

## Chapter 50 - ZONING

*Footnotes:*

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**State Law reference**— County zoning and boards of adjustment, Wis. Stats. § 59.694; zoning filing fees, Wis. Stats. § 59.696; fees for zoning appeals, Wis. Stats. § 59.697; floodplain zoning, Wis. Stats. § 87.830; county zoning and planning commissions, Wis. Stats. § 59.69; platting lands and recording and vacating plats, Wis. Stats. § 236.01 et seq.; airport and spaceport protection, Wis. Stats. § 114.135 et seq.; comprehensive planning, Wis. Stats. § 66.1001; county subdivision plans, Wis. Stats. § 236.46; construction site erosion control and stormwater management zoning, Wis. Stats. § 59.693.

## ARTICLE I. - IN GENERAL

## Sec. 50-1. - Authority and purpose.

For the purposes listed in Wis. Stats. §§ 59.69, 59.692, 59.694, 87.30 and 281.31, the county board does ordain and enact this zoning code, regulating and restricting the location, construction and use of buildings, structures and the use of land in the unincorporated portions of the county and, for such purposes, dividing the county into districts.

(Code 1987, § 17.01; Res. No. 87-02)

## Sec. 50-2. - Interpretation.

The provisions of this chapter shall be held to be minimum requirements, adopted for the promotion and protection of the public health, morals, safety or the general welfare. Whenever the requirements of this chapter are at variance with the requirements of any other lawfully adopted regulations, ordinances or private covenants, the most restrictive, or that imposing the higher standards, shall govern.

(Code 1987, § 17.02)

## Sec. 50-3. - Shoreland provisions.

The shoreland provisions of this chapter shall not require approval or be subject to disapproval by any town board.

(Code 1987, § 17.03)

## Sec. 50-4. - 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. All distances, unless otherwise specified, shall be measured horizontally.

*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.

*Accessory structure or use* means a subordinate structure or a use which is clearly incidental to, and customarily found in connection with, the principal structure or use to which it is related, and which is located on the same lot as the principal structure or use.

*Adult bookstore* means an establishment having as a predominant portion of its stock in trade books, magazines and other periodicals, or videocassettes, DVDs, or other videos which are distinguished or characterized by their emphasis on matter depicting, describing or relating to "specified sexual activities" or "specified anatomical areas" as defined herein.

*Adult cabaret.*

- (1) The term "adult cabaret" means a nightclub, bar, theater, restaurant or similar establishment which, more than twice per calendar year, features live performances by topless or bottomless dancers, go-go dancers, exotic dancers, strippers or similar entertainers, where such performances are distinguished or characterized by an emphasis on specified sexual activities or by exposure of specified anatomical areas or which regularly feature films, motion pictures, videocassettes, slides or other photographic reproductions which are distinguished or characterized by an emphasis upon the depiction or description of specified sexual activities or specified anatomical areas for observation by patrons.
- (2) The term "adult cabaret" does not include theaters, performing arts centers, civic centers and dinner theaters where live dance, ballet, music and dramatic performances of serious artistic merit are offered on a regular basis and in which the predominant business or attraction is not the offering to customers and where the establishment is not distinguished by an emphasis on, or the advertising or promotion of, employees engaging in nude erotic dancing.

*Adult motion picture theater* means an enclosed building which is significantly or substantially used for presenting motion picture films, videocassettes, cable television, or any other such visual media, distinguished or characterized by an emphasis on matter depicting, describing or relating to "specified sexual activities" or "specified anatomical areas" (as described herein) for observation by patrons therein.

*AH zone.* See "Area of shallow flooding".

*Airport* means an area of land devoted or intended to be devoted to landing and takeoff of all aircraft, whether fixed wing or not, and whether private or commercial. The term "airport" includes such nomenclature as landing strip or field, airstrip, landing area, etc.

*Allowed uses* means land uses and activities that are totally permitted or allowed and that do not require a zoning permit.

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

*AO zone.* See "Area of shallow flooding".

*Applicant* means any person, firm, or corporation or any agent thereof seeking to build, construct, excavate, grade, install, or use the land in any manner that would require a permit as defined in this chapter.

*Authorized use* means those activities that involve a use of the land and that require a permit to be issued.

*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 subgrade, i.e., below ground level, on all sides.

*Bed and breakfast.* See *Boardinghouse*.

*Boardinghouse* means any owner-occupied dwelling where lodging and meals are furnished for compensation for three or more persons not members of the same family.

*Boathouse* means any permanent structure designed solely for the purpose of protecting or storing boats and related equipment for noncommercial purposes.

*Building* means any structure use, designed or intended for the protection, shelter or roofed enclosure of persons, animals or property.

*Building envelope* means and includes all fully enclosed areas of a principal structure and specifically excludes screened porches, decks, patios and similar construction.

*Building, height of,* means the distance from the lowest point of final grade where the structure intersects with the ground and the highest point of the structure.

*Bulkhead line* means a geographic line along a reach of navigable water that has been adopted by a municipal ordinance and approved by the department 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 chapter.

*Campground* means a parcel of land used or intended to be used, let or rented for occupancy by campers or for occupancy by or of trailers, tents or movable or temporary dwellings, rooms or sleeping quarters of any kind.

*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, or tent that is fully licensed, if required, and ready for highway use.

*Certificate of compliance* means a document signed by a plumber, soil tester, zoning official, or other qualified individual that verifies whether septic, soils, setbacks, or other aspects of any particular lot and its inherent development are in compliance with current administrative codes or zoning ordinances.

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

*Comparable size* means the same square footage as the existing footprint.

*Conditional use* means a use which is permitted by this chapter, provided that certain conditions specified in this chapter are met and that a permit is granted by the zoning committee or board.

*County zoning agency* means that committee or commission created or designated by the county board under Wis. Stats. § 59.69 to act in all matters pertaining to county planning and zoning.

*Crawlway* or *crawlspace* 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.

*Curtilage* means the area encompassing the grounds and buildings immediately surrounding a home, school, church, nursery, day care center or park that is used in the daily activities of domestic life. A garage, barn, smokehouse, chicken house and garden are curtilage if their locations are reasonably near to the home.

*Deck* means a structure which is wider than six feet, has a platform and is suspended over water or land by either posts, pilings, guidelines, guidewires or similar supports.

*Department* means the state department of natural resources (DNR).

*Development* means any manmade 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 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.

*District* means a specific area designated with reference by this chapter and the official zoning maps within which the regulations governing the use and erection of structures and the use of premises and land are uniformly applied.

*Dock* means a structure which is less than six feet wide, has a platform and is suspended over the water by either posts, pilings, guidelines, guidewires or similar supports.

*Documented violations* means an operational rule that has been documented by Rusk County Zoning staff as not being followed. This could include reports from law enforcement officials.

*Drainage system* means one or more artificial ditches, tile drains or similar devices which collect surface runoff or groundwater and convey it to a point of discharge.

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

*Dwelling* means any building designed and used exclusively as the living quarters for one or more families. This includes site-constructed and manufactured homes designed for this purpose. This does not include mobile homes.

*Dwelling, multifamily*, means a dwelling or group of dwellings on one plot containing separate living units for two or more families, but which may have joint services or facilities or both.

*Dwelling, single-family*, means a detached building designed for or occupied exclusively by one family.

*Easement* means authorization by a property owner for the use of his land by another person for a specific written recorded purpose.

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

*Enlargement of waterways* means to construct, dredge, or do any development of a canal, channel, ditch, lagoon, pond, lake, or similar waterway. Enlargement of waterways require permits from the department of natural resources as defined in Wis. Stats. § 30.19.

*Environmental damage* means the harming of any wildlife or their habitat, including, but not limited to, fish, bird, animal, or plant life, or the degradation of the air, land, and waters within the state. While the definition of environmental damage is necessarily general and must be subjectively applied, it should be applied liberally in each case to protect the environment of the county.

*Environmental pollution* means the contaminating or rendering unclean or impure air, land, or waters of the state, or making the same injurious to public health, harmful for commercial or recreational use, or deleterious to fish, bird, animal, or plant life as defined by Wis. Stats. § 285.01.

*Essential services* means services provided by public and private utilities, necessary for the exercise of the principal use or service of the principal structure. These services include 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, catchbasins, water storage tanks, conduits, cables, fire alarm boxes, police call boxes, traffic signals, pumps, lift stations and hydrants, but not including buildings.

*Exclusive Ag* means lands that meet all the requirements of the state with regard to the Farmland Preservation Program.

*Expanded home occupation* means a home occupation that may involve persons other than the resident family and such occupation may be carried on other than within the confines of the home.

*Exploration* means the on-site geologic examination of conditions of the surface of the site by drilling or excavating for purposes of searching for or defining the extent and nature of deposits of metallic or nonmetallic minerals and includes such associated activities as clearing and preparing sites or constructing roads.

*Family* means one or more persons living, sleeping, cooking and eating on the same premises as a single housekeeping unit.

*Farm* means an area of land where animals, produce, plants, or bees may be raised, cultivated, or maintained for sale or off-premises consumption and includes places where animals that may commonly be associated with farming are maintained only for pleasure.

*Farming, general*, means the production of field or truck crops or the raising of livestock and livestock products for commercial gain.

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

*Filling* means the placement or depositing of any material such as dirt, stumps, rocks, gravel, sawdust, sod, debris or like substances. See Wis. Stats. § 30.12 for required state permits.

*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 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 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 regional flood elevations. This map forms the basis for both the regulatory and insurance aspects of the National Flood Insurance Program (NFIP) until superseded by a flood insurance study and a flood insurance rate map.

*Flood insurance 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 the Federal Emergency Management Agency.

*Flood insurance study* 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 and may provide floodway lines. The flood hazard areas are designated as numbered and unnumbered A-Zones. Flood insurance rate maps that accompany the flood insurance study form the basis for both the regulatory and the insurance aspects of the National Flood Insurance Program.

*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. Also see *Freeboard*.

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

*Floodfringe* 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.

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

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

*Floor area* means the area within the outside lines of the exterior walls of a building at the first floor level or basement wall; provided that the floor area of a dwelling shall not include space not usable for living quarters, such as attics and garages.

*Footprint of building or structure footprint* means the area within the outermost perimeter of a structure on its main floor, including attached or immediately adjacent patios, decks, screened porches and similar construction. Note: For the purpose of replacing or reconstructing a nonconforming building, the footprint shall be replaced with same types of use (i.e. deck with deck, eave with eave).

*Forest industries* means the cutting and storing of forest products, the operation of portable sawmills, the production of maple syrup and sugar, and other uses related to forests.

*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.

*Fur farm* means any property comprising land or buildings or both, used for the purpose of raising or harboring furbearing animals including those defined in Wis. Stats. § 29.001 and also other furbearing animals, if any, whether the animals are kept for breeding, slaughtering or pelting purposes.

*Garage, private,* means an accessory building or accessory portion used, or intended to be used, for the storage of private motor vehicles, and having a capacity of not more than three automobiles. The term "private garage" also includes carports.

*Garage, public,* means a building or portion thereof used for the housing or care of motor vehicles for the general public or where such vehicles are equipped or repaired for remuneration or kept for hire or sale. This may include premises commonly known as "gasoline stations" or "service stations."

*Gasoline service station* means any area of land, including any structure thereon, that is used for the sale of gasoline or other motor vehicle fuel and oil, or other lubricating substances, or motor vehicle accessories, and which may include facilities used or designed to be used for polishing, repairing, greasing, washing, spraying, dry cleaning, or otherwise maintaining such vehicles.

*Grading* means filling over or removing topsoil or a combination of both. See Wis. Stats. § 30.19 for required state permits.

*Gravel pit.* See *Quarry.*

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

*Hard armor stabilization* means the use of rock, concrete, block, wood and similar materials in controlling erosion.

*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.

*Highway* means a public or private thoroughfare which affords a primary means of access to abutting property.

*Historic structure* means any structure that is:

- (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.

*Home occupation* means a gainful occupation conducted by a member of the family within his place of residence, where the space used is incidental to residential use and no article is sold or offered for sale, except such as produced by such home occupation.

*Hospital*, unless otherwise specified, means and includes sanitarium, sanatorium, preventorium, clinic, rest home, nursing home, convalescent home and any other place for the diagnosis, treatment or other care of human ailments and shall be deemed to be limited to places for the diagnosis, treatment or other care of human ailments.

