state or local laws, rules and regulations, such provision shall be deemed void, but the remainder of this article shall apply and remain in full force and effect. This article shall conform to Wis. Stats. chs. 30, 59, and 281, Wis. Adm. Code ch. NR 115, and the American Disabilities Act.
- (b) To the extent that any of the provisions of this article are interpreted to be more restrictive than the state shoreland standard as provided by Wis. Adm. Code § NR 115.05(1)(a) through (g), said ordinance provision shall lack application and the applicable state standard is hereby incorporated by reference as expressly provided herein so as to comply with Wis. Stats. § 59.692(1d) and to allow for lawful issuance of any permit authorized by this chapter and to allow for the local enforcement of the state shoreland standard.

(Ord. No. 38-19, art. 3, 9-17-2019; Ord. No. 08-20, art. 3, 4-21-2020)

## Sec. 42-212. - General provisions.

- (a) Areas to be regulated. The shorelands area shall be considered as those lands within 1,000 feet of the OHWM of any navigable lake, pond, or flowage, and those lands within 300 feet of the OHWM of any navigable river or stream, or to the landward side of the floodplain, whichever is greater. All land within the shoreland area shall be placed within one of the zoning districts listed in [section 42-213](#). Uses within the shorelands shall conform to requirements of those respective districts and in addition, each use and property shall be subject to the requirements of this article.



- (b) Greater restrictions. The provisions of the shoreland and wetland regulations and all the provisions of any county zoning ordinance apply to the shorelands. However, where an ordinance adopted under a statute other than Wis. Stats. § 59.692 d solely relate to shorelands and is more restrictive than this article, for example a floodplain ordinance, that ordinance shall continue in full force and effect to the extent of the greater restrictions. In addition:
- (1) Shorelands and wetlands regulations shall not require approval or be subject to disapproval by any town or town board.
  - (2) If an existing town ordinance relating to shorelands is more restrictive than this article or any amendments thereto, the town ordinance continues in all respects to the extent of the greater restrictions, but not otherwise.
  - (3) The shorelands regulations are not intended to repeal, abrogate, or impair any existing deed restrictions, covenants, or easements. The provisions of any easement, covenant, deed restriction or like agreement are a matter of private property interest not within the scope of the regulations contained in this article. The county shall not enforce any easement, covenant, deed restriction, or agreement to which it is not a party. However, where this article imposes greater restrictions, the provisions of this article shall prevail.
  - (4) Except as this article may conflict with Wis. Stats. ch. 91, farmland preservation, wherever this article imposes greater restrictions than other similar regulations, the provisions of this article shall govern.
  - (5) Wherever the provisions of this article conflict with the provisions of Wis. Stats. ch. 91, farmland preservation, the provisions of Wis. Stats. ch. 91 shall prevail.
  - (6) It is not intended by this article to repeal, abrogate, annul, impair, or interfere with any permit previously issued pursuant to law.
- (c) Height restrictions. The height regulations of the underlying zoning districts shall apply as well as a maximum of 35 feet in height for any structure within the shoreland setback area, whichever is more restrictive. All height restrictions apply as measured from the lowest exposed grade to the highest point of the structure.
- (d) The use of phosphate fertilizers within shoreland areas is prohibited.
- (e) Septic systems shall comply with the applicable federal, state, and local laws, including other county ordinances.
- (f) No more than two accessory buildings, including a boathouse, shall be allowed on a riparian lot within 300 feet of the OHWM of a Class 1 or 2 water body. This limitation does not apply to riparian lots on Class 3 water bodies. If a riparian lot is over five acres on a navigable river or stream, up to four accessory buildings are allowed on the property.
- (g) Structures shall not be deemed an accessory structure or use and do not require permits unless greater than 64 square feet in size.
- (h) Determinations of navigability and ordinary high-water mark location shall initially be made by the zoning administrator. When questions arise, the zoning administrator shall contact the appropriate office of the department for a final determination of navigability or ordinary high-water mark. The county may work with surveyors with regard to Wis. Stats. § 59.6692(1h).
- (i) Farm animals, barnyards, feedlots and animal waste disposal facilities shall be located at least 100 feet from any navigable water and shall be so located and constructed that there will be no drainage either directly or indirectly from such facilities into any navigable water. Non-farm residences shall not be located within 300 feet of any feedlot or structure housing farm animals.
- (j) Signs allowed in a residential (R-1) zoning district under section 42-118.
- (k) Boathouses. The roof of a boathouse may be used as a deck if the boathouse has a flat roof with no side walls or screens. A boathouse may be constructed within the shoreland areas if it meets the following conditions:
- (1) The maximum dimension is 14 feet in width by 26 feet in depth. The width dimension runs parallel to the water.
  - (2) Open handrails under 3½ feet tall that meet the department of safety and professional services standards may be

constructed on the roof of the boathouse.

- (3) The roof must pitch away from the lake.
  - (4) Used for the storage of watercraft and associated materials and includes all structures which are totally enclosed, have roofs or walls or any combination of these structural parts.
  - (5) Shall not extend below the OHWM.
  - (6) Structure cannot contain any plumbing.
  - (7) Must be at least ten feet landward of the OHWM.
  - (8) Must be located within the allowed access and viewing corridor.
  - (9) Boathouses shall be a single story with a 14-foot maximum sidewall height.
- (l) A single (one per lot) bunkhouse will be permitted with the following conditions:
- (1) The bunkhouse shall not exceed 50 percent of the square footage of the accessory structure with a maximum of 400 square-foot floor area. The 50 percent square footage limitations will not apply when loft or attic truss type area is being used; however, the area shall not exceed 400 square feet. Stand-alone bunkhouses cannot exceed 400 square feet of floor area in total.
  - (2) All of the setback requirements for an accessory structure are met.
  - (3) Leasing, rental or use as a residence is strictly prohibited.
  - (4) Sanitary systems must be sized for the total number of bedrooms on the lot after the bunkhouse is built. No affidavits allowed for undersized sanitary systems.
  - (5) Holding tanks are only allowed for the purposes of these regulations if absolutely no other system will work on the property (i.e., a mound system or conventional system). A soil test is required to prove the necessity of a holding tank.
  - (6) A separate sanitary system for a bunkhouse is prohibited.
  - (7) The bunkhouse shall be built to uniform dwelling code compliance. A copy of the completed and passed final inspection of the bunkhouse by the town's building inspector is due to the zoning office within two years of obtaining the land use permit, as proof that this condition has been satisfied.
  - (8) Plumbing, if installed, conforms to the county sanitary code.
  - (9) Height of the structure is limited to 25 feet.
  - (10) Maximum of one bathroom allowed per bunkhouse.
  - (11) Cannot be split from original property.
  - (12) Cooking facilities are prohibited.
  - (13) Cannot be built on an outlot.
  - (14) Cannot be the first building on a lot.
  - (15) An affidavit is recorded in the register of deeds outlining use restrictions.
  - (16) Boathouses cannot become bunkhouses.
  - (17) Only allowed in zoning districts where single-family residential uses are allowed.
  - (18) Must meet minimum lot size requirements at time of lot creation.
  - (19) Bunkhouses created on riparian lots shall be required to install and maintain mitigation as described in section 42-305. For the purposes of this article, changing the use of a structure to a bunkhouse counts as the same additional square footage of impervious surface.
  - (20) Use of accessory structures in a manner consistent with the definition of bunkhouse prior to enactment of the ordinance from which this article is derived is prohibited by ordinances referenced in section 42-211 and such use is

not a nonconforming use, as defined in state statute. Accordingly, any and all accessory structures that are to be used as bunkhouses must comply with the above conditions regardless of prior existing use.

(m) The more restrictive setback based on lake classification or zoning district shall always apply.

(n) The expansion of a swine farming operation to 1,000 animal units or more shall be prohibited within the shoreland area.

(Ord. No. 08-20, art. 5, 4-21-2020; Ord. No. 25-21, 5-18-2021)

Sec. 42-213. - Shoreland zoning district boundaries.

(a) All land within the shoreland area shall be placed within one of the zoning districts listed below. Uses within the shorelands shall conform to requirements of those respective districts and in addition, each use and property shall be subject to the other requirements of this article. The shorelands of county are hereby divided into the following districts with a shoreland or shoreland-wetland overlay:

(1) Residential (R-1).

(2) Hamlet (H-1).

(3) Residential-Agricultural 5 (RA-5).

(4) Agriculture 10 (A-1).

(5) Agriculture 20 (A-2).

(6) Farmland Preservation (A-3).

(7) Natural Resources (N-1).

(8) General Business and Commercial (B-1).

(9) Recreational Business and Commercial (B-2).

(10) Small Business and Commercial (B-3).

(11) Industrial (I-1).

(12) Mining (M-1).

(b) The locations and boundaries of the primary zoning districts established by this article are set forth on zoning maps which are hereby incorporated by reference as though part of this article. It shall be the responsibility of the zoning administrator to maintain and update the zoning maps and any amendments thereto.

(c) Class 1 water bodies as identified in the Polk County Lakes Classification System shall have the first 300 feet back from the ordinary high-water mark zoned residential (R-1) unless approved otherwise.

(d) The following maps have been adopted and made part of this article and are on file in the office of the county zoning administrator:

(1) The most recent version of the state wetland inventory as depicted on the department of natural resources surface water data viewer.

(2) Polk County Lakes Classification System.

(3) County identified shoreland and wetland maps.

(Ord. No. 08-20, art. 6, 4-21-2020)

Sec. 42-214. - Shoreland-Wetland District.

(a) *Designation.* The Shoreland-Wetland District includes all shorelands subject to regulation under section 42-212(a), which are designated as wetlands on the most recent version of the state wetland inventory on the department of natural resources surface water data viewer that have been adopted and made a part of this article under section 42-213(b).

(b) *Locating shoreland-wetland boundaries.* Where an apparent discrepancy exists between the Shoreland-Wetland District

shown on the state wetland inventory and actual field conditions at the time the maps were adopted, the zoning administrator shall contact the appropriate field office of the department of natural resources to determine if the Shoreland-Wetland District, as mapped, is in error. If the department of natural resources staff concurs 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 land use permit in accordance with the regulations applicable to the correct zoning district. In order to correct wetland-mapping errors shown on the official map, the zoning administrator shall complete a map amendment in a timely manner.

- (c) *Purpose and importance.* The purpose of the Shoreland-Wetland District is to maintain safe and healthful conditions, to prevent water pollution, to protect fish spawning grounds and aquatic life, to preserve shore cover and natural beauty, and to control building and development in wetlands whenever possible.
- (d) *Allowed uses.* Allowed uses within the Shoreland-Wetland District are specifically enumerated in this subsection. The following uses enumerated shall be allowed, subject to the regulations of this article and the applicable provisions of federal, state and local laws. The following uses are allowed within the Shoreland-Wetland District:
- (1) Allowed. The following uses are allowed and do not need a permit, so long as the use involves no filling, flooding, draining, dredging, ditching, tiling, excavating or grading:
- a. Hiking, fishing, trapping, hunting, swimming, and boating.
  - b. The harvesting of wild crops, such as marsh hay, ferns, moss, wild rice, berries, tree fruits and tree seeds, in a manner that is not injurious to the natural reproduction of such crops.
  - c. The pasturing of livestock and the construction and maintenance of fences.
  - d. The practice of silviculture, including the planting, thinning and harvesting of timber.
  - e. The cultivation of agricultural crops.
  - f. The construction and maintenance of duck blinds.
- (2) The following uses do not require the issuance of a land use permit and may involve filling, flooding, draining, dredging, ditching, tiling or excavating to the extent specifically provided below:
- a. 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.
  - b. Dike and dam construction and ditching for the purpose of growing and harvesting cranberries.
  - c. Ditching, tiling, dredging, excavating or filling done to maintain or repair existing agricultural drainage systems only to the extent necessary to maintain the level of drainage required to continue the existing agricultural use.
  - d. The maintenance, repair, replacement and reconstruction of existing town and county highways and bridges.
- (3) The issuance of a land use permit is required before the following uses may be commenced:
- a. The construction and maintenance of roads which are necessary to conduct silvicultural activities or are necessary for agricultural cultivation, provided that:
    1. The road cannot, as a practical matter, be located outside the wetland; and
    2. The road is designed and constructed to minimize the adverse impact upon the natural functions of the wetland and meets the following standards:
      - (i) The road is designed and constructed as a single lane roadway with only such depth and width as is necessary to accommodate the machinery required to conduct agricultural and silvicultural activities;
      - (ii) Road construction activities are carried out in the immediate area of the roadbed only; and
      - (iii) Any filling, flooding, draining, dredging, ditching, tiling or excavating that is done is necessary for the construction or maintenance of the road.

- b. The construction and maintenance of nonresidential buildings used solely in conjunction with raising of waterfowl, or other wetland or aquatic animals or used solely for some other purpose which is compatible with wetland preservation building cannot, as a practical matter, be located outside the wetland, provided that:
    1. Any such building does not exceed 500 square feet in floor area; and
    2. No filling, flooding, draining, dredging, ditching, tiling or excavating is to be done.
  - c. The establishment and development of public and private parks and recreation areas, boat access sites, natural and outdoor education areas, historic and scientific areas, wildlife refuges, game preserves and private wildlife habitat areas, provided that:
    1. Any private recreation or wildlife habitat area is used exclusively for that purpose.
    2. No filling or excavation is done except for limited filling and excavation necessary for the construction of boat access sites which cannot, as a practical matter, be located outside the wetland.
    3. Ditching, excavating, dredging, dike and dam construction in wildlife refuges, game preserves and private wildlife habitat areas, but only for the purpose of improving wildlife habitat or to otherwise enhance wetland values.
  - d. The construction and maintenance of electric, gas, telephone, water and sewer transmission and distribution lines, and related facilities by public utilities and cooperative associations organized for the purpose of producing or furnishing heat, light, power, or water to their members, provided that:
    1. The transmission and distribution lines and related facilities cannot, as a practical matter, be located outside the wetland; and
    2. Any filling, excavating, ditching or draining that is done is necessary for such construction or maintenance and is done in a manner designed to minimize flooding and other adverse impacts upon the natural functions of the wetlands.
  - e. The construction and maintenance of railroad lines, provided that:
    1. The railroad lines cannot, as a practical matter, be located outside the wetland; and
    2. Any filling, excavating, ditching or draining that is done is necessary for such construction or maintenance and must be done in a manner designed to minimize flooding and other adverse impacts upon the natural functions of the wetlands.
  - f. The construction and maintenance of piers and walkways, including those built on pilings, provided that no filling, flooding, dredging, draining, ditching, tiling, or excavating is done.
- (e) *Prohibited uses.* Any use not specifically enumerated in subsection (d) of this section is prohibited, unless the wetland or portion of the wetland is rezoned by an amendment of this article in accordance with the requirements of Wis. Stats. § 59.69(5)(e), Wis. Adm. Code ch. NR 115, and subsection (f) of this section.
- (f) *Rezoning of maps and amendments of text in the Shoreland-Wetland District.* The following procedures shall be required for rezoning of lands within the Shoreland-Wetland District:
- (1) For all proposed text and map amendments to the Shoreland-Wetland District, the appropriate 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 days of the filing of such petition with the county clerk. Such petition shall include a copy of the state wetland inventory map adopted as part of this article describing any proposed rezoning of a shoreland-wetland area;
    - b. Written notice of the public hearing to be held on a proposed amendment, at least ten days prior to such hearing;
    - c. A copy of the county zoning department's findings and recommendations on each proposed amendment, within

- ten days after 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 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. Stormwater and floodwater 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 water;
  - d. Shoreline protection against soil erosion;
  - e. Fish spawning, brooding, 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 has notified the county zoning department that a proposed amendment to the Shoreland-Wetland District may have a significant adverse impact upon any of the criteria listed in subsection (f) (2) of this section, that amendment, if approved by the county board, shall contain the following provision: "This amendment shall not take effect until more than 30 days have elapsed since written notice of the county board's approval of this amendment was mailed to the department of natural resources. During that 30-day period, the department of natural resources may notify the county board that it will adopt a superseding shoreland ordinance for the county under Wis. Stats. § 59.692(6). If the department does so notify the county board, the effect of this amendment shall be stayed until the adoption procedure under Wis. Stats. § 59.692(6) is completed or otherwise terminated."

(Ord. No. 08-20, art. 7, 4-21-2020)

Secs. 42-215—42-236. - Reserved.

## DIVISION 2. - ZONING DISTRICTS

Sec. 42-237. - Residential (R-1).

- (a) *Purpose and intent.* The purpose and intent of the Residential (R-1) District is to promote residential uses and other compatible uses associated with residential neighborhoods.
- (b) *Allowed and permitted uses.*
  - (1) Single-family and two-family dwellings, including manufactured homes.
  - (2) Accessory structures, clearly incidental to the residential use of the property.
  - (3) Gardening, including nurseries for the propagation of plants only.
  - (4) Municipal parks and playgrounds including swimming pools, golf courses, tennis courts and picnic grounds, provided the parking requirements are met.
  - (5) Home business, provided the parking requirements are met.
- (c) *Changes in use that require a land use permit.*
  - (1) *Tourist roominghouse with up to eight people from 11:00 p.m. to 7:00 a.m.* A maximum of 12 occupants are allowed from 7:00 a.m. to 11:00 p.m. regardless of the number of bedrooms, provided they meet the following conditions:

- a. Accessory building must not have sleeping accommodations.
- b. No RVs or campers allowed for overnight stay.
- c. All parking to be on an impervious surface and must be contained on the property.
- d. Applicant must obtain all proper licensing.
- e. All fires and embers are to be extinguished by 11:00 p.m., with no unattended fires.
- f. Applicant must have 24-hour contact number available to the public.
- g. Property must remain free from citation and charges for nuisance, disorderly conduct, or any other illegal activity.
- h. Quiet hours shall be imposed from 11:00 p.m. to 7:00 a.m.
- i. Applicant and renters must comply with all applicable laws and regulations:
  1. Department of natural resources lake regulations to be included in rental information.
  2. Lake association rules to be included in rental information.
  3. Owner is responsible to state and local jurisdictions for compliance with firework regulations.
- j. All pets must be contained on the rental property unless they are on public property.
- k. Property lines must be surveyed with boundaries clearly staked by a professional land surveyor.
  - l. All conditions that apply to renters shall be included in rental information.
- m. Existing septic system to be inspected and approved.
- n. Local uniform building inspector shall be hired by the applicant to determine the number of legal bedrooms in the dwelling.
- o. Any advertisement shall include the land use permit number and the health department license number.
- p. Max rental of up to 24 weeks or 174 days per year unless a conditional use permit is obtained to rent more days per year.
- q. A bunkhouse with the conditions in section 42-122(l).

(2) *Bed and breakfast.*

- a. No RVs, campers, tents or other means of overnight stay allowed.
- b. All sleeping accommodations must be within the dwelling unit.
- c. All parking must be contained on the property.
- d. Applicant must obtain all proper licensing.
- e. Applicant must have 24-hour contact number available to the public.
- f. Property must remain free from citation and charges for nuisance, disorderly conduct or any other illegal activity, and in compliance with county ordinances, state and local laws.

(d) *Conditional uses.*

- (1) Schools.
- (2) Churches.
- (3) Municipal buildings, except sewage disposal plants, garbage incinerators and buildings for the repair or storage of road building or maintenance equipment.
- (4) Transient lodge with maximum occupancy up to 20 people.

(e) *Height, yard, and setback requirements.*

- (1) Side yard setback: ten feet for principal structures; five feet for accessory structures.
- (2) Rear yard setback: 25 feet for principal structures; five feet for accessory structures.

(3) Road setback regulations shall apply to all corner lots.

(Ord. No. 08-20, art. 8(A), 4-21-2020)

Sec. 42-238. - Hamlet District (H-1).

- (a) *Purpose and intent.* The goal of this district is to allow for land uses that mimic a rural, unincorporated village setting and allow for continuance of that settlement pattern. In addition, this district will allow for mixed uses of residential and commercial as was typical of the historical development pattern of rural hamlets.
- (b) *Allowed and permitted uses.*
- (1) All allowed and permitted uses in R-1.
  - (2) Two-family and multi-family dwellings, including a manufactured home.
  - (3) All uses in the B-3 district.
  - (4) Manufactured home park with conditions found in section 42-308.
- (c) *Changes in use that require a land use permit.*
- (1) Tourist roominghouses with conditions in R-1.
  - (2) Bed and breakfasts with conditions in R-1.
  - (3) A bunkhouse with the conditions in section 42-122(l) at a minimum.
- (d) *Conditional uses.*
- (1) All conditional uses in R-1.
  - (2) Other similar and compatible use as determined by the environmental services committee.
- (e) *Height, yard, and setback requirements.*
- (1) Maximum commercial use building height: 35 feet within the setback area or 45 feet or three stories beyond the setback area.
  - (2) Side yard setback: ten feet for principal structures; five feet for accessory structures.
  - (3) Rear yard setback: 25 feet for principal structures; five feet for accessory structures.

(Ord. No. 08-20, art. 8(B), 4-21-2020)

Sec. 42-239. - Residential-Agricultural District 5 (RA-5).

- (a) *Purpose and intent.* The R-A district 5 is meant to allow for limited residential development in areas that transition from incorporated areas to rural areas and farmland preservation areas. The target density for this district is one residential dwelling per five acres of land or eight dwellings per 40 acres.
- (b) *Allowed and permitted uses.*
- (1) All allowed and permitted uses in the R-1 district.
  - (2) Two-family dwellings.
  - (3) Multifamily dwellings, when in compliance with density standards of this district.
  - (4) Agricultural uses found in A-1, except fur-farming and a second farm residence.
  - (5) Schools.
  - (6) Churches.
  - (7) Cemeteries.
  - (8) Municipal buildings.
  - (9) Manufactured home park with conditions found in section 42-308.



(c) *Changes in use that require a land use permit.*

- (1) Tourist roominghouses with conditions in R-1.
- (2) Bed and breakfasts with conditions in R-1.
- (3) A bunkhouse with the conditions in section 42-122(l) at a minimum.
- (4) Contractor storage yard.

(d) *Lot sizes.*

- (1) Traditional development. one dwelling unit per five-acre density standard.
- (2) Calculations determining the number of residential lots allowed per parent lot. In the Residential-Agricultural District (RA-5), a maximum of eight lots will be allowed per 40 acres, which includes any original principal structure or dwelling. To calculate the number of lots available for development in this district, divide the gross site area of the contiguous lands held in single ownership as of the date of adoption of this article by five. This is the total number of residential lots or dwelling units that will be allowed on the lands from the effective date of this chapter forward. Table 2 below indicates the number of residential lots that can be created based on the number of acres owned at the time of the adoption of the ordinance from which this article is derived. Round up if any fractional amount is equal to one-half or greater. Example calculations:
  - a. A 32-acre lot is allowed six residential lots ( $32/5 = 6.4$ , which rounds down to six).
  - b. 19 acres = four residential lots ( $19/5 = 3.8$  which rounds up to four).

Table 2. Calculation of Residential Parcels Allowed

Size of Base Tract of Land	Total Number of Dwelling Lots Allowed
Less than 7.5 acres	1
7.5 to less than 12.5 acres	2
12.5 to less than 17.5 acres	3
17.5 to less than 22.5 acres	4
22.5 to less than 27.5 acres	5
27.5 to less than 32.5 acres	6
32.5 to less than 37.5 acres	7
37.5 to less than 40 acres	8

(e) *Height, yard, and setback requirements.*

- (1) Farm buildings are exempt from the height restrictions beyond the setback area.
- (2) Side yard setback: ten feet for principal structures; five feet for accessory structures.
- (3) Rear yard setback: 25 feet for principal structures; five feet for accessory structures.

(4) Road setback regulations shall apply to all corner lots.

(Ord. No. 08-20, art. 8(C), 4-21-2020)

Sec. 42-240. - Agricultural 10 District (A-1).

(a) *Purpose and intent.* The Agricultural 10 District (A-1) is meant to allow for the continuation of agriculture and agricultural production with limited residential development. This district will have a density of principal structures not to exceed four per 40 acres.

(b) *Allowed and permitted uses.*

(1) Agricultural uses, including any of the following:

- a. Crop or forage production.
- b. Keeping livestock.
- c. Beekeeping.
- d. Nursery, sod, or Christmas tree production.
- e. Floriculture.
- f. Aquaculture.
- g. Fur farming.
- h. Forest management.
- i. Enrolling land in a federal agricultural commodity payment program or a federal or state agricultural land conservation payment program.
- j. Accessory structure that is an integral part of, or is incidental to, an agricultural use.
- k. Roadside stand.
- l. Personal stable.

(2) A single-family and two-family dwelling, when in compliance with the density standards of this district.

(3) Accessory buildings incidental to the residential use of the property.

(4) Home business.

(5) Schools.

(6) Churches.

(7) Cemeteries.

(8) Undeveloped natural resource and open space areas.

(9) One additional farm residence, which shall be sited so that it may be separated from the original farm parcel on which it is located in compliance with the county subdivision ordinance.

(10) Contractor storage yard.

(c) *Changes in use that require a land use permit.*

(1) Tourist roominghouses with conditions in R-1.

(2) Bed and breakfasts with conditions in R-1

(3) A bunkhouse with the conditions in section 42-122(l) at a minimum.

(d) *Conditional uses.*

(1) Agriculture-related businesses, such as, but not limited to:

- a. Feed mills.
- b. Commercial stables.

- c. Implement dealers.
  - d. Agricultural cooperatives.
  - e. Veterinarians.
  - f. Wineries.
  - g. Composting sites.
  - h. Burial sites under Wis. Stats. ch. 157.
  - i. Other similar and compatible agriculturally-related businesses.
- (2) Kennels when at least 300 feet from property lines.
  - (3) Animal shelters when at least 300 feet from property lines.
  - (4) Junkyards/salvage yards.
  - (5) Airports/airstrips.
  - (6) Large, outdoor commercial events.

(e) *Lot restrictions.*

- (1) Target density standard for the Agricultural 10 District is four residential lots per 40 acres.
- (2) Calculations for determining the number of lots allowed per parent lot. In the Agricultural 10 District (A-1), a maximum of four non-farm dwellings will be allowed per 40 acres, which includes any original principal structure or dwelling. To calculate the number of lots available for development in this district, divide the gross site area of the contiguous lands held in single ownership as of the date of adoption of the ordinance from which this article is derived by 10. This is the total number of residential lots or dwelling units that will be allowed on the lands from the effective date of this chapter forward. Round up if any fractional amount is equal to one-half or greater (See Table 3). Example calculations:
  - a. A 32-acre lot is allowed three residential lots ( $32/10 = 3.2$  which rounds down to three).
  - b. 16 acres = two residential lots ( $16/10 = 1.6$  which rounds up to two).

Table 3. Calculation of Residential Lots Allowed in A-10

Size of Base Tract of Land	Total Number of Lots Allowed
Up to 15 acres	1
15 acres or greater, but less than 25 acres	2
25 acres or greater, but less than 35 acres	3

(f) *Height, yard, and setback requirements.*

- (1) Farm buildings are exempt from the height restrictions beyond the setback area.
- (2) Side yard setback: 25 feet for all structures.
- (3) Rear yard setback: 25 feet for all structures.
- (4) Road setback regulations shall apply to all corner lots.

(Ord. No. 08-20, art. 8(E), 4-21-2020)

Sec. 42-241. - Agricultural 20 District (A-2).