*Impervious surface* means an area that releases as runoff all or a majority of the precipitation that falls on it. Impervious surface excludes frozen soil but includes rooftops, decks, walkways, driveways, parking lots and streets unless specifically designed, constructed and maintained to be pervious. Roadways or sidewalks as defined in § 340.01, Wis. Adm. Code, are not considered impervious surfaces.

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

*Installation* means any campground, resort, recreational vehicle park, trailer camp or mobile home park or any combination thereof, whether designed for yearround or seasonal or permanent or temporary use or any combination, located on public or private property, and whether fees are charged for the use thereof or not.

*Junkyard. See Salvage yard.*

*Kennel* means premises used for the harboring of more than three dogs or other animals which are more than six months old in age.

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

*Land use permit* means the document that must be issued by the zoning department and that grants the applicant permission to engage in those types of activities on any given parcel or parcels of land and for which this chapter specifically states that such activities require a permit. (It is not a building permit per se; however, building is an example of a land use activity that requires a zoning or land use permit.)

*Local contact person* means a person who is able to respond to the facility within 15 minutes.

*Lot* means a parcel of land occupied or capable of being occupied by one primary building and its accessory buildings or other uses customarily incidental to it, including such open spaces as are required by this chapter, chapter 42, pertaining to subdivision control, and all applicable state statutes. Adjoining lands of common ownership shall be considered a contiguous parcel even if divided by a public or private road, easement, or navigable rivers or streams.

*Lot area* means the total area in a horizontal plane within the peripheral boundaries of a lot. No land included in a road (public or private) or street, highway or railroad right-of-way may be included when computing lot area.

*Lot depth* means a mean horizontal distance between the front and rear lot lines, measured in the general direction of its side lot lines.

*Lot length.* Lot length is measured from the right-of-way of any highway, road, or private easement to the opposite end of said lot and shall not exceed six times its width.

*Lot lines* means any line dividing one lot from another.

*Lot width.* The required minimum width of a lot shall be measured as the shortest distance between the lot side lines at or greater than the necessary setback distance for said lot. To the point at which the lot's minimum area and width requirement has been met no additional area of any particular lot in question need meet the minimum width requirement.

*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.

*Maintenance and repairs* means and includes, but is not limited to, replacement or installation of the same size windows and doors, skylights, vents, siding, insulation, shutters, gutters, flooring and shingles, or replacing or repairing internal walls or floors of a foundation. Maintenance and repairs do not include external alterations and additions, internal improvements or replacement of existing structures.

*Major recreational equipment* means and includes travel trailers, pickup campers or coaches, motorized dwellings, tent trailers, boats and boat trailers, snowmobiles and snowmobile trailers, and the like.

*Manufactured home* means a structure constructed after June 15, 1976, that is transportable in one or more sections; which in the traveling mode is eight body feet or more in width or 40 body feet or more in length, or when erected is 320 or more square feet; and which is built on a permanent chassis and designed to be used as a dwelling with or without permanent foundation when connected to the required facilities.

*Mine* means a place where an excavation is made to obtain ores, precious stones, minerals, and other elements of value that may or may not require further refinement. For the purpose of this chapter, excavations for the removal of substances such as gravel, sand, and dirt, that require extraction by such means are defined as quarries.

*Mobile/manufactured home.*

(1)

The term "mobile home" means a vehicle manufactured or assembled before June 15, 1976, designed to be towed as a single unit or in sections upon a highway and equipped and used or intended to be used primarily for human habitation, with walls of rigid uncollapsible construction; and which has an overall length in excess of 45 feet.

- (2) The term "manufactured home" means a structure constructed after 1976 which is transportable in one or more sections; which in the traveling mode is eight body feet or more in width or 40 body feet or more in length, or when erected is 320 or more square feet; and which is built on a permanent chassis and designed to be used as a dwelling with or without a permanent foundation when connected to the required facilities.

*Mobile/manufactured home park* means any lot on which three or more mobile/manufactured homes are parked for the purpose of yearround and seasonal habitation and including any associated service, storage, recreation, and other community service facilities designed for the exclusive use of park occupants.

*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 this ordinance. At a minimum, this would include the installation of utilities, the construction of streets and either final site grading or the pouring of concrete pads.

*Mobile/manufactured home park, expansion to existing* 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 this definition.

*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 flood insurance study.

*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.

*Motel or hotel* means a building or group of buildings containing rooms which are offered for compensation and the temporary accommodation of transients, and where there is no permanent occupancy of any unit, except by the owner or his agent or employees.

*NAVD or North American Vertical Datum* means elevations referenced to mean sea level datum, 1988 adjustment.

*Navigable waters* means Lake Superior, Lake Michigan, all natural inland lakes within Wisconsin and all streams, ponds, sloughs, flowages and other waters within the territorial limits of this state, including the Wisconsin portion of boundary waters, which are navigable under the laws of this state. Under Wis. Stats. § 281.31(2m), notwithstanding any other provision of law or administrative rule promulgated thereunder, shoreland ordinances required under Wis. Stats. § 59.692 and Wis. Admin. 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 building or structure means any existing building or structure which existed lawfully before the current zoning ordinances were enacted or amended, but does not comply with all of the regulations of this chapter or of any amendment hereto for the zoning district in which such structure is located.

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

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

*Nonconforming building or structure* means any existing building or structure which does not comply with all of the regulations of this chapter or of any amendment hereto for the zoning district in which such structure is located.

*Nonconforming use* means any use of land, buildings or structures which existed lawfully before the current zoning ordinances were enacted or amended, but does not comply with all of the regulations of this chapter or any amendments thereto governing said use for the zoning district in which such use is located.

*Normal high-water elevation* means the line where the natural vegetation changes from predominantly aquatic to predominantly terrestrial.

*Nuisance* means a use of property or course of conduct that interferes with the legal rights of others by causing damage, annoyance or inconvenience.

*Nursery* means any building or lot, or portion thereof, used for the cultivation or growing of plants and including all accessory buildings.

*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 chapter, which has been approved by the department and FEMA.

*On-site soils evaluation* means when the zoning administrator or other qualified representative from the zoning office, at the request of the soil tester, plumber, or other applicant, will physically inspect the soils during daylight hours in any location within the county. The inspection is not a soil test which must be done by a certified soil tester. It is to aid the property owner, soil tester, plumber, developer, realtor, or whomever in determining what type of sanitary waste disposal system is appropriate for their particular site and situation.

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

*Ordinary high-water mark* 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.

*Outlot* means parcel of land, other than a lot or block, so designated on the plat, where structures cannot meet required zoning setbacks and is a nonconforming lot according to current lot size requirements.

*Parcel* means a description of land that may or may not be within a recorded plat. A parcel can be a single platted lot, government lot, quarter section, or any other defined portion of land.

*Permitted use* means that use of the land or structures which does not require any variances, public hearings, town board, or zoning committee approvals, and which may be granted a permit by the zoning administrator, once the appropriate fees and applications have been properly completed, signed by the applicant, and submitted to the zoning office.

*Pier. See Dock.*

*Planned unit development* means a type of zoning district that has specific requirements with regard to lot sizes, total land area, number of dwellings and accessory buildings per lot, and other attributes that are described in section 50-214.

*POWTS* 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 the state department of commerce, 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.

*Practicable alternatives* means available and capable of being implemented after taking into consideration cost, available technology and logistics in light of overall project purposes.

*Preconstruction site evaluation* means when the zoning administrator or other qualified representative from the zoning office, at the request of the applicant, will physically inspect the property with regard to setbacks and other building or construction regulations that are within the jurisdiction of the county zoning department.

*Previously developed land* means any land that includes a legally placed principal structure.

*Principal structure* means a non-portable structure which is designed for independent human habitation and includes sanitary and/or food preparation facilities whether such structure is attached to another structure(s) or stands alone. If more than one structure that meets this definition exists on a single lot, the smaller structure(s) shall be considered accessory.

*Principal use*, for any given parcel of land, means that use of the land or structures which is the primary or main use as distinguished from a customary or accessory use.

*Private sewage system* means a sewage treatment and disposal system serving a single structure with a septic tank and a soil absorption field located on the same parcel. This term also means an alternative sewage system approved by the state department of commerce 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.

*Quarry* means an open excavation in the earth for removing stone, sand, gravel, dirt, rocks, or any other substance to be used in the construction of roads, driveways, landscaping, or building.

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

*Regional flood* means a flood determined to be representative of large floods known to have generally occurred in the state and which may be expected to occur on a particular stream because of like physical characteristics, once in every 100 years.

*Restaurant* means a space or business establishment within a suitable building, provided with sanitary and proper kitchen and kitchen equipment approved by the state board of health, and a dining room of related capacity, having employees for preparing, cooking, and serving comestible food.

*Restoration* means the act of restoring the land to a usable condition upon completing, either wholly or in part, that construction which has made said land unsuitable to normal forestry, agricultural, or residential type use.

*Roadway setback* means not less than 30 feet from the road right-of-way line.

*Salvage yard* means any area, with or without buildings or structures, where significant amounts of salvageable materials (including secondhand items) are bought, sold, exchanged, stored, baled, packed, disassembled, or handled. This definition also includes auto salvage yards, junkyards and other like and similar uses. Buildings or structures that are part of an establishment that is in the business of buying and selling such materials are required to meet the requirements of this chapter. Four or more inoperative, unlicensed or dismantled vehicles, farm machinery, construction, or other types of equipment shall constitute a salvage yard.

*Salvageable material* means those products or materials whose primary usefulness has changed or expired and are being stored or retained for whatever reason. Salvageable materials include, but are not limited to, scrap iron and other metals, lumber and other construction materials, paper, rags, appliances, rubber tires, or other rubber products, bottles glass, plastics, machines or machine parts, motor vehicles or equipment and other similar related materials.

*Screening* means a means of obscuring from view, by use of sight-obscuring fencing, tree planting, earthen berm, or other acceptable means whereby the contents are obscured from sight from any road, watercourse or other public right-of-way.

*Self-contained recreational equipment/vehicle* means a recreational vehicle which can operate independent of connections to sewer, water, and electric systems. Water storage and sewage holding tanks are located within the vehicle.

*Setback* means the minimum horizontal distance, which is called a setback line, that is established parallel to rights-of-way, centerlines, lot lines, or water bodies for the purpose of defining limits within which structures, buildings, or other uses must be constructed, maintained or confined.

*Shooting range* means an area designed and constructed for the discharge of firearms that is open for club members or public use, excluding individually owned and used target and archery ranges.

*Shoreland setback area* means the area on a parcel that includes the minimum shoreline setback distance and the area waterward to the OHWM.

*Shoreland/wetland district* means the zoning district, created as a part of the shoreland zoning ordinance, comprised of shorelands that are designated as wetlands on the wetland maps which have been adopted and made a part of this chapter.

*Shorelands* means lands within the following distances from the ordinary high-water mark of navigable waters:

- (1) 1,000 feet from a lake, pond or flowage; and
- (2) 300 feet from a river or stream or to the landward side of the floodplain, whichever distance is greater.

*Sign* means any structure or natural object or part thereof or device attached thereto or printed or represented thereon which is intended to attract attention to any object, product, place, activity, person, business, institution or organization, or which shall display or include any letter, word, model, banner, flag, pennant, insignia, device or representation used as or which is in the nature of an announcement, direction or advertisement.

*Soft armor stabilization* means the use of vegetation, geotextiles, bioengineering, rolled erosion control products and similar materials in controlling erosion.

*Special exception* means a use which is permitted by this chapter, provided that certain conditions specified in this chapter are met and that a permit is granted by the planning and zoning committee.

*Specified anatomical areas* means:

- (1) Less than completely and opaquely covered human genitals, pubic region, vulva, anus, or the nipple and areola of the human female breast; or
- (2) Human male genitals in a discernibly turgid state, even if completely and opaquely covered.

*Specified sexual activities* means and includes any of the following, simulated or actual:

- (1) The fondling or other erotic touching of human genitals, pubic region, buttocks, anus, or female breasts.
- (2) Acts of masturbation, sexual intercourse, sodomy, bestiality, necrophilia, sado-masochistic abuse, fellatio, cunnilingus, anilingus.

(3) Showing of human genitals in a state of sexual stimulation or arousal.

(4) Excretory functions during a live performance, display or dance of any type.

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

*Steps and landings* means stairways that are built within the shoreland setback area according to section 50-188(6). Stairs and landings are not to exceed six feet in width.

*Structure* means any humanmade object with form, shape and utility, either permanently or temporarily attached to or placed upon the ground, riverbed, stream bed, or lake bed. In shoreland zoning, structure also means a principal structure or any accessory structure including a garage, shed, boathouse, sidewalk, walkway, patio, deck, retaining wall, porch or firepit.

*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 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.

*Survey, certified*, means a certified survey map of not more than four parcels of land on one page which shall be submitted to the county zoning office for review prior to being recorded in the office of the register of deeds of the county and which shall meet the requirements of this chapter and chapter 42, pertaining to

subdivision control, and Wis. Stats. § 236.34.

*Tourist rooming house* means the use of a single or two family dwelling for the purpose of providing or furnishing overnight lodging accommodations to the public for a period of less than one month to any person(s) who occupies the property on a rental basis.

*Travel trailer/RV* means a portable vehicle less than ten feet wide by 50 feet long designed and used for temporary living and housekeeping, office, and/or commercial purposes.

*Unnecessary hardship* means that circumstance where special conditions, which were not self-created, affect a particular property and make strict conformity with restrictions governing area, setbacks, frontage, height or density unnecessarily burdensome or unreasonable in light of the purposes of this chapter.

*Use* means the purpose for which land or structures, or portions thereof, are occupied, maintained, employed or otherwise utilized.

*Utilities* means those services such as electric, telephone, gas, or other essential components of development that are necessary to provide fundamental usefulness to both dwellings and other structures whether private or commercial.

*Variance* means an authorization granted by the board of adjustment to construct, alter or use a building or structure in a manner that deviates from the dimensional standards of this chapter.

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

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

*Walkway* means a deck that is attached to a building and that does not exceed six feet in width and its construction is primarily to provide ingress and egress from an existing structure. Walkways added to a structure built prior to February 1995 are permitted within the shoreland setback area. Permits are required for all walkways.

*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.

*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.

*Wharf. See Dock.*

*Yard* means an open space on the same lot with a structure, unoccupied and unobstructed from the ground upward, except for vegetation as permitted, and except for permitted accessory buildings in rear yards.

*Yard, front,* means an open unoccupied space on the same lot with the building between the front line of the building and the front line of the lot and extending the full width of the lot.

*Yard, rear,* means an open unoccupied space on the same lot with the building between the rear line of the building and the rear line of the lot and extending the full width of the lot.

*Yard, side,* means an open unoccupied space on the same lot with the building situated between the building and the side line of the lot and extending from the front yard to the rear yard. Any lot line not a rear line or a front line shall be deemed a side line.

*Zoning administrator* means the employee of the county officially designated to administer this chapter.

*Zoning committee* means the county zoning and land use committee. The zoning committee may be referred to as the "planning committee."

*Zoning district. See District.*

*Zoning permit* means a permit stating that the purpose for which a building or land is to be used is in conformity with the uses permitted and all other requirements under this chapter for the zone in which it is located.

(Code 1987, §§ 17.04, 17.57(10.0), 20.10; Res. No. 86-36; Res. No. 87-02; Res. No. 87-03, 4-21-1987; Res. No. 04-55, 12-14-2004; Res. No. 07-07, 3-27-2007; Res. No. 07-07D, 3-31-2009; Res. No. 07-07E, 12-15-2009; Amend. of 11-12-2013; Amend. of 11-12-2013; Res. No. 14-10, 3-25-2014; Res. No. 16-21, 8-30-2016; Res. No. 16-21A, 1-22-2019)

Sec. 50-5. - Establishment of districts.

For the purpose of this chapter, the unincorporated areas of the county are hereby divided into the following types of districts:

- (1) RR-1 Recreational-Residential District.
- (2) RR-2 Recreational-Residential District.
- (3) RR-3 Recreational-Residential District.
- (4) A-1 Agricultural District.
- (5) C-1 Commercial District.
- (6) I-1 Industrial District.
- (7) F-1 Forestry District.
- (8) W-1 Resource Conservation District.
- (9) SW-1 Shoreland and Shoreland-Wetland District (Overlay).
- (10) PUD Planned Unit Development District.

(Code 1987, § 17.05; Res. No. 87-02)

Sec. 50-6. - Zoning map and district boundaries.

- (a) The location and boundaries of these districts are shown in a single map officially designated "Official Zoning Map, Rusk County, Wisconsin," and on separate maps officially designated "Detailed Zoning Maps, Rusk County, Wisconsin."
- (b) These maps, together with all explanatory matter and regulations thereon, are an integral part of this chapter. In the event of a conflict between zoning district boundaries shown on the official zoning map and the detailed zoning maps, the latter shall govern and prevail. District boundaries are normally lot lines, section and quarter section lines, or centerlines of streets, highways, railroads or alleys. Questions regarding exact location of district boundaries shall be decided by the county zoning administrator. Decisions may be reviewed on appeal to the board of adjustment as provided in section 50-303.
- (c) The single official copies of the official zoning map and detailed zoning maps, together with a copy of this chapter, shall be kept at the county zoning administrator's office and shall be available for public inspection during office hours. These maps shall be certified by the chairperson of the county board and attested by the county clerk. Any changes affecting zoning district boundaries or explanatory matter and regulations shall be made in accordance with provisions of Wis. Stats. § 59.69.

(Code 1987, § 17.06)

Sec. 50-7. - Comprehensive plan adopted by reference.

The county adopts by reference as though fully set forth in this section that certain comprehensive plan titled "Rusk County Comprehensive Plan," originally adopted by the county on December 15, 2009, as and

for the comprehensive plan for the county. A copy of the plan is available in the office of the county clerk.

Secs. 50-8—50-30. - Reserved.

## ARTICLE II. - REGULATIONS

Sec. 50-31. - Application of regulations.

The use of any land or water; the size, shape and placement of lots; the use, size, height, type and location of structures thereon; and the provisions for open spaces shall be in compliance with the regulations set forth on the "Official Zoning Map, Rusk County, Wisconsin," and in the text of this chapter.

(Code 1987, § 17.10; Res. of 2-1995)

Sec. 50-32. - Standard district regulations.

(a) *Setback requirements on highways and roads.*

- (1) All state and U.S. numbered highways are hereby designated Class A highways. The setback line for Class A highways and for any other roads designated as major roads on official maps in the county shall be 110 feet from the centerline of the highway or 50 feet from the right-of-way line, whichever is greater.
- (2) All county trunk highways not otherwise designated as Class A highways are hereby designated Class B highways. The setback for Class B highways and for roads designated as arterial roads on official maps in effect in the county shall be 75 feet from the centerline of such highway or 42 feet from the right-of-way line, whichever is greater.
- (3) All town roads not otherwise designated Class A or Class B highways are hereby designated Class C highways. The setback for Class C highways and for streets other than major and arterial roads designated as such on official maps in effect in the county shall be 65 feet from the centerline of the highway or 30 feet from the right-of-way line, whichever is greater.
- (4) A setback equal to the average setback of existing principal buildings located within 500 feet of a proposed building site and on the same side of the street shall be permitted where five of these buildings do not conform with the appropriate setback line.
- (5) Minor, readily removable structures such as open fences or signs permitted by this chapter may be placed within setback lines. Public utility equipment without permanent foundations is also permitted. When deemed necessary by the county zoning committee in connection with development such as highway improvement programs, property owners and public utilities may be required to remove, at their own expense and without right of compensation, any such structures erected within setback lines.

(b) *Visual clearance at intersections.* In each quadrant of every street intersection there shall be designated a visual clearance triangle bounded by the street centerlines and a line connecting them 300 feet from a Class A highway intersection, 250 feet from a Class B highway intersection and 200 feet from a Class C highway intersection. If two highways of a different class intersect, the largest distance shall apply to both centerlines. Within this triangle, no object over 2½ feet in height above the streets shall be allowed if it obstructs the view across the triangle. Posts or open fences are excluded from this provision. Tree trunks shall be exempt where they are unbranched to a height of ten feet and located a minimum of 30 feet apart.

(c) *Access driveways.*

(1) Access driveways to highways from abutting properties shall comply with the following requirements:

a. Minimum distance of highway frontage between access driveways for separate land uses.

1. Class A highways.

(i) Federal aid primary highways: 600 feet.

(ii) Federal aid secondary highways: 500 feet.

2. Class B highways: 300 feet.

3. Class C highways: 75 feet.

b. Minimum distance access driveways may be located in the right-of-way of an intersecting highway.

1. Class A highways.

(i) Federal aid primary highways: 300 feet

(ii) Federal aid secondary highways: 250 feet.

2. Class B highways: 150 feet.

3. Class C highways: 75 feet.

(2) Where there is more than one lot abutting on Class A and Class B highways between access driveways, a service road of not less than 50 feet right-of-way shall be provided across the entire frontage of each lot unless a temporary access permit has been granted with the approval of the agency having jurisdiction over the highway. Use of access is limited to the use authorized in the temporary access permit. This permit would be revocable when a frontage road is provided.

(3) The maximum number and width of access driveways to highways and service roads shall be as follows:

Type of Access Driveway	Maximum Number of Access Driveways	Maximum Width of Access Driveways
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Commercial and industrial land uses	2	35 feet
Other land uses	1	24 feet

- (4) Where crossovers in median strips have been provided, access driveways shall be directly opposite these crossovers.
- (5) Outlot access.
- a. No outlot access driveways shall be permitted for outlots on county, state or federal highways. Pedestrian access which requires fill or an alteration of road construction shall be approved by the county highway commissioner in the case of county highways and the state department of transportation in the case of state or federal highways and shall be limited to a three-foot width of surface per lot.
  - b. Town boards shall have the authority to approve or deny outlot access driveways on town roads.
- (d) *Excessive height permitted.* Heights of the following structures may exceed limits for the district in which they are to be located with the approval of the county zoning committee: cooling towers, stacks, penthouses, lookout towers, silos, windmills, water towers, spires, radio and television aerials, masts, antennae and necessary mechanical appurtenances.
- (e) *Lot sizes.*
- (1) After adoption of the ordinance from which this chapter is derived, no lot shall be so reduced that the dimensional and yard requirements required by this chapter cannot be met. Lots existing and of record prior to adoption of the ordinance from which this chapter is derived, but of substandard size, may be devoted to uses permitted in the district in which located.
  - (2) If two or more substandard lots with continuous frontage have the same ownership as of the effective date of the ordinance from which this chapter is derived, the lots involved shall be considered to be an individual parcel for the purpose of this chapter.
  - (3) Lots created after adoption of the ordinance from which this chapter is derived and which are not served by public sewer systems shall meet minimum area requirements of the county sanitary code and chapter 42. Any shoreland lot must be 20,000 square feet in area with a minimum average width of 100 feet.
- (f) *Accessory uses and structures.*
- (1) Any permanent, roofed structure serving as an accessory, if attached to the principal building, shall be considered a part of the principal building. If such structure is a building and is not attached to the principal building, it shall conform to the setback and other dimensional requirements of the district within which it is located.
  - (2) Permit.

- a. No permit shall be granted for any second or subsequent accessory building unless there is adequate space on the lot suitable for replacement septic system after construction of the accessory building.
- b. No permit shall be granted for any second or subsequent accessory building unless there is adequate space on the lot suitable to bring any noncomplying structure on the lot into compliance with setback and other zoning requirements after construction of the accessory buildings.

(3) Any garage, as defined in this chapter, is to be considered an accessory building whether it is attached to a primary use structure or not.