- (a) *Purpose and intent.* The Agricultural 20 District (A-2) is meant to allow for the continuation of agriculture and agricultural production with limited residential development. This district will have a density of principal structures not to exceed two per 40 acres.
- (b) *Allowed and permitted uses.* All allowed and permitted uses in the A-1 district.
- (c) *Conditional uses.* All conditional uses in A-1.
- (d) *Lot restrictions.*
  - (1) Density standard for the Agricultural 20 District is a maximum of two lots/principal structures per 40 acres.
  - (2) Calculations for determining the number of lots allowed per parent lot. In the Agricultural 20 District (A-2), a maximum of two lots/principal structures will be allowed per 40 acres, which includes any original principal structure or dwelling. To calculate the number of lots available for development in this district, divide the gross site area of the contiguous lands held in single ownership as of the date of adoption of the ordinance from which this article is derived by 20. This is the total number of new residential lots or dwelling units that will be allowed on the lands from the effective date of this chapter forward. Round up if any fractional amount is equal to one-half or greater (see Table 4). Example calculations:  
A 32-acre lot is allowed two residential lots ( $32/20 = 1.6$  which rounds up to two).

Table 4. Calculation of Residential Lots Allowed in A-20

Size of Base Tract (initial lot at time or ordinance adoption) of Land	Number of Dwelling Lots Allowed
Less than 30 acres	1
30 acres or greater	2

- (e) *Height, yard, and setback requirements.*
  - (1) Farm buildings are exempt from the height restrictions beyond the setback area.
  - (2) Side yard setback: 25 feet for all structures.
  - (3) Rear yard setback: 25 feet for all structures.

(Ord. No. 08-20, art. 8(E), 4-21-2020)

Sec. 42-242. - Farmland Preservation District (A-3).

- (a) *Purpose.* The intent of this district is to maintain highly productive agricultural lands in food and fiber production by effectively limiting encroachment of non-agricultural development and minimizing land use conflicts among incompatible uses.
- (b) *Allowed and permitted uses.*
  - (1) Agricultural uses, meaning any of the following activities conducted for the purpose of producing an income or livelihood:

- a. Crop or forage production.
- b. Keeping livestock.
- c. Beekeeping.
- d. Nursery, sod, or Christmas tree production.
- e. Floriculture.
- f. Aquaculture.
- g. Fur farming.
- h. Forest management.
- i. Enrolling land in a federal agricultural commodity payment program or a federal or state agricultural land conservation payment program.
- j. Any other use that the state department of agriculture, by rule, identifies as an agricultural use.

(2) A farm residence, including a manufactured home.

(3) Accessory buildings incidental to the residential use of the property.

(4) Accessory structure that is an integral part of, or is incidental to, an agricultural use.

(5) Home business that meet Wis. Stats. § 91.01(1).

(6) Undeveloped natural resource and open space areas.

(7) Transportation, utility, communication, or other use that is required under state or federal law to be located in a specific place or that is authorized to be located in a specific place under a state or federal law that preempts the requirement of a special use permit for that use.

(8) Other uses identified by the state department of agriculture rule.

(c) *Changes in use that require a land use permit.*

(1) Tourist roominghouses with conditions in R-1.

(2) Bed and breakfasts with conditions in R-1.

(3) A bunkhouse with the conditions in section 42-122(l) at a minimum.

(4) Contractor storage yard.

(d) *Conditional uses.*

(1) Agriculturally-related businesses, such as:

- a. Feed mills.
- b. Commercial stables.
- c. Implement dealers.
- d. Agricultural cooperatives.
- e. Veterinarians.
- f. Wineries.
- g. Composting sites.

(2) Creation of a nonfarm residence or conversion of a farm residence to a nonfarm residence through a change in occupancy, subject to the following requirements:

- a. The ratio of nonfarm residential acreage to farm acreage on the base farm tract on which the residence is or will be located will not be greater than 1:20 after the residence is constructed or converted to a nonfarm residence.
- b. There will not be more than four dwelling units in nonfarm residences, nor more than five dwelling units in residences of any kind, on the base farm tract after the residence is constructed or converted to a nonfarm

residence.

- c. The location and size of the proposed nonfarm residential lot, and, for a new nonfarm residence, the location of the nonfarm residence on that nonfarm residential lot, will not do any of the following:
  1. Convert prime farmland from agricultural use or convert land previously used as crop land, other than a woodlot, from agricultural use if on the farm there is a reasonable alternative location or size for a nonfarm residential lot or a nonfarm residence.
  2. Significantly impair or limit the current or future agricultural use of other protected farmland.
- (3) Creation of a nonfarm residential cluster that covers more than one nonfarm residence if all of the following apply:
  - a. The lots on which the nonfarm residences would be located are contiguous.
  - b. Each nonfarm residence constructed in the nonfarm residential cluster must satisfy the requirements of conditional use in subsection (d)(2) of this section.
- (4) Governmental, institutional, religious, nonprofit community uses, transportation, communication, pipeline, electric transmission, utility, or drainage uses, if all of the following apply:
  - a. The use and its location in the farmland preservation zoning district are consistent with the purposes of the farmland preservation zoning district.
  - b. The use and its location in the farmland preservation zoning 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 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 lots 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.
- (e) *Lot requirements.* Density standard for the farmland preservation district is as described under conditional uses in subsection (d)(2) and (3) of this section.
- (f) *Height, yard, and setbacks requirements.*
  - (1) Farm buildings are exempt from the height restrictions beyond the setback area.
  - (2) Side yard setback: 25 feet for all structures.
  - (3) Rear yard setback: 25 feet for all structures.
- (g) *Rezoning land out of a farmland preservation zoning district.*
  - (1) Except as provided in subsection (g)(2) of this section, the county may not rezone land out of the farmland preservation zoning district unless the county finds all of the following in writing, after public hearing, as part of the official record of the rezoning:
    - a. The rezoned land is better suited for a use not allowed in the farmland preservation zoning district.
    - b. The rezoning is consistent with any applicable comprehensive plan.
    - c. The rezoning is substantially consistent with the county farmland preservation plan, which is in effect at the time of the rezoning.
    - d. The rezoning will not substantially impair or limit current or future agricultural use of other protected farmland.
  - (2) Subsection (g)(1) of this section does not apply to any of the following:
    - a. A rezoning that is affirmatively certified by the state department of agriculture, trade and consumer protection under Wis. Stats. ch. 91.
    - b. A rezoning that makes the farmland preservation zoning ordinance map more consistent with the county

farmland preservation plan map, certified under Wis. Stats. ch. 91, which is in effect at the time of the rezoning.

- (3) By March 1 of each year, the county shall provide to the state department of agriculture, trade and consumer protection a report of the number of acres that the county has rezoned out of the farmland preservation zoning district under subsection (g)(1) of this section during the previous year and a map that clearly shows the location of those acres.

(Ord. No. 08-20, art. 8(F), 4-21-2020)

Sec. 42-243. - Natural Resources District (N-1).

- (a) *Allowed and permitted uses.* To protect and preserve the natural character of certain lands for their values to wildlife, water conservation, flood control, forestry and other public purposes in the natural resources district, no building or premises shall be used and no building shall hereafter be erected, moved or structurally altered, unless otherwise provided in this article except for one or more of the following uses:
- (1) Grazing.
  - (2) The harvesting of wild crops such as wild hay, ferns, moss, berries, fruit trees and seeds.
  - (3) Hunting, fishing, trapping.
  - (4) Nonresidential buildings and structures used solely in conjunction with the raising of wildlife and fish and the practice of forestry, including buildings and structures used by public or semi-public agencies or groups for research in or the rehabilitation of natural resources.
  - (5) Sustainable logging, pulping and other forest crop harvesting.
  - (6) Public or private parks.
  - (7) Temporary residential uses by permit such as hunting cabins or travel trailers with conditions listed in section 42-309.
- (b) *Conditional uses.* The following conditional use is permitted: Licensed game farms.
- (c) *Height and yard requirements.*
- (1) Side yard setback: 25 feet.
  - (2) Rear yard setback: 25 feet.

(Ord. No. 08-20, art. 8(G), 4-21-2020)

Sec. 42-244. - General Business and Commercial (B-1).

- (a) *Purpose and intent.* To provide a district for business and commercial enterprises that limits incompatible land uses.
- (b) *Allowed and permitted uses.* In the general commercial district, no building or premises shall be used and no building shall hereafter be erected, moved or structurally altered, unless otherwise provided in this article, except for one or more of the following uses:
- (1) Commercial buildings and uses, including, but not limited to:
    - a. Appliances sales and service.
    - b. Antique stores.
    - c. Art galleries.
    - d. Auto sales and service.
    - e. Banks, credit unions or other financial institutions.
    - f. Barbershops, beauty shops.
    - g. Bars/taverns.

- h. Bowling alleys.
- i. Business and professional offices or clinics.
- j. Car washes.
- k. Clothing stores.
- l. Community center.
- m. Coffee shop.
- n. Convenience stores.
- o. Day care center.
- p. Drug store or pharmacy.
- q. Essential services.
- r. Farm implement repair and sales.
- s. Feed mill.
- t. Florist.
- u. Firework stands.
- v. Fruit and vegetable market, grocery, meat and fish market or other food products store.
- w. Funeral homes.
- x. Furniture, office equipment stores.
- y. Gas stations.
- z. Gyms and exercise facilities.
- aa. Hardware and paint store.
- bb. Indoor storage facilities.
- cc. Internet cafe.
- dd. Jewelry store.
- ee. Landscaping sales.
- ff. Laundromat.
- gg. Liquor store.
- hh. Lumber yard.
  - ii. Manufacture or storage in connection with any of the above uses, when clearly incidental to the conduct of the retail business on the premises.
- jj. Marine sales and service.
- kk. Motels/hotels.
- ll. Museums.
- mm. Music and musical instrument sales and service.
- nn. Pet shop.
- oo. Radio, televisions, and other electronics sales and service.
- pp. Real estate offices.
- qq. Restaurant, drive-in food service, supper club, and catering.
- rr. Sporting goods and accessories.
- ss. Small engine repair.



tt. Truck stop.

uu. Theater.

vv. Veterinarians.

ww. Video sales and rental.

(2) There may be one single-family dwelling unit on the premises, either attached or detached in connection with any of the above use.

(c) *Conditional uses.*

(1) Airport.

(2) Hospital.

(3) Breweries, brewpubs, wineries.

(4) Outdoor storage facilities.

(5) Other similar and compatible use as determined by the environmental services committee.

(d) *Lot, height, yard requirements, and setbacks.*

(1) Maximum structures lot coverage: 30 percent.

(2) Minimum landscaped area: ten percent.

(3) Maximum commercial building height: 35feet within setback area or three stories or 45 feet beyond setback area.

(4) Commercial principal building rear/side minimum setbacks: ten feet.

(5) Accessory structures rear/side yard minimum setback: five feet.

(6) Residential principal structure side yard setback: ten feet.

(7) Residential principal structure rear yard setback: 25 feet.

(Ord. No. 08-20, art. 8(H), 4-21-2020)

Sec. 42-245. - Recreational Business and Commercial (B-2).

(a) *Purpose and intent.* To allow for recreationally-based businesses to exist in appropriate locations in the county.

(b) *Allowed and permitted uses.* In the recreational business and commercial district no building or premises shall be used and no building shall hereafter be erected, moved or structurally altered, unless otherwise provided in this article, except for one or more of the following uses:

(1) Sporting goods.

(2) Recreational sales and service.

(3) Restaurants and taverns.

(4) Resorts.

(5) Marinas, including sales and service.

(6) Bait shops.

(7) Miniature golf.

(8) Recreational camps.

(9) Campgrounds with conditions in section 42-309.

(10) Manufactured home park with conditions in section 42-308.

(11) There may be one single-family dwelling unit on the premises, either attached or detached in connection with any of the above uses.

(c) *Conditional uses.*

- (1) Ski resorts.
  - (2) Paint ball.
  - (3) Go-cart tracks.
  - (4) Archery range.
  - (5) Gun range.
  - (6) Sportsmen's clubs.
  - (7) Stock car, ATV, and dirt bike raceways and courses.
  - (8) Other similar and compatible use as determined by the environmental services committee.
- (d) *Height, yard and setback requirements.*
- (1) Maximum building lot coverage: 30 percent.
  - (2) Minimum landscaped area: ten percent.
  - (3) Principal building rear/side minimum setbacks: 25 feet.

(Ord. No. 08-20, art. 8(I), 4-21-2020)

Sec. 42-246. - Small Business and Commercial District (B-3).

- (a) *Purpose and intent.* To allow for commercial development while allowing for more control over building size, location and aesthetics.
- (b) *Allowed and permitted uses.* In the small business/commercial district, no building or premises shall be used and no building shall hereafter be erected, moved or structurally altered, unless otherwise provided in this division, except for one or more of the following uses: All uses allowed and permitted in B-1 with a building footprint up to 20,000 square feet.
- (c) *Conditional uses.*
- (1) All conditional uses in the B-1 district.
  - (2) Commercial buildings and uses with a building footprint over 20,000 square feet.
- (d) *Height, yard and setback requirements.*
- (1) Maximum building lot coverage: 30 percent.
  - (2) Minimum landscaped area: ten percent.
  - (3) Principal building rear/side minimum setbacks: 25 feet.

(Ord. No. 08-20, art. 8(J), 4-21-2020)

Sec. 42-247. - Industrial (I-1).

- (a) *Purpose.* To provide locations within the county for industrial uses to occur and prevent land use conflicts with inappropriate uses.
- (b) *Allowed and permitted uses.*
- (1) Light and general manufacturing, including, but not limited to:
    - a. Metal, glass, plastic and wood assembly, fabrication and manufacturing.
    - b. Electronics assembly, fabrication and manufacturing.
    - c. Clothing.
    - d. Bottling facilities.
  - (2) General warehousing and storage directly connected with the permitted uses under this section and provided they

are not a nuisance.

- (3) There may be one single-family dwelling unit and an associated residential accessory building on the premises, either attached or detached in connection with any of the above uses.

(c) *Conditional uses.*

- (1) Acid, ammonia, bleach, chlorine or soap manufacture.
- (2) Ammunition or explosives manufacture or storage.
- (3) Asphalt, coal, coal tar or coke manufacture; asphalt and hot mix asphalt plants.
- (4) Cement or lime manufacture; cement or concrete mixing plants.
- (5) Bone distillations, fat rendering or any other form of dead animal reduction.
- (6) Fertilizer manufacture.
- (7) Forge plant.
- (8) Gelatin or glue manufacture.
- (9) Inflammable gasses or liquids, refining or manufacture of; overground tank farms.
- (10) Utility-scale energy generation, including, but not limited to, solar farms/fields, large wind generators, and power plants.
- (11) Salvage and recycling facilities.
- (12) Solid waste disposal operations, sanitary landfill sites.
- (13) Slaughterhouse, stockyard.
- (14) Smelting or foundry operations.
- (15) Any similar or compatible industrial enterprise subject to the approval of the environmental services committee.

(d) *Lot sizes, dimensions, and setbacks.*

- (1) Maximum industrial use building height: 35 feet within shoreland setback area and 50 feet beyond setback area.
- (2) Side yard setbacks for residential uses: R-1 side yard setbacks apply.
- (3) Side yard setbacks for lots adjacent to residentially zoned lots: 25 feet.
- (4) Side yard setbacks for industrial uses: zero feet, except if buildings on abutting lots are not constructed with a common wall or with walls contiguous to one another, then a side yard of not less than ten feet shall be provided.
- (5) Rear yard setback: 25 feet, except:
  - a. No rear yard setback shall be required when abutting a railroad R.O.W.
  - b. Any such rear yard which abuts a boundary of a residential zoning district shall be not less than 50 feet in depth, provided that no stockpile, waste or salvage pile, equipment storage yard or other accumulation of material or equipment in the open shall be stored or placed in such rear yard.

(Ord. No. 08-20, art. 8(K), 4-21-2020)

Sec. 42-248. - Mining District (M-1).

- (a) *Purpose.* To allow for mining activities to take place in the county in appropriate areas that reduce incompatible land uses and land use conflicts.
- (b) *Allowed and permitted uses.*
  - (1) All allowed and permitted uses in the Agricultural 10 District (A-1).
  - (2) Pre-existing non-metallic mining activities. Preexisting non-metallic mining activities are those operations involving the excavation, removal and/or processing of materials which operations are classified as unreclaimed acres by the

county's non-metallic mining reclamation ordinance or had expansions of the mine outlined in the original plans that were submitted for the mine.

(3) Limited, short-term non-metallic mining activities. Limited short-term non-metallic mining activities are those operations which:

- a. Do not satisfy the definitions and standards for preexisting non-metallic mining activities;
- b. Will be commenced and completed within a one year period from the date of the permit; and
- c. Will be limited to not more than one acre in area open at one time. If the original mine was approved with conditions attached, those conditions continue to be in effect even if the mine is placed in this district.

(c) *Conditional uses.*

- (1) Nonmetallic mining activities that do not meet the definition outlined in subsection (b)(3)b and c of this section.
- (2) Applications for conditional use permits to conduct mining and/or processing activities shall include all information required by the county approved application form.
  - a. Reapplication to the environmental services committee for renewal shall be required with alterations to operational plans or noncompliance with the standards of the district.
  - b. Requests for additional information prior to a decision being made on the conditional use permit may be made by the environmental services committee. Upon determination by the committee that additional information is required, on behalf of the committee, the committee may employ independent technical experts to review materials submitted by the applicant.

(d) *Lot sizes, dimensions and setbacks.*

- (1) Minimum right-of-way setback: 200 feet.
- (2) Minimum property line setback: 100 feet. Overburden, berms, and topsoil piles are allowed to be within the setback area, however at no time shall stockpiles of the targeted material, active extraction activities or processing equipment be within the setback area.
- (3) Setback and height restrictions for Agricultural 10 (A-1) District uses: Maximum height for mining related structures: 35 feet within shoreland setback area and 50 feet beyond shoreland setback.

(Ord. No. 08-20, art. 8(L), 4-21-2020)

Secs. 42-249—42-274. - Reserved.

### DIVISION 3. - WATERS

Sec. 42-275. - Classification of waters.

- (a) Navigable waters in the county are classified according to criteria established in the Polk County Lakes Classification System, which was adopted by the county board of supervisors on April 20, 1999, and is hereby incorporated herein and made part of this division.
- (b) County waters are classified into three classes:
  - (1) Class 1 waters are those that are most developed;
  - (2) Class 2 waters are those that are moderately developed and includes all rivers and streams; and
  - (3) Class 3 waters are those that are least developed and includes all lakes that are 20 acres or less in size, and all unnamed lakes not appearing on the DNR publication titled "Surface Water Resources of Polk County." The zoning administrator shall make available a copy upon demand.

(c) Any named lake inadvertently omitted from the DNR's Surface Water Resources of Polk County will be classified according to available information or Class 3 until information is available.

(Ord. No. 08-20, art. 9, 4-21-2020)

Sec. 42-276. - Reclassification of waters.

Waters may be reclassified by amendment of the Polk County Lakes Classification System under this section. A petitioner for reclassification shall provide evidence related to each of the criteria described below and identify the waterway or specific portion of a waterway, which is the subject of the request. To avoid fragmentation of watersheds by numerous management strategies and to preserve administrative efficiency, a contiguous portion of a waterway, which is less than 0.5 mile in length, may not be reclassified. The criteria specified in the Polk County Lakes Classification System shall be the sole basis for the county board decision on the petition.

(Ord. No. 08-20, art. 10, 4-21-2020)

Secs. 42-277—42-300. - Reserved.

DIVISION 4. - OTHER SHORELAND REGULATIONS

Sec. 42-301. - Lot requirements, setbacks, and minimum shoreland lot dimensional requirements.

(a) Preexisting lots of record. Any owner must obtain a permit prior to improving an existing lot. The zoning administrator shall not issue a permit unless the subject property meets shoreland and side yard setbacks in subsection (c) of this section and the lot area and dimensions as follows:

(1) Dimensions of building sites for lots recorded prior to June 1, 1967:

a. Lots not served by a public sanitary sewer:

Lots Without Public Sanitary Sewer Service

(1)	Minimum lot area	10,000 square feet
(2)	Minimum lot width	65 feet
(3)	Minimum average lot width	65 feet

b. Lots served by public sanitary sewer:

Lots With Public Sanitary Sewer Service

(1)	Minimum lot area	7,500 square feet
(2)	Minimum lot width	50 feet
(3)	Minimum average lot width	50 feet

(2) Dimensions of building sites for lots recorded from June 1, 1967, to June 30, 1996:

a. Lots not served by a public sanitary sewer:

Lots Without Public Sanitary Sewer Service

(1)	Minimum lot area	20,000 square feet
(2)	Minimum lot width	90 feet
(3)	Minimum average lot width	100 feet

b. Lots served by public sanitary sewer:

Lots With Public Sanitary Sewer Service

(1)	Minimum lot area	10,000 square feet
(2)	Minimum lot width	60 feet
(3)	Minimum average lot width	65 feet

(3) Dimensions of building sites for lots recorded from July 1, 1996, to September 16, 2019:

a. Lots not served by a public sanitary sewer:

Lots Without Public Sanitary Sewer Service

(1)	Minimum lot area	43,560 square feet
(2)	Minimum lot width	100 feet

b. Lots served by public sanitary sewer:

Lots With Public Sanitary Sewer Service

(1)	Minimum lot area	20,000 square feet
(2)	Minimum lot width	90 feet

(b) Other substandard lots. Except for lots which meet the requirements of subsection (b)(1) of this article, a building permit

for the improvement of a lot having lesser dimensions than those stated in Table 1 in subsection (c) of this section shall be issued only if a variance is granted by the board of adjustment.

- (1) Substandard lots. A legally created lot or parcel that met the 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 the following apply:
    - a. The substandard lot or parcel was never reconfigured or combined with another lot or parcel by plat, survey, or consolidation by the owner into one property tax parcel.
    - b. The substandard lot or parcel has never been developed with one or more of its structures placed partly upon an adjacent lot or parcel.
    - c. The substandard lot or parcel is developed to comply with all other ordinance requirements.
  - (2) Planned unit development. A non-riparian lot may be created which does not meet the requirements of Table 1 in subsection (c) of this section if the county has approved a recorded plat or certified survey map including that lot within a planned unit development, if the planned unit development contains as least two acres or 200 feet of frontage, and if the reduced non-riparian lot sizes are allowed in exchange for larger shoreland buffers and setbacks on those lots adjacent to navigable waters that are proportional to and offset the impacts of the reduced lots on habitat, water quality, and natural scenic beauty.
- (c) (1) All new developed lots and construction allowed after July 14, 2015, that have riparian access must conform to Table 1.

Table 1. Site Dimensions

	Class 1	Class 2	Class 3	Rivers/Streams
Lot size **	20,000 square feet 10,000 square feet	20,000 square feet 10,000 square feet	20,000 square feet 10,000 square feet	20,000 square feet 10,000 square feet *
Lot width (minimum average)	100 feet 65 feet *	100 feet 65 feet *	100 feet 65 feet *	100 feet 65 feet *
Shoreline (OHWM) setback	75 feet	75 feet	75 feet	75 feet
Shoreline vegetation protection area landward from OHWM	35 feet	35 feet	35 feet	35 feet
Side yard setback to a principal structure	10 feet	15 feet	25 feet	15 feet
Side yard setback to an accessory structure	5 feet	10 feet	25 feet	10 feet
Rear setback for a dwelling	25 feet	25 feet	25 feet	25 feet

Rear setback for accessory structure	10 feet	10 feet	10 feet	10 feet
Setback averaging	<ol style="list-style-type: none"> <li>1. Distance from proposed building site: 250 feet or less from main building to main building</li> <li>2. Number of buildings needed: 2, one on each side</li> <li>3. Setback is the average of the principal structures on adjoining lots</li> <li>4. Minimum setback: 35 feet</li> </ol>			
Increased principal structure setback	<p>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:</p> <ol style="list-style-type: none"> <li>1. Both of the existing principal structures are located on adjacent lot to the proposed principal structure.</li> <li>2. Both of the existing principal structures are located within 200 feet of the proposed principal structure.</li> <li>3. Both of the existing principal structures are located greater than 75 feet from the ordinary high-water mark.</li> <li>4. Both of the existing principal structures were required to be located at a setback greater than 75 feet from the ordinary high-water mark.</li> <li>5. The increased setback does not apply if the resulting setback limits the placement to an area on which the structure cannot be built.</li> </ol>			

\* Minimum lot size and average width for lots served by a public sewer system.

\*\* New lots are also subject to the requirements of the county subdivision ordinance.

\*\*\* The side yard setbacks above only apply if more restrictive than the side yard setbacks listed under the respective zoning district in division 2 of this article.

(2) The county shall review, pursuant to Wis. Stats. § 236.45, all land divisions in shoreland areas which create three or more parcels or building sites of five acres each or less within a five-year period. In such review all of the following factors shall be considered:

- a. Hazards to the health, safety or welfare of future residents.
- b. Proper relationship to adjoining areas.
- c. Public access to navigable waters, as required by law.
- d. Adequate stormwater drainage facilities.
- e. Conformity to state law and administrative code provisions.

(d) Private access outlots.

(1) After September 15, no new access lots shall be allowed to be created.

(2) Any existing lot created to provide lake access prior to the effective date of the ordinance from which this article is



derived shall meet the following requirements:

- a. Such access strip must be a minimum of 50 feet in width for its entire depth.
- b. No private access strip may serve more than five single-family dwellings or five backlots.
- c. No camping or RV parking is allowed on such access strip.
- d. No structures are allowed on such access strip.
- e. Private access strips must be at least 1,000 feet apart.

(e) For all properties located within the shoreland zoning district, the following setback requirements shall apply:

- (1) The setback from any state or federal highway shall be 110 feet from the centerline of the highway or 50 feet from the right-of-way, whichever is greater.
- (2) The setback from any county highway shall be 75 feet from the centerline of the highway or 42 feet from the right-of-way, whichever is greater.
- (3) The setback from any town road, public street, or highway shall be 63 feet from the centerline of the road or 30 feet from the right-of-way, whichever is greater or as required by the county subdivision ordinance, unless the town board approves a reduced setback. A permit shall be issued for the reduced setback once written town approval (i.e., minutes, letter, resolution) is received if all of the other ordinance requirements are met.
- (4) The setback from any private road shall be 35 feet from the centerline of the road unless the town board approves a reduced setback. A permit shall be issued for the reduced setback once written town approval (i.e., minutes, letter, resolution) is received if all of the other ordinance requirements are met.
- (5) All buildings and structures shall be set back from the OHWM of navigable waters as required by the table of dimensional standards in Table 1 in subsection (c) of this section. Such setback shall be measured as the shortest horizontal distance from the structure to the OHWM.
- (6) The following structures are exempt from shoreline, drainage way, and wetland setback requirements:
  - a. Shoreline protection structures permitted by the department of natural resources.
  - b. Broadcast signal receivers, including satellite dishes or antennas that are one meter or less in diameter and satellite earth station antennas that are two meters or less in diameter.
  - c. Pedestrian walkways, stairways, and railings essential to access the shore due to steep slopes or wet soils and which comply with section 42-302. Such stairways or walkways may be no more than five feet in width and landings may not exceed 50 square feet.
  - d. Temporary erosion control projects designed to remedy significant, existing erosion that cannot otherwise be controlled provided the project is received prior to project start and approved by the land and water resource department.
  - e. Utility transmission and distribution lines, poles, towers, water towers, pumping stations, well pump house covers, private on-site wastewater treatment systems that comply with Wis. Adm. Code ch. SPS 383, and other utility structures that have no feasible alternative location outside of the minimum setback and that employ best management practices to infiltrate or otherwise control stormwater runoff from the structure.
  - f. Open structures listed in Wis. Stats. § 59.69(1v) or section 42-303.
  - g. Open fences provided they don't extend within 35 feet of the ordinary high-water mark unless specifically allowed under Wis. Stats. ch. 90 as a property boundary fence. Open fences within the setback area require a land use permit.
- (7) Privacy fences shall have a rear and side yard setback of two feet unless the applicant obtains written permission from their neighbor to construct the fence within the setback area. The fence owner must be able to maintain the fence without trespassing on the neighbor's property, so the type of fence constructed shall be considered and

approved by the zoning office.

- (8) Privacy fences shall meet the required road setback unless written approval of a reduced road setback is received from the governmental unit maintaining the road. A town may also approve a reduced private road setback; however, at no point should a privacy fence encroach upon any easement or road right-of-way.
  - (9) Open fences are exempt from road setbacks but cannot encroach upon any easement or road right-of-way.
  - (10) Boathouses shall be set back at least ten feet from the ordinary high-water mark of non-navigable streams and drainage ways.
  - (11) All buildings and structures except for those permitted to be within wetland areas shall be setback at least 25 feet from the boundary of mapped wetlands.
- (f) For nonconforming structures located within the applicable setback areas, the following will apply:
- (1) If a nonconforming use is discontinued for a period of 12 months, any future use of the building, structure or property shall conform to this article.
  - (2) An existing structure that was lawfully placed when constructed but that does not comply with the required shoreland setback may be maintained, repaired, replaced, restored, rebuilt or remodeled if the activity does not expand the footprint of the nonconforming structure or is limited by another provision of this article.
  - (3) An existing structure that was lawfully placed when constructed but that does not comply with the required shoreland setback may be vertically expanded unless the vertical expansion would extend more than 35 feet above grade level or is limited by another provision of this article.
  - (4) A structure, of which any part has been authorized to be located within the shoreland setback area by a variance granted before July 13, 2015, may be maintained, repaired, replaced, restored, rebuilt or remodeled if the activity does not expand the footprint of the authorized structure. Additionally, the structure may be vertically expanded unless the vertical expansion would extend more than 35 feet above grade level. Any expansion of the structure beyond the existing footprint must comply with the provisions of this article.
  - (5) Nonconforming principal structures. The following shall apply to preexisting principal structures:
    - a. Lateral expansion within the setback area, provided the following requirements are met:
      1. The use of the nonconforming 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 OHWM.
      3. Lateral expansions are limited to a maximum of 200 square feet over the life of the structure. No portion of the expansion can be closer to the OHWM than the closest point of the existing principal structure.
      4. Limitations on land disturbing activities in section 42-306 are observed.
      5. The mitigation requirements of section 42-305 are received, approved, and implemented.
      6. All other provisions of the shoreland ordinance shall be met.
    - b. Expansion beyond the setback area, provided the following requirements are met:
      1. May be expanded horizontally, landward, or vertically, provided the expanded area meets the building setback requirements under Table 1 in subsection (c) of this section and all other provisions of this article.
    - c. Relocation of a principal structure, provided the following requirements are met:
      1. The use of the nonconforming 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 OHWM.
      3. No portion of the relocated structure will be closer to the OHWM than the closest point of the existing

principal structure.

4. The county determines that no other location is available on the property to build a principal structure of the same square footage as the structure proposed for relocation that will result in compliance with the shoreland setback under Table 1 in subsection (c) of this section. Determination of acceptable location may include the following: soils, steep slopes, setback compliance. Setback compliance shall be in this order: shoreland, roadway, side yard, rear yard, vegetation considerations are not allowed.
  5. Limitations on land disturbing activities in section 42-306 are observed.
  6. The mitigation requirements of section 42-305 are received, approved, and implemented.
  7. All other provisions of the shoreland ordinance shall be met.
- (g) Boathouses. Maintenance and repair of preexisting boathouses that extend beyond the ordinary high-water mark of any navigable waters shall comply with the requirements of Wis. Stats. § 30.121(3).
- (h) Existing exempt structures may be maintained, repaired, replaced, restored, rebuilt and remodeled, provided the activity does not expand the footprint and does not go beyond the three-dimensional building envelope of the existing structure.
- (i) Structures that were granted variances or illegally constructed structures are not considered nonconforming structures, and are not allowed to be expanded under subsection (f) of this section.
- (j) The county may allow expansion of a structure beyond the existing footprint if the expansion is necessary to comply with applicable state or federal requirements.

(Ord. No. 08-20, art. 11, 4-21-2020; Ord. No. 25-21, 5-18-2021)

#### Sec. 42-302. - Shoreland protection area.

- (a) The shoreland protection area of all lots shall conform to Wis. Adm. Code § NR 115.05(1)(c) regarding vegetation removal to protect natural scenic beauty, fish and wildlife habitat, and water quality. Developed lots can be maintained in their present condition without removal of trees and shrubs within the shoreland protection area. Accordingly:
- (1) In the vegetated strip of land 35 feet wide measured perpendicular from the ordinary high-water mark (OHWM), no more than 35 feet in every 100 feet measured parallel to the shore, on any lot shall allow removal of all trees and shrubs for a viewing corridor. A viewing corridor requires a land use permit from the county zoning office.
  - (2) In the shoreland areas more than 35 feet wide inland, trees and shrubbery cutting shall be governed by consideration of the effect on water quality and consideration of sound forestry practices and soil conservation practices.
  - (3) The county may allow removal of vegetation within the vegetative buffer zone to manage exotic or invasive species, damaged vegetation, vegetation that must be removed to control disease, or vegetation creating an imminent safety hazard, provided that any vegetation removed be replaced by replanting in the same area as soon as practicable.
  - (4) Viewing corridor may be split on a property but the total width of all of the corridors cannot total more than the maximum width allowed.
  - (5) Viewing corridors are measured perpendicular to the water on an angle and pedestrian access may meander within corridor, however they must not exceed the maximum width.
  - (6) Viewing corridors are allowed to run contiguously for the entire maximum width allowed.
- (b) Allowed uses by permit or conditional use permit in a shoreland protection area.
- (1) Placement of a pier, wharf, temporary boat shelter or boatlift shall be confined to waters immediately adjacent the viewing corridor described in subsection (a)(1) of this section, unless such location is not feasible due to steep slopes, wet soils or similar limiting conditions.

- (2) One developed pedestrian access to the shoreline may be provided if:
  - a. It is located within the viewing corridor unless such location is not feasible due to steep slopes, wet soils or similar limiting conditions;
  - b. It is located and constructed so as to avoid erosion;
  - c. It is located and constructed so as to maintain screening of development from view from the water;
  - d. It is the minimum construction necessary to provide access and includes no additional construction other than railings essential for safety;
  - e. It is no more than five feet wide with landings of 50 square feet or less; and
  - f. It is constructed of materials that blend with the natural ground cover in the vicinity of the pathway.
- (3) An elevated walkway or powered lift may be added to a developed access if:
  - a. It is the minimum construction essential to access the shore because of steep slopes, wet soils or similar limiting conditions;
  - b. It complies with the standards for location and construction of such pathways;
  - c. Construction plans are approved by the zoning office; and
  - d. Stairways on 20 percent or greater slopes are constructed to minimize erosion.
- (4) Shoreline protection activities authorized by a state permit with erosion control measures approved by the county land and water resources department must be designed to remedy significant, existing erosion problems.
- (5) Removal of dead and diseased trees that are a safety hazard, which endanger structures, and the removal of noxious vegetation which possess a threat to health or safety (i.e., poison ivy), provided that any vegetation removed be replaced by replanting in the same area as soon as practicable. The permit fee is waived for removing vegetation under this provision.
- (6) Roadways are constructed adjacent to permitted stream crossings.
- (7) Public and private watercraft constructed launching sites are authorized only by the following standards and are authorized as a conditional use permit, provided the following are maintained:
  - a. Construction allowed on slopes of less than 20 percent;
  - b. There is no general public access otherwise available to the waterway;
  - c. Launching sites on residential property shall not be paved;
  - d. Access sites shall be located within the viewing corridor unless such location is not feasible due to steep slopes, wet soils or similar limiting conditions;
  - e. A state Chapter 30 permit shall be obtained for all construction and also be required when areas of 10,000 square feet are disturbed above the OHWM and must be obtained prior to said county application; and
  - f. Vegetation removal and land disturbing activities minimized and runoff diverted or controlled so that erosion within the access corridor is avoided.
- (8) Fish and wildlife habitat management projects included in a department of natural resources approved management plan.
- (9) Commercial timber harvest is allowed and exempt from permit requirements of subsections (a) and (b) of this section, if one or both of the following conditions is satisfied:
  - a. Such activity complies with appropriate practices specified in the state's forestry best management practices for water quality published by the department of natural resources or a plan approved by the county forest committee.
  - b. Such activities are conducted on public lands and conform to federal, state, and county management plans.

Respective master plans are deemed to meet the intent of this article by established riparian protection standards through aesthetic management zones and appropriate management practices to maintain water quality and wildlife habitat.

(10) Agricultural cultivation is allowed exemption from the provisions of this section related to the vegetation protection area and land disturbing activities if such activity complies with federal, state, and local laws or ordinances.

(c) Vegetation removal penalties.

(1) In addition to any other penalties, the penalty for removing vegetation in violation of this article shall include replacement of vegetation with native vegetation at the property owner's expense according to one of the options set forth in subsection (c)(2) of this section.

(2) Replacement vegetation options.

a. Option 1. Replace vegetation removed within 35 feet of the ordinary high-water mark according to the tree replacement schedule below. All trees must be replanted within 75 feet of the ordinary high-water mark.

Tree Replacement Schedule

DBH of Existing Tree Removed	Number of Replacement Trees (2" DBH)
Less than 6 inches	1
Between 6 and 12 inches	2
Between 12 and 18 inches	3
Between 18 and 24 inches	4
Between 24 and 30 inches	5
Between 30 and 36 inches	6
Greater than 36 inches	The equivalent of 1 tree per 6 inches DBH of the removed trees.

DBH = Diameter Breast Height

b. Option 2. Calculate the number of trees under option 1 to be replaced. Plant 75 percent of the required trees and establish 40 square feet of native plantings for each additional tree required within shoreland protection area. The native planting shall be contiguous, and at least ten feet wide-parallel or perpendicular to the shore.

c. Option 3. Calculate the number of trees under option 1 to be replaced. Plant 50 percent of the trees within 75 feet of the ordinary high-water mark, and 70 square feet of native plantings for each additional tree required within shoreland protection area. The native planting shall be contiguous and follow practices found in the state field office technical guide.

d. Option 4. Calculate the number of trees under option 1 to be replaced. Plant 25 percent of the required trees,

and establish a full buffer of native vegetation according to the practices found in the state field office technical guide in the shoreland protection area.

(Ord. No. 08-20, art. 12, 4-21-2020)

Sec. 42-303. - Open structures in shoreland setback area.

As required by Wis. Stats. § 59.692(1v), the construction or placement of certain structures within the shoreland setback area shall be granted special zoning permission. An administrative land use permit will be issued for the structure for record keeping purposes. Structures will be allowed if all of the following conditions are met:

- (1) The structure has no sides or has open or screened sides. The structure shall not be attached to any other structure unless the side of such structure at the point of attachment is open or screened;
- (2) The part of the structure that is nearest to the water is located at least 35 feet landward from the ordinary high-water mark;
- (3) The total floor area of all structures in the shoreland setback area on the property will not exceed 200 square feet. This calculation shall include the area of any deck, patio, the portion of any pier landward of the OHWM, and any other structure, but boathouses and allowed structures necessary for water access shall be excluded;
- (4) The side yard setback shall be a minimum of ten feet;
- (5) The county must approve a plan that will be implemented by the owner of the property to preserve or establish a vegetative buffer zone that covers at least 70 percent of the half of the shoreland setback area that is nearest to the water.

(Ord. No. 08-20, art. 13, 4-21-2020)

Sec. 42-304. - Impervious surface.

Impervious surface standards shall apply to the construction, reconstruction, expansion, replacement or relocation of any impervious surface on a riparian lot or parcel and any non-riparian lot or parcel entirely within 300 feet of the ordinary high-water mark of any navigable waterway.

- (1) *Calculation of impervious surface.* Percentage of impervious surface shall be calculated by dividing the surface area of existing and proposed impervious surfaces on the lot by the total lot area, and multiplied by 100. If an outlot lies between the ordinary high-water mark and the developable lot or parcel and both are in common ownership, the lot or parcel and the outlot shall be considered one lot or parcel for the purposes of calculating the percentage of impervious surface. Treated impervious surfaces described in subsection (2) of this section shall be excluded from the calculation of impervious surface on the lot or parcel.
- (2) *Treated impervious surfaces.* Impervious surfaces that can be documented to demonstrate they meet either of the following standards shall be excluded from the impervious surface calculations:
  - a. The impervious surface is treated by devices such as stormwater ponds, constructed wetlands, infiltration basins, rain gardens, bio-swales or other engineered systems.
  - b. The runoff from the impervious surface discharges to an internally drained pervious area that retains the runoff on or off the parcel and allows infiltration into the soil.

The treatment system, treatment device or internally drained area must be properly maintained; otherwise, the impervious surface is no longer exempt from the impervious surface calculations.

- (3) *Impervious surface standards.* Any development within 300 feet of the ordinary high-water mark of a navigable waterbody is permitted up to 15 percent impervious surface on the lot. Impervious surfaces from 15 to 30 percent

on the lot are permitted, provided that mitigation is completed and a mitigation agreement is recorded in the register of deeds. The maximum amount of impervious surface allowed on a lot is 30 percent. Mitigation options are listed in section 42-305.

- (4) *Existing impervious surfaces exceeding 30 percent.* For existing impervious surfaces that were lawfully placed when constructed but exceeds 30 percent impervious surface the property owner may do any of the following:
- a. Maintenance and repair of all impervious surfaces;
  - b. Replacement of existing impervious surfaces with similar surfaces within the existing building envelope;
  - c. Relocation or modification of existing impervious surfaces with similar or different impervious surfaces, provided that the relocation or modification does not result in an increase in the percentage of impervious surface that existed on the effective date of the county shoreland ordinance, and meets the applicable setback requirements.

(Ord. No. 08-20, art. 14, 4-21-2020)

#### Sec. 42-305. - Mitigation.

The following sections of this article are subject to the mitigation requirements listed here, and the options listed in this article shall be used to satisfy the mitigation requirements of this article, including section 42-301(f)(5)a and (f)5.c, and when the impervious surface standards in section 42-304(3) are exceeded. These properties shall mitigate to ensure that no additional runoff is discharged to the water body. A single option or a combination of options shall be selected by the landowner to satisfy the mitigation requirements with review by the zoning department to ensure the appropriate amount of mitigation is installed.

- (1) Mitigation options.
- a. Install and/or maintain a full shoreland buffer with allowed viewing corridor.
  - b. Removal or replacement of nonconforming structures and/or other impervious surfaces of equal or greater square footage. Nonconforming structures get an additional bonus of 1.25 square feet per one square foot removed. Example: A property owner needs to remove 500 square feet of impervious surface in order to add a 500 square feet addition to their house. If the impervious surface that the property owner wanted to remove was a nonconforming structure, then they would only need 400 square feet to qualify.
  - c. Pre equals post calculation.
    1. The property owner can utilize the land use runoff rating as a mitigation calculator to determine the predevelopment (prior to proposed improvements) and the post development (after proposed improvements) runoff ratings based on the land cover, existing impervious surfaces, and soil types. The post-development runoff amount must be less than or equal to the pre-development runoff or the allowed 15 percent of impervious surface runoff on the lot. The difference in the two values is the amount of runoff that needs to be mitigated. Options to equalize these values may include, but are not limited to, vegetative plantings, rain gardens, impoundments, including, but not limited to, infiltration pits, and rainwater harvesting.
    2. Land use runoff rating. A rating number is determined for the entire lot within 300 feet of the ordinary high-water mark for Lake Classes 1, 2, 3 and rivers. To calculate the runoff rating the landowner/agent must complete the following steps:
      - (i) Measure each land use of the lot and draw them to dimension or scale. Convert the land use areas into percentages of the lot.
      - (ii) Determine the hydrologic soil type (HST) from a map that will be provided by the zoning department which indicates the assigned HST number.
      - (iii) Multiply each land use percentages by the HST number, and add the products of all the land uses

resulting in the land use rating applied to the lot.

(iv) Point credits.

- A. One point credit will be applied for the lots with public sewage and a 1.5-point credit for landowners who establish continuous vegetative cover starting from the OHWM and continuing landward.
- B. Other practices or measures that the county determines adequate to offset the impacts of the impervious surface on water quality, near shore aquatic habitat, upland wildlife habitat and natural and scenic beauty (i.e., practices found in the state field office technical guide or NRCS technical standards).

(2) Additional mitigation requirements.

- a. Mitigation plans, including existing mitigation options, may be recorded by an affidavit in the register of deeds.
- b. Mitigation plans will have two calendar years to be installed. If mitigation options are not installed and established within two years of issuance of a permit, then citations shall be issued and a new permit could be required.
- c. For each mitigation plan, dated photo documentation of the mitigation area during and/or after the mitigation installation, as appropriate to show compliance, must be submitted as part of the application. Mitigation must be maintained and is subject to periodic compliance checks.

(Ord. No. 08-20, art. 15, 4-21-2020)

Sec. 42-306. - Filling, grading, and ditching.

- (a) Filling, grading, lagooning, dredging, ditching, or excavating which does not require a permit may be allowed in the shoreland-wetland zoning district area, provided that:
  - (1) Such activities are implemented in a manner designed to minimize erosion, sedimentation, and impairment of fish and wildlife habitat.
  - (2) All applicable federal, state, and local permits are obtained.
  - (3) An erosion control plan shall be required and reviewed by the county zoning office.
- (b) Except as provided in subsection (a) of this section, a filling and grading plan and permit is required before filling or grading of any area which is within 300 feet of the ordinary high-water mark of a navigable water and which has surface drainage toward the water and on which such activities will occur:
  - (1) On areas having slopes of 20 percent or more.
  - (2) Areas of 1,000 square feet or more on slopes of 12 percent to 20 percent.
  - (3) Areas of 2,000 square feet or more on slopes of 12 percent or less.
  - (4) A landscaping permit may be required for any disturbance under the thresholds listed in subsections (b)(1) through (3) of this section.
- (c) Excavating for dwellings and sanitary systems in addition to soil conservation practices, including, but not limited to, terraces, runoff diversions, and grassed waterways which are used for sediment retardation shall not require a permit, provided:
  - (1) Soil conservation practices that are planned and supervised by the land and water resources department are implemented. Soil conservation practices examples include, but are not limited to, terraces, runoff diversions, and grassed waterways, which are designed to retard sediment or control animal waste runoff.
  - (2) Excavation for dwellings and sanitary systems are exempted from a permit under subsection (b) of this section. if the excavation plan has been approved by the zoning office prior to construction. A landscaping permit shall be required unless a land use permit for the structure or state sanitary permit has been issued.



- (d) Filling and grading plans shall be submitted to, reviewed and approved by the county zoning office for activities in subject to this section. In order to determine if a filling and grading permit may be granted, a site plan is required and must contain the following information:
- (1) Location of buildings on the property.
  - (2) Property lines.
  - (3) Location of surface waters.
  - (4) Slope.
  - (5) North arrow.
  - (6) Legend.
  - (7) Location of the filling and grading activities on the property.
  - (8) Property owner name and address.
  - (9) Erosion control practices implemented and locations on the property.
  - (10) Revegetation/stabilization plan.
  - (11) Site plan shall be at a scale of one inch represents ten feet.

(Ord. No. 08-20, art. 16, 4-21-2020)

Sec. 42-307. - Off-street parking and loading.

- (a) *Loading space.* All commercial uses shall provide sufficient maneuvering, loading, and parking space on the premises for pick-up, delivery and service vehicles necessary for normal operations.
- (b) *Off-street parking.* Each parking space shall be 200 square feet in area. Each use shall provide the following minimum off-street parking spaces:
- (1) Dwellings: one space for each dwelling unit.
  - (2) Restaurants, taverns and similar establishments: one space for each 50 square feet of floor space devoted to patrons. Drive-in eating stands offering car service: five spaces for each person employed to serve customers.
  - (3) Motels and tourist cabins: one space per unit.
  - (4) Retail businesses and service establishments: one space for each 200 square feet of floor area.
  - (5) Warehouses: one space for each two employees on the premises at a maximum employment on the main shift.

(Ord. No. 08-20, art. 17, 4-21-2020)

Sec. 42-308. - Manufactured homes and manufactured home parks.

- (a) The area beneath a manufactured or mobile home must be completely enclosed with a skirting material of a quality and strength which assures the durability of said skirting material and which does not distract from the general aesthetic quality of the manufactured or mobile home and the surrounding area.
- (b) All manufactured and mobile homes which are abandoned, burned or otherwise destroyed or substantially damaged must be removed from the lot or site on which they are located within one year after abandonment, burning, destruction or substantial damage occurred.
- (c) Manufactured and mobile homes cannot be used for storage.
- (d) Where allowed, manufactured home parks shall meet the following requirements:
- (1) The minimum size of mobile home parks shall be five acres.
  - (2) The maximum number of mobile homes shall be eight per acre.

- (3) Minimum dimensions of a mobile home site shall be 50 feet wide by 100 feet long.
- (4) All drives, parking areas and walkways shall be hard surfaced or graveled, maintained in good condition, have natural drainage, and the driveways shall be lighted at night.
- (5) In addition to the requirements of division 2 of this article and section 42-301, there shall be a minimum setback of 40 feet from all other lot lines and a minimum shoreline setback of 150 feet.
- (6) The park shall conform to the requirements of Wis. Adm. Code ch. ATCP 125.
- (7) No mobile home site shall be rented for a period of less than 30 days.
- (8) Each mobile home site shall be separated from other mobile home sites by a yard not less than 15 feet wide.
- (9) There shall be two surfaced automobile parking spaces for each mobile home.
- (10) Unless adequately screened by existing vegetation cover, the mobile home park shall be screened by a temporary planting of fast-growing plant material capable of reaching 15 feet or more, and so arranged that, within ten years, there shall be formed a screen equivalent in screening capacity to a solid fence or wall. Such permanent planting shall be grown and maintained to a height of not less than 15 feet.
- (11) The mobile home park site shall meet all applicable town and county subdivision regulations.
- (12) Any mobile home site shall not have individual onsite soil absorption sewage disposal system unless it meets the minimum lot size specification as stated in section 42-301.

(Ord. No. 08-20, art. 18, 4-21-2020)

Sec. 42-309. - Travel trailers and travel trailer parks.

- (a) A travel trailer will not be allowed on any lot without a principal structure for more than 14 days in any 60 consecutive days unless subsection (c) or (d) of this section applies.
- (b) One travel trailer may be placed on a piece of property by the owner of the property for storage purposes only if a principal structure exists.
- (c) A temporary permit may be issued if the property owner has installed a state approved septic system and well and the zoning administrator has issued a permit to begin constructing a dwelling within one year. Travel trailers must meet the setback requirements of section 42-301.
- (d) An annual, seasonal permit may be obtained from the zoning office which would allow for the utilization of the travel trailer on the subject property from May 15 through December 1 annually. In order to obtain the above seasonal permit, the following requirements apply:
  - (1) Must have an approved sanitary system installed by a state-licensed plumber (privies are not an allowed system).
  - (2) Must meet all setbacks on property for an accessory structure.
  - (3) Must be removed once season is over.
- (e) A travel trailer may be placed on a property for more than 14 days in any 60 consecutive days if a land use permit is obtained and all the following criteria are met:
  - (1) The parcel is on a Class 3 body of water or is a non-riparian parcel.
  - (2) The property owner has at least 40 acres in one parcel or parcels adjacent to each other with common ownership.
  - (3) The travel trailer will not be used as a permanent residence.
  - (4) The setbacks required for an accessory building are met.
  - (5) A non-plumbing sanitary system is installed. If there is a well, a state sanitary system must be installed in compliance with the county private onsite wastewater (POWTS) ordinance.
- (f) Licensed travel trailer parks shall meet the following requirements:

- (1) The minimum size of the travel trailer park shall be five acres.
- (2) The maximum number of travel trailers shall be 15 per acre.
- (3) Minimum dimensions of a travel trailer site shall be 25 feet by 40 feet.
- (4) Each travel trailer site is separated from other travel trailer sites by a yard not less than 15 feet wide.
- (5) There shall be 1½ automobile parking space for each trailer site.
- (6) In addition to the requirements of division 2 of this article and section 42-301, there shall be a minimum setback of 40 feet from all other exterior lot lines.
- (7) The park shall conform to the requirements of Wis. Adm. Code ch. ATCP 79.
- (8) The screening provisions for mobile home parks shall be met.
- (9) The travel trailer park site shall meet all applicable town and county subdivision regulations.

(Ord. No. 08-20, art. 19, 4-21-2020)

Secs. 42-310—42-336. - Reserved.

#### DIVISION 5. - ADMINISTRATION AND ENFORCEMENT

Sec. 42-337. - Administrative provisions.

- (a) *Zoning administrator.* The zoning department staff shall have the following duties and powers and the land and water resources department staff shall assist in the same:
  - (1) Advise applicants on the provisions of this article and assist them in preparing permit applications and appeal forms.
  - (2) Issue permits and inspect properties for compliance with this article.
  - (3) Keep records of all permits issued, inspections made, work approved and other official actions.
  - (4) Must have permission to access any premises between 8:00 a.m. and 6.00 p.m. for the purpose of performing duties set forth in this division.
  - (5) Submit copies of variances, conditional uses and decisions on appeals for map or text interpretation and map or text amendments within ten days after they are granted or denied to the department of natural resources.
  - (6) Investigate and report all violations of this article to the environmental services committee.
- (b) *Zoning permits.* The following applies to the issuance and revocation of permits:
  - (1) *When required.* Except where another section of this article specifically exempts certain types of activities or development from this requirement, a zoning permit shall be obtained from the Zoning Administrator before any said activity or development, structural alteration, or repair, as defined in division 2 of this article, is initiated. Unless specifically exempted by law, all cities, villages, towns, and counties are required to comply with this article and obtain all necessary permits. State agencies are required to comply when Wis. Stats. § 13.48(13) applies. The construction, reconstruction, maintenance and repair of state highways and bridges by the state department of transportation are exempt when Wis. Stats. § 30.2022(1) applies.
  - (2) *Application.* An application for a zoning permit shall be made to the zoning administrator upon forms furnished by the county and shall include, for the purpose of proper enforcement of these regulations, the following data:
    - a. Name and address of applicant and property owner.
    - b. Legal description of the property and type of proposed use.
    - c. A to-scale sketch of the dimensions of the lot and location of buildings from the lot lines, centerline of abutting highways and the ordinary high-water mark at the day of the sketch.

d. Whether or not a private water or septic system is to be installed.

(3) *Duration period of land use permits.* Land use permits for land use changes shall expire 12 months from their date of issuance where no action has been taken to accomplish such changes or two years after issuance.

(c) *Revocation.*

(1) *Generally.* Where the conditions of a zoning permit or a variance are violated, the same are deemed revoked.

(2) *Conditional and permitted uses.* A warning shall be issued when a documented violation is received and verified by the zoning office directly related to the conditional/permitted use. If the zoning office receives a second documented violation within six months of the first violation, the zoning office shall revoke the permit. A property with a revoked permit shall be required to wait three months before they may apply for another conditional/permitted use. If a use is revoked twice within three years, another conditional/permitted use permit shall not be issued within a year of the second revocation. A 30-day stay period shall be provided as part of the revocation process before the revocation becomes effective unless a human health hazard exists.

(d) *Environmental services committee.* The committee shall be responsible for hearing all conditional use permit applications submitted to the county zoning office and the following shall apply to conditional use permits:

(1) *Application for a conditional use permit.* Any use listed as a conditional use in this article shall be permitted only after an application has been submitted and an appropriate application fee paid to the zoning administrator and a conditional use permit has been granted by the environmental services committee.