(g) *Drainage, sanitation and water supply.*

- (1) No principal building shall be erected, structurally altered or relocated on land which is not adequately drained at all times by reason of adverse soil conditions, steep slopes, shallow impermeable bedrock, periodic flooding or where the lowest floor level is less than four feet above the highest groundwater level.
- (2) No principal building intended for human use or occupancy shall be erected, structurally altered or relocated on a lot, unless provision is made for safe and adequate facilities for water supply and disposal of sewage in accordance with the regulations of the county sanitary code and the appropriate requirements of the Wisconsin Administrative Code.
- (3) The county zoning administrator shall not hereafter authorize a building to be erected, structurally altered or relocated which has a private waste disposal system unless the plans for the system have been reviewed in accordance with the provisions of the county sanitary code and a sanitary permit has been issued.
- (4) Private sewage disposal systems for dwelling units shall meet the location requirements of the county sanitary code and the applicable minimum standards of the Wisconsin Administrative Code.
- (5) Where connection is not to be made to a public water system, no residential use shall be permitted unless provision is made for a safe and adequate supply of drinking water located on the premises, a permit for which has been obtained in accordance with the provisions of the county sanitary code.

(Code 1987, § 17.11; Res. of 2-1995)

Sec. 50-33. - Supplementary regulations.

- (a) *Airport safety zones.* Except for field crops and fences under five feet high, the maximum height of any object located within 500 feet of either side of the centerline of a landing strip, and extended to a distance of two miles from the end of the runway shall be no higher than 1/20 of the distance of the object to the landing strip.

- (b) *Off-street parking.* Any building hereafter erected or placed on a lot shall be provided with off-street parking spaces for those using such building.
- (1) Each parking space required shall be at least 200 square feet in area.
  - (2) Residential uses shall be provided with at least one parking space for each dwelling unit.
  - (3) Commercial and industrial uses as listed and permitted in the zoning districts shall be provided, except as noted below, with one parking space for each 200 square feet of floor area. However, restaurants, taverns and similar establishments shall be provided with at least one space for each unit; drive-in eating stands offering in-car service shall be provided with at least five spaces for each person employed to serve customers.
  - (4) Public gathering uses shall be provided with at least one space for each five patrons to be accommodated on the premises.
- (c) *Off-street loading and unloading.* Any commercial or industrial building hereafter erected or placed on a lot shall be provided with sufficient off-street loading and unloading space so that no public streets or alleys need be blocked by such activities. In the Industrial District, such buildings shall be provided with a minimum of 400 square feet of off-street loading and unloading space.

(Code 1987, § 17.12; Res. of 2-1995)

Secs. 50-34—50-54. - Reserved.

### ARTICLE III. - SIGNS

Sec. 50-55. - Permit required.

No sign shall hereafter be located, erected, moved, reconstructed, extended, enlarged, converted or structurally altered within the county until a land use permit has been issued by the county zoning administrator, except those signs excepted below and without being in conformity with the provisions of this article.

(Code 1987, § 17.15)

Sec. 50-56. - RR-1 and W-1 Districts.

All signs are prohibited in the RR-1 and W-1 Districts except the following:

- (1) Signs over show windows or doors of a nonconforming business establishment announcing without display or elaboration only the names and occupation of the proprietor and not to exceed two feet in height and ten feet in length.
- (2)

Real estate signs not to exceed eight square feet in area which advertise the sale, rental or lease of the premises upon which such signs are temporarily located.

- (3) Name, occupation and warning signs not to exceed two square feet located on the premises.
- (4) Bulletin boards for public, charitable or religious institutions not to exceed 20 square feet in area located on the premises.
- (5) Memorial signs, tablets, names of buildings and date of erection when cut into any masonry surface or when constructed of metal and affixed flat against a structure.
- (6) Official signs, such as traffic control, parking restrictions, information and notices.
- (7) Temporary signs or banners when authorized by the county zoning committee.

(Code 1987, § 17.16)

Sec. 50-57. - C-1, RR-1, A-1, I-1 and F-1 Districts.

Signs are permitted in the C-1, RR-1, A-1, I-1 and F-1 Districts subject to the following restrictions:

- (1) Wall signs placed against the exterior walls of buildings shall not extend more than six inches outside of a building's wall surface, shall not exceed 500 square feet in area for any one premises and shall not exceed 20 feet in height above the mean centerline street grade.
- (2) Projecting signs fastened to, suspended from or supported by structures shall not exceed 100 square feet in area for any one premises, shall not extend more than six feet into any required yard, shall not extend into any public right-of-way, shall not be less than ten feet from all side lot lines, shall not exceed a height of 20 feet above the mean centerline street grade and shall not be less than ten feet above the sidewalk nor 15 feet above a driveway or an alley.
- (3) Ground signs shall not exceed 20 feet in height above the mean centerline street grade, shall meet all yard requirements for the district in which they are located, and shall not exceed 100 square feet on one side nor 200 square feet on all sides for any one premises.
- (4) Roof signs shall not exceed ten feet in height above the roof, shall meet all yard and height requirements for the district in which they are located, and shall not exceed 300 square feet on all sides for any one premises.
- (5) Window signs shall be placed only on the inside of commercial buildings and shall not exceed 25 percent of the glass area of the pane upon which the sign is displayed.
- (6) Signs or billboards which advertise a general brand of product, an area of interest, a business activity or a service available which is not in direct relation to the use of the premises on which they are located shall not exceed 300 square feet in area. Freestanding signs shall be erected outside a line parallel to and five feet from the highway right-of-way, shall not exceed 20 feet in height above the ground or be located within 300 feet of an existing residence.

- (7) Recreational directory signs indicating the direction to a cottage, resort, residence or similar use shall not exceed four square feet in area. When a common posting is provided, all such signs shall be attached thereto. Recreational directory signs may be placed at the right-of-way line of the highway provided they are not within 100 feet of an existing residence. Information on such signs may be of reflective material.
- (8) Signs advertising a business or activity conducted, area of interest or service available within 12 air miles of the premises on which they are located shall not exceed 20 square feet in area, and no more than two such signs relating to any one use shall be permitted in the approaching direction along any one highway. A larger number of signs and a greater distance from the premises may be permitted by the zoning committee by a conditional use permit on a finding of necessity for directing the traveling public.
- (9) Combinations of any of the above signs shall meet all the requirements for the individual sign.

(Code 1987, § 17.17; Ord. No. 97-37, 5-27-1997)

#### Sec. 50-58. - Unlawful signs.

Signs shall not resemble, imitate or approximate the shape, size, form or color of railroad or traffic signs, signals or devices. Signs shall not obstruct or interfere with the effectiveness of railroad or traffic signs, signals or devices. No sign shall be erected, relocated or maintained so as to prevent free ingress to or egress from any door, window or fire escape and no sign shall be attached to a standpipe or fire escape. No sign shall be placed so as to obstruct or interfere with traffic visibility. No sign shall contain any rotating or moving parts or be illuminated by flashing light.

(Code 1987, § 17.18)

#### Sec. 50-59. - Nonconforming signs.

A sign lawfully existing at the time of the adoption or amendment of this article may be continued although the use, size or location does not conform with the provisions of this article. However, it shall be deemed a nonconforming use or structure and the provisions of section 50-268 shall apply.

(Code 1987, § 17.19)

#### Secs. 50-60—50-76. - Reserved.

### ARTICLE IV. - SPECIAL USES

#### Sec. 50-77. - General provisions.

Except as added to or altered in this article, the procedures and requirements of section 50-112 governing conditional uses shall apply.

(Code 1987, § 17.20)

Sec. 50-78. - Quarries and mines.

- (a) *Application required.* Application requesting county zoning committee approval of a proposed quarrying or mining activity shall be accompanied by:
- (1) A description of all phases of the contemplated operation including types of machinery and equipment which will or might be necessary to carry on the operation and, where appropriate, the estimated daily quantity of water required, its source and its disposition.
  - (2) A legal description of the proposed site.
  - (3) A topographic map (may be required by the county zoning committee at a minimum contour interval of five feet) of the proposed site and the area extending beyond the site to a minimum distance of 300 feet on all sides.
  - (4) A restoration plan as hereinafter required.
- (b) *Consideration of compatibility.* In reviewing a proposal for a quarrying or mining activity, the county zoning committee shall take into consideration:
- (1) The effect of the proposed operation on drainage and water supply.
  - (2) The possibility of soil erosion as a result of the proposed operation.
  - (3) The most suitable land use for the area.
  - (4) Other considerations specified in chapter 20, article III, division 2, pertaining to permitting requirements for metallic mineral mining and prospecting.
- (c) *Restoration plan and financial guarantee required.* No grant to carry on a quarrying or mining operation shall be given until the county zoning committee approves a restoration plan and the owner agrees to restore the quarried area to a condition of practical usefulness and reasonable physical attractiveness as soon as practicable after the quarrying operations have ceased. The owner shall provide sufficient financial guarantee to secure the performance of the restoration. The agreement and financial guarantee shall be in a form approved the county district attorney.
- (d) *Conditions for approval.* The county zoning committee may set forth conditions regarding appropriate setback and other dimensional requirements, particularly with reference to avoiding a nuisance effect on surrounding residential uses. Suitable fencing, capping and landscaping may be required.
- (e)

*Duration of conditional grant.* The initial grant to carry on a quarrying or mining operation shall not be effective for more than five years, except that the initial grant to carry on metal mining operations shall not be effective for more than 25 years. Authorization may be extended for any number of additional years, subject to conditions specified by the county zoning committee.

(f) *Existing quarry and past mining operations.*

- (1) Within 60 days after the effective date of the ordinance from which this chapter is derived, the owners of all existing quarrying and past mining operations shall submit to the county zoning committee the names of the quarry and mine owners and operators and information regarding such operations.
- (2) Within one year after adoption of this chapter, the owners shall submit to the county zoning committee a plan for restoration of the quarrying and mining site in accordance with subsection (c) of this section. The restoration plan shall not impose requirements which are economically or engineeringly unreasonable with respect to conditions resulting from operations prior to enactment of the ordinance from which this chapter is derived.
- (3) Within three years after the effective date of the ordinance from which this chapter is derived, any such existing operation shall be subject to the provisions of subsections (c) through (e) of this section.

(Code 1987, § 17.21)

Sec. 50-79. - Salvage yards.

- (a) *Purpose.* The purpose of this section is to control and govern the location, size, setbacks, and dimensions of salvage yards in the county. The objective is not to remove or require relocation of existing salvage yards, but rather to regulate those that will begin after the effective date of the ordinance from which this section is derived. This section does not supersede any license or permit required by other state or federal agencies to legally operate a salvage yard. Junkyards and like uses are considered to be a salvage yard.
- (b) *Classification of salvage yards.* The following classifies salvage yards in the county:
  - (1) *Class A.* For the purpose of this article, a Class A salvage yard is defined as an operation licensed by the department of transportation that is in the business of buying and selling salvageable vehicles and equipment.
  - (2) *Class B.* For the purpose of this article, a Class B salvage yard is defined as an operation which stores or keeps for the purpose of buying, selling or processing salvageable metals, plastics, paper, wood, appliances, machinery and other salvage materials, excluding vehicles as per Class A classification.
- (c) *Prohibited locations.*
  - (1) No salvage yard shall be allowed on any parcel of land less than one acre in size.

- (2) No salvage yard will be permitted in any of the following zoning districts: RR-1 Recreational-Residential, RR-2 Recreational-Residential, RR-3 Recreational-Residential, F-1 Forestry, W-1 Resource Conservation, SW-1 Shoreland and Shoreland-Wetland, and PUD Planned Unit Development.
  - (3) Within 2,000 feet of any incorporated city or village.
  - (4) Within 1,000 feet of any lake or pond or 500 feet of any named river or stream.
  - (5) Within 250 feet of any residential dwelling or potable well. Salvage yard property owner's residence and well are exempt from this requirement.
  - (6) Within any established floodplain of the county as shown on FEMA maps effective date January 2, 1987.
  - (7) As per Wis. Stats. §§ 84.31 and 175.25.
- (d) *Exemptions.* The following are exempt from the requirements of this section:
- (1) Approved recycling centers which are designated by the county, state, village, city, or town to receive and temporarily store materials for recycling.
  - (2) Those uses and activities as herein defined when entirely established within an enclosed building, provided that the use and activity is allowed within the zoning district.
  - (3) Materials that are stored by the property owner, for his own use, on his own land, when such person is engaged in farming as defined by Wis. Stats. § 91.01(6).
- (e) *Screening.*
- (1) Those salvage yards that are located on a state or federal highway shall be screened according to the provisions of this article.
  - (2) Screening will be required when there is an existing development within 500 feet of the proposed salvage yard even if such development is located across the road.
  - (3) Screening is required so materials are not noticeably visible from other currently developed property in the vicinity of the salvage yard, nor from public rights-of-way such as roads, streets, highways and waterways. The screening shall be a minimum of eight feet in height and shall be kept in good repair.
- (f) *Permit application is required.* A conditional use permit for a salvage yard is required. Application requesting county zoning committee approval of a proposed salvage yard activity shall be accompanied by the following:
- (1) A description of all phases of the contemplated operation including types of machinery and equipment which will or might be necessary to carry on the operation.
  - (2) A legal description of the proposed location.
  - (3) A legible, detailed map showing the location and distance to development, land use and all wells within 250 feet of the proposed location.