(2) *Standards applicable to all conditional uses.* In passing upon a conditional use permit, the environmental services shall evaluate the effect of the proposed use upon the following criteria:

- a. The maintenance of safe and healthful conditions.
- b. The prevention and control of water pollution including sedimentation.
- c. Existing topographic and drainage features and vegetative cover on the site.
- d. The location of the site with respect to floodplains and floodways of rivers and streams.
- e. The erosion potential of the site based upon degree and direction of slope, soil type, and vegetative cover.
- f. The location of the site with respect to existing and future access roads.
- g. The need of the proposed use for a shoreland location.
- h. Its compatibility with uses on adjacent land.
- i. The amount of septic waste to be generated and the adequacy of the proposed disposal system.
- j. Location factors that:
  1. Domestic uses shall be generally preferred;
  2. Uses not inherently a source of pollution within an area shall be preferred over uses that are or may be a pollution source; and
  3. Use locations within an area tending to minimize the possibility of pollution shall be preferred over use locations tending to increase that possibility.

(3) *Conditions attached to conditional use permit.* Upon consideration of the factors listed above, the environmental services committee shall attach such conditions, in addition to those required elsewhere in this article as are necessary to further the purposes of this article. Violations of any of these conditions shall be deemed a violation of this article and result in immediate revocation of the conditional use permit. Such conditions may include, without limitation of a specific enumeration: type of shore cover; increased setbacks and yards; specific sewage disposal and water supply facilities; landscaping and planting screens; period of operation; operational control; sureties; bonding;

deed restrictions; location of piers, docks, parking and signs; and type of construction. To secure information upon which to base its determination, the environmental services committee may require the applicant to furnish, in addition to the information required for a conditional use permit, the following information:

- a. A plan of the area showing contours, soil types, ordinary high-water marks, groundwater conditions, bedrock, slope and vegetative cover.
- b. Location of buildings, parking areas, traffic access, driveways, walkways, piers, open space and landscaping.
- c. Plans of buildings, sewage disposal facilities, water supply systems and arrangements of operations.
- d. Specifications for areas of proposed filling, grading, lagooning or dredging.
- e. Other pertinent information necessary to determine if the proposed use meets the requirements of this article.

(4) *Notice and public hearing.* Before passing upon an application for a conditional use permit; the environmental services committee shall hold a public hearing. Notice of such public hearing, specifying the time, place, and matters to come before the environmental services committee, shall be given as a Class 2 notice under Wis. Stats. ch. 985, and notice shall be provided to the appropriate district office of the department of natural resources at least ten days prior to the hearing as well as all property owners within 300 feet of the site under consideration. The environmental services committee shall state in writing the grounds for refusing a conditional use permit.

(5) *Recording.* When a conditional use permit is approved, an appropriate record shall be made of the land use and structures permitted and such permit shall be applicable solely to the structures, use and property so described. A copy of any decision on a conditional use permit shall be provided to the appropriate district office of the department of natural resources within ten days after application for the conditional use permit is granted or denied.

(6) *Expiration.* Conditional use permits for construction, alteration or removal of structures shall expire 12 months from their date of issuance if no building activity has begun within such time.

(e) *Board of adjustment.* Subject to confirmation of the county board, the county administrator shall appoint a board of adjustment under Wis. Stats. § 59.694, consisting of five members, with no less than one of the members being a riparian landowner. The county board shall adopt rules for the conduct of the business of the board of adjustment as required by Wis. Stats. § 59.694(3).

(1) *Powers and duties.* The board of adjustment shall have the following powers and duties:

- a. The board of adjustment shall adopt such additional rules as it deems necessary and may exercise all of the powers conferred on such boards by Wis. Stats. § 59.694.
- b. It shall hear and decide appeals where it is alleged there is an error in any order, requirements, decision or determination made by an administrative official in the enforcement or administration of this article.

(2) *Authorization of variances.* It may authorize upon application, in specific cases, such variances from the terms of the ordinance as shall not be contrary to the public interest, where owing to special conditions, and a literal enforcement of the ordinance will result in unnecessary hardship. In the issuance of a variance, the spirit of the ordinance shall be observed and substantial justice done. No variance shall have the effect of granting or increasing any use of property, which is prohibited in that zoning district by this article.

(3) *Appeals to the board of adjustment.* Appeals to the board of adjustment may be taken by any person aggrieved or by an officer, department, board or bureau of the county affected by any decision of the zoning administrator or other administrative officer. Such appeal shall be taken within 30 days, as provided by the rules of the board of adjustment, 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 or other officer from whom the appeal is taken shall forthwith transmit to the board of adjustment all the papers constituting the record upon which the action appeal was made.

- (4) *Hearing appeals.* The following procedures shall be taken in hearing any appeals:
- a. The board of adjustment shall fix a reasonable time for the hearing of the appeal. The board shall give public notice thereof by publishing a Class 2 notice under Wis. Stats. ch. 985, specifying the date, time and place of hearing and the matters to come before the board, and shall provide notices to the parties within 300 feet of the site under consideration and the appropriate district office of the department of natural resources at least ten days prior to the public hearing.
  - b. A decision regarding the appeal shall be made as soon as practical and a copy shall be submitted to the department of natural resources within ten days after the decision is issued.
  - 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 chairperson and secretary of the board. Such resolution shall state the specific facts which are the basis of the board's determination and shall either affirm, reverse, vary or modify the order, requirement, decision or determination appealed in whole or in part, dismiss the appeal for lack of jurisdiction or persecution or grant the application.
  - d. At the public hearing, any party may appear in person or by agent or by attorney.
  - e. All decisions may be reviewed by a court of competent jurisdiction
- (f) *Fees.* The environmental services committee may, by motion, adopt fees for the following:
- (1) Land use permits.
  - (2) Erosion control plan reviews.
  - (3) Stormwater management plan review.
  - (4) Variances.
  - (5) Legal notice publications.
  - (6) Conditional use permits.
  - (7) Appeals to the board of adjustment.
  - (8) Amendments of ordinance on petition.

(Ord. No. 08-20, art. 20, 4-21-2020)

Secs. 42-338—42-362. - Reserved.

#### ARTICLE IV. - FLOODPLAIN ZONING

##### DIVISION 1. - GENERALLY

Sec. 42-363. - Statutory authorization.

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

(Ord. No. 12-17, § 1.1, 3-21-2017)

Sec. 42-364. - Findings of fact; purpose and intent.

Uncontrolled development and use of the floodplains and rivers of the county would impair the public health, safety, convenience, general welfare and tax base. Therefore, this article is intended to regulate floodplain development to:

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

(Ord. No. 12-17, §§ 1.2, 1.3, 3-21-2017)

Sec. 42-365. - Definitions and abbreviations.

- (a) The following words and phrases, when used in this article, shall have the meanings respectively ascribed to them in this section, except where the context otherwise requires:

*A Zones* means those areas shown on the official floodplain zoning map which would be inundated by the regional flood. These areas may be numbered or unnumbered A Zones. The A Zones may or may not be reflective of flood profiles, depending on the availability of data for a given area.

*AH Zone.* See *Area of shallow flooding*.

*AO Zone.* See *Area of shallow flooding*.

*Accessory structure or use* means a facility, structure, building or use which is accessory or incidental to the principal use of a property, structure or building.

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

*Area of shallow flooding* means a designated AO, AH, AR/AO, AR/AH, or VO zone on a community's FIRM with a one percent or greater annual chance of flooding to an average depth of one to three feet where a clearly defined channel does not exist, where the path of flooding is unpredictable, and where velocity flood may be evident. Such flooding is characterized by ponding or sheet flow.

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

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

*Building.* See *Structure*.

*Bulkhead line* means a geographic line along a reach of navigable water that has been adopted by a municipal ordinance and approved by DNR pursuant to Wis. Stats. § 30.11 and which allows limited filling between this bulkhead line and the original ordinary high-water mark, except where such filling is prohibited by the floodway provisions of this article.

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

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

*Certificate of compliance* means 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 article.

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

*Crawlways* or *crawl space* means an enclosed area below the first usable floor of a building, generally less than five feet in height, used for limited access to plumbing and electrical utilities.

*Deck* means an unenclosed exterior structure that has no roof or sides but has a permeable floor which allows the infiltration of precipitation.

*Department* means the state department of natural resources.

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

*Dryland access* means a vehicular access route which is above the regional flood elevation (RFE) and which connects land located in the floodplain to land outside the floodplain, such as a road with its surface above RFE and wide enough for wheeled rescue and relief vehicles.

*Encroachment* means any fill, structure, equipment, building, use or development in the floodway.

*Federal Emergency Management Agency (FEMA)* means the federal agency that administers the National Flood Insurance Program (NFIP).

*Flood* or *flooding* means 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.

*Flood frequency* means 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.

*Flood fringe (FF)* means that portion of the floodplain outside of the floodway which is covered by floodwaters during the regional flood and associated with standing water rather than flowing water.

*Flood hazard boundary map* means a map designating approximate flood hazard areas. Flood hazard areas are designated as unnumbered A-Zones and do not contain floodway lines or RFEs. This map forms the basis for both the regulatory and insurance aspects of the NFIP until superseded by a flood insurance study and a flood insurance rate map.



*Flood insurance rate map (FIRM)* means 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 FEMA.

*Flood insurance study (FIS)* means 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 (BFEs) and may provide floodway lines. The flood hazard areas are designated as numbered and unnumbered A-Zones. FIS maps that accompany the flood insurance study form the basis for both the regulatory and the insurance aspects of the NFIP.

*Flood profile* means 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.

*Flood protection elevation* means an elevation of two feet of freeboard above the water surface profile elevation designated for the regional flood.

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

*Floodplain* means land which has been or may be covered by floodwater during the regional flood. The term "floodplain" includes the floodway and the flood fringe and may include other designated floodplain areas for regulatory purposes.

*Floodplain island* means a natural geologic land formation within the floodplain that is surrounded, but not covered, by floodwater during the regional flood.

*Floodplain management* means policy and procedures to insure wise use of floodplains, including mapping and engineering, mitigation, education, and administration and enforcement of floodplain regulations.

*Floodproofing* means 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.

*Floodway (FW)* means the channel of a river or stream and those portions of the floodplain adjoining the channel required to carry the regional flood discharge.

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

*Habitable structure* means any structure or portion thereof used or designed for human habitation.

*Hearing notice* means publication or posting meeting the requirements of Wis. Stats. ch. 985. For appeals, a Class 1 notice, published once at least one week (seven days) before the hearing, is required. For all zoning ordinances and amendments, a Class 2 notice, published twice, once each week consecutively, the last at least a week (seven days) before the hearing. Local ordinances or bylaws may require additional notice, exceeding these minimums.

*High flood damage potential* means damage that could result from flooding that includes any danger to life or health or any significant economic loss to a structure or building and its contents.

*Highest adjacent grade* means the highest natural elevation of the ground surface prior to construction next to the proposed walls of a structure.

*Historic structure* means 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.

*Increase in regional flood height* means a calculated upward rise in the RFE, greater than 0.00 foot, based on a comparison of existing conditions and proposed conditions which is directly attributable to development in the floodplain but not attributable to manipulation of mathematical variables such as roughness factors, expansion and contraction coefficients and discharge.

*Land use* means any nonstructural use made of unimproved or improved real estate.

*Lowest adjacent grade* means elevation of the lowest ground surface that touches any of the exterior walls of a building.

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

*Maintenance* means the act or process of restoring to original soundness, including redecorating, refinishing, nonstructural repairs, or the replacement of existing fixtures, systems or equipment with equivalent fixtures, systems or structures.

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

*Mobile/manufactured home park or subdivision* means a parcel (or contiguous parcels) of land, divided into two or more manufactured home lots for rent or sale.

*Mobile/manufactured home park or subdivision, existing*, means a parcel of land, divided into two or more manufactured home lots for rent or sale, on which the construction of facilities for servicing the lots is completed before the effective date of the ordinance from which this article is derived. At a minimum, this would include the installation of utilities, the construction of streets and either final site grading or the pouring of concrete pads.

*Mobile/manufactured home park, expansion to existing*, means the preparation of additional sites by the construction of facilities for servicing the lots on which the manufactured homes are to be affixed. This includes installation of utilities, construction of streets and either final site grading, or the pouring of concrete pads.

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

*Model, corrected effective*, means a hydraulic engineering model that corrects any errors that occur in the duplicate effective model, adds any additional cross sections to the duplicate effective model, or incorporates more detailed topographic information than that used in the current effective model.

*Model, duplicate effective*, means a copy of the hydraulic analysis used in the effective FIS and referred to as the effective model.

*Model, effective*, means the hydraulic engineering model that was used to produce the current effective FIS.

*Model, existing (pre-project)*, means a modification of the duplicate effective model or corrected effective model to reflect any manmade modifications that have occurred within the floodplain since the date of the effective model but prior to the construction of the project for which the revision is being requested. If no modification has occurred since the date of the effective model, then this model would be identical to the corrected effective model or duplicate effective model.

*Model, revised (post-project)*, means a modification of the existing or pre-project conditions model, duplicate effective model or corrected effective model to reflect revised or post-project conditions.

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

*New construction* means, for floodplain management purposes, 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.

*Nonconforming structure* means an existing lawful structure or building which is not in conformity with the dimensional or structural requirements of this article 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.)

*Nonconforming use* means an existing lawful use or accessory use of a structure or building which is not in conformity with the provisions of this article for the area of the floodplain which it occupies, such as a residence in the floodway.

*Obstruction to flow* means any development which blocks the conveyance of floodwaters such that this development alone or together with any future development will cause an increase in regional flood height.

*Official floodplain zoning map* means that map, adopted and made part of this article, which has been approved by DNR and FEMA.

*Open space use* means those uses having a relatively low flood damage potential and not involving structures.

*Ordinary high-water mark (OHWM)* means the point on the bank or shore up to which the presence and action of surface water is so continuous as to leave a distinctive mark such as by erosion, destruction or prevention of terrestrial vegetation, predominance of aquatic vegetation, or other easily recognized characteristic.

*Private sewage system* means a sewage treatment and disposal system serving one structure with a septic tank and soil absorption field located on the same parcel as the structure. It also means an alternative sewage system approved by DNR of safety and professional services listed in Wis. Adm. Code chs. SPS 382—387, including a substitute for the septic tank or soil absorption field, a holding tank, a system serving more than one structure or a system located on a different parcel than the structure.

*Public utilities* means those utilities using underground or overhead transmission lines such as electric, telephone and telegraph, and distribution and collection systems such as water, sanitary sewer and storm sewer.

*Reasonably safe from flooding* means base floodwaters will not inundate the land or damage structures to be removed from the special flood hazard area and that any subsurface waters related to the base flood will not damage existing or proposed buildings.

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

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

*Structure* means any manmade object with form, shape and utility, either permanently or temporarily attached to, placed upon or set into the ground, streambed or lakebed, including, but not limited to, roofed and walled buildings, gas or liquid storage tanks, bridges, dams and culverts.

*Subdivision* has the meaning given in Wis. Stats. § 236.02(12).

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

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

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

*Variance* means an authorization by the board of adjustment or appeals for the construction or maintenance of a building or structure in a manner which is inconsistent with dimensional standards (not uses) contained in this article.

*Violation* means the failure of a structure or other development to be fully compliant with this article. 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.

*Water surface profile* means 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.

*Watershed* means the entire region contributing runoff or surface water to a watercourse or body of water.

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

- (b) The following abbreviations are used in this article:
- (1) BFE means base flood elevations.
  - (2) DNR means state department of natural resources.
  - (3) FEMA means federal emergency management agency.
  - (4) FF means flood fringe district.
  - (5) FIRM means flood insurance rate map.
  - (6) FIS means flood insurance study.
  - (7) FW means floodway district.
  - (8) GFP means general floodplain district.
  - (9) LOMC means letter of map change.
  - (10) LOMR means letter of map revision.
  - (11) NFIP means National Flood Insurance Program.
  - (12) OHWM means ordinance high-water mark.
  - (13) RFE means regional flood elevation.
  - (14) SFHA means special flood hazard areas.

(Ord. No. 12-17, § 1.5, 3-21-2017)

Sec. 42-366. - Areas to be regulated.

This article regulates all areas that would be covered by the regional flood or base flood as shown on the FIRM and other maps approved by the DNR. BFEs are derived from the flood profiles in the FIS and are shown as AE, A 1-30, and AH zones on the FIRM. Other regulatory zones are displayed as A and AO zones. Regional flood elevations may be derived from other studies.

(Ord. No. 12-17, § 1.6(1), 3-21-2017)

Sec. 42-367. - Official maps and revisions.

- (a) The boundaries of all floodplain districts are designated as A, AE, AH, AO or A1-30 on the maps based on the FIS listed below and the revisions in the county floodplain appendix. Any change to the BFE or any changes to the boundaries of the floodplain or floodway in the FIS or on the FIRM must be reviewed and approved by the DNR and FEMA through the letter of map change process (see [section 42-571](#)) before it is effective. No changes to RFEs on non-FEMA maps shall be effective until approved by the DNR. These maps and revisions are on file in the office of the county zoning department. If more than one map or revision is referenced, the most restrictive information shall apply.
- (b) Official maps based on the FIS are FIRM panel numbers 55095C0020D, 55095C0040D, 55095C0045D, 55095C0065D, 55095C0070D, 55095C0085D, 55095C0090D, 55095C0095D, 55095C0105D, 55095C0110D, 55095C0115D, 55095C0120D, 55095C0130D, 55095C0135D, 55095C0140D, 55095C0145D, 55095C0155D, 55095C0160D, 55095C0165D, 55095C0170D, 55095C0185D, 55095C0205D, 55095C0210D, 55095C0215D, 55095C0220D, 55095C0230D, 55095C0235D, 55095C0240D, 55095C0255D, 55095C0260D, 55095C0270D, 55095C0280D, 55095C0285D, 55095C0290D, 55095C0295D, 55095C0305D, 55095C0310D, 55095C0315D, 55095C0320D, 55095C0330D, 55095C0355D, 55095C0360D, 55095C0370D, 55095C0385D, 55095C0390D, 55095C0395D, 55095C0405D, 55095C0410D, 55095C0415D, 55095C0420D, 55095C0430D, 55095C0435D, 55095C0440D, 55095C0445D, 55095C0455D, 55095C0465D, 55095C0470D, 55095C0492D, 55095C0494D, 55095C0502D, 55095C0504D, 55095C0506D, 55095C0510D, 55095C0511D, 55095C0520D, 55095C0530D, 55095C0535D, 55095C0540D, 55095C0545D, 55095C0555D, 55095C0560D, 55095C0565D, 55095C0570D, 55095C0576D, 55095C0577D, 55095C0578D, 55095C0579D, 55095C0585D, 55095C0586D, 55095C0590D, 55095C0595D, 55095C0605D, 55095C0610D, 55095C0632D,

55095C0634D, 55095C0651D, 55095C0653D, 55095C0680D, 55095C0685D, 55095C0705D, 55095C0710D, 55095C0730D, 55095C0735D, 55095C0755D dated September 16, 2011, with corresponding profiles that are based on the FIS dated September 16, 2011, volume number 55095CV000A, approved by the DNR and FEMA.

- (c) Official maps based on other studies approved by the DNR that are more restrictive than those based on the FIS at the site of the proposed development.

(Ord. No. 12-17, § 1.6(2), 3-21-2017)

Sec. 42-368. - Establishment of floodplain zoning districts.

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

- (1) The floodway district (FW) is the channel of a river or stream and those portions of the floodplain adjoining the channel required to carry the regional floodwaters and are contained within the AE zones as shown on the FIRM.
- (2) The flood fringe district (FF) is that portion of the floodplain between the regional flood limits and the floodway and displayed as the AE Zones on the FIRM.
- (3) The general floodplain district (GFP) are those areas that may be covered by floodwater during the regional flood and does not have a BFE or floodway boundary determined, including A, AH, and AO zones on the FIRM.

(Ord. No. 12-17, § 1.6(3), 3-21-2017)

Sec. 42-369. - Locating floodplain boundaries.

- (a) Discrepancies between boundaries on the official floodplain zoning map and actual field conditions shall be resolved using the criteria in this subsection or subsection (b) of this section. If a significant difference exists, the map shall be amended according to section 42-571. The zoning administrator can rely on a boundary derived from a profile elevation to grant or deny a land use permit, whether or not a map amendment is required. The zoning administrator shall be responsible for documenting actual pre-development field conditions and the basis upon which the district boundary was determined and for initiating any map amendments required under this section.
- (b) Disputes between the zoning administrator and an applicant over the district boundary line shall be settled according to section 42-546(c) and the criteria in this subsection and subsection (a) of this section. Where the flood profiles are based on the established BFEs from a FIRM, FEMA must approve any map amendment or revision pursuant to section 42-571.
- (c) If flood profiles exist, the map scale and the profile elevations shall determine the district boundary. The regional or BFE shall govern if there are any discrepancies. When 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 DNR.

(Ord. No. 12-17, § 1.6(4), 3-21-2017)

Sec. 42-370. - Removal of lands from floodplain.

Compliance with the provisions of this article shall not be grounds for removing land from the floodplain unless it is filled at least two feet above the regional or BFE, the fill is contiguous to land outside the floodplain, and the map is amended pursuant to section 42-571 amendments.

(Ord. No. 12-17, § 1.6(5), 3-21-2017)

Sec. 42-371. - Compliance.

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

(Ord. No. 12-17, § 1.6(6), 3-21-2017)

Sec. 42-372. - Municipalities and state agencies regulated.

Unless specifically exempted by law, all cities, villages, towns, and counties are required to comply with this article and obtain all necessary permits. State agencies are required to comply if Wis. Stats. § 13.48(13) applies. The construction, reconstruction, maintenance and repair of state highways and bridges by the state department of transportation are exempt when Wis. Stats. § 30.2022 applies.

(Ord. No. 12-17, § 1.6(7), 3-21-2017)

Sec. 42-373. - Abrogation and greater restrictions.

- (a) This article supersedes all the provisions of any municipal zoning ordinance enacted under Wis. Stats. § 59.69, 59.692, 59.694, or 87.30 that relate to floodplains. A more restrictive ordinance shall continue in full force and effect to the extent of the greater restrictions, but not otherwise.
- (b) This article is not intended to repeal, abrogate or impair any existing deed restrictions, covenants or easements. If this article imposes greater restrictions, the provisions of this article shall prevail.

(Ord. No. 12-17, § 1.6(8), 3-21-2017)

Sec. 42-374. - Interpretation.

In their interpretation and application, the provisions of this article are the minimum requirements liberally construed in favor of the county board of supervisors and are not a limitation on or repeal of any other powers granted by state law. If a provision of this article, required by Wis. Adm. Code ch. NR 116 is unclear, the provision shall be interpreted in light of the standards in effect on the date of the adoption of the ordinance from which this article is derived or in effect on the date of the most recent text amendment to this article.

(Ord. No. 12-17, § 1.6(9), 3-21-2017)

Sec. 42-375. - Warning and disclaimer of liability.

The flood protection standards in this article are based on engineering experience and scientific research. Larger floods may occur or the flood height may be increased by manmade or natural causes. This article does not imply or guarantee that non-floodplain areas or permitted floodplain uses will be free from flooding and flood damages. Nor does this article create liability on the part of, or a cause of action against, the county or any officer or employee thereof for any flood damage that may result from reliance on this article.

(Ord. No. 12-17, § 1.6(10), 3-21-2017)

Sec. 42-376. - 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 county for all annexed areas until the county adopts and enforces an ordinance which meets the requirements of Wis. Adm. Code ch. NR 116 and 44 CFR 59—72. These annexed lands are described on the county's official zoning map. County floodplain zoning provisions are incorporated by reference for the purpose of administering this section and are on file in the office of the county zoning administrator. All plats or maps of annexation shall show the RFE and the location of the floodway.

(Ord. No. 12-17, § 1.6(12), 3-21-2017)

## Sec. 42-377. - Review of permit applications.

- (a) *Generally.* The county shall review all permit applications to determine whether proposed building sites will be reasonably safe from flooding. If a proposed building site is in a flood-prone area, all new construction and substantial improvements shall be designed and anchored to prevent flotation, collapse, or lateral movement of the structure resulting from hydrodynamic and hydrostatic loads; be constructed with flood-resistant materials be constructed to minimize flood damages; and to ensure that utility and mechanical equipment is designed or located so as to prevent water from entering or accumulating within the equipment during conditions of flooding.
- (b) *Subdivisions.* Subdivisions shall be reviewed for compliance with the above standards. Subdivisions shall be reviewed for compliance with the above standards. All subdivision proposals (including manufactured home parks) shall include RFE and floodway data for any development that meets the subdivision definition of this article and all other requirements in division 6 of this article. 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.

(Ord. No. 12-17, § 2.0(intro. ¶), 3-21-2017)

## Sec. 42-378. - Hydraulic and hydrologic analyses.

- (a) No floodplain development shall obstruct flow, defined as development which blocks the conveyance of floodwaters by itself or with other development, causing any increase in the regional flood height or cause any increase in the regional flood height due to floodplain storage area lost.
- (b) The zoning administrator shall deny permits if it is determined the proposed development will obstruct flow or cause any increase in the regional flood heights, based on the officially adopted FIRM or other adopted map, unless the provisions of [section 42-571](#) amendments are met.
- (c) This section refers to obstructions or increases in BFE as shown on the officially adopted FIRM or other adopted map. Any such alterations must be reviewed and approved by FEMA and the DNR.

(Ord. No. 12-17, § 2.1, 3-21-2017)

## Sec. 42-379. - Watercourse alterations.

- (a) No land use permit to alter or relocate a watercourse in a mapped floodplain shall be issued until the local official has notified in writing all adjacent municipalities, DNR and FEMA regional offices and required the applicant to secure all necessary state and federal permits. The standards of [section 42-378](#) must be met and the flood carrying capacity of any altered or relocated watercourse shall be maintained.
- (b) As soon as is practicable, but not later than six months after the date of the watercourse alteration or relocation. The county shall apply for a LOMR from FEMA pursuant to [section 42-571](#). Any such alterations must be reviewed and approved by FEMA and the DNR through the LOMC process.

(Ord. No. 12-17, § 2.2, 3-21-2017)

## Sec. 42-380. - Wis. Stats. chs. 30, 31 development.

Development which requires a permit from DNR under Wis. Stats. chs. 30 and 31, such as docks, piers, wharves, bridges, culverts, dams and navigational aids, may be allowed if the necessary permits are obtained and amendments to this article are made according to [section 42-571](#) amendments.

(Ord. No. 12-17, § 2.3, 3-21-2017)



## Sec. 42-381. - Public or private campgrounds.

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

- (1) The campground is approved by the state department of health and family services.
- (2) A land use permit for the campground is issued by the zoning administrator.
- (3) The character of the river system and the campground elevation are such that a 72-hour warning of an impending flood can be given to all campground occupants.
- (4) There is an adequate flood warning procedure for the campground that offers the minimum notice required under this section to all persons in the campground. This procedure shall include a written agreement between the campground owner, the municipal emergency government coordinator and the chief law enforcement official which specifies the flood elevation at which evacuation shall occur, personnel responsible for monitoring flood elevations, types of warning systems to be used and the procedures for notifying at-risk parties, and the methods and personnel responsible for conducting the evacuation.
- (5) This agreement shall be for no more than one calendar year, at which time the agreement shall be reviewed and updated, by the officials identified in subsection (4) of this section, to remain in compliance with all applicable regulations, including those of the state department of health and family services and all other applicable regulations.
- (6) Only camping units that are fully licensed and ready for highway use are allowed.
- (7) The camping units shall not occupy any site in the campground for more than 180 consecutive days, at which time the camping unit must be removed from the floodplain for a minimum of 24 hours.
- (8) All camping units that remain on site for more than 30 days shall be issued a limited authorization by the campground operator, a written copy of which is kept on file at the campground. Such authorization shall allow placement of a camping unit for a period not to exceed 180 days and shall ensure compliance with all the provisions of this section.
- (9) The county shall monitor the limited authorizations issued by the campground operator to assure compliance with the terms of this section.
- (10) All camping units that remain in place for more than 180 consecutive days must meet the applicable requirements in either subsection (3), (4), or (5) of this section for the floodplain district in which the structure is located.
- (11) 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.
- (12) All service facilities, including, but not limited to, refuse collection, electrical service, gas lines, propane tanks, sewage systems and wells shall be properly anchored and placed at or floodproofed to the flood protection elevation.

(Ord. No. 12-17, § 2.4, 3-21-2017)

## Sec. 42-382. - Floodproofing.

- (a) No permit or variance under this article shall be issued for a non-residential structure designed to be watertight below the RFE until the applicant submits a plan certified by a registered professional engineer or architect that the floodproofing measures will protect the structure or development to the flood protection elevation and submits a FEMA floodproofing certificate.
- (b) For a structure designed to allow the entry of floodwaters, no permit or variance shall be issued until the applicant submits a plan either:
  - (1) Certified by a registered professional engineer or architect; or

(2) Meets or exceeds the following standards:

- a. A minimum of two openings having a total net area of not less than one square inch for every square foot of enclosed area subject to flooding;
- b. The bottom of all openings shall be no higher than one foot above grade; and
- c. Openings may be equipped with screens, louvers, valves, or other coverings or devices, provided they permit the automatic entry and exit of floodwaters.

(c) Floodproofing measures shall be designed, as appropriate, to:

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

(Ord. No. 12-17, § 7.5, 3-21-2017)

Sec. 42-383. - Public information.

The county shall make public information available as follows:

- (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) Real estate transfers should show what floodplain zoning district any real property is in.

(Ord. No. 12-17, § 7.6, 3-21-2017)

Secs. 42-384—42-409. - Reserved.

DIVISION 2. - FLOODWAY DISTRICT (FW)

Sec. 42-410. - Applicability.

This division applies to all floodway areas on the floodplain zoning maps and those identified pursuant to section 42-471.

(Ord. No. 12-17, § 3.1, 3-21-2017)

Sec. 42-411. - Permitted uses.

The following open space uses are allowed in the FW and the floodway areas of the GFP, if they are not prohibited by any other ordinance, they meet the standards in sections 42-412 and 42-413, and all permits or certificates have been issued according to section 42-544:

- (1) Agricultural uses, such as: farming, outdoor plant nurseries, horticulture, viticulture and wild crop harvesting.
- (2) Nonstructural industrial and commercial uses, such as loading areas, parking areas and airport landing strips.
- (3) Nonstructural recreational uses, such as golf courses, tennis courts, archery ranges, picnic grounds, boat ramps, swimming areas, parks, wildlife and nature preserves, game farms, fish hatcheries, shooting, trap and skeet activities, hunting and fishing areas and hiking and horseback riding trails, subject to the fill limitations of section 42-412(d).
- (4) Uses or structures accessory to open space uses or classified as historic structures that comply with sections 42-412

and 42-413.

- (5) Extraction of sand, gravel or other materials that comply with section 42-412(d).
- (6) Functionally water-dependent uses, such as docks, piers or wharves, dams, flowage areas, culverts, navigational aids and river crossings of transmission lines, and pipelines that comply with Wis. Stats. chs. 30 and 31.
- (7) Public utilities, streets and bridges that comply with section 42-412(c).

(Ord. No. 12-17, § 3.2, 3-21-2017)

Sec. 42-412. - Standards for development in floodway.

(a) *General.*

- (1) Any development in the floodway shall comply with section 42-377 and have low flood damage potential.
- (2) Applicants shall provide the following data to determine the effects of the proposal according to section 42-378:
  - a. A cross-section elevation view of the proposal, perpendicular to the watercourse, showing if the proposed development will obstruct flow; or
  - b. An analysis calculating the effects of this proposal on regional flood height.
- (3) The zoning administrator shall deny the permit application if the project will cause any increase in the flood elevations upstream or downstream 0.01 foot or more, based on the data submitted for subsection (a)(2) of this section.

(b) *Structures.* Structures accessory to permanent open space uses, classified as historic structures, or functionally dependent on a waterfront location may be allowed by permit if the structures comply with the following criteria:

- (1) The structures are not designed for human habitation, do not have a high flood damage potential, and is constructed to minimize flood damage.
- (2) The structures are constructed and placed on the building site causing no increase in flood heights during the occurrence of the regional flood and must not obstruct flow of floodwaters.
- (3) Structures shall have a minimum of two openings on different walls having a total net area not less than one square inch for every square foot of enclosed area, and the bottom of all such openings being no higher than one foot above grade. The openings shall be equipped with screens, louvers, or other coverings or devices, provided that they permit the automatic entry and exit of floodwaters.
- (4) The structures are properly anchored to resist flotation, collapse, lateral movement; and
- (5) Mechanical and utility equipment is elevated or floodproofed to or above the flood protection elevation.

(c) *Public utilities, streets and bridges.* Public utilities, streets and bridges may be allowed by permit, if:

- (1) Adequate floodproofing measures are provided to the flood protection elevation; and
- (2) Construction meets the development standards of section 42-378.

(d) *Fills and deposition of materials.* Fills or deposition of materials may be allowed by permit, if:

- (1) The requirements of section 42-378 are met;
- (2) No material is deposited in navigable waters unless a permit is issued by DNR pursuant to Wis. Stats. ch. 30 and a permit pursuant to section 404 of the federal Water Pollution Control Act, Amendments of 1972, 33 USC 1344 has been issued, if applicable, and all other requirements have been met;
- (3) The fill or other materials will be protected against erosion by riprap, vegetative cover, sheet piling or bulkheading; and
- (4) The fill is not classified as a solid or hazardous waste material.

(Ord. No. 12-17, § 3.3, 3-21-2017)

## Sec. 42-413. - Prohibited uses.

All uses not listed as permitted uses in section 42-411 are prohibited, including the following uses:

- (1) Habitable structures, structures with high flood damage potential, or those not associated with permanent open space uses;
- (2) Storing materials that are buoyant, flammable, explosive, injurious to property, water quality, or human, animal, plant, fish or other aquatic life;
- (3) Uses not in harmony with or detrimental to uses permitted in the adjoining districts;
- (4) Any private or public sewage systems, except portable latrines that are removed prior to flooding and systems associated with recreational areas and DNR-approved campgrounds that meet the applicable provisions of local ordinances and Wis. Adm. Code ch. SPS 383;
- (5) Any public or private wells which are used to obtain potable water, except those for recreational areas that meet the requirements of local ordinances and Wis. Adm. Code chs. NR 811 and 812;
- (6) Any solid or hazardous waste disposal sites;
- (7) Any wastewater treatment ponds or facilities, except those permitted under Wis. Adm. Code § NR 110.15(3)(b); and
- (8) 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.

(Ord. No. 12-17, § 3.4, 3-21-2017)

## Secs. 42-414—42-439. - Reserved.

## DIVISION 3. - FLOOD FRINGE DISTRICT (FF)

## Sec. 42-440. - Applicability.

This division applies to all flood fringe areas shown on the floodplain zoning maps and those identified pursuant to section 42-471.

(Ord. No. 12-17, § 4.1, 3-21-2017)

## Sec. 42-441. - Permitted uses.

Any structure, land use, or development is allowed in the FF if the standards in section 42-442 are met, the use is not prohibited by this or any other ordinance or regulation and all permits or certificates specified in division 6 of this article have been issued.

(Ord. No. 12-17, § 4.2, 3-21-2017)

## Sec. 42-442. - Standards for development in FF.

- (a) *Applicability*. All of the provisions of section 42-378 shall apply. In addition, the following requirements shall apply according to the use requested. Any existing structure in the FF must meet the requirements of division 5 of this article regarding nonconforming uses.
- (b) *Residential uses*. Any structure, including a manufactured home, which is to be newly constructed, or moved into the FF, shall meet or exceed the following standards;
  - (1) The elevation of the lowest floor shall be at or above the flood protection elevation on fill unless the requirements of

this section can be met. The fill shall be one foot or more above the RFE extending at least 15 feet beyond the limits of the structure. The basement or crawlway floor may be placed at the RFE if it is dry floodproofed to the flood protection elevation. No basement or crawlway floor is allowed below the RFE.

- (2) Contiguous dryland access shall be provided from a structure to land outside of the floodplain, except as provided in subsection (2)(d) of this section.
- (3) In developments where existing street or sewer line elevations make compliance with subsection (2)(c) of this section impractical, the county may permit new development and substantial improvements where roads are below the RFE, if:
  - a. The county has written assurance from police, fire and emergency services that rescue and relief will be provided to the structures by wheeled vehicles during a regional flood event; or
  - b. The county has a DNR-approved emergency evacuation plan.
- (c) *Accessory structures or uses.* Accessory structures shall be constructed on fill with the lowest floor at or above the RFE.
- (d) *Commercial uses.* Any commercial structure which is erected, altered or moved into the FF shall meet the requirements of subsection (a) of this section. Subject to the requirements of subsection (e) of this section, storage yards, surface parking lots and other such uses may be placed at lower elevations if an adequate warning system exists to protect life and property.
- (e) *Manufacturing and industrial uses.* Any manufacturing or industrial structure which is erected, altered or moved into the FF shall have the lowest floor elevated to or above the flood protection elevation or meet the floodproofing standards in [section 42-382](#). Subject to the requirements of subsection (d) of this section, 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.
- (f) *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 42-382](#). Adequate measures shall be taken to ensure that such materials will not enter the water body during flooding.
- (g) *Public utilities, streets and bridges.* All utilities, streets and bridges shall be designed to be compatible with comprehensive floodplain development plans; and:
  - (1) When failure of public utilities, streets and bridges would endanger public health or safety, or where such facilities are deemed essential, construction or repair of such facilities shall only be permitted if they designed to comply with [section 42-382](#);
  - (2) Minor roads or nonessential utilities may be constructed at lower elevations if they are designed to withstand flood forces to the RFE.
- (h) *Sewage systems.* All sewage disposal systems shall be designed to minimize or eliminate infiltration of floodwater into the system, pursuant to [section 42-382\(c\)](#), to the flood protection elevation and shall meet the provisions of all local ordinances and Wis. Adm. Code ch. SPS 383.
- (i) *Wells.* All wells shall be designed to minimize or eliminate infiltration of floodwaters into the system, pursuant to [section 42-385\(c\)](#), to the flood protection elevation and shall meet the provisions of Wis. Adm. Code chs. NR 811 and 812.
- (j) *Solid waste disposal sites.* Disposal of solid or hazardous waste is prohibited in flood fringe areas.
- (k) *Deposition of materials.* Any deposited material must meet all the provisions of this article.
- (l) *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 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 FF in subsection (b) of this section.

(m) *Mobile recreational vehicles.* All mobile recreational vehicles that are not located in a public or private campground will not be allowed on any lot for more than one 14-day period in any 60 consecutive days. They must be fully licensed and ready for highway use. They shall meet the elevation and anchoring requirements in subsection (l)(2) and (3) of this section. A mobile recreational vehicle is ready for highway use if it is on its wheels or jacking system, is attached to the site only by quick-disconnect utilities and security devices and has no permanently attached additions.

(Ord. No. 12-17, § 4.3, 3-21-2017)

Secs. 42-443—42-467. - Reserved.

#### DIVISION 4. - GENERAL FLOODPLAIN DISTRICT (GFP)

Sec. 42-468. - Applicability.

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

(Ord. No. 12-17, § 5.1, 3-21-2017)

Sec. 42-469. - Permitted uses.

- (a) Pursuant to section 42-471, it shall be determined whether the proposed use is located within the FW or the FF.
- (b) Those uses permitted in the FW (section 42-411) and FF (section 42-441) districts are allowed within the GFP, according to the standards of section 42-470, provided that all permits or certificates required under division 6 of this article have been issued.

(Ord. No. 12-17, § 5.2, 3-21-2017)

Sec. 42-470. - Standards for development in the GFP.

Division 2 of this article applies to FW areas; division 3 of this article applies to FF areas. The rest of this article 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;
  - b. Two feet above the highest adjacent grade around the structure; or
  - c. The depth as shown on the FIRM.

(2) In AO/AH zones, plans shall be provided showing adequate drainage paths to guide floodwaters around structures.

(Ord. No. 12-17, § 5.3, 3-21-2017)

Sec. 42-471. - Determining floodway and flood fringe limits.

Upon receiving an application for development within the GFP district, the zoning administrator shall:

- (1) Require the applicant to submit two copies of an aerial photograph or a plan which shows the proposed development with respect to the GFP district limits, stream channel, and existing floodplain developments, along with a legal description of the property, fill limits and elevations, building floor elevations, floodproofing measures, and the flood zone as mapped on the FIRM.
- (2) Require the applicant to furnish any of the following information deemed necessary by the DNR to evaluate the effects of the proposal upon flood height and flood flows, RFE and to determine FW boundaries:
  - a. A hydrologic and hydraulic study as specified in section 42-521(3);
  - b. Plan (surface view) showing elevations or contours of the ground; pertinent structure, fill or storage elevations; size, location and layout of all proposed and existing structures on the site; location and elevations of streets, water supply, and sanitary facilities; soil types and other pertinent information;
  - c. Specifications for building construction and materials, floodproofing, filling, dredging, channel improvement, storage, water supply and sanitary facilities.

(Ord. No. 12-17, § 5.4, 3-21-2017)

Secs. 42-472—42-495. - Reserved.

#### DIVISION 5. - NONCONFORMING USES

Sec. 42-496. - Applicability and general compliance standards.

- (a) Applicability. If these standards conform to Wis. Stats. § 59.69(10), 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 the ordinance from which this article is derived or any amendment thereto.
- (b) The existing lawful use of a structure or its accessory use which is not in conformity with the provisions of this article may continue subject to the applicable conditions. The nonconforming provisions of this article may vary from the nonconforming provisions of the county shoreland protection zoning regulations and Wis. Adm. Code ch. NR 115.
  - (1) No modifications or additions to a nonconforming use or structure shall be permitted unless they comply with this article. The terms "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. For purposes of this section, the term "maintenance" includes painting, decorating, paneling and other nonstructural components and the maintenance, repair or replacement of existing private sewage or water supply systems or connections to public utilities. Any costs associated with the repair of a damaged structure are not considered maintenance. The construction of a deck that does not exceed 200 square feet and that is adjacent to the exterior wall of a principal structure is not an extension, modification or addition. The roof of the structure may extend over a portion of the deck in order to provide safe ingress and egress to the principal structure.
  - (2) If a nonconforming use or the use of a nonconforming structure is discontinued for 12 consecutive months, it is no longer permitted and any future use of the property, and any structure or building thereon, shall conform to the applicable requirements of this article.
  - (3) The county shall keep a record which lists all nonconforming uses and structures, their present equalized assessed value, the cost of all modifications or additions which have been permitted, and the percentage of the structure's total current value those modifications represent.

- (4) No modification or addition to any nonconforming structure or any structure with a nonconforming use, which over the life of the structure would exceed 50 percent 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 article. Contiguous dry land access must be provided for residential and commercial uses in compliance with section 42-442(b). The costs of elevating the lowest floor of a nonconforming building or a building with a nonconforming use to the flood protection elevation are excluded from the 50 percent provisions of this subsection.
- (5) No maintenance to any nonconforming structure or any structure with a nonconforming use, the cost of which would equal or exceed 50 percent 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 article. Contiguous dry land access must be provided for residential and commercial uses in compliance with this article.
- (6) If on a per event basis the total value of the work being done under subsections (b)(4) and (5) of this section equals or exceeds 50 percent 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 article. Contiguous dry land access must be provided for residential and commercial uses in compliance with section 42-332(a).
- (7) Except as provided in subsection (b)(8) of this section, if any nonconforming structure or any structure with a nonconforming use is destroyed or is substantially damaged, it cannot be replaced, reconstructed or rebuilt unless the use and the structure meet the current ordinance requirements. A structure is considered substantially damaged if the total cost to restore the structure to its pre-damaged condition exceeds 50 percent of the structure's present equalized assessed value.
- (8) For nonconforming buildings that are substantially damaged or destroyed by a nonflood disaster, the repair or reconstruction of any such nonconforming building may be permitted in order to restore it to the size and use in effect prior to the damage event, provided that the minimum federal code requirements below are met and all required permits have been granted prior to the start of construction.
- a. Residential structures.
1. Shall have the lowest floor, including basement, elevated to or above the base flood elevation using fill, pilings, columns, posts or perimeter walls. Perimeter walls must meet the requirements of section 42-382(a).
  2. Shall be anchored to prevent flotation, collapse, or lateral movement of the structure resulting from hydrodynamic and hydrostatic loads, including the effects of buoyancy and shall be constructed with methods and materials resistant to flood damage.
  3. Shall be constructed with electrical, heating, ventilation, plumbing and air conditioning equipment and other service facilities that are designed or elevated so as to prevent water from entering or accumulating within the components during conditions of flooding.
  4. In A Zones, obtain, review and utilize any flood data available from a federal, state or other source.
  5. In AO Zones with no elevations specified, shall have the lowest floor, including basement, meet the standards in section 42-470(1).
  6. In AO Zones, shall have adequate drainage paths around structures on slopes to guide floodwaters around and away from the structure.
- b. Nonresidential structures.
1. Shall meet the requirements of subsection (b)(8)a.1, a.2, a.5 and a.6 of this section.
  2. Shall either have the lowest floor, including basement, elevated to or above the RFE or, together with



attendant utility and sanitary facilities, shall meet the standards in section 42-382(a) or (b).

3. In AO Zones with no elevations specified, shall have the lowest floor, including basement, meet the standards in section 42-470(1).
- (9) 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 42-412(a), flood-resistant materials are used, and construction practices and floodproofing methods that comply with section 42-382 are used. Repair or rehabilitation of historic structures shall be exempt from the development standards of subsection (b)(8)a of this section 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.

(Ord. No. 12-17, § 6.1, 3-21-2017)

Sec. 42-497. - Floodway District (FW).

- (a) No modification or addition shall be allowed to any nonconforming structure or any structure with a nonconforming use in the FW, unless:
- (1) Such modification or addition has been granted a permit or variance which meets all ordinance requirements;
  - (2) Such modification or addition meets the requirements of section 42-496;
  - (3) Such modification or addition shall not increase the obstruction to flood flows or regional flood height;
  - (4) Any addition to the existing structure shall be floodproofed, pursuant to section 42-382, by means other than the use of fill, to the flood protection elevation; and
  - (5) If any part of the foundation below the flood protection elevation is enclosed, the following standards shall apply:
    - a. The enclosed area shall be designed by a registered architect or engineer to allow for the efficient entry and exit of floodwaters without human intervention. A minimum of two openings must be provided with a minimum net area of at least one square inch for every one square foot of the enclosed area. The lowest part of the opening can be no more than 12 inches above the adjacent grade;
    - b. The parts of the foundation located below the flood protection elevation must be constructed of flood-resistant materials;
    - c. Mechanical and utility equipment must be elevated or floodproofed to or above the flood protection elevation; and
    - d. The use must be limited to parking, building access or limited storage.
- (b) No new on-site sewage disposal system, or addition to an existing on-site sewage disposal system, except where an addition has been ordered by a government agency to correct a hazard to public health, shall be allowed in the FW. Any replacement, repair or maintenance of an existing on-site sewage disposal system in a floodway area shall meet the applicable requirements of all municipal ordinances, section 42-382(c) and Wis. Adm. Code ch. SPS 383.
- (c) No new well or modification to an existing well used to obtain potable water shall be allowed in the FW. Any replacement, repair or maintenance of an existing well in the FW shall meet the applicable requirements of all municipal ordinances, section 42-382(c) and Wis. Adm. Code chs. NR 811 and 812.

(Ord. No. 12-17, § 6.2, 3-21-2017)

Sec. 42-498. - Flood fringe District (FF).

- (a) 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 county, and meets the requirements

of section 42-442, except where subsection (b) of this section is applicable.

- (b) Where compliance with the provisions of subsection (a) of this section would result in unnecessary hardship and only where the structure will not be used for human habitation or be associated with high flood damage potential, the board of supervisors of adjustment, using the procedures established in section 42-546, may grant a variance from those provisions of subsection (a) of this section for modifications or additions, using the criteria listed below. Modifications or additions which are protected to elevations lower than the flood protection elevation may be permitted if:
- (1) No floor is allowed below the RFE for residential or commercial structures;
  - (2) Human lives are not endangered;
  - (3) Public facilities, such as water or sewer, shall not be installed;
  - (4) Flood depths shall not exceed two feet;
  - (5) Flood velocities shall not exceed two feet per second; and
  - (6) The structure shall not be used for storage of materials as described in section 42-442(e).
- (c) All new private sewage disposal systems, or addition to, replacement, repair or maintenance of a private sewage disposal system shall meet all the applicable provisions of all local ordinances, section 42-382(c) and Wis. Adm. Code ch. SPS 383.
- (d) All new wells, or addition to, replacement, repair or maintenance of a well shall meet the applicable provisions of this article, section 42-382(c), and Wis. Adm. Code chs. NR 811 and 812.

(Ord. No. 12-17, § 6.3, 3-21-2017)

Secs. 42-499—42-519. - Reserved.

#### DIVISION 6. - LAND USE PERMITS

Sec. 42-520. - When land use permit is required.

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

(Ord. No. 12-17, § 7.1(2)(intro. ¶), 3-21-2017)

Sec. 42-521. - Application.

Application to the zoning administrator shall include:

- (1) *General information.* Name and address of the applicant, property owner and contractor and a legal description, proposed use, and whether it is new construction or a modification;
- (2) *Site development plan.* A site plan drawn to scale shall be submitted with the permit application form and shall contain:
  - a. Location, dimensions, area and elevation of the lot;
  - b. Location of the ordinary high-water mark of any abutting navigable waterways;
  - c. Location of any structures with distances measured from the lot lines and street center lines;
  - d. Location of any existing or proposed on-site sewage systems or private water supply systems;
  - e. Location and elevation of existing or future access roads;
  - f. Location of floodplain and floodway limits as determined from the official floodplain zoning maps;

- g. The elevation of the lowest floor of proposed buildings and any fill using NGVD;
  - h. Data sufficient to determine the RFE in NGVD at the location of the development and to determine whether or not the requirements of divisions 3 and 4 of this article are met; and
  - i. Data to determine if the proposed development will cause an obstruction to flow or an increase in regional flood height or discharge according to section 42-378. This may include any of the information noted in section 42-412(a).
- (3) *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 DNR.
- a. *Zone A floodplains.*
    - 1. *Hydrology.* The appropriate method shall be based on the standards in Wis. Adm. Code § NR 116.07(3), hydrologic analysis: determination of regional flood discharge.
    - 2. *Hydraulic modeling.* The RFE shall be based on the standards in Wis. Adm. Code § NR 116.07(4), 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-foot contour data in the overbanks shall be used for the development of cross section overbank and floodplain mapping.
      - (iv) A maximum distance of 500 feet between cross sections is allowed in developed areas with additional intermediate cross sections required at transitions in channel bottom slope including a survey of the channel at each location.
      - (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 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 limit of the difference in the existing and proposed flood profiles in order to provide a tie-in to existing studies. The height difference between the proposed flood profile and the existing study profiles shall be no more than 0.00 feet.
    - 3. *Mapping.* A work map of the reach studied shall be provided, showing all cross-section locations, floodway/floodplain limits based on best available topographic data, geographic limits of the proposed development and whether the proposed development is located in the floodway.
      - (i) If the proposed development is located outside of the floodway, then it is determined to have no impact on the RFE.
      - (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.

b. *Zone AE floodplains.*

1. *Hydrology.* If the proposed hydrology will change the existing study, the appropriate method to be used shall be based on Wis. Adm. Code § NR 116.07(3), hydrologic analysis: determination of regional flood discharge.
2. *Hydraulic model.* The RFE shall be based on the standards in Wis. Adm. Code § NR 116.07(4),
3. *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 profiles 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 manmade physical changes since the effective model date, but shall import the model into the most current version of HEC-RAS for DNR 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 top widths computed by the revised models matching those in the effective models upstream and downstream of the revised reach as required. The effective model shall not be truncated.
4. *Mapping.* Maps and associated engineering data shall be submitted to DNR 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 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 and 0.2 percent annual chance floodplains and floodway boundaries.
  - (iv) If an annotated FIRM 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 and 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.

(Ord. No. 12-17, § 7.1(2)(a)—(c), 3-21-2017)

Sec. 42-522. - Expiration.

All permits issued under the authority of this article shall expire no more than 180 days after issuance. The permit may be extended upon review of the zoning administrator for a maximum of another 180 days if the FIRM and FIS have not changed from the date of issuance.

(Ord. No. 12-17, § 7.1(3), 3-21-2017)

Sec. 42-523. - Certificate of compliance.

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

- (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 article;
- (2) Application for such certificate shall be concurrent with the application for a permit;
- (3) If all ordinance provisions are met, the certificate of compliance shall be issued within ten 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 the requirements of section 42-382 are met.

(Ord. No. 12-17, § 7.1(4), 3-21-2017)

Sec. 42-524. - Other permits.

The applicant must secure all necessary permits from federal, state, and local agencies, including, but not limited to, those required by the U.S. Army Corps of Engineers under section 404 of the federal Water Pollution Control Act, Amendments of 1972, 33 USC 1344.

(Ord. No. 12-17, § 7.1(5), 3-21-2017)

Secs. 42-525—42-541. - Reserved.

DIVISION 7. - ADMINISTRATION AND ENFORCEMENT

Sec. 42-542. - Enforcement and penalties.

Any violation of the provisions of this article by any person is unlawful and shall be referred to the municipal attorney who shall expeditiously prosecute all such violators. A violator shall, upon conviction, forfeit to the county a maximum daily penalty of \$50.00, with a taxable cost of such action. Each day of continued violation shall constitute a separate offense. Every violation of this article is a public nuisance, and the creation may be enjoined and the maintenance may be abated by action at suit of the county, the state, or any citizen thereof pursuant to Wis. Stats. § 87.30.

(Ord. No. 12-17, § 9.0, 3-21-2017)

Sec. 42-543. - Enforcement officials authorized.

Where a zoning administrator, planning agency, or a board of adjustment has been appointed to administer a zoning ordinance adopted under Wis. Stats. § 59.69, 59.692 or 62.23(7), these officials shall also administer this article.

(Ord. No. 12-17, § 7.0(intro. ¶), 3-21-2017)

Sec. 42-544. - Zoning administrator.

- (a) The zoning administrator shall be appointed to such position; provided, however, that the secretary of the board of adjustment shall not serve as zoning administrator.
- (b) Powers and duties. The zoning administrator is authorized to administer this article and shall have the following duties and powers:
  - (1) Advise applicants of the ordinance provisions, assist in preparing permit applications and appeals, and ensure that the RFE for the proposed development is shown on all permit applications.
  - (2) Issue permits and inspect properties for compliance with provisions of this article, and issue certificates of compliance where appropriate.
  - (3) Inspect and assess all damaged floodplain structures to determine if substantial damage to the structures has occurred.
  - (4) Keep records of all official actions such as:
    - a. All permits issued, inspections made, and work approved;
    - b. Documentation of certified lowest floor and RFEs;
    - c. Water surface profiles, floodplain zoning maps and ordinances, nonconforming uses and structures including changes, appeals, variances and amendments;
    - d. All substantial damage assessment reports for floodplain structures;
    - e. Floodproofing certificates;
    - f. List of nonconforming structures and uses.
  - (5) Submit copies of the following items to DNR regional office:
    - a. Within ten days of the decision, a copy of any decisions on variances, appeals for map or text interpretations, and map or text amendments;
    - b. Copies of case-by-case analyses, and other required information, including an annual summary floodplain zoning actions taken;
    - c. Copies of substantial damage assessments performed and all related correspondence concerning the assessments.
  - (6) Investigate, prepare reports, and report violations of this article to the municipal zoning agency and attorney for prosecution. Copies of the reports shall also be sent to the DNR regional office.