- (4) The contemplated size and location of all proposed structures that will be part of the operation.
- (5) The location and separation distances of all driveways being proposed.
- (g) *Standards.* The following standards shall apply to salvage yards: It is recommended that for fire protection, an unobstructed fire break be maintained one rod in width and completely surround the salvage yard operation.
- (h) *Setbacks.* Setbacks, other than those already listed or described, shall be as follows:
  - (1) Whichever of the following is greater: ten feet from right-of-way or 60 feet from centerline of a highway when no fence is proposed.
  - (2) One foot from side yard property line when there is a fence and no current development on the adjoining land.

(Code 1987, § 17.22; Ord. No. 94-126, 12-19-1994)

Sec. 50-80. - Garbage and refuse disposal sites.

- (a) No garbage or refuse disposal sites shall be permitted in the county except in conformance with the rules and regulations of Wis. Admin. Code ch. NR 51.
- (b) All such disposal sites shall have minimum front, side and rear yards of 100 feet each.
- (c) Garbage and refuse disposal sites shall be screened so that the materials are not visible from other property in the vicinity, nor from public rights-of-way such as roads, streets, highways and waterways.

(Code 1987, § 17.23)

Sec. 50-81. - Mobile home parks.

Except as otherwise specifically authorized, no mobile home intended for occupancy shall be located within the county except in a mobile home park, the plan of which has been approved by the zoning committee. Such parks shall meet the following requirements:

- (1) Minimum size: five acres.
- (2) Maximum number of mobile home sites: six per acre.
- (3) Minimum width of a mobile home site: 40 feet.
- (4) Maximum height of a mobile home trailer: 15 feet.
- (5) Minimum distance between mobile home trailers: 20 feet.
- (6) Minimum distance between mobile home and service road: ten feet.
- (7) Each mobile home site shall be connected to a public or common water supply system and a public or common sewage disposal system.

- (8) All drives, parking areas and walkways shall be hard surfaced. There shall be one parking space for each mobile home and additional parking spaces for automotive vehicles within the park, totaling not less than 1¼ parking spaces for each mobile home space.
- (9) No mobile home sales office or other business or commercial use shall be located on the mobile home park site. However, laundries, washrooms, recreation rooms, maintenance equipment storage and one office are permitted.
- (10) Minimum side yard setback: 40 feet at all front, side and rear lot lines of the mobile home park.
- (11) Each mobile home park shall be completely enclosed, except for permitted entrances and exits, by:
  - a. A temporary planting of fast growing material, capable of reaching a height of 15 feet or more; and
  - b. A permanent evergreen planting, the individual tree to be such a number and so arranged that within ten years they will have formed a dense screen. Such permanent planting shall be grown or maintained to a height of not less than 15 feet.
- (12) All mobile homes shall meet the construction standards of the Mobile Homes Manufacturing Association.
- (13) Mobile home parks shall comply with the sanitation regulations of the county sanitary code and the appropriate requirements of the Wisconsin Administrative Code.

(Code 1987, § 17.24)

#### Sec. 50-82. - Trailer camps.

Except as otherwise specifically authorized, no trailer shall be located within the county except in a federal, state, town or county camp or in a private campsite, the plan of which has been approved by the county zoning committee.

- (1) Each trailer site shall be plainly marked and surfaced.
- (2) Maximum number of trailer sites shall be 15 per gross acre and trailer camps are only permitted on parcels equal to or greater than five acres in size.
- (3) All drives and parking areas other than those at individual trailer sites shall be hard surfaced.
- (4) Central toilet, shower and washing facilities shall be provided in sufficient quantity, as determined by appropriate Wisconsin Administrative Code requirements.
- (5) Water supply and the manner of sewage disposal shall comply with regulations of the county sanitary code and the appropriate requirements of the Wisconsin Administrative Code.
- (6) No trailer shall be less than 50 feet from the front, side or rear lot lines of the camp.
- (7) Marshland and shoreland areas shall not be altered.

(8) The screening provisions for mobile home parks shall be met.

(Code 1987, § 17.25; Res. No. 16-21A, 1-22-2019)

Sec. 50-83. - Major recreational equipment.

- (a) A property owner may store their own major recreational equipment on their own property without being subject to any time limit, as long as there is a residence on the same parcel and the equipment is not used for living or housekeeping purposes when parked or stored on the parcel.
- (b) A single motor home/RV/camper shall be allowed to be used or stored on the owner's property where there is either no residence or one single family residence, for up to 30 days in one calendar year. This time frame can be extended with the issuance of an annual land use permit. Adequate sanitary facilities must be installed if pressurized water is available on site and for park models. If water is brought in, proof of wastewater pumping must be provided.
- (c) More than one recreational vehicle on a parcel for more than 30 days per calendar year must meet trailer camp/campground requirements.
- (d) Recreational vehicles must meet all setback requirements of a residence.
- (e) Recreational equipment permitted prior to this amendment must meet the annual permit requirements. If more than one site was permitted on the property, more than one can remain until the property changes ownership. At that time, only one recreational vehicle site will be permitted unless a trailer camp/campground permit is obtained.

(Code 1987, § 17.26; Res. No. 16-21, 8-30-2016)

Sec. 50-84. - Adult bookstore, adult cabaret or adult motion picture theater regulations.

- (a) *Purpose.* It is the purpose of this section to regulate sexually oriented businesses in order to promote the health, safety, and general welfare of citizens of the county, and to establish reasonable and uniform regulations to prevent the deleterious location and concentration of sexually oriented businesses within the county. The provisions of this section have neither the purpose nor effect of imposing a limitation or restriction on the content of any communicative materials, including sexually oriented materials. Similarly, it is neither the intent nor effect of this section to restrict or deny access by adults to sexually oriented materials protected by the First Amendment, or to deny access by the distributors and exhibitors of sexually oriented entertainment to their intended market. Neither is it the intent nor effect of this section to condone or legitimize the distribution of obscene material.
- (b) *Findings.*
  - (1) The board finds that adult-oriented establishments, as defined in this chapter, require special zoning in order to protect and preserve the health, safety, and welfare of the county.
  - (2)

Based on its review of studies conducted in Phoenix, AZ; Garden Grove, CA; Los Angeles, CA; Whittier, CA; Indianapolis, IN; Minneapolis, MN; St. Paul, MN; Cleveland, OH; Oklahoma City, OK; Amarillo, TX; Austin, TX; Beaumont, TX; Dallas, TX; Houston, TX; Newport News, VA; Bellevue, WA; New York, NY; Seattle, WA; and St. Croix County, WI; and the Report of the Attorney General's Working Group of Sexually Oriented Businesses (June 6, 1989, State of Minnesota), and statistics obtained from the U.S. Department of Health and Human Services, Centers for Disease Control and Prevention; and the findings incorporated in *City of Renton v. Playtime Theaters, Inc.*, 475 U.S. 41 (1986), *Colman A. Young v. American Mini-Theaters, Inc.*, 427 U.S. 50 (1976), *FW/PBS, Inc. v. City of Dallas*, 493 U.S. 215 (1990), *Barnes v. Glen Theatre, Inc.*, 501 U.S. 560 (1991), *City of Erie v. Pap's A.M.*, 120 S. Ct. 1382 (2000), *East of the River Enterprises II v. City of Hudson*, 2000 Wisc. App. Lexis 734 (Ct. App. Aug. 1, 2000); *Ben's Bar, Inc. v. Village of Somerset*, 316 F.3d 702, 2003 WL 132541 (7th Cir. 2003); the board finds that there is convincing evidence that the secondary effects of adult-oriented establishments include an increased risk of prostitution, high-risk sexual behavior, crime, and other deleterious effects upon existing businesses and surrounding residential areas, and decreased property values.

- (3) The board intends to control the impact of these secondary effects in order to protect the health, safety, and welfare of the citizenry; protect the citizens from increased crime; preserve the quality of life; preserve the property values and character of surrounding neighborhoods and areas.
  - (4) It is not the intent of the board to suppress any speech activities protected by the First Amendment, but to enact a content-neutral ordinance which addresses the secondary effects of adult-oriented establishments while providing an outlet for First Amendment protected activities.
  - (5) In order to minimize and control the secondary effects of adult-oriented establishments upon the county, it is the intent of the board to prevent the concentration of adult-oriented establishments within a certain distance of each other and within certain distance of other specified locations which are incompatible with and would suffer from the secondary effects of adult-oriented establishments.
- (c) *Standards.* The First Amendment and other provisions of the United States Constitution, as interpreted by the United States Supreme Court and other courts, require that adult-oriented establishments are entitled to certain protections. Therefore, an adult bookstore, an adult motion picture theater, and an adult cabaret are permitted as a conditional use permit in the I Industrial zoning district and shall be a prohibited use in any other zoning district. The adult-oriented establishment may locate in the specified district only if applicable zoning district regulations are met:
- (1) Such use shall not be located within 1,000 feet of any residence.
  - (2) Such use shall not be located within 1,000 feet of a public or private school, church, nursery,

day care center, or park.

- (3) Such use shall not be located within 1,000 feet of another adult bookstore, adult motion picture theater, or adult cabaret.
- (4) The distances provided in this subsection shall be measured by following a straight line, without regard to intervening buildings, from the nearest point of the building which the proposed use is to be located, to the nearest point of the curtilage of the residence, school, church, nursery, day care center or park.
- (5) Such use shall not be located in a structure that has a door, window, or opening that is constructed in such a way that the public can view the interior contents or activities without entering the structure.
- (6) Such use shall display a two-foot by two-foot sign located within three feet of the structure entrance in such a position that any person approaching to enter will be able to read the following: "Must be 18 years old to enter" and "Material beyond this door may be offensive."
- (7) Violation of these provisions is declared to be a public nuisance per se.
- (8) Nothing in this subsection is intended to authorize, legalize or permit the establishment, operation, or maintenance of any business, building, or use which violates any county ordinances or statute of the state regarding public nuisances, sexual conduct, lewdness, or obscene or harmful matter or the exhibition or public display thereof.

(Code 1987, § 17.27; Res. No. 10-04, 1-26-2010; Res. No. 14-10, 3-25-2014)

Sec. 50-85. - Tourist rooming house.

- (a) The approval for a tourist rooming house shall be for a period of one year of operation. The one year shall commence from the date the permit is issued, however, a land use permit shall not be issued prior to the property owner obtaining a lodging license from the Rusk County Public Health Department. The permit shall remain in effect provided annual reviews by the zoning administrator discloses that a lodging license has been obtained and is current, the conditions and all requirements of this chapter are adhered to.
- (b) Operational rules shall be provided that establish guidelines that the tenants must comply with regarding, but not limited to; off-street parking, garbage collection, occupancy limits, fireworks, and excessive noise.
  - (1) The maximum number of tenants allowed to reside shall not exceed two persons per bedroom, plus two persons.
  - (2) A local contact person shall be identified that will be responsible to manage the property. The property owner may be the contact person.
  - (3)

Contact information shall be posted on an exterior wall near the main entrance of the residence with a minimum display area of eight inches by ten inches. The following must be provided:

- a. Address of property.
  - b. Emergency contact information for police, fire, ambulance.
  - c. Owner's and local contact person's phone number, and phone number for the Rusk County Zoning Office.
  - d. Maximum number of occupants allowed.
- (4) One business sign may be placed on the property with a maximum display are of 12 square feet.
- (5) The use of recreational vehicles and/or tents is prohibited.
- (6) Upon occurrence of two documented violations of the operational rules within a calendar year, the owner shall be subject to revocation of the permit.

(Res. No. 16-21, 8-30-2016; Res. No. 16-21A, 1-22-2019)

Secs. 50-86—50-111. - Reserved.