(7) Submit copies of amendments and biennial reports to the FEMA regional office.

(Ord. No. 12-17, §§ 7.1(1), 7.3(intro. ¶), 3-21-2017)

Sec. 42-545. - Environmental services committee.

The county environmental services committee shall oversee the functions of the office of the zoning administrator and review and advise the county board of supervisors on all proposed amendments to this article, maps and text. The committee shall not grant variances to the terms of the ordinance in place of action by the board of supervisors of adjustment or amend the text or zoning maps in place of official action by the county board of supervisors.

(Ord. No. 12-17, § 7.2, 3-21-2017)

Sec. 42-546. - Board of adjustment.

- (a) *Generally.* The board of adjustment created by the county pursuant to Wis. Stats. § 59.694 is authorized or shall be appointed to act for the purposes of this article. The board shall exercise the powers conferred by this Code and state law and adopt rules for the conduct of business. The board of adjustment shall hear and decide:
- (1) Appeals where it is alleged there is an error in any order, requirement, decision or determination made by an administrative official in the enforcement or administration of this article;
  - (2) Boundary disputes concerning the district boundaries shown on the official floodplain zoning map;
  - (3) Variances, when brought by appeal, from zoning and other land use regulations; and
  - (4) Permit denials, when brought by appeal for denial of permits under this article.
- (b) *Appeals.* Appeals to the board may be taken by any person aggrieved, or by any officer or department of the county affected by any decision of the zoning administrator or other administrative officer. Such appeal shall be taken within 30 days unless otherwise provided by the rules of the board, by filing with the official whose decision is in question, and with the board, a notice of appeal specifying the reasons for the appeal. The official whose decision is in question shall transmit to the board all records regarding the matter appealed.
- (1) *Notice and hearing for appeals including variances.*
    - a. *Notice.* The board shall fix a reasonable time for the hearing and publish adequate notice pursuant to state law specifying the date, time, place and subject of the hearing. The board shall also assure that notice shall be mailed to the parties in interest and DNR regional office at least ten days in advance of the hearing.
    - b. *Hearing.* Any party may appear in person or by agent or attorney. The board shall resolve boundary disputes according to subsection (c) of this section, decide variance applications according to subsection (d) of this section, and decide appeals of permit denials according to subsection (e) of this section.
  - (2) *Decision.* The final decision regarding the appeal or variance application shall:
    - a. Be made within a reasonable time;
    - b. Be sent to the DNR regional office within ten days of the decision;
    - c. Be a written determination signed by the chairperson or secretary of the board of adjustment;
    - d. State the specific facts which are the basis for the decision of the board of supervisor decision;
    - e. Either affirm, reverse, vary or modify the order, requirement, decision or determination appealed, in whole or in part, dismiss the appeal for lack of jurisdiction or grant or deny the variance application; and
    - f. Include the reasons for granting an appeal, describing the hardship demonstrated by the applicant in the case of a variance, clearly stated in the recorded minutes of the board of adjustment proceedings.
- (c) *Boundary disputes.* The following procedure shall be used by the board of adjustment in hearing disputes concerning

floodplain district boundaries:

- (1) If a floodplain district boundary is established by approximate or detailed floodplain studies, the flood elevations or profiles shall prevail in locating the boundary. If none exist, other evidence may be examined.
- (2) The person contesting the boundary location shall be given a reasonable opportunity to present arguments and technical evidence to the board of adjustment.
- (3) If the boundary is incorrectly mapped, the board of adjustment should inform the zoning committee or the person contesting the boundary location to petition the county board of adjustment for a map amendment according to section 42-571.

(d) *Variances.*

- (1) The board may, upon appeal, grant a variance from the standards of this article if an applicant convincingly demonstrates that:
  - a. Literal enforcement of the ordinance provisions will cause unnecessary hardship;
  - b. The hardship is due to adoption of the floodplain ordinance and unique property conditions, not common to adjacent lots or premises. In such case the ordinance or map must be amended;
  - c. The variance is not contrary to the public interest; and
  - d. The variance is consistent with the purpose of this article in section 42-364.
- (2) In addition to the criteria in subsection (d)(1) of this section, to qualify for a variance under FEMA regulations, the following criteria must be met:
  - a. The variance shall not cause any increase in the RFE;
  - b. Variances can only be granted for lots that are less than one-half acre and are contiguous to existing structures constructed below the RFE; and
  - c. Variances shall only be granted upon a showing of good and sufficient cause, shall be the minimum relief necessary, shall not cause increased risks to public safety or nuisances, shall not increase costs for rescue and relief efforts and shall not be contrary to the purpose of this article.
- (3) A variance shall not:
  - a. Grant, extend or increase any use prohibited in the zoning district;
  - b. Be granted for a hardship based solely on an economic gain or loss;
  - c. Be granted for a hardship which is self-created;
  - d. Damage the rights or property values of other persons in the area;
  - e. Allow actions without the amendments to this article or maps required in division 8 of this article; or
  - f. Allow any alteration of an historic structure, including its use, which would preclude its continued designation as an historic structure.
- (4) When a floodplain variance is granted the board of adjustment shall notify the applicant in writing of risks to life and property and that flood insurance premiums could increase up to \$25.00 per \$100.00 of coverage. A copy shall be maintained with the variance record.

(e) *Permit denials.*

- (1) The board shall review all data related to the appeal. This may include:
  - a. Permit application data listed in section 42-521;
  - b. Floodway/flood fringe determination data in section 42-471;
  - c. Data listed in section 42-412(a)(2)b where the applicant has not submitted this information to the zoning administrator; and



- d. Other data submitted with the application, or submitted to the board of adjustment with the appeal.
- (2) For appeals of all denied permits, the board of adjustment shall:
- a. Follow the procedures of this section;
  - b. Consider zoning agency recommendations; and
  - c. Either uphold the denial or grant the appeal.
- (3) For appeals concerning increases in RFE, the board of adjustment shall:
- a. Uphold the denial where the board of adjustment agrees with the data showing an increase in flood elevation. Increases may only be allowed after amending the flood profile and map and all appropriate legal arrangements are made with all adversely affected property owners as per the requirements of section 42-571; and
  - b. Grant the appeal where the board of adjustment agrees that the data properly demonstrates that the project does not cause an increase provided no other reasons for denial exist.

(Ord. No. 12-17, §§ 7.3(intro. ¶), (1)—(4), 7.4, 3-21-2017)

Secs. 42-547—42-570. - Reserved.

#### DIVISION 8. - AMENDMENTS

Sec. 42-571. - When required and permitted.

- (a) Obstructions or increases may only be permitted if amendments are made to this article, the official floodplain zoning maps, floodway lines and water surface profiles, in accordance with section 42-573.
- (b) 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 article, the official floodplain zoning maps, floodway lines and water surface profiles, in accordance with section 42-573(a). Any such alterations must be reviewed and approved by FEMA and the DNR.
- (c) In A Zones increases equal to or greater than 1.0 foot may only be permitted if the applicant receives a conditional letter of map revision from FEMA and amendments are made to this article, the official floodplain maps, floodway lines, and water surface profiles, in accordance with section 42-572.

(Ord. No. 12-17, § 8.0(intro. ¶), 3-21-2017)

Sec. 42-572. - Scope.

The county board of supervisors may change or supplement the floodplain zoning district boundaries and this article in the manner outlined in section 42-573. Actions which require an amendment to the ordinance or submittal of a LOMC include, but are not limited to, the following:

- (1) Any fill or floodway encroachment that obstructs flow causing any increase in the regional flood height;
- (2) Any change to the floodplain boundaries or watercourse alterations on the FIRM;
- (3) 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;
- (4) Correction of discrepancies between the water surface profiles and floodplain maps;
- (5) Any upgrade to this article text required by Wis. Adm. Code § NR 116.05, or otherwise required by law, or for changes by the county;

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

(7) Any changes to any other officially adopted floodplain maps.

(Ord. No. 12-17, § 8.1, 3-21-2017)

Sec. 42-573. - Procedure.

- (a) Ordinance amendments may be made upon petition of any interested party according to the provisions of Wis. Stats. § 59.69. The petitions shall include all data required by section 42-471. The land use permit shall not be issued until a LOMR is issued by FEMA for the proposed changes.
- (b) The proposed amendment shall be referred to the environmental services committee for a public hearing and recommendation to the county board of supervisors. The amendment and notice of public hearing shall be submitted to the DNR regional office for review prior to the hearing. The amendment procedure shall comply with the provisions of Wis. Stats. § 59.69.
- (c) No amendments shall become effective until reviewed and approved by the DNR.
- (d) All persons petitioning for a map amendment that obstructs flow, causing any increase in the regional flood height, shall obtain flooding easements or other appropriate legal arrangements from all adversely affected property owners and notify local units of government before the amendment can be approved by the county board of supervisors.

(Ord. No. 12-17, § 8.2, 3-21-2017)

Secs. 42-574—42-594. - Reserved.

DIVISION 9. - SUPPORTING DOCUMENTATION

Sec. 42-595. - Studies.

The following studies are supportive of the regulatory provisions set forth in this article:

- Atlas Feed Mill Dam Hydraulic Map, dated September 1992, prepared by Ayres Associates, Approved by: DNR.
- Lower Balsam Lake Dam Hydraulic Map, dated July 2000, prepared by Ayres Associates, Approved by: DNR.
- Kennedy Dam Hydraulic Map, dated February 2003, prepared by SEH, Short Elliott Hendrickson, Inc., Approved by: DNR.
- Skinaway Lake Dam Hydraulic Map, dated January 2000, prepared by Cooper Engineering Company, Inc., Approved by: DNR.
- Long Lake Regional Flood Elevation, dated April 10, 2003, prepared by DNR of Natural Resources, Approved by: DNR.
- Lotus Lake Regional Flood Elevation, dated July 2, 1996, prepared by J. McCluskey and P. Ries.
- Wapogasset Branch and Wapogasset Lake Regional Flood Elevation, dated April 30, 2002, Prepared by DNR of Natural Resources, Approved by DNR.
- Bohn Dam, Dam Failure Analysis Maps, dated February 21, 2012, prepared by Cooper Engineering.
- Godfrey Lake, Dam Failure Analysis Maps, dated April 1995, prepared by Ayres Associates, Approved by: DNR.
- St. Croix River, St. Croix Falls Dam Failure Analysis Maps, dated January 2013, prepared by Ayres Associates, Approved by: DNR.
- Big Rock Creek Farm Dam Failure Analysis Maps, dated November 22, 1994, prepared by Barr Engineering, Approved

by: DNR.

- Lower Balsam Lake Dam Failure Analysis Maps (restudy), dated September 2011, prepared by Ayres Associates, Approved by: DNR.
- Clam River, Clam Falls Dam Failure Analysis Maps, dated July 19, 2016, prepared by Rick Voigt of Voigt Consultants, LLC, Approved by: DNR.
- North Branch Beaver Creek, Joel Marsh Dam Failure Analysis, dated September 2005, prepared by Northern Environmental, Approved by: DNR.

(Ord. No. 12-17, app. A, 3-21-2017)

Sec. 42-596. - Amendments.

The provisions of this article were originally adopted in June 1990 and have been subsequently amended as follows:

Amendments Chart

1990, June	County Floodplain Ordinance adopted
1991, June	Largon Lake RFE (RFE) at 1,246.7 feet mean sea level (MSL)
1993, February	Atlas Feed Mill Hydraulic Map — amended Flood Insurance Study (FIS) maps with corresponding profiles in the FIS, dated June 4, 1990
	Sand Lake (Section 2/T33N/R18W) RFE at 1124 feet MSL
2001, March	Clam Falls Flowage RFE at 1,029.4 feet National Geodetic Vertical Datum (NGVD-29)
	Big Butternut Lake RFE at 1,215.4 feet (NGVD-29)
	Little Butternut Lake RFE at 1,210.3 feet (NGVD-29)
	Lower & Upper White Ash Lake RFE at 1,123.08 feet USGS (US Geological Survey)
2002, October	Balsam Branch floodplain map & Balsam Branch floodplain data table from Kennedy Dam to Lake Wapogasset
2010, March	Lower Balsam Lake Dam Hydraulic Shadow map dated November 2002
2013, January	Dam Failure Analysis for Bohn Dam, DNR approval September 13, 2012

2013, October	Dam Failure Analysis for Godfrey Lake Dam, DNR approval July 11, 1995
2015, September	Dam Failure Analysis for St. Croix Falls Dam, on the St. Croix River, DNR approval August 8, 2013
2015, December	Dam Failure Analysis for Big Rock Creek Farm Dam, DNR approval November 22, 1994
2015, December	Dam Failure Analysis for Lower Balsam Lake Dam (restudy), DNR approval March 7, 2012
2016, October	Dam Failure Analysis for Clam Falls Dam, DNR approval July 19, 2016
2017, February	Dam Failure Analysis for Joel Marsh Dam, DNR approval September 2005

(Ord. No. 12-17, app. B, 3-21-2017)

Secs. 42-597—42-625. - Reserved.

#### ARTICLE V. - LOWER ST. CROIX RIVERWAY

*Footnotes:*

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**State Law reference**— *Lower St. Croix River preservation, Wis. Stats. § 30.27.*

#### DIVISION 1. - GENERALLY

Sec. 42-626. - Authority; administrator; purpose and intent.

- (a) This article is enacted pursuant to the authority granted by Wis. Stats. § 30.27 and Wis. Adm. Code ch. NR 118. The county zoning administrator shall administer this article pursuant to Wis. Stats. § 59.69.
- (b) The purpose of this article is to promote the public health, safety, and general welfare of the public by:
  - (1) Reducing the adverse effects of overcrowding and poorly planned shoreline and bluff area development.
  - (2) Preventing soil erosion and pollution and contamination of surface water and groundwater.
  - (3) Providing sufficient space on lots for sanitary facilities.
  - (4) Minimizing flood damage.
  - (5) Maintaining property values.
  - (6) Preserving and maintaining the exceptional scenic, cultural, and natural characteristics of the water and related land

of the Lower St. Croix Riverway in a manner consistent with the Wild and Scenic Rivers Act, 16 USC 1271 through 1287, 16 USC 1274(a)(9) (part of the federal Lower St. Croix River Act of 1972) and Wis. Stats. § 30.27.

(Ord. No. 72-18, arts. A(2), B(1), 8-21-2018)

Sec. 42-627. - Boundaries.

- (a) The Lower St. Croix Riverway regulations represent an overlay zoning district. This article applies in addition to other regulations that may fall within the riverway district boundary, including, without limitation, the county comprehensive land use regulations and the county shoreland and floodplain regulations.
- (b) This article applies to all unincorporated land in the federal zones of the riverway district of the county. The boundaries of the riverway district are shown in subsection (d) of this section and are found in the Code of Federal Regulations. The same boundaries are shown on the map identified as the Lower St. Croix National Scenic Riverway Map, which is on file in the office of the zoning department. The legal description and maps referred to above are made a part of this article.
- (c) Within the unincorporated lands of the county, the riverway district falls under the conservation management zone as defined in Wis. Adm. Code § NR 118.04. The conservation management zone is primarily natural and mostly wooded, with some single-family residential uses. Shoreline areas are natural and do not contain residential lawns. The conservation management zone is established in both of the following locations:
  - (1) In an area bounded on the north by the south boundary of Wisconsin Interstate State Park and on the south by the north corporate boundary of the Village of Osceola, Wisconsin, as they existed January 1, 1976.
  - (2) In an area bounded on the north by the south corporate boundary of the Village of Osceola, Wisconsin, as they existed on January 1, 1976, and on the south by the south boundary of the county.
- (d) Legal description of boundary. All of the boundary in the county is part of the federal boundary.

Township 32 North, Range 19 West.

Sec. 5: That portion of Government Lot 1 lying North and West of the following described line: beginning at the northeast corner of the Lot 1; thence, Southwesterly, to a point, the point being 330 feet North and 660 feet East of the southwest corner of the Lot 1; thence, South, 330 feet to the south line of the Lot 1; all of Government Lots 2 and 3, the N $\frac{1}{2}$  NW $\frac{1}{4}$  SW $\frac{1}{4}$  NE $\frac{1}{4}$ , the N $\frac{1}{2}$  N $\frac{1}{2}$  SE $\frac{1}{4}$  NW $\frac{1}{4}$ , all that part of the NW $\frac{1}{4}$  NW $\frac{1}{4}$  SW $\frac{1}{4}$  lying westerly of the easterly right-of-way line of the Canadian National Railway, the W $\frac{1}{2}$  SW $\frac{1}{4}$  NW $\frac{1}{4}$  SW $\frac{1}{4}$ , and the W $\frac{1}{2}$  W $\frac{1}{2}$  SW $\frac{1}{4}$  SW $\frac{1}{4}$ .

Sec. 6: Government Lots 5, 6, and 7 and the SE $\frac{1}{4}$  SE $\frac{1}{4}$ .

Sec. 7: Government Lots 1, 2, and 3.

Sec. 8: Government Lot 1, the W $\frac{1}{2}$  W $\frac{1}{2}$  NW $\frac{1}{4}$  NW $\frac{1}{4}$ , the W $\frac{1}{2}$  NW $\frac{1}{4}$  SW $\frac{1}{4}$  NW $\frac{1}{4}$ , the S $\frac{1}{2}$  SW $\frac{1}{4}$  NW $\frac{1}{4}$ , the W $\frac{1}{2}$  SW $\frac{1}{4}$  NE $\frac{1}{4}$  SW $\frac{1}{4}$ , the NW $\frac{1}{4}$  SW $\frac{1}{4}$ , and the W $\frac{1}{2}$  NW $\frac{1}{4}$  SE $\frac{1}{4}$  SW $\frac{1}{4}$ .

Sec. 17: Government Lots 1, 2, and 3, the W $\frac{1}{2}$  SW $\frac{1}{4}$  SW $\frac{1}{4}$ , and the W $\frac{1}{2}$  E $\frac{1}{2}$  SW $\frac{1}{4}$  SW $\frac{1}{4}$ .

Sec. 18: Government Lot 1.

Sec. 19: Government Lots 1, 2, 3, and 4.

Sec. 20: The W $\frac{1}{2}$  NW $\frac{1}{4}$  NW $\frac{1}{4}$ , W $\frac{1}{2}$  E $\frac{1}{2}$  NW $\frac{1}{4}$  NW $\frac{1}{4}$ , W $\frac{1}{2}$  NE $\frac{1}{4}$  SW $\frac{1}{4}$  NW $\frac{1}{4}$ , NW $\frac{1}{4}$  SW $\frac{1}{4}$  NW $\frac{1}{4}$ , S $\frac{1}{2}$  SW $\frac{1}{4}$  NW $\frac{1}{4}$ , SW $\frac{1}{4}$  SE $\frac{1}{4}$  NW $\frac{1}{4}$ , W $\frac{1}{2}$  SW $\frac{1}{4}$ , and the W $\frac{1}{2}$  E $\frac{1}{2}$  SW $\frac{1}{4}$ .

Sec. 29: Government Lot 1, SW $\frac{1}{4}$  NW $\frac{1}{4}$  NE $\frac{1}{4}$ , W $\frac{1}{2}$  SW $\frac{1}{4}$  NE $\frac{1}{4}$ , NW $\frac{1}{4}$ , N $\frac{1}{2}$  SW $\frac{1}{4}$ , SE $\frac{1}{4}$  SW $\frac{1}{4}$ , and the W $\frac{1}{2}$  W $\frac{1}{2}$  SE $\frac{1}{4}$ .

Sec. 30: Government Lots 1, 2, and 3.

Sec. 31: SE $\frac{1}{4}$  SE $\frac{1}{4}$  (Government Lot 5).

Sec. 32: Government Lots 1, 2, and 3, that portion of Government Lot 4 lying North and West of the centerline of a county Road,  $W\frac{1}{2} W\frac{1}{2} NE\frac{1}{4}$ ,  $E\frac{1}{2} NW\frac{1}{4}$ , that portion of the  $E\frac{1}{2} SW\frac{1}{4}$  lying North and West of the following described line: commencing at the northeast corner  $E\frac{1}{2} SW\frac{1}{4}$ ; thence, South, along the east line  $E\frac{1}{2} SW\frac{1}{4}$ , 875 feet, more or less, to the point of intersection of the east line with the centerline of a county Road, the point being the point of beginning; thence, southwesterly, to a point on the west line  $E\frac{1}{2} SW\frac{1}{4}$ , the point being the intersection of the west line with the centerline of a county Road, that portion of the  $W\frac{1}{2} NW\frac{1}{4} SE\frac{1}{4}$ , lying north and west of the centerline of a county Road.

Township 33 North, Range 19 West

Sec. 10: Government Lots 5, 6, and 7.

Sec. 11: Government Lots 2 and 3,  $W\frac{1}{2} W\frac{1}{2} NW\frac{1}{4} NE\frac{1}{4}$ ,  $W\frac{1}{2} W\frac{1}{2} SW\frac{1}{4} NE\frac{1}{4}$ ,  $SE\frac{1}{4} NW\frac{1}{4}$  and the  $SW\frac{1}{4}$ .

Sec. 14:  $N\frac{1}{2} NE\frac{1}{4} NW\frac{1}{4}$  and the  $W\frac{1}{2} W\frac{1}{2} SW\frac{1}{4}$ .

Sec. 15: Government Lots 1, 2, 3, 4 and 5 and the  $SE\frac{1}{4} NE\frac{1}{4}$ .

Sec. 22: That portion of Government Lots 1 and 2 lying west of the centerline of State Highway 35, all of Government Lots 3 and 4.

Sec. 28: That portion of Government Lots 5 and 6 and the  $SE\frac{1}{4}$ ,  $SE\frac{1}{4}$ , lying North and West of the centerline of a county road.

Sec. 32: That portion of Government Lot 4 lying north and west of a line described as follows: beginning at a point on the south line of the Lot 4, the point being 1,320 feet west of the southeast corner of the Lot 4: thence, Northeasterly, 2,150 feet more or less, to a point on the east line of the Lot 4, the point being 1700 feet North of the southeast corner of the Lot 4.

Sec. 33: That portion of Government Lot 2 lying north and west of a line described as follows: beginning at the northwest corner  $NE\frac{1}{4} SW\frac{1}{4}$  of the Section 33; thence, west, 99 feet; thence, south 34 degrees 20' west, 388.1 feet; thence, south 87 degrees 00' west, 170 feet; thence, southwesterly to a point on the west line of the Lot 2, the point being 1,700 feet north of the southwest corner of the Section 33, that portion of Government Lots 3 and 4 lying north and west of the centerline of a county road.

(Ord. No. 72-18, art. C(1), app. A(1), (2), , 8-21-2018)

Sec. 42-628. - Applicability; interpretation and construction; conflicting provisions.

- (a) No development of land or water shall be implemented and no use, structure or part thereof shall be located, erected, moved, reconstructed, extended, enlarged, converted or structurally altered without full compliance with provisions of this article and all other applicable local, state and federal regulations.
- (b) If any provision of this article conflicts with any provision of any other county ordinances, the more restrictive provision shall apply.
- (c) This article is not intended to repeal, abrogate or impair any existing deed restrictions, covenants or easements. However, where this article imposes greater restrictions, the provisions of this article shall take precedence.
- (d) The provisions of this article shall be liberally construed in favor of the county and shall not be construed to be a limitation or repeal of any other power now possessed or granted to the county.

(Ord. No. 72-18, art. C(2), 8-21-2018)

Sec. 42-629. - Limitation of actions.

Pursuant to Wis. Stats. § 59.69(14), a landowner, occupant or other person affected by this article who claims that this article or an amendment thereof is invalid because procedures prescribed by the statutes or the ordinance were not followed in enacting this article or amendment shall commence a court action within six months after enactment of this article or amendment or be forever barred.

(Ord. No. 72-18, art. C(3), 8-21-2018)

Sec. 42-630. - Definitions.

The following words, terms and phrases, when used in this article, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

*Accessory structure* means a subordinate structure, the use of which is incidental to, customarily found in connection with, and located on the same lot as the principal structure or use of the property. The term "accessory structure" includes, but is not limited to, detached garages, sheds, barns, gazebos, swimming pools, hot tubs, fences, retaining walls, detached stairways and lifts, driveways, parking lots, sidewalks, patios and decks (both detached and attached).

*Accessory use* means a use subordinate to and serving the principal use on the same lot and customarily incidental thereto. It must also be subordinate in area, extent or purpose to the principal building or use served. The term "accessory use" includes, but is not limited to, family daycare, home occupations, and seasonal roadside stands.

*Agriculture* means the use of land for agricultural purposes, including beekeeping; livestock grazing; orchards; raising of grain, grass or seed crops; raising of fruits, nuts or berries; placing land in federal programs in return for payments in kind; owning land, at least 35 acres of which is enrolled in the conservation reserve program under 16 USC 3831 to 3836; and vegetable raising.

*Antenna* means any device or equipment used for the transmission or reception of electromagnetic waves, which may include an omni-directional antenna (rod), a directional antenna (panel) or a parabolic antenna (disc).

*Bed and breakfast operation* means a place of lodging for transient guests that is 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.

*Bluffline* means a line along the top of the slope preservation zone. There can be more than one bluffline.

*Building line* means a line measured across the width of a lot at that point where the principal structure is placed in accordance with setback provisions.

*Camouflage design* means a wireless communication service facility that is disguised, hidden or screened, but remains recognizable as a tower or antenna.

*Compliant building location* means an area on a lot where a building could be located in compliance with all applicable ordinance requirements.

*Conditional use* means a use allowed under a conditional use permit, special exception, or other special zoning permission issued by the county, but does not include a variance. Conditional uses, listed by ordinance, are subject to certain conditions specified in the ordinance or designated by the environmental services committee.

*Diameter at breast height (DBH)* means the width of a tree as measured at 4.5 feet above the ground surface.

*Disabled* means having a physical or mental impairment that substantially limits one or more major life activities.

*Earth-tone* means colors that harmonize with the natural surroundings on the site during leaf on conditions.

*Expansion* means an addition to an existing structure regardless of whether the addition is vertical or horizontal or both.

*Filtered view of the St. Croix River* means a view in which one can see the river through the vegetation, while any structure remains visually inconspicuous.

*Footprint* means the land area covered by a structure at ground level, measured on a horizontal plane. The footprint of a residence includes attached garages and porches, but excludes decks, patios, carports and roof overhangs.

*Foundation* means the underlying base of a building or other structure, including, but not limited to, pillars, footings, and concrete and masonry walls.

*Human habitation* means the use of a building or other structure for human occupancy, including, but not limited to, cooking, eating, bathing and sleeping.

*Land division* means any division of a parcel of land by the owner or the owner's agent, for the purpose of transfer of ownership or building development, which creates one or more parcels or building sites of 20 acres or less.

*Landscape architect* means a person who has graduated with a major in landscape architecture from a college accredited by the American Society of Landscape Architects.

*Lift* means a mechanical device, either temporary or permanent, containing a mobile open top car including hand or guard rails, a track upon which the open top car moves, and a mechanical device to provide power to the open top car.

*Lot* means a contiguous parcel of land with described boundaries.

*Lower St. Croix Riverway or Lower St. Croix National Scenic Riverway* means the area described in Wis. Adm. Code § NR 118.02(1).

*Management zones* means the Lower St. Croix Riverway management zones established in Wis. Adm. Code § NR 118.04.

*Mitigation* means action taken to minimize the adverse impacts of development. The term "mitigation" includes, but is not limited to, the installation of vegetative buffers, the removal of nonconforming structures from the shore land setback area, and the implementation of best management practices for erosion control and stormwater management.

*Net project area* means developable land area minus slope preservation zones, floodplains, road rights-of-way, and wetlands.

*Nonconforming structure* means a building or other structure whose location, dimensions or other physical characteristics do not conform to the standards of this article but which was legally constructed or placed in its current location prior to the enactment of the ordinance from which this article is derived or its amendment that made it nonconforming.

*Nonconforming use* means any use that does not conform to the land use restrictions in this article, but which was legally established prior to the enactment of this article or its amendment that made it nonconforming.

*Ordinary high-water mark (OHWM)* means the point on the bank or shore up to which the presence and action of surface water is so continuous as to leave a distinctive mark such as by erosion, destruction or prevention of terrestrial vegetation, predominance of aquatic vegetation, or other easily recognized characteristic. When the bank or shore at any particular place is of such character that is difficult or impossible to ascertain where the point of OHWM is, recourse may be had to the opposite bank of a stream or to other places on the shore of a lake or flowage to determine where a given stage of water is above or below the OHWM.

*Ordinary maintenance and repair* means any work done on a nonconforming structure that does not constitute expansion, structural alteration or reconstruction and does not involve the replacement, alteration or improvement of any portion of the structure's foundation.

*Porch* means a building walkway with a roof over it, providing access to a building entrance.

*Principal structure* means the main building or other structure on a lot that is utilized for the property's principal use. The term "principal structure" includes attached garages and porches.



*Reasonable accommodation* means allowing a disabled person to deviate from the strict requirements of the county's zoning regulations if an accommodation is necessary and reasonable, in order not to unlawfully discriminate against the disabled person and to allow them equal housing opportunity.

*Reconstruction* means the replacement of all, or substantially all, of the components of a structure other than the foundation.

*River* means the Lower St. Croix River as defined in this article and the statutes and administrative rules cited in this article.

*Selection cut* means the removal of selected trees throughout the range of merchantable sizes at regular intervals, either singly or in small groups, leaving a uniformly distributed stocking of desirable tree and shrub size classes.

*Setback* means the minimum horizontal distance between a structure and the OHWM, bluffline, side and rear lot lines, and roads.

*Shelterwood cut* means a partial removal of mature trees leaving trees of desirable species and form to provide shade, seed source and a desirable seedbed for natural regeneration with the final removal of the overstory after adequate regeneration is established.

*Single-family residence* means a detached structure used for human habitation for one family.

*Slope preservation zone* means the area riverward from the bluff line where the slope toward the river is 12 percent or more, as measured horizontally for a distance of not more than 50 feet or less than 25 feet.

*Small regeneration cut* means a harvest of not more than one-third of the contiguous forested ownership within a ten-year period with each opening not exceeding six acres in size and not closer than 75 feet at their closest points.

*Stealth design* means a wireless communication service facility that models or mimics in size or shape and color something in the surrounding landscape, such as silos in farm settings and trees in forested lands, and is unrecognizable year round as an antenna or antenna mount.

*Structural alteration* means the replacement or alteration of one or more of the structural components of any of a nonconforming structure's exterior walls.

*Structural component* means any part of the framework of a building or other structure. The structural components of a building's exterior walls include the vertical studs, top and bottom plates, and window and doorsills and headers. A structural component may be non-loadbearing, such as the framework of a wall at the gable end of a one-story house. The term "structural alteration" does not include wall coverings, such as siding on the exterior and dry wall on the interior.

*Structural erosion control measure* means a retaining wall or other manmade structure whose primary function is to control erosion.

*Structure* means any manmade object with form, shape and utility that is constructed or otherwise erected, attached to or permanently or temporarily placed, either upon the ground, a riverbed, stream bed or lakebed or upon another structure. The term "structure" includes swimming pools, hot tubs, patios, decks and retaining walls, but does not include landscaping or earthwork such as graded areas, filled areas, ditches, berms or earthen terraces. The term "structure" does not include small objects that are easily moved by hand, such as lawn chairs, portable grills, portable picnic tables, bird feeders, birdhouses and birdbaths.

*Substandard lot* means a lot with dimensions that do not conform to the requirements of this chapter.

*Transmission services* means electric power lines, telephone and telegraph lines, communication towers, cables, sewage lift stations, sewer and water pipes, and other pipes, conduits and accessory structures that are used to transport power, convey information or transport material between two points, other than wireless communication service facilities.

*Visually inconspicuous* means difficult to see, or not readily noticeable, in summer months as viewed from at or near the mid-line of the Lower St. Croix River.

*Wetland* means an area where water is at, near, or above the land surface long enough to be capable of supporting aquatic or hydrophytic vegetation and which has soils indicative of wet conditions.

*Wireless communication service facilities* means hardware that provides wireless communication services including antennas, towers, all associated equipment, and buildings and other structures.

(Ord. No. 72-18, art. D(2), 8-21-2018)

Secs. 42-631—42-648. - Reserved.

## DIVISION 2. - LAND USES AND STRUCTURES

Sec. 42-649. - Allowed uses and structures.

The following uses are allowed in the riverway district without a permit:

- (1) Nonstructural conservancy and open space uses associated with maintaining the value of certain lands for natural areas, scenic preservation, recreation, wildlife management, water and soil conservation and other such purposes.
- (2) Nonstructural agricultural and forestry uses, including silviculture in compliance with Wis. Adm. Code § NR 118.06(6).
- (3) Routine pruning of trees and shrubs to improve their health and vigor, provide a filtered view of the Lower St. Croix River and prevent property damage.

(Ord. No. 72-18, art. E(1), 8-21-2018)

Sec. 42-650. - Permitted uses and structures.

The following uses and structures are allowed in the riverway district subject to the standards in the current the county shoreland zoning regulations and with a land use permit from the county zoning administrator:

- (1) Single-family residence and accessory uses and structures.
- (2) Public parks, areas devoted to natural resource management and interpretation, waysides, rest areas, information areas, and scenic overlooks.
- (3) Governmental structures used as information centers or for resource management to improve the fish and wildlife habitat, provided that they meet all other provisions of this article.
- (4) Filling and grading less than 10,000 square feet outside of the slope preservation zone and greater than 40 feet from the slope preservation zone.
- (5) Signs.
- (6) Structural erosion control measures constructed outside of slope preservation zones.
- (7) Rock riprap and other shoreline protection measures above the OHWM.
- (8) Vegetation removal as per article III of this chapter, including removing trees that pose an imminent safety hazard to persons or structures within 35 feet of the OHWM.
- (9) Accessory structures.

(Ord. No. 72-18, art. E(2), 8-21-2018)

Sec. 42-651. - Conditional uses and structures.

The following uses and structures are allowed in the riverway district with a conditional use permit subject to the standards in section 42-308(d) and approval by the county environmental services committee:

- (1) Land divisions.
- (2) Wireless communication service and other transmission facilities consistent with the provisions of the county telecommunication towers and related facilities ordinance.
- (3) Filling and grading less than 10,000 square feet in slope preservation zones that do not directly face the river and do not drain directly to the river.
- (4) Filling and grading within 40 feet of a slope preservation zone.
- (5) Filling and grading 10,000 square feet or more outside of the slope preservation zone.
- (6) Structural erosion control measures in slope preservation zones.
- (7) Stairways and lifts.
- (8) Public and private roads serving two or more properties or single-family residences.
- (9) Bed and breakfast operations.
- (10) Home occupations per section 42-239.
- (11) Private, non-profit, nature-oriented educational facilities.

(Ord. No. 72-18, art. E(3), 8-21-2018)

Sec. 42-652. - Prohibited uses.

Within the riverway district, all uses or structures not listed as allowed, permitted, or conditional uses are prohibited.

(Ord. No. 72-18, art. E(4), 8-21-2018)

Sec. 42-653. - Minimum lot size.

- (a) The minimum lot size shall be governed by the base-zoning district.
- (b) Minimum net project area for each lot shall be at least one acre.
- (c) If the lot is not served by a public sewer or community system, the lot shall have adequate room for one single-family residence and two private on-site waste treatment systems.

(Ord. No. 72-18, art. F(1), 8-21-2018)

Secs. 42-654—42-679. - Reserved.

DIVISION 3. - DESIGN AND PERFORMANCE STANDARDS

Sec. 42-680. - Minimum lot width.

The minimum lot width shall be 250 feet measured at the building line and at the side of the lot nearest the river.

(Ord. No. 72-18, art. F(2), 8-21-2018)

Sec. 42-681. - Density standards.

There may be no more than one principal structure on each parcel.

(Ord. No. 72-18, art. F(3), 8-21-2018)

Sec. 42-682. - Structure height.

The maximum structure height shall be measured between the average ground elevation and the uppermost point of the structure, excluding chimneys.

- (1) The maximum height for principal structures in the conservation management zone shall be 25 feet.
- (2) The maximum height for accessory structure shall be 25 feet.
- (3) Wireless communication service and other transmission facilities must meet the requirements consistent with the county telecommunication towers and related facilities regulations.

(Ord. No. 72-18, art. F(4), 8-21-2018)

Sec. 42-683. - Structure setbacks.

- (a) All setbacks shall be measured on a horizontal plane from the roof overhang and any cantilevered portions of the structure at the point of the structure that is nearest the OHWM, bluffline, or property line.
- (b) All structures except docks, piers, wharves, structural erosion control measures, stairways, and lifts shall meet the following:
  - (1) OHWM setback: At least 200 feet.
  - (2) Bluffline setback: At least 200 feet. Structures that do not meet the setback may be permitted within the bluffline setback area if they are set back at least 40 feet from the bluffline and meet the following standards:
    - a. The structure does not protrude above the bluffline as viewed from at or near the mid-line of the river or from 250 feet riverward from the OHWM whichever is less.
    - b. The structure is not located in a slope preservation zone.
    - c. The structure utilizes building materials that are earth tone in color and of a non-reflective nature, except that windows may be made of ordinary window glass or non-reflective glass, but may not be made of glass designed to reflect more light than ordinary window glass.
    - d. The structure is visually inconspicuous.
  - (3) Side yard setback: At least 25 feet from all exterior lot lines.
  - (4) Road setbacks.
    - a. The setback from any state or federal highway shall be 110 feet from the centerline of the highway or 50 feet from the right-of-way (ROW), whichever is greater.
    - b. The setback from any county highway shall be 75 feet from the centerline of the highway or 42 feet from the ROW, whichever is greater.
    - c. The setback from any town road, public street, highway, or private road shall be 63 feet from the centerline of the road or 30 feet from the ROW, whichever is greater or as required by the county subdivision regulations.
- (c) Dimensional standards summary. The following table summarizes the dimensional standards set forth in this section.

Dimensional Standards Summary

	Riparian	Non Riparian

Lot size, minimum	60,000 square feet	1 acre
Net project area, minimum	1 acre + room for 1 single-family residence and 2 POWTS	1 acre + room for 1 single-family residence and 2 POWTS
Lot density, maximum	1 single-family residence/lot	1 single-family residence/lot
Lot width at building line, riverward	250 feet	250 feet
Height, principal structure	25 feet	25 feet
Height, accessory structure	25 feet	25 feet
OHWB setback	200 feet	200 feet
Bluffline setback	200 feet, 40 feet with performance standards	200 feet, 40 feet with performance standards
Sideyard setback	25 feet	25 feet
Road setback: town county	63 feet from centerline or 30 feet from ROW 75 feet from centerline or 42 feet from ROW	63 feet from centerline or 30 feet from ROW 75 feet from centerline or 42 feet from ROW

(Ord. No. 72-18, art. F(5), 8-21-2018)

Sec. 42-684. - Structure color.

All new, expanded, or reconstructed structures shall be earth tone in color. Structures designated as historic buildings on local, state, or national historic registers shall either be earth tone in color or colored appropriate to the period in history for which they are designated.

(Ord. No. 72-18, art. G(1), 8-21-2018)

Sec. 42-685. - Signs.

Signs are allowed with a land use permit and if one or more of the following standards are met:

- (1) The sign is approved by state or local government and is necessary for public health or safety.
- (2) The sign indicates areas that are available or not available for public use.
- (3) The sign is not visible from the river and is otherwise lawful.

(Ord. No. 72-18, art. G(2), 8-21-2018)

Sec. 42-686. - Structural erosion control.

- (a) Except for rock riprap and structural erosion control measures above, the OHWM and within the OHWM setback area and line setback area are allowed with a land use permit if the following standards are met:
  - (1) The structural erosion control measure is constructed outside of the slope preservation zone.
  - (2) The county board of supervisors determines that structural erosion control measures are necessary to address significant on-going erosion that nonstructural erosion control measures cannot control.
  - (3) The structural erosion control measure is constructed of natural materials and is made as visually inconspicuous as possible.
  - (4) Stormwater management, erosion and sediment control and vegetative management plans are submitted.
- (b) Constructing, updating, maintenance or reconstruction of structural erosion control measures in slope preservation zones is allowed by a conditional use permit if the following standards are met:
  - (1) The county board of supervisors determines that structural erosion control measures are necessary to address significant ongoing erosion that nonstructural erosion control measures cannot control.
  - (2) The structural erosion control measure is constructed of natural materials and is made as visually inconspicuous as possible.
  - (3) The person seeking to construct the structural erosion control measure submits and has approved by the county board of supervisors the following items:
    - a. A detailed construction plan with timelines and contact information.
    - b. An erosion and sediment control plan.
    - c. A vegetation management plan.

(Ord. No. 72-18, art. G(3), 8-21-2018)

Sec. 42-687. - Slope preservation zone.

- (a) No structures, except docks, piers, wharves, structural erosion control measures, stairways, and lifts may be placed in slope preservation zones.
- (b) Slopes greater than 12 percent may not be altered to become less than 12 percent.
- (c) No filling or grading is allowed in slope preservation zones that directly face or drain directly to the river, except the minimum required for installation of items in subsection (a) of this section.

(Ord. No. 72-18, art. G(4), 8-21-2018)

Sec. 42-688. - Filling and grading.

- (a) Filling and grading outside of a slope preservation zone are allowed with a land use permit if the following standards are met:
  - (1) Activities are set back at least 40 feet from a slope preservation zone.
  - (2) Activities do not disturb more than 10,000 square feet of land.
  - (3) No filling, grading or draining of wetlands is allowed.
  - (4) Any vegetation that is removed is replaced with native vegetation.
  - (5) Activities are designed and implemented in a manner to minimize erosion, sedimentation, tree damage, and impairment of fish and wildlife habitat.
  - (6) The county stormwater construction technical standards are implemented.
- (b) Filling and grading are allowed by conditional use permit if the following standards are met:
  - (1) Less than 10,000 square feet in slope preservation zones.

- (2) More than 10,000 square feet outside the slope preservation zone.
- (3) Within 40 feet of a slope preservation zone.
- (4) All standards under subsection (a)(3) through (6) of this section are met.

(Ord. No. 72-18, art. G(5), 8-21-2018)

Sec. 42-689. - Rock riprap.

Rock riprap within a slope preservation zone and in the OHWM setback area is allowed with a land use permit if the county board of supervisors determines that riprap is necessary to prevent erosion in flood-prone areas, and if either a state permit is granted for the riprap or statutory criteria or administrative rule standards are met and a state permit is not required for the riprap.

(Ord. No. 72-18, art. G(6), 8-21-2018)

Sec. 42-690. - Vegetation management.

- (a) Vegetation in the riverway district shall be managed with the goals of:
  - (1) Screening structures to make them visually inconspicuous.
  - (2) Preventing disturbance of environmentally sensitive areas such as, but not limited to, steep slopes, shorelines, and blufftop areas.
  - (3) Maintaining and restoring historically and ecologically significant plant communities and enhancing diversity.
- (b) Successional climax forest and pre-settlement oak savanna will be the preferred ecotypes.
- (c) Vegetative screening of structures will take priority over restoration and maintenance of preferred ecotypes.
- (d) Vegetation removal other than that allowed under section 42-649(2) and (3) is allowed with a land use permit if the standards under subsection (e) of this section are met.
- (e) All of the following vegetation management standards shall apply whenever vegetation is disturbed in the riverway district:
  - (1) Vegetation on lands within the OHWM setback, bluff line setback, and the slope preservation zone shall be left undisturbed, except as provided for elsewhere in this subsection or as provided in sections 42-686 and 42-694.
  - (2) Vegetation may not be disturbed or removed if it would disrupt the visually inconspicuous character of structures, reduce the quality or diversity of the plant community, or increase the potential for erosion, except as provided elsewhere in this subsection or as provided in sections 42-686 and 42-694.
  - (3) Lawns within the OHWM setback areas, slope preservation zones, and bluffline setback areas may not be expanded.
  - (4) The growth and harvest of non-wood fiber crops, the removal of vegetation in order to allow permitted uses or structures or conditional uses, the removal of state-designated noxious weeds, and the pruning or removal of vegetation to prevent insect infestation or disease that threaten large areas of vegetative cover per Wis. Stats. § 66.0407 are allowed.
  - (5) Herbicide use shall be limited to direct topical application to cut stems to kill noxious weeds, exotic species, poison ivy, poison oak, or poison sumac or as a prescribed treatment within a forest stewardship management plan.
  - (6) The practice of forestry shall be allowed on lands for which a forest stewardship plan has been developed under Wis. Stats. ch. 77 or Wis. Adm. Code ch. NR 46 or 47, and on lands managed under forest stewardship.
    - a. Forest stewardship plans shall employ best management practices for water quality protection, erosion control, and generally accepted forest management guidelines and must be approved by a WDNR forester. Generally accepted forest management guidelines are contained in the state forest management guidelines, PUB-FR-226

2003, available from the DNR.

- b. Forest stewardship plans shall be submitted to the zoning administrator to be kept in a property file.
- c. Cutting, harvesting or removing timber under this provision on land that is visible from the river during the time when the leaves are on the deciduous trees may only include the following practices:
  - 1. Small regeneration cuts with boundaries designed to harmonize with naturally occurring shapes;
  - 2. Shelter wood cuts not to exceed the size, shape, spacing or timing of regeneration cuts; or
  - 3. Selection cuts leaving a residual timber stand of at least 60 square feet basal area.
- (7) Noxious weeds, non-native invasive species, poison ivy, poison oak, or any other vegetation that is removed shall be replaced with native vegetation.
- (f) In addition to any other penalties, the penalty for removing vegetation in violation of this article shall include replacement of vegetation with native vegetation at the property owner's expense according to the following options:
  - (1) Option 1. Replace vegetation removed within 35 feet of the ordinary high-water mark according to the tree replacement schedule below. All trees must be replanted within 75 feet of the ordinary high-water mark.

Tree Replacement Schedule

DBH of Existing Tree Removed	Number of Replacement Trees
< 6 inches	1
Between 6 — 12 inches	2
Between 12 — 18 inches	3
Between 18 — 24 inches	4
Between 24 — 30 inches	5
Between 30 — 36 inches	6
> 36 inches	The equivalent of 1 tree per 6 inches DBH of the removed trees

DBH = Diameter Breast Height

- (2) Option 2. Calculate the number of trees under option 1 to be replaced. Plant 75 percent of the required trees and establish 40 square feet of native plantings for each additional tree required within shoreland protection area. The native planting shall be contiguous, and at least ten feet wide-parallel or perpendicular to the shore.
- (3) Option 3. Calculate the number of trees under option 1 to be replaced. Plant 50 percent of the trees within 75 feet of the ordinary high-water mark, and 70 square feet of native plantings for each additional tree required within shoreland protection area. The native planting shall be contiguous and follow practices found in the state field office technical guide.
- (4) Option 4. Calculate the number of trees under option 1 to be replaced. Plant 25 percent of the required trees and



establish a full buffer of native vegetation according to the practices found in state field office technical guide in the shoreland protection area.

(Ord. No. 72-18, art. G(7), 8-21-2018)

Sec. 42-691. - Private on-site wastewater treatment systems.

Private on-site wastewater treatment systems shall be constructed in accordance with the requirements of Wis. Adm. Code ch. SPS 383 and the county private onsite wastewater treatment system (POWTS) regulations.

(Ord. No. 72-18, art. G(8), 8-21-2018)

Sec. 42-692. - Land divisions allowed by conditional use permit.

(a) Land divisions are allowed by conditional use permit if the following standards are met:

- (1) All lots proposed to be built upon shall meet the minimum lot size requirements per division 2 of this article and shall be suitable for residential development in their existing condition without the need for a variance.
- (2) All lots are suitable for their proposed use and will not be subject to the potential for flooding, inadequate drainage, severe erosion, inadequate water supply or inadequate sewage disposal capabilities.

(b) Use of lots will not be allowed if there exists unfavorable soil and rock formations, unfavorable topography, or any other feature that is likely to result in harm to the health, safety or welfare of future residents of the lots or of the local community.

(c) The county zoning office shall consult with the state historical society concerning potential impacts to archeological sites and provide related documentation to the zoning administrator.

(d) If the property is found to contain an archeological site, the applicant shall work with the county zoning office to develop and implement a plan to avoid or mitigate impacts to the archeological site with assistance from the state historical society.

(Ord. No. 72-18, art. G(9), 8-21-2018)

Sec. 42-693. - Transmission facilities and other wireless communication.

(a) Construction, updating, maintenance or reconstruction of transmission services is allowed by conditional use permit if the following standards are met:

- (1) All new, updated or reconstructed transmission services shall be placed underground when determined to be technically feasible by the zoning administrator. If an applicant seeks to establish that underground placement is technically infeasible, the application shall explain in detail what factors make it infeasible.
- (2) If underground placement is determined to be technically infeasible, overhead or above ground transmission services are permitted, but shall be designed to minimize the adverse visual impact on the scenic character of the riverway district.
- (3) New, updated or reconstructed transmission services shall be constructed and maintained using minimally invasive techniques for construction and maintenance, including erosion control. Existing transmission facilities shall be maintained using minimally invasive techniques for maintenance, including erosion control.
- (4) Cutting or clearing of vegetation for transmission service maintenance may be conducted subject to the following standards:
  - a. An understory layer of vegetation shall be maintained to prevent erosion and allow succession.
  - b. Vegetation management shall protect the quality and diversity of the plant community and prevent erosion.

- c. Herbicide use shall be limited to direct topical application to cut stems to prevent re-growth.
  - d. The pruning of normal tree growth for safety reasons or to prevent interference with the transmission service and removal of noxious weeds is allowed.
- (b) Installation, reconstruction, modification and replacement of wireless communication service facilities are allowed by conditional use permit under the provisions of the county telecommunication towers and related facilities ordinance and if the following standards are met:
- (1) Construction and maintenance shall be conducted using techniques which minimize the cutting or pruning of vegetation in order to preserve mature vegetation and provide screening of the facilities. Erosion control measures shall be used.
  - (2) Wireless communication service facilities shall use building materials, colors, textures, screening and landscaping that blend the facilities in with surrounding natural features or nearby structures and shall be visually inconspicuous.
  - (3) Wireless communication service facilities shall be of camouflage or stealth design, unless placed on existing structures.
  - (4) Wireless communication service facilities may not exceed a height of 50 feet or not more than 20 feet above the tallest structure or tree canopy within a 300-foot radius of the proposed wireless communication service facilities as measured horizontally, whichever is higher.
  - (5) New or reconstructed wireless communication service facilities may not be placed in slope preservation zones, floodplains or wetlands.

(Ord. No. 72-18, art. G(10), 8-21-2018)

#### Sec. 42-694. - Stairways.

Stairways are allowed by conditional use permit if the following standards are met:

- (1) The stairway is required to provide pedestrian access to the river because of steep, rocky, unstable or wet site conditions.
- (2) The tread width of the stairway may not exceed 48 inches.
- (3) Landings are located at a vertical interval of not less than 20 feet and shall not exceed 32 square feet in area.
- (4) Handrails may be permitted in conjunction with stairways and shall be painted or stained the same color as the stairways.
- (5) Canopies or roofs are not allowed on stairways.
- (6) Stairways, handrails and landings shall be anchored and supported above grade with pilings or footings.
- (7) Stairways shall be constructed of unfinished wood or stone, or shall be painted or stained with earth-tone colors.
- (8) Stairways shall be visually inconspicuous and shall be located in the most visually inconspicuous portion of the lot.
- (9) Native vegetation plantings shall be used to form a vegetative canopy to screen the stairway from the river.
- (10) Existing vegetation may be removed within one foot of either side of the stairway route and up to eight feet above the stairway floor. Vegetation shall effectively screen stairways from the river within five years.
- (11) Only one stairway may be permitted on a lot that abuts the river.

(Ord. No. 72-18, art. G(11), 8-21-2018)

#### Sec. 42-695. - Lifts.

Lifts are allowed by a conditional use permit if the following standards are met:

- (1) The lift is required to provide pedestrian access to the river because of steep, rocky, unstable or wet site conditions.
- (2) The car of the lift may not exceed four feet by six feet. Cars may have handrails, but no canopies or roofs shall be allowed.
- (3) All visible parts of the lift shall be painted or finished in earth-tone, non-reflective colors and shall be visually inconspicuous.
- (4) Lifts shall be located in the most visually inconspicuous portion of the lot. Location of the transporting device or power source shall be visually inconspicuous.
- (5) Native vegetation plantings shall be used to form a vegetative canopy to screen the lift from the river.
- (6) Existing vegetation may be removed within one foot on either side of the lift route and up to eight feet above the lift floor.
- (7) Only one lift may be permitted on a lot that abuts the river.

(Ord. No. 72-18, art. G(12), 8-21-2018)

Sec. 42-696. - Public and private roads.

- (a) Construction, reconstruction or right-of-way maintenance for public roads and private roads serving two or more properties or single-family residences is allowed by a conditional use permit if the following standards are met:
  - (1) No new road may be constructed in slope preservation zones, in an area 40 feet landward of blufflines, within 200 feet of the river, within 100 feet of tributary watercourses, or in wetlands.
  - (2) Route design and construction or reconstruction shall minimize visual impacts by using terrain features to blend the road into the landscape, avoiding cuts and fills as much as feasible.
  - (3) New roads shall be visually inconspicuous.
  - (4) Reconstruction of existing roads shall be performed in a manner that does not increase visibility of the road from the river.
  - (5) Cutting or clearing vegetation for road right-of-way maintenance shall be conducted in accordance with the following standards:
    - a. Vegetation shall be managed to allow an understory layer to remain in place to prevent erosion and allow succession. Vegetation may not be disturbed in such a way that there would be reduced quality or diversity of the plant community or increased potential for erosion.
    - b. Herbicide use shall be limited to direct topical application to cut stems to prevent re-growth. The pruning of normal tree growth for safety reasons or to prevent interference with infrastructure and the removal of noxious weeds is allowed.
    - c. Mowing of a safety zone from the edge of the pavement back 15 feet or to the ditch bottom, whichever is less, and clearing intersection vision triangles is allowed. Other parts of the right-of-way may be mowed to control noxious weeds and undesirable brush only after July 15 of each year to avoid impacts to ground-nesting birds.
    - d. Cutting of trees more than four inches in diameter breast height is prohibited, except that trees that pose a hazard to public health or safety may be removed.
- (b) Public entities may apply for a one-time conditional use permit for long-term maintenance of public road right-of-way, subject to all standards listed in subsection (a) of this section and to periodic monitoring.

(Ord. No. 72-18, art. G(13), 8-21-2018)

Sec. 42-697. - Bed and breakfast operations.

A bed and breakfast operation is allowed by conditional use permit if the bed and breakfast operation provides four or fewer rooms for rent to transient visitors and the bed and breakfast operation has sufficient parking spaces on site or on public roads for guests.

(Ord. No. 72-18, art. G(14), 8-21-2018)

Sec. 42-698. - Nature-oriented, educational non-profit facilities.

A nature-oriented, educational non-profit facility is allowed by conditional use permit if the facility will not cause environmental pollution or erosion and the facility has sufficient parking on site or on public roads for patrons.

(Ord. No. 72-18, art. G(15), 8-21-2018)

Sec. 42-699. - Home occupation.