## ARTICLE V. - CONDITIONAL USES

Sec. 50-112. - General provisions.

One of the purposes of this chapter is to divide the unincorporated portions of the county into districts within which the use of land and buildings, and the bulk and location of buildings in relation to the land are mutually compatible and substantially uniform. There are certain uses that may be entirely appropriate and not necessarily incompatible with the basic uses permitted in any district, but not at every or any location thereon or without restrictions or conditions being imposed by reason of unique problems that use of its particular location presents from a zoning standpoint, including the impact of those uses upon neighboring land or public facilities, and the public need for the particular use at a particular location. Such uses may be necessary or desirable to be allowed in a particular district, provided that due consideration is given to their location, development and operation. Such uses are hereby classified as conditional uses and are subject to the provisions specified in this article.

(1) *Approvals required.*

- a. Any conditional uses listed in this chapter shall be permitted only after receiving the appropriate town board and county zoning committee's approval.
- b. Any person must make a request to the county zoning administrator for a conditional use permit. The zoning administrator shall promptly send the application to the appropriate town board clerk with any or all data the applicant deems pertinent to the situation. The

town board shall make a determination and send such determination to either the county zoning administrator or the county zoning committee. The zoning committee will then follow the procedures specified in this article to consider the conditional use application.

- c. In those areas where the appropriate town board and the zoning committee disagree, a mediation board made up of three members shall rule. The membership shall include a town board member, a zoning committee member and any other person agreed upon by the town board and the county zoning committee.
  - d. Upon such approvals, issuance of a conditional use permit will be granted.
- (2) *Basis of approval.* The county zoning committee shall consider the effect of such grant on the health, general welfare, safety and economic prosperity of the county and of the immediate area in which such use would be located, including such considerations as the effect on the established character and quality of the area, its physical attractiveness, existing topography, drainage features, erosion potential, vegetation cover, the prevention and control of water pollution, the location with respect to floodplains and floodways, the movement of traffic and the relationship to existing or proposed roads, the demand for related services, the possible hazardous, harmful, noxious, offensive or nuisance effects resulting from noise, dust, smoke or odor and other factors.
- (3) *Conditions which may be required.* Upon consideration of the factors listed above, the county zoning committee may attach such conditions, in addition to those required elsewhere in this chapter, that it deems necessary to further the purposes of this chapter. Violation of any of these conditions shall be deemed a violation of this chapter. Such conditions may include, without limitations because of specific enumeration, increased setbacks and yards, specified waste disposal and water supply facilities, landscaping and planting screens, operational controls, sureties and deed restrictions.

(Code 1987, § 17.40)

Sec. 50-113. - Procedure.

- (a) *Application.* Application for a conditional use permit shall be made to the county zoning administrator who shall promptly refer the application to the county zoning committee. In addition to the information required under section 50-301 for a land use permit, the county zoning committee may require the applicant to submit other pertinent data and information necessary to properly evaluate the request. The zoning committee may further request information it deems necessary from the appropriate town board to further evaluate the request.
- (b) *Fees.* The fee for filing of application for the conditional use permits shall be established by the county zoning committee. A copy of the current fee schedule shall be kept on file in the office of the county zoning administrator.

- (c) *Hearing.* The county zoning committee shall schedule a public hearing on the application within 30 days after it is filed or in a special situation, which shall be written into the minutes of the committee, may waive the public hearing requirements. Whenever shoreland is involved, a copy of the notice for a public hearing shall be sent to the state department of natural resources at least ten days prior to such hearing.
- (d) *Determination.* The zoning committee shall report its decision within 90 days after the filing of the application. Its decision shall include an accurate description of the use permitted, of the property on which it is permitted, and all conditions made applicable thereto. In those cases where shorelands are involved a copy of the zoning committee's determination shall be sent to the state department of natural resources within ten days of the rendering of such decision.
- (e) *Mapping and recording.* When a conditional use permit is granted, an appropriate record shall be made of the land use and building permits, and such grant shall be applicable solely to the structures, use and property so described.
- (f) *Termination.* Where a permitted conditional use does not continue in conformity with the conditions of the original approval, the conditional use permit shall be terminated by action of the zoning committee.

(Code 1987, § 17.41)

Secs. 50-114—50-139. - Reserved.

## ARTICLE VI. - ZONING DISTRICTS

Sec. 50-140. - Recreational-Residential Districts.

The Recreational-Residential Districts provide for one- and two-family yearround and seasonal residential and recreational development and essential recreation-oriented services in areas of high residential and recreational value protected from traffic hazards and the intrusion of incompatible land uses. It is intended to encourage such development around existing residential and recreational areas where soil conditions and physical features will support and are suitable for such development without depleting or destroying natural resources. It is also intended that these areas are economically able to be provided with and readily served by utilities, roads, and other essential facilities and services. As shown in section 50-5 there will be three of these districts identified as RR-1, RR-2, and RR-3. Each district will have the same principal requirements with the only substantive difference being the permitted dimensional sizing.

(1) *Allowed uses.*

- a. Private horticulture and gardening.
- b. Essential services and utilities intended to serve the principal permitted use.

- c. Remodeling of existing conforming structures provided such remodeling does not change the use, overall volume, or substantially alter the exterior dimensions of said structure.
  - d. Tool sheds, doghouses, school bus stop shelters, and other like structures less than 13 feet in height and 100 square feet in dimensional size, provided they are not located within a required setback area.
  - e. Forest management programs.
- (2) *Uses authorized by a land use permit.*
- a. One- and two-family individual yearround and seasonal dwellings.
  - b. Private garages, carports, accessory buildings, and other land uses clearly incidental to the customary principal use.
  - c. All structures, additions, and other construction improvements such as decks and patios, not to include remodeling, new roofing, siding, or other structural changes that do not increase the dimensional characteristics of existing buildings.
  - d. All access roads, driveways, and entrances require a permit and must meet the requirements of section 50-31.
  - e. Signs, subject to the provisions of article III of this chapter.
  - f. Customary home occupation.
  - g. Recreational trails, including, but not limited to, hiking, snowmobiling, skiing, all-terrain vehicles (ATVs), and horseback riding.
  - h. Satellite dishes, outside wood burning devices and other similar incidental equipment that serves a principal or accessory permitted use.
- (3) *Uses authorized by town board and zoning committee approval.*
- a. Commercial horticulture and gardening.
  - b. Customary accessory uses, provided such uses are clearly incidental to the principal use and that no such use generates traffic or noise that would create a public or private nuisance.
  - c. The replacement of a mobile home or primary housing unit with another provided the initial installation had been granted a conditional use permit.
- (4) *Uses authorized by a conditional use permit.*
- a. Multifamily (three or more) dwelling units.
  - b. Roominghouses and boardinghouses (bed and breakfasts).
  - c. Travel trailers, recreational vehicles (RVs) and primary housing units intended for primary occupancy.
  - d.

Mobile home parks and travel trailer-RV campgrounds, subject to the provisions of section 50-81 and Wisconsin Administrative Code requirements.

- e. Public and semi-public uses, including, but not limited to, public and private schools, churches, public parks and recreational areas, hospitals, rest homes and homes for the aged, fire and police stations, and historic sites. Sewage disposal plants, garbage incinerators, and commercial maintenance, repair, and storage buildings shall not be permitted.
- f. Commercial telephone, telegraph, and power transmission and communication towers, substations, relay and repeater stations and accompanying towers, equipment housing and other necessary appurtenant equipment and structures.
- g. Commercial home occupations or professional offices, provided no such use occupies more than 25 percent of the total floor area of the dwelling, not more than one nonresident person is employed on the premises, and such use will not include an operational activity that would create a nuisance to be otherwise incompatible with the surrounding area.
- h. Recreational service-oriented uses, such as resorts and motels, tourist rooming houses, restaurants and cocktail lounges, marinas, sport shops and bait sales, and other recreational services which in the opinion of the county zoning committee are of the same general character or clearly incidental to a permitted use or use authorized by a conditional permit.
- i. Storage rental units.
- j. Private garages, carports, and accessory building where no principal structure exists on the property and the owner does not live within five miles of the property.

(Code 1987, § 17.51; Res. No. 16-21, 8-30-2016)

Sec. 50-141. - A-1 Agricultural District.

The A-1 Agricultural District is intended to provide for the continuation of general farming and related activities in those areas best suited for such development and to prevent the untimely and uneconomical scattering of residential, commercial or industrial development into such areas.

(1) *Permitted uses.*

- a. One-family and two-family farm residences and a single mobile home, but only when occupied by owners or persons engaged in farming activities on the premises.
- b. All agricultural land uses, buildings and activities, except farms for disposal of garbage or offal.
- c. Roadside stands for the sale of products grown on the premises, if sufficient off-street

parking space for customers is provided.

- d. Agricultural processing industries and warehouses, except slaughterhouses, and rendering and fertilizer plants.
- e. Vacation farms and other farm-oriented recreational uses, such as riding stables, winter sports activities and game farms.
- f. Cemeteries and mausoleums.
- g. Essential services and utilities intended to serve a permitted principal use on the premises.
- h. Woodlots and tree farms.
  - i. Customary uses, provided such uses are clearly incidental to a principal permitted use.
  - j. Signs subject to the provisions of article III of this chapter.
- k. Residential dwellings and accessory structures on parcels that have an existing allowed residential use.

(2) *Uses authorized by conditional use permit.*

- a. One-family and two-family yearround dwellings.
- b. Mobile home parks and trailer parks, subject to the provisions of section 50-81.
- c. A primary housing unit provided the lot area and setback requirements of this district are met and the owner provides an accessory building or garage for storage purposes.
- d. Dumps for the disposal of garbage, sewage, rubbish or offal, subject to the applicable provisions of the Wisconsin Administrative Code and the provisions of section 50-80.
- e. Slaughterhouses, rendering and fertilizer plants.
- f. Public and semi-public uses, including, but not limited to, public and private schools, churches, public parks and recreation areas, hospitals, rest homes and homes for the aged, fire and police stations, historic sites. Sewage disposal plants and garbage incinerators shall not be permitted.
- g. Telephone, telegraph and power transmission towers, poles and lines, including transformers, substations, relay and repeater stations, equipment housing and other necessary appurtenant equipment and structures.
- h. Airports, subject to the provisions of section 50-33.
  - i. Quarrying, mining and processing of products from these activities subject to the provisions of section 50-78.
  - j. Home-based businesses.
  - k. Storage rental units.
  - l.

Private garages, carports, and accessory building where no principal structure exists on the property and the owner does not live within five miles of the property.

m. Tourist rooming houses.

(Code 1987, § 17.52; Res. No. 16-21, 8-30-2016)

Sec. 50-142. - C-1 Commercial District.

The C-1 Commercial District is intended to provide for the orderly and attractive grouping at appropriate locations of retail stores, shops, offices and similar commercial establishments.

(1) *Permitted uses.* Facilities such as, but not limited to, the following:

- a. Retail stores and shops offering convenience goods and services.
- b. Business and professional offices and studios.
- c. Banks and savings and loan offices.
- d. Public and semi-public buildings and institutions.
- e. Commercial entertainment facilities.
- f. Laundromats.
- g. Restaurants.
- h. Taverns.
- i. Medical and dental clinics.
- j. Auto service stations and maintenance facilities.
- k. Public and private marinas.
- l. Recreation service-oriented facilities as stated in the RR-1 district.
- m. Motels and tourist homes.
- n. Roominghouses and boardinghouses.
- o. Customary accessory uses, provided such uses are clearly incidental to the principal permitted use.

(2) *Uses authorized by conditional use permit.*

- a. Public and semi-public conditional uses as stated in the RR-1 district.
- b. New and used car sales establishments.
- c. Wholesaling establishments.
- d. Transportation terminals.
- e. Farm implement sales firms.
- f. Outdoor theaters.
- g. Miniature golf, go-carts and amusement parks.

- h. Drive-in establishments offering in-car service to customers.
- i. Single-family dwellings and primary housing units, but only when occupied by owners or persons engaged in commercial activities on the premises.
- j. Home-based businesses.
- k. Storage rental units.

(Code 1987, § 17.53)

#### Sec. 50-143. - I-1 Industrial District.

The I-1 Industrial District is intended to provide for manufacturing and industrial operations which, on the basis of actual physical and operational characteristics, would not be detrimental to surrounding areas by reason of smoke, noise, dust, odor, traffic, physical appearance or similar factors relating to public health, welfare and safety. Those industries requiring outdoor storage for raw materials or finished products may be required to provide a fence or screen in accordance with the provisions of section 50-77.

(1) *Permitted uses.*

- a. Manufacturing, assembly, fabricating and processing plants and similar type industrial operations consistent with the purposes of this district.
- b. General warehousing.
- c. Accessory uses clearly incidental to a permitted use.

(2) *Uses authorized by conditional use permit.*

- a. Salvage yards, subject to the provisions of section 50-79.
- b. Quarrying, mining and processing of products from these activities, subject to the provisions of section 50-78.
- c. Adult book store, adult cabaret or adult motion picture theater subject to section 50-84.
- d. Any use determined to be objectionable by the county zoning committee on the basis of pollution, noise, dust, smoke, vibration, odor, flashing lights or danger of explosion may be permitted only upon the issuance of a conditional use permit setting forth dimensional and site requirements, performance standards, aesthetic controls and pollution standards for that particular use.

(Code 1987, § 17.54)

#### Sec. 50-144. - F-1 Forestry District.

The F-1 Forestry District provides for the continuation of forest programs and related uses in those areas best suited for such activities. It is intended to encourage forest management programs and also to recognize the value of the forest as a recreational resource by permitting as a conditional use certain recreational activities, which, when adequately developed, are not incompatible to the forest.

- (1) *Permitted uses.*
  - a. Production of forest crops, including tree plantations.
  - b. Harvesting of wild crops, such as marsh hay, ferns, moss, berries, tree fruits and tree seeds.
  - c. Hiking trails, snowmobile trails and wildlife refuges.
  - d. Signs, subject to the provisions of article III of this chapter.
  - e. Hunting and fishing cabins.
  - f. Seasonal dwellings and customary accessory buildings, such as private garages and carports on the same lot as the seasonal dwelling unit.
  - g. A primary housing unit, provided the lot area and setback requirements of this district are met and the owner provides an accessory building or garage for storage purposes.
  - h. One-family and two-family yearround dwelling units and accessory buildings.
- (2) *Uses authorized by a conditional use permit.*
  - a. Public and private parks, playgrounds and winter sports areas.
  - b. Dams, plants for production of electric power and flowage areas.
  - c. Trailer camps subject to the provision of section 50-82.
  - d. Forest-connected industries, such as sawmills, debarking operations, chipping facilities and similar operations.
  - e. Recreation and youth camps.
  - f. Riding stables.
  - g. Shooting ranges.
  - h. Quarrying and mining operations subject to the provisions of section 50-78.
  - i. Yearround residence for caretakers of recreational areas.
  - j. Telephone, telegraph and power transmission towers, poles and lines, including transformers, substations, relay and repeater stations, equipment housing and other necessary appurtenant equipment and structures, radio and television stations and transmission towers, fire towers, and microwave relay towers.
  - k. Airports, subject to the provisions of 50-33.
  - l. Garbage and refuse disposal sites subject to the provisions of section 50-80.
  - m. Resorts/motels, tourist rooming houses and other similar business operations as approved by the zoning committee.
  - n. Private garages, carports, and accessory building where no principal structure exists on the property and the owner does not live within five miles of the property.

(Code 1987, § 17.55; Ord. No. 96-60A, 9-24-1996; Res. No. 16-21, 8-30-2016)

## Sec. 50-145. - W-1 Resource Conservation District.

The W-1 Resource Conservation District is intended to be used to prevent destruction of natural or manmade resources and to protect watercourses, including the shorelands of navigable waters and areas which are not adequately drained or which are subject to periodic flooding, where developments would result in hazards to health or safety, would deplete or destroy resources or be otherwise incompatible with the public welfare. The provisions of this district shall not apply to, nor override, the shoreland wetland regulations set forth in article VII of this chapter.

(1) *Permitted uses.*

- a. Public fish hatcheries.
- b. Soil and water conservation programs.
- c. Forest management programs.
- d. Wildlife preserves.

(2) *Uses authorized by conditional use permit.*

- a. Drainage where such activity will not be in conflict with the stated purposes of this district.
- b. Public and private parks.
- c. Dams, plants for the production of electric power and flowage areas.
- d. Grazing where such activities will not be in conflict with the stated purposes of this district.
- e. Accessory structures, such as hunting and fishing lodges.
- f. Orchards and wild crop harvesting.
- g. Telephone, telegraph and power transmission towers, poles and lines, including transformers, substations, relay and repeater stations, equipment housings and other necessary appurtenant equipment and structures, radio and television stations and transmission towers, fire towers and microwave relay towers.
- h. Trailer camps, subject to the provision of section 50-82.
- i. Signs, subject to the provisions of article III of this chapter.
- j. Recreation trails, where such activities would not be in conflict with the stated purpose of this district.
- k. No use shall involve dumping or filling of mineral soil or peat removal or any other use that would disturb the natural fauna, flora, watercourses, water regimen or topography.

(Code 1987, § 17.56)

## Secs. 50-146—50-174. - Reserved.

## ARTICLE VII. - SW-1 SHORELAND/WETLAND DISTRICT (OVERLAY DISTRICT)

Sec. 50-175. - Statutory authorization.

This article is adopted pursuant to the authorization in Wis. Stats. §§ 59.692 to implement 59.692 and 281.31.

(Res. No. 16-21, 8-30-2016)

Sec. 50-176. - Finding of fact.

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

(Code 1987, § 17.57(1.2); Res. No. 07-07, 3-27-2007; Res. No. 07-07D, 3-31-2009; Res. No. 07-07E, 12-15-2009)

Sec. 50-177. - Purpose.

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

- (1) Further the maintenance of safe and healthful conditions and prevent and control water pollution through:
  - a. Limiting structures to those areas where soil and geological conditions will provide a safe foundation.
  - b. Establishing minimum lot sizes to provide adequate area for private sewage disposal facilities and wells.
  - c. Controlling filling and grading and to prevent soil erosion.
  - d. Limiting impervious surfaces to control runoff which carries pollutants.
- (2) Protect spawning grounds, fish and aquatic life through:
  - a. Preserving wetlands and other fish and aquatic habitat.
  - b. Regulating pollution sources.
  - c. Controlling shoreline alterations, dredging and lagooning.
- (3) Control building site, placement of structures and land uses through:
  - a. Separating conflicting land uses.

- b. Prohibiting certain uses detrimental to the shoreland area.
  - c. Setting minimum lot sizes and widths.
  - d. Regulating side yards and building setbacks from waterways.
  - e. Setting the maximum height of near shore structures.
- (4) Preserve shoreland vegetation and natural beauty through:
- a. Restricting the removal of natural shoreland cover.
  - b. Preventing shoreline encroachment by structures.
  - c. Controlling shoreland excavation and other earthmoving activities.
  - d. Regulating the use and placement of boathouse, piers and other structures.

(Code 1987, § 17.57(1.3); Res. No. 07-07, 3-27-2007; Res. No. 07-07D, 3-31-2009; Res. No. 07-07E, 12-15-2009; Res. No. 16-21, 8-30-2016)

Sec. 50-178. - Title.

This article shall be known as the "Shoreland and Shoreland/Wetland Zoning Ordinance for Rusk County, Wisconsin."

(Code 1987, § 17.57(1.4); Res. No. 07-07, 3-27-2007; Res. No. 07-07D, 3-31-2009; Res. No. 07-07E, 12-15-2009)

Sec. 50-179. - Application of the county zoning ordinance.

The provisions of the county zoning ordinance are hereby incorporated by reference. These provisions shall only apply to the shoreland area where they impose greater restrictions than this article otherwise imposes.

(Code 1987, § 17.57(1.5); Res. No. 07-07, 3-27-2007; Res. No. 07-07D, 3-31-2009; Res. No. 07-07E, 12-15-2009)

Sec. 50-180. - Areas to be regulated.

Areas regulated by this article shall include all the land (referred to herein as shorelands and shorelands/wetlands) in the unincorporated areas of the county which are:

- (1) Within 1,000 feet of the ordinary high-water mark of navigable lakes, ponds or flowages. Lakes, ponds or flowages in the county shall be presumed to be navigable if they are listed in the state department of natural resources publication Wisconsin Lakes Book or as shown on the United States Geological Survey quadrangle maps or other zoning base maps.
- (2) Within 300 feet of the ordinary high-water mark of navigable rivers or streams, or to the landward side of the floodplain, whichever distance is greater. Rivers and streams in the county shall be presumed to be navigable if they are designated as continuous waterways or

intermittent waterways on the United States Geological Survey quadrangle maps. County soil survey maps or other existing county floodplain zoning maps shall be used to delineate floodplain areas.

- (3) The provisions of this chapter apply to regulation of the use and development of unincorporated shoreland areas. Unless specifically exempted by law, all cities, villages, towns, counties and, when Wis. Stats. § 13.48(13), applies, state agencies are required to comply with, and obtain all necessary permits under local shoreland ordinances. The construction, reconstruction, maintenance or repair of state highways and bridges carried out under the direction and supervision of the Wisconsin Department of Transportation is not subject to local shoreland zoning ordinances if Wis. Stats. § 30.2022 applies (NR115.02). Shoreland zoning requirements in annexed or incorporated areas are provided in Wis. Stats. §§ 61.353 and 62.233.
- (4) 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 district office of the department for a final determination of navigability or ordinary high-water mark. The county will work with surveyors with regard to Wis. Stats. § 59.692(1h).
- (5) Under Wis. Stats. § 281.31(2m), notwithstanding any other provision of law or administrative rule promulgated thereunder, this article does not apply to lands adjacent to farm drainage ditches if:
  - a. Lands adjacent to farm drainage ditches if:
    1. Such lands are not adjacent to a natural navigable stream, river, lake or pond;
    2. Those parts of such drainage ditches adjacent to such lands were not navigable streams before ditching; and
  - b. Lands adjacent to artificially constructed drainage ditches, ponds or stormwater retention basins that are not hydrologically connected to a natural navigable water body.

(Code 1987, § 17.57(2.1); Res. No. 07-07, 3-27-2007; Res. No. 07-07D, 3-31-2009; Res. No. 07-07E, 12-15-2009; Res. No. 16-21, 8-30-2016; Res. No. 16-21A, 1-22-2019)

#### Sec. 50-181. - Shoreland zoning maps.

The most current, latest print maps designated in this section are hereby adopted and made part of this article. They are on file in the office of the zoning administrator for the county.

- (1) United States Geological Survey quadrangle maps for the county.
- (2) Most current available state wetland inventory maps stamped "FINAL."
- (3) Floodplain zoning maps identified as FEMA.
- (4)

The most recent version of the Wisconsin Wetland Inventory as depicted on the Department of Natural Resources Surface Water Data Viewer [at this link](https://dnrmaps.wi.gov/H5/?Viewer=SWDV&runWorkflow=Wetland): url="https://dnrmaps.wi.gov/H5/?Viewer=SWDV&runWorkflow=Wetland".

(Code 1987, § 17.57(2.2); Res. No. 07-07, 3-27-2007; Res. No. 07-07D, 3-31-2009; Res. No. 07-07E, 12-15-2009; Res. No. 16-21, 8-30-2016; Res. No. 16-21A, 1-22-2019)

#### Sec. 50-182. - Compliance.

The use of any land or water; the size, shape and placement of lots; the use, size, type and locations of structures on lots; the installation and maintenance of water supply and waste disposal facilities; the filling, grading, lagooning, dredging of any lands; the cutting of shoreland vegetation; and the subdivision of lots shall be in full compliance with the terms of this article and other applicable local, state or federal regulations. (However, section 50-192 provides for standards applicable to nonconforming uses and structures.) Buildings, signs and other structures shall require a permit unless otherwise expressly excluded by a provision of this article. Property owners, builders and contractors are responsible for compliance with the terms of this article.

(Code 1987, § 17.57(2.3); Res. No. 07-07, 3-27-2007; Res. No. 07-07D, 3-31-2009; Res. No. 07-07E, 12-15-2009)

#### Sec. 50-183. - Municipalities and state agencies regulated.

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

(Res. No. 16-21, 8-30-2016)

**Editor's note**— Res. No. 16-21, adopted Aug. 30, 2016, amended § 50-183 in its entirety to read as herein set out. Former § 50-183, pertained to annexed and newly incorporated areas, and derived from Code 1987, § 17.57(2.4); Res. No. 07-07, adopted March 27, 2007; Res. No. 07-07D, adopted March 31, 2009; Res. No. 07-07E, adopted Dec. 15, 2009.

#### Sec. 50-184. - Abrogation and greater restrictions.

- (a) The provisions of this article supersede any provisions in a county zoning ordinance that solely relate to shorelands. In other words, if a zoning standard applies to lands that lie within the shoreland and applies because the lands are in shoreland, then this article supersedes those provisions. However, when an ordinance adopted under a statute other than Wis. Stats. § 59.692,

does not solely related to shorelands and is more restrictive than this article, for example, a floodplain ordinance, that this article shall continue in full force and effect to the extent of the greater restriction. (Wis. Stats. § 59.692(5).)

- (b) This article shall not require approval or be subject to disapproval by any town board.
- (c) If an existing town ordinance relating to shoreland/wetland is more restrictive than this article or any amendments thereto, the town ordinance continues in all respects to the extent of greater restrictions but not otherwise.
- (d) 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 prevail.
- (e) The following provisions of this article are hereby incorporated by reference; these provisions shall only apply to the shoreland area where they impose greater restrictions than this article otherwise imposes.
- (f) This article may establish standards to regulate matters that are not regulated in NR115, but that further the purposes of shoreland zoning as described in section 50-177 of this article. (Wis. Stats. § 59.692(1d)(b).)
- (g) Counties may not establish shoreland zoning standards in a shoreland zoning ordinance that requires any of the following:
  - (1) Approval to install or maintain outdoor lighting in shorelands, impose any fee or mitigation requirements to install or maintain outdoor lighting in shorelands or otherwise prohibits or regulates outdoor lighting in shorelands if the lighting is designed or intended for residential use.
  - (2) Requires any inspection or upgrade of a structure before the sale or other transfer of the structure may be made. (Wis. Stats. § 59.692(1k(a)1.)
- (h) The construction and maintenance of a facility is considered to satisfy the requirements of a shoreland zoning ordinance if:
  - (1) The department has issued all required permits or approvals authorizing the construction or maintenance under Wis. Stats. ch. 30, 31, 281 or 283. Note: A facility means any property or equipment of a public utility, as defined in Wis. Stats. § 196.01(5) or a cooperative association organized under Wis. Stats. ch. 185 for the purpose of producing or furnishing heat, light or power to its members only, that is used for the transmission, delivery or furnishing of natural gas, heat, light or power.

(Code 1987, § 17.57(2.6); Res. No. 07-07, 3-27-2007; Res. No. 07-07D, 3-31-2009; Res. No. 07-07E, 12-15-2009; Res. No. 16-21, 8-30-2016)

Sec. 50-185. - Interpretation.

Where a provision of this article is required by a statute and standard in Wis. Admin. Code ch. NR 115 and where the article provision is unclear, the provision shall be interpreted in light of the statute and Wis. Admin. Code ch. NR 115 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.

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

(Code 1987, § 17.57(2.7); Res. No. 07-07, 3-27-2007; Res. No. 07-07D, 3-31-2009; Res. No. 07-07E, 12-15-2009; Res. No. 16-21, 8-30-2016)

Sec. 50-186. - Land division review and sanitary regulations.

- (a) 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.
- (b) Any division of lands in the shoreland and shoreland/wetland district shall meet the requirements of Wis. Stats. ch. 236 and the county subdivision code, chapter 42. In such review, the following factors shall be considered:
  - (1) Hazards to the health, safety or welfare of future residents.
  - (2) Proper relationship to adjoining areas.
  - (3) Public access to navigable waters, as required by law.
  - (4) Adequate storm drainage facilities.
  - (5) Conformity to state law and administrative code provisions.
- (c) Sanitary regulations. The county has adopted sanitary regulations for the protection of health and the preservation and enhancement of water quality. Where a public sewer collection and treatment system is not available, design and construction of private sewage disposal systems shall be governed by a private sewage system ordinance adopted by the county under Wis. Stats. § 59.70(5).
- (d) All structures or premises in the county that are permanently or intermittently intended for human habitation or occupancy, where plumbing fixtures exist and water service is provided and which are not serviced by a public sewer, shall have a system for holding or treatment and dispersal of sewage and wastewater which complies with the provisions of chapter 24, article III, Rusk County Code of Ordinances.
- (e) Where public water supply systems are not available, private well construction shall be required to conform to ch. NR 812, Wis. Admin. Code.
- (f)

Requirements for developed properties. Property owners expanding, rebuilding or altering a structure connected to an existing POWTS shall verify or prove that the POWTS system is compliant with Wis. Admin. Code ch. SPS 383 standards.

**Note**— Existing private sewage systems installed in or after 1982 that have soil profile descriptions, system evaluations and inspection reports filed in the county zoning office meet this requirement.

(Code 1987, § 17.57(3.0); Res. No. 07-07, 3-27-2007; Res. No. 07-07D, 3-31-2009; Res. No. 07-07E, 12-15-2009; Res. No. 07-07, 3-27-2007; Res. No. 07-07D, 3-31-2009; Res. No. 07-07E, 12-15-2009; Res. No. 16-21, 8-30-2016)

#### Sec. 50-187. - Dimensions of building sites.

Minimum lot sizes in the shoreland area shall be established to afford protection against danger to health, safety and welfare, and protection against pollution of the adjacent body of water. Notwithstanding the provisions of the county comprehensive zoning code or any other county ordinances, the following shall apply to all areas within the Shoreland and Shoreland/Wetland District (Overlay District) of the county. The following dimensional requirements are not meant to be an all-inclusive list or to exclude those requirements not specifically addressed and, in the case of a conflict, are to be considered minimum standards:

- (1) *Sewered lots.* The minimum lot area shall be 10,000 square feet and the minimum average lot width shall be 65 feet. The 65-foot width shall be measured at the ordinary high water mark and building site.
- (2) *Unsewered lots.* The minimum lot area shall be 20,000 square feet and the minimum average lot width shall be 100 feet. The 100-foot width shall measure at the ordinary high water mark and the building site.
- (3) *Substandard lots.* A legally created lot or parcel that met minimum area and minimum average width requirements when created, but does not meet current lot size requirements, may be used as a building site if all of the following apply:
  - 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.
- (4) *Other substandard lots.* Except for lots which meet the requirements of subsection 50-187(3) a building permit for the improvement of a lot having lesser dimensions than those stated in subsections 50-187(1) and (2) shall be issued only if a variance is granted by the board of

adjustment.

*Riparian access.* All private riparian accesses; riparian access easements; outlots that are not deeded with a single lot; or other development offering riparian rights; deeded or contractual accesses for the purpose of riparian access shall meet the following requirements:

- a. The access to a navigable waterway for backlot, off-water or condominium type development shall have at least 100 feet of frontage at the ordinary high watermark with at least 20,000 square feet of area. The lot width shall be measured at right angles at all points along its side lot lines and the minimum required lot area shall exclude any wetlands. No cutting of vegetation and trees shall occur within 25 feet of each side lot line running the full depth of the lot.
- b. The number of single family lots, building sites, single family units or single family condominium units utilizing said riparian access shall be limited to three and must be within 1,000 feet of the riparian access. Commercial campgrounds, resorts or similar activity located on a backlot are prohibited from utilizing said access.
- c. No structures are permitted on the access. Overnight vehicle parking and the use of camping tents, motor homes and trailers shall not be permitted within the boundaries of the riparian access.
- d. The creation or use of land for a riparian access shall be by conditional use only. The zoning committee shall consider the size, shape, depth, present and potential use of the waterway, and the effect of the private access on public rights in navigable waters.
- e. Such access may be limited by Wis. Stats. § 30.133.

(Code 1987, § 17.57(4.0); Ord. No. 98-07, 2-24-1998; Res. No. 07-07, 3-27-2007; Res. No. 07-07D, 3-31-2009; Res. No. 07-07E, 12-15-2009; Res. No. 07-07F, 2-28-2012; Res. No. 16-21, 8-30-2016)

Sec. 50-188. - Shoreline setback area.

A shoreline setback area shall be maintained in order to protect water quality, natural scenic beauty, fish and wildlife habitat and for the purposes enumerated in section 50-176.

(1) *Lots that abut on navigable waters.*

- a. All buildings and structures, except exempt structures or structures with a reduced setback under subsections 50-188(6)–(10), shall be set back at least 75 feet from the ordinary high water mark of navigable waters. Shoreline setbacks shall be measured horizontally from the most waterward projection of a structure to the ordinary high-water mark.

(2) *Accessory uses and structures.*

- a.

Any permanent, roofed structure serving as an accessory, if attached to the principal building, shall maintain all setbacks for principal structures.

(3) *Setback requirements on highways and roads.*

- a. All state and U.S. numbered highways are hereby designated Class A highways. The setback line for Class A highways and for any other roads designated as major roads on official maps in the county shall be 110 feet from the centerline of the highway or 50 feet from the right-of-way line, whichever is greater.
- b. All county trunk highways not otherwise designated as Class A highways are hereby designated Class B highways. The setback for Class B highways and for roads designated as arterial roads on official maps in effect in the county shall be 75 feet from the centerline of such highway or 42 feet from the right-of-way line, whichever is greater.
- c. All town roads not otherwise designated Class A or Class B highways are hereby designated Class C highways. The setback for Class C highways and for streets other than major and arterial roads designated as such on official maps in effect in the county shall be 30 feet from the right-of-way line.
- d. A setback equal to the average setback of existing principal buildings located within 500 feet of a proposed building site and on the same side of the street, shall be permitted where five of these buildings do not conform with the appropriate setback line.

(4) *Reduced principal structure setbacks.* A setback less than the 75 feet required setback from the ordinary high water mark shall be permitted for a proposed principal structure and shall be determined as follows:

- a. Where there are existing principal structure 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:
  1. Both of the existing principal structures are located on a lot adjacent to the proposed principal structure.
  2. Both of the existing principal structures are located within 250 feet of the proposed principal structure and are the closest structure.
  3. Both of the existing principal structures are located less than 75 feet from the ordinary high water mark.
  4. The average setback shall not be reduced to less than 35 feet from the ordinary high water mark of any navigable water.
- b. Setback reductions may also be permitted by the board of adjustment via granting a variance pursuant to subsection 50-193(e) of this article.

(5)

*Side yards.* There shall be a side yard for each principle structure. The minimum width of each side yard shall be ten feet. There shall be a side yard of five feet for accessory structures excluding fences.

- (6) *Stairways; walkways; piers.* Stairways, elevated walkways, and that portion of piers landward of the ordinary high-water mark are exempt from the shoreline setback requirement, provided:
- a. The structure is necessary to access or protect the shoreline because of steep slopes or wet, unstable soils.
  - b. The structure shall be located so as to minimize earth disturbing activities and shoreline vegetation removal during construction and be visually inconspicuous as viewed from the adjacent waterway. Lattice work shall not be allowed.
  - c. Railings are permitted where required by safety concerns, state statutes or state regulations.
  - d. Stairways shall be supported on piles or footings rather than being excavated from erodible soils, steep slopes or a bluff face.
  - e. Canopies and roofs on such structure are prohibited.
  - f. The combined area of landings for a stairway and the landward side of a pier may not exceed 128 square feet for each buildable lot. Each single stairway landing may not exceed 36 square feet in area. Landings shall not be adjacent to each other and they must be separated by at least a ten-foot vertical distance, width shall be 60 inches or less.
  - g. Standards for removal of shoreline vegetation in section 50-189 shall be complied with.
- (7) Boathouses are exempt from the shoreline setback provided that:
- a. Boathouses shall be designed, constructed, and used solely for the storage of boats and related equipment and shall not be used for human habitation or occupancy. Boathouses shall not be equipped with a potable water supply, fireplaces, patio doors, furniture or any features inconsistent with the use of the structure exclusively as a boathouse. Boathouses shall have a gable roof with 4/12 pitch or greater.
  - b. Boathouses shall not be placed waterward beyond the ordinary high-water mark.
  - c