A home occupation is allowed by conditional use permit if the following standards are met:

- (1) The owner or person who rents the residence on a full-time basis conducts the home occupation.
- (2) The home occupation is conducted inside of the residence and is subordinate to the use of the home as a principal residence.
- (3) The home occupation will not cause environmental pollution.
- (4) If the home occupation causes additional persons to visit the residence, sufficient parking is provided on the lot or on public streets.

(Ord. No. 72-18, art. G(16), 8-21-2018)

Secs. 42-700—42-726. - Reserved.

#### DIVISION 4. - NONCONFORMING USES AND STRUCTURES AND SUBSTANDARD LOTS

Sec. 42-727. - Nonconforming uses.

- (a) A nonconforming use may not be expanded or enlarged.
- (b) An increase in the volume, intensity or frequency of use is allowed if the land area or structure used for the nonconforming use are not expanded or enlarged.
- (c) A change from one nonconforming use to another nonconforming use is not allowed.
- (d) If a nonconforming use is discontinued for a period of 12 consecutive months, any future use of buildings and premises shall conform to the requirements of all applicable the county zoning ordinances.

(Ord. No. 72-18, art. H(1), 8-21-2018)

Sec. 42-728. - Nonconforming principal structures.

- (a) Ordinary maintenance and repair of a nonconforming principal structure is allowed.
- (b) Structural alteration, reconstruction and expansion of a nonconforming principal structure and replacement, improvement or structural alteration of the foundation is allowed by a land use permit if the applicable requirements in subsections (c) and (d) of this section are met.
- (c) Reconstruction of nonconforming principal structures. Nonconforming principal structures located greater than 100 feet

from the OHWM but within the OHWM setback area, bluffline setback area or slope preservation zone may be structurally altered or reconstructed and foundations may be replaced, improved or structurally altered if the following requirements are met:

- (1) The lot has an area of at least 10,000 square feet.
  - (2) The altered or reconstructed structure will be visually inconspicuous or will be rendered so through mitigation per section 42-731.
  - (3) The structure is altered or reconstructed in the same footprint as the pre-existing structure.
  - (4) The reconstructed structure may not be any taller than the pre-existing nonconforming structure, except that a flat roof may be replaced with a pitched roof, and may not be taller than allowed per section 42-682.
  - (5) The color of the structure complies with section 42-684.
  - (6) The property owner submits a mitigation plan per section 42-731.
    - a. If a permit is issued for the reconstruction, the mitigation plan shall be approved, or modified and approved, by the county board of supervisors.
    - b. The mitigation plan shall be incorporated into the permit and the property owner shall be required to implement the mitigation plan as a permit condition.
  - (7) Private on-site wastewater treatment systems are brought into compliance with the requirements of the county sanitary regulations.
  - (8) The foundation of the structure may not be replaced, improved or structurally altered, unless the following standards are met:
    - a. It is being done in conjunction with the reconstruction of the structure;
    - b. It is entirely located more than 50 feet from the OHWM; and
    - c. It is not located in a slope preservation zone.
  - (9) An erosion control plan and revegetation plan shall be submitted to the local county board of supervisors for approval or modification and approval.
  - (10) No filling and grading activities are allowed during the alteration or reconstruction, except for the minimum necessary to accomplish the alteration or reconstruction in compliance with other provisions of this article, and as needed to upgrade a private on-site wastewater treatment system, to replace sewer or water laterals, or to install stormwater or erosion control measures.
  - (11) If the structure is located in a slope preservation zone, it may be reconstructed on the existing foundation only if the county stormwater construction technical standards applicable to steeper sloped areas are implemented to control erosion.
- (d) Expansion of nonconforming principal structures. Nonconforming principal structures located in the OHWM setback area or bluffline setback area may be expanded and the pre-existing foundation may be replaced, repaired or structurally altered in conjunction with the expansion if the applicable following requirements are met:
- (1) Structures located wholly or partially within 50 feet of the OHWM may not be expanded.
  - (2) Structures located wholly or partially within a slope preservation zone may not be expanded.
  - (3) Structures entirely set back more than 50 feet from the OHWM but located wholly or partially less than 75 feet from the OHWM may be expanded only if there is no compliant building location available on the lot.
  - (4) Structures entirely set back more than 75 feet from the OHWM may be expanded regardless of whether a compliant building location exists elsewhere on the lot.
  - (5) The lot has an area of at least 10,000 square feet.

- (6) The expanded structure will be visually inconspicuous or will be rendered so through mitigation.
- (7) Any reconstructed portion of the nonconforming structure may only be reconstructed in the same footprint as the pre-existing structure. Notwithstanding the definition of the term "reconstruction" in Wis. Adm. Code § NR 118.03(36), the pre-existing foundation of a structure that is more than 50 feet from the OHWM and is not within a slope preservation zone may be replaced, repaired or structurally altered in conjunction with the expansion of the structure.
- (8) For structures located wholly or partially within the OHWM setback area, the total footprint of the structure may not exceed 1,500 square feet.
- (9) For structures located wholly or partially within the bluffline setback, but not within the OHWM setback area, the total footprint of the structure may not exceed 2,000 square feet and the structure shall comply with the following requirements:
  - a. The structure is set back at least 40 feet from the bluffline.
  - b. The structure does not protrude above the bluffline as viewed from at or near the midline of the river or from 250 feet riverward from the OHWM whichever is less.
  - c. The structure is not located within the slope preservation zone.
  - d. The structure uses earth-tone building materials that are of a non-reflective nature, except that windows may be made of ordinary glass or non-reflective glass, but may not be made of glass designed to reflect more light than ordinary window glass.
  - e. The structure is visually inconspicuous.
- (10) Expansion is on the side of the structure farthest from the river or, if landward expansion is not possible, and the structure is greater than 100 feet from the OHWM, expansion is allowed parallel to the OHWM or bluffline.
- (11) The height of the altered or reconstructed structure complies with section 42-682.
- (12) The color of the structure complies with section 42-684.
- (13) The property owner submits a mitigation plan per section 42-731.
  - a. If a permit is issued for the expansion, the mitigation plan and erosion control plan shall be approved, or modified and approved, by the county board of supervisors.
  - b. The mitigation and erosion control plan shall be incorporated into the permit and the property owner shall be required to implement the mitigation plan as a permit condition.
- (14) Private on-site wastewater treatment systems are brought into compliance with the requirements of the county sanitary ordinance.
- (15) Filling or grading is not allowed as part of the reconstruction or expansion except as necessary to reconstruct or build the expansion in compliance with other provisions of this article, upgrade a private on-site wastewater treatment system, replace sewer or water laterals, or install stormwater or erosion control measures.

(Ord. No. 72-18, art. H(2), 8-21-2018)

#### Sec. 42-729. - Nonconforming accessory structures.

Ordinary maintenance and repair of nonconforming accessory structures is allowed. Nonconforming accessory structures may not be structurally altered, reconstructed or expanded.

(Ord. No. 72-18, art. H(3), 8-21-2018)

#### Sec. 42-730. - Substandard lots.

Lots of record in the register of deeds office on January 1, 1976, or on the date of the enactment of an amendment to this article that makes the lot substandard, which do not meet the requirements of this article, may be allowed as building sites, provided that the following criteria are met:

- (1) The lot is in separate ownership from abutting lands.
- (2) The lot by itself or in combination with an adjacent lot or lots under common ownership in an existing subdivision has at least one acre of net project area. Adjacent substandard lots in common ownership may only be sold or developed as separate lots if each of the lots has at least one acre of net project area.
- (3) All structures that are proposed to be constructed or placed on the lot and the proposed use of the lot comply with the requirements of this article and any zoning or sanitary code requirements.

(Ord. No. 72-18, art. H(4), 8-21-2018)

Sec. 42-731. - Mitigation requirements.

- (a) Expansion or reconstruction of nonconforming principal structures, and the expansion, reconstruction or structural alteration of nonconforming accessory structures shall trigger mitigation requirements to offset the impacts of the proposed project.
- (b) Mitigation measures shall be roughly proportional to the magnitude of the impacts of the proposed project on scenic resources, water quality, erosion potential and the protection of the shoreland area.
- (c) Mitigation shall include, but is not limited to, the following:
  - (1) Planting trees and shrubs capable of screening the entire structure if existing vegetation is not sufficient to render the structure visually inconspicuous per section 42-690. Additionally:
    - a. All trees and shrubs shall be native to the area.
    - b. All trees shall be at least two inches diameter at breast height (DBH) and planted no more than 12 feet apart and parallel to the river and the structures they screen. To allow for future growth, these trees may be planted at different locations and staggered between the structures and the river.
  - (2) The vegetation in the area within 50 feet of the OHWM shall be preserved or restored through planting of native vegetation per section 42-690.
    - a. Vegetation shall be established or maintained at densities that are adequate to protect water quality, habitat and the natural scenic beauty of the shoreland area.
    - b. If a nonconforming structure is located in this area, the vegetation shall be planted surrounding the structure, although the owner may create a screened view of the river from the structure and may leave a 15-foot-wide mowed area around the structure to protect it from wildfire.
  - (3) Prior to issuance of a permit, a stormwater management plan, erosion and sediment control plan and vegetation plan shall be submitted and approved by the county board of supervisors.
  - (4) An affidavit describing the approved mitigation plan shall be executed and recorded with the county register of deeds by the property owner within 14 days after approval of the mitigation plan. The affidavit shall alert subsequent purchasers of the land of the requirements of the mitigation plan.

(Ord. No. 72-18, art. H(5), 8-21-2018)

Secs. 42-732—42-760. - Reserved.

DIVISION 5. - ADMINISTRATION AND ENFORCEMENT

## Sec. 42-761. - Land use permit procedures.

- (a) An application for a land use permit shall be made to the county board of supervisors. The following information shall be provided:
- (1) Completed land use application form.
  - (2) Other relevant information that the zoning administrator requests, including, but not limited to, photos, topographic mapping, elevation drawings, cross-section drawings, specialized engineering plans, permission by the National Park Service, stormwater management plans, erosion and sediment control plans, or vegetation management plans.
  - (3) If additional information is requested, it shall be submitted by the applicant to the county board of supervisors prior to the issuance of the land use permit.
- (b) The county board of supervisors shall approve, approve conditionally, or deny the land use permit within 60 days of submitting a properly completed application, unless additional information is required.

(Ord. No. 72-18, art. I(1), 8-21-2018)

## Sec. 42-762. - Conditional use and variance procedures.

An application for a conditional use permit or variance shall be submitted to the county board of supervisors upon forms furnished by the county.

- (1) General information, including, but not limited to:
  - a. Completed appropriate application form.
  - b. Recent aerial photograph showing location.
  - c. Mitigation, erosion and sediment control, and vegetative management plans, if required.
  - d. Other relevant information that the zoning administrator requests, including, but not limited to, photos, topographic mapping, elevation drawings, cross-section drawings, specialized engineering plans or stormwater management plans.
  - e. If additional information is requested, it shall be submitted by the applicant to the county board of supervisors prior to the issuance of the land use permit.
- (2) For conditional uses, a detailed written explanation of how the proposed use or development meets the requirements for conditional uses as applicable, and the following standards:
  - a. The scenic and recreational qualities of the riverway district, especially in regard to the view from and use of the river.
  - b. The maintenance of safe and healthful standards.
  - c. The prevention and control of water pollution, including stormwater runoff and sedimentation.
  - d. The location of the site with respect to floodplains and floodways, slope preservation zones, and blufflines.
  - e. The erosion potential of the site based upon degree and direction of slope, soil type, and vegetative cover.
  - f. Potential impact on terrestrial and aquatic habitat.
  - g. Location of site with respect to existing or future access roads.
  - h. Adequacy of proposed wastewater treatment.
  - i. The compatibility of the project with uses on adjacent land.
- (3) Applications for a permit for land divisions, bed and breakfast operations, nature oriented educational, non-profit



facilities, and variances shall also include:

- a. The location of any proposed private on-site wastewater treatment system.
  - b. Water supply information, including the location of any proposed wells.
- (4) Applications for a permit for filling and grading, structural erosion control measures, and road construction shall also include a plan showing the proposed construction, reconstruction, location and design of the filling or grading, structural erosion control measures, or road construction.
- (5) Applications for a permit for transmission services and wireless communication service facilities shall also include:
- a. For transmission services a plan showing the location of proposed facilities, and if not placed underground, documentation of why this is technically infeasible, and a plan outlining design and construction methods to minimize adverse visual impacts to the riverway district.
  - b. For wireless communication service facilities, a plan showing the location of proposed facilities and an illustration of the methods to be used to meet design requirements for the appropriate stealth, camouflage, and height requirements.
- (6) Applications for a permit for stairways and lifts shall also include a plan showing the stairway or lift location, design, dimensions, color, construction materials, erosion control measures and vegetation removal and replacement. The plan shall contain a certification by a registered professional engineer or architect that the stairway or lift components are securely anchored to prevent them from shifting and from causing erosion.
- (7) For variances, a detailed written explanation of how the requested variance meets the following requirements:
- a. The request is not contrary to public interest.
  - b. The variance request is within the spirit of the ordinance.
  - c. That special conditions exist and that the literal enforcement of this chapter will result in unnecessary hardship.
  - d. Substantial justice shall be done by granting the variance.
  - e. No variance shall have the effect of granting or increasing any use of the property which is prohibited in the riverway district.

(Ord. No. 72-18, art. I(2), 8-21-2018)

Sec. 42-763. - Amendment procedures.

- (a) An amendment to this article shall not be subject to approval or disapproval or action by any town board.
- (b) Upon enactment of an amendment to this article, the zoning administrator shall submit two copies to the WDNR.
- (c) Applications for text amendments or rezonings (map amendments) shall include:
  - (1) A survey certified by a professional engineer or registered land surveyor showing:
    - a. Property location, boundaries, and dimensions.
    - b. Location of all existing and proposed structures and impervious surfaces with distances measured from the lot lines and centerline of all abutting streets or highways.
    - c. Contours on an established datum at vertical intervals of not more than two feet.
    - d. Blufflines, slope preservation zones, OHWM, floodway and flood fringe boundaries, and all applicable setbacks.
    - e. Utility and roadway corridors.
    - f. Adjoining land and water-oriented uses.
    - g. The location of existing and proposed alterations of vegetation and topography, including grading limits and vegetation removal and replacement that are proposed.
  - (2) Photos of the site taken from the river slightly upstream and downstream of the property, and directly offshore.

- (3) Other relevant information that the county board of supervisors' requests. If the county board of supervisors' requests information, it shall be submitted by the applicant to the county board of supervisors prior to any hearing on the applic
- (4) The procedures and application requirements in this section do not apply to proposals to change the management zone boundaries established in Wis. Adm. Code § NR 118.04. The management zone boundaries in Wis. Adm. Code § NR 118.04 may only be changed by revision of Wis. Adm. Code § NR 118.04.

(Ord. No. 72-18, art. I(3), 8-21-2018)

Sec. 42-764. - Public hearing procedures.

- (a) A public hearing shall be held before any conditional use permit, any variance, or any amendment is approved or denied.
- (b) In addition to any other notice requirements, notice of all public hearings and a copy of all application materials shall be provided to the following for review and comment at least 30 days prior to the public hearing:
  - (1) State department of natural resources (DNR).
  - (2) West Central Wisconsin Regional Planning Commission.
  - (3) The town board of a town within which the affected parcel of land is located.
  - (4) National Park Service.
- (c) Any plan submitted with an application shall be approved, or modified and approved, and included as part of the permit, variance or amendment application. The zoning administrator shall submit a summary of all proceedings, including a copy of any written decision, to the DNR within five working days after the date of the decision.
- (d) Where additional information is introduced at any stage of the proceeding by the applicant or where the applicant may wish to review the DNR's opposition or town's opposition if applicable, the proceeding may be postponed for a reasonable period of time to review the information.
- (e) A conditional use permit may not be granted if the town board objects to the issuance as a part of the hearing. Such objection shall explain where the proposed project is inconsistent with this article, Wis. Stats. § 30.27, Wis. Adm. Code ch. NR 118 or town ordinances.

(Ord. No. 72-18, art. I(4), 8-21-2018)

Sec. 42-765. - Decisions.

- (a) All land use permit decisions shall be in writing and shall include facts and reasons for the decisions.
- (b) The final disposition of an application for a conditional use permit or variance shall be a final decision in writing, made within a reasonable time after the public hearing, signed by the environmental services committee chairperson with respect to conditional use permits or by the board of supervisors of adjustment chairperson with respect to variances.
  - (1) Such decision shall state the specific facts and reasons that are the basis of such determinations.
  - (2) A copy of such decision shall be mailed to the applicants and the appropriate district office of the DNR within ten days after the decision is issued.

(Ord. No. 72-18, art. I(5), 8-21-2018)

Sec. 42-766. - Reasonable accommodation for disabled persons.

- (a) Ramps, walkways or decks to provide a disabled person with reasonable access to their property as required by the federal Americans with Disabilities Act, the Federal Fair Housing Act and the Wisconsin Fair Housing Act are allowed by land use permit, subject to the following standards:
  - (1) Only the minimum relaxation of dimensional, density or other standards needed to provide reasonable access may

be approved.

- (2) No use, structure or other relaxation of standards may be approved that would violate or undermine the stated purposes of this article.
- (3) The land use permit will expire and the structure removed once the property is no longer primarily owned by a disabled person. Subsequent landowners no longer needing disabled access shall not replace or expand the facilities. Routine maintenance is allowed.

(4) The applicant may be required to provide a written statement of disability.

- (b) An affidavit describing the approved land use permit shall be executed and recorded with the county register of deeds by the property owner within 14 days after approval of the permit. The affidavit shall state that the ramp, walkway, or deck must be removed as required above, and shall alert subsequent purchasers of the land of the requirements of the land use permit.

(Ord. No. 72-18, art. I(6), 8-21-2018)

#### Sec. 42-767. - Expiration.

Activities authorized by a permit issued under this article shall commence within one year from the date of approval and be completed or implemented within two years, after which time the permit expires.

(Ord. No. 72-18, art. I(7), 8-21-2018)

#### Sec. 42-768. - Compliance, revocation, and penalties.

- (a) When the terms or conditions on any permit are violated, the permit may be revoked. The zoning administrator may revoke a land use permit and a conditional use permit.
- (b) Any development, any building or structure constructed, moved or structurally altered, or any use established after the effective date of the ordinance from which this article is derived contrary to the provisions of this article, by any person or entity (including building contractors or their agents) shall be deemed a violation, subject to the following:
  - (1) As authorized by Wis. Stats. ch. 66, the zoning administrator or the county zoning agency shall issue citations for any violations of this article.
  - (2) Any person or entity who violates or refuses to comply with any of the provisions of this article shall be subject to a forfeiture of not less than \$50.00 nor more than \$1,000.00 per offense, together with the taxable costs of action.
  - (3) Each day of continued violation shall constitute a separate offense.
  - (4) Every violation of this article is a public nuisance and the creation thereof may be enjoined and the maintenance there may be abated by action at suit of the county, the state, or any citizen thereof pursuant to Wis. Stats. § 87.30(2).
  - (5) The county also retains the summons and complaint avenue for forfeitures and remedial action as provided by Wis. Stats. § 59.69(11).
- (c) There shall be a penalty fee of two times the regular permit fee in those cases where building is commenced without first obtaining a land use permit, providing the structure is in conformance with the provisions of this article. In cases where the project cannot be permitted without a variance, the penalty fee shall be applied towards the variance application fee.

(Ord. No. 72-18, art. I(8), 8-21-2018)

#### Secs. 42-769—42-789. - Reserved.

## ARTICLE VI. - SMALL WIND ENERGY SYSTEMS

## Sec. 42-790. - Authority and purpose; exceptions.

(a) This article is adopted pursuant to authority granted by Wis. Stats. §§ 60.61, 60.62, 62.23(7), 60.22(3) and 66.0401, as applicable, for the purpose of overseeing the permitting of tower-mounted small wind energy systems and preserving and protecting public health and safety without significantly increasing the cost or decreasing the efficiency of a small wind energy system per Wis. Stats. § 66.0401.

(b) This article does not apply to roof-mounted systems.

(Ord. No. 18-18, §§ 2, 3, 5-15-2018)

## Sec. 42-791. - Definitions.

The following words, terms and phrases, when used in this article, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

*Administrator* means the county zoning administrator.

*Major subdivision* means a subdivision creating five or more lots or outlots within a five-year period from a parcel of land existing on June 30, 1996.

*Meteorological tower (met tower)* means and includes the tower, base plate, anchors, guy cables and hardware, anemometers (wind speed indicators), wind direction vanes, booms to hold equipment anemometers and vanes, data logger, instrument wiring, and any telemetry devices that are used to monitor or transmit wind speed and wind flow characteristics over a period of time for either instantaneous wind information or to characterize the wind resource at a given location.

*Owner* means the individual or entity that intends to own and operate the small wind energy system in accordance with this article.

*Roof mounted* means a system mounted on and totally supported by a legal structure and not extending more than 20 feet above the highest point of the structure.

*Rotor diameter* means the cross-sectional dimension of the circle swept by the rotating blades.

*Small wind energy system* means a wind energy system that:

- (1) Is used to generate electricity;
- (2) Has a nameplate capacity of 100 kilowatts or less; and
- (3) Has a total height of 170 feet or less.

*St. Croix River Buffer Zone* means the area located outside of the St. Croix Riverway District and within two miles of the St. Croix River, measured from the ordinary high-water mark.

*Total height* means the vertical distance from ground level to the tip of a wind generator blade when the tip is at its highest point.

*Tower* means the monopole, freestanding, or guyed structure that supports a wind generator.

*Wind energy system* means equipment that converts and then stores or transfers energy from the wind into usable forms of energy (as defined by Wis. Stats. § 66.0403(1)(m)). This equipment includes any base, blade, foundation, generator, nacelle, rotor, tower, transformer, vane, wire, inverter, batteries or other component used in the system.

*Wind generator* means blades and associated mechanical and electrical conversion components mounted on top of the tower.

(Ord. No. 18-18, § 4, 5-15-2018)

Sec. 42-792. - Standards and permits.

- (a) *Land use permit.* A land use permit shall be required for a small wind energy system in Residential Agricultural 5 (RA-5), Agricultural 10 (A-1), Agricultural 20 (A-2), Farmland Preservation (A-3), General Business and Commercial (B-1), Small Business and Commercial (B-3), and Industrial (I-1) zoning districts, and in any area not zoned by any county zoning regulation subject to the following requirements:
- (1) *Setbacks.* A wind tower for a small wind system shall be set back a distance equal to 110 percent of its total height from:
    - a. Any public road right-of-way, unless written permission is granted by the governmental entity with jurisdiction over the road;
    - b. Any overhead utility lines, unless written permission is granted by the affected utility;
    - c. All property lines, unless written permission is granted from the affected land owner or neighbor.
  - (2) *Access.*
    - a. All ground mounted electrical and control equipment shall be labeled or secured to prevent unauthorized access.
    - b. The tower shall be designed and installed so as to not provide step bolts or a ladder readily accessible to the public for a minimum height of eight feet above the ground.
  - (3) *Lighting.* A wind tower and generator shall not be artificially lighted unless such lighting is required by the Federal Aviation Administration.
  - (4) *Appearance, color, and finish.* The wind generator and tower shall remain painted or finished the color or finish that was originally applied by the manufacturer, unless approved in the building permit.
  - (5) *Signs.* All signs, other than the manufacturer's or installer's identification, appropriate warning signs, or owner identification on a wind generator, tower, building, or other structure associated with a small wind energy system visible from any public road shall be prohibited.
  - (6) *Code compliance.* A small wind energy system including tower shall comply with all applicable state construction and electrical codes, and the National Electrical Code.
  - (7) *Utility notification and interconnection.* Small wind energy systems that connect to the electric utility shall comply with the Wis. Adm. Code ch. PSC 119 (rules for interconnecting distributed generation facilities).
  - (8) Met towers shall be permitted under the same standards, permit requirements, restoration requirements, and permit procedures as a small wind energy system.
- (b) *Conditional use permit.* A conditional use permit shall be required for:
- (1) A small wind energy system in any major subdivision, and in Shoreland, Floodplain, Natural Resources (N-1), Recreational Business and Commercial (B-2), Hamlet (H-1), and Residential (R-1) Zoning Districts, provided that all standard requirements of this article are met. Fees shall be waived if permit applications can be combined with one or more other conditional use permit requests.
  - (2) A small wind energy system in the St. Croix River Buffer Zone, and the St. Croix Riverway District, provided that all standard requirements of this article are met, along with the following requirements:
    - a. The small wind energy system is not within 3,000 feet of the ordinary high-water mark.
    - b. The small wind energy system has a total height of 75 feet or less.

(Ord. No. 18-18, § 5, 5-15-2018)

Sec. 42-793. - Land use permit application; fees; expiration.

- (a) *Documents.* The land use application shall be accompanied by a plot plan which includes the following:
- (1) Property lines and physical dimensions of the property;
  - (2) Location, dimensions, and types of existing major structures on the property;
  - (3) Location of the proposed wind system tower;
  - (4) The right-of-way of any public road that is contiguous with the property;
  - (5) Any overhead utility lines;
  - (6) Wind system specifications, including manufacturer and model, rotor diameter, tower height, tower type (freestanding or guyed);
  - (7) Tower foundation blueprints or drawings;
  - (8) Tower blueprint or drawing.
- (b) *Fees.* The application for a land use permit for a small wind energy system must be accompanied by the fee required for a permitted accessory use.
- (c) *Expiration.* A permit issued pursuant to this article shall expire if:
- (1) The small wind energy system is not installed and functioning within 24 months from the date the permit is issued;
  - or
  - (2) The small wind energy system is out of service or otherwise unused for a continuous 12-month period.

(Ord. No. 18-18, § 6, 5-15-2018)

#### Sec. 42-794. - Abandonment.

- (a) A small wind energy system that is out-of-service for a continuous 12-month period will be deemed to have been abandoned. The administrator may issue a notice of abandonment to the owner of a small wind energy system that is deemed to have been abandoned. The owner shall have the right to respond to the notice of abandonment within 30 days from notice receipt date. The administrator shall withdraw the notice of abandonment and notify the owner that the notice has been withdrawn if the owner provides information that demonstrates the small wind energy system has not been abandoned.
- (b) If the small wind energy system is determined to be abandoned, the owner of a small wind energy system shall remove the wind generator from the tower at the owner's sole expense within three months of receipt of notice of abandonment. If the owner fails to remove the wind generator from the tower, the administrator may pursue a legal action to have the wind generator removed at the owner's expense.

(Ord. No. 18-18, § 7, 5-15-2018)

#### Sec. 42-795. - Violations.

It is unlawful for any person to construct, install, or operate a small wind energy system that is not in compliance with this article or with any condition contained in a building permit issued pursuant to this article. Small wind energy systems installed prior to the adoption of this article are exempt.

(Ord. No. 18-18, § 8, 5-15-2018)

#### Sec. 42-796. - Administration and enforcement.

This article shall be administered by the zoning administrator or other officials as designated. The administrator may enter any property for which a building permit has been issued under this article to conduct an inspection to determine whether the conditions stated in the permit have been met. The administrator may issue orders to abate any violation of this article and may

issue a citation for any violation of this article as provided in chapter 2, article VII, division 2. The administration may also refer any violation of this article to legal counsel for enforcement.

(Ord. No. 18-18, § 9, 5-15-2018)

Sec. 42-797. - Penalties and other remedies.

Any person who fails to comply with any provision of this article or a land use permit issued pursuant to this article shall be subject to enforcement and penalties as provided in section 1-19. Nothing in this section shall be construed to prevent the county environmental services committee from using any other lawful means to enforce this article.

(Ord. No. 18-18, § 10, 5-15-2018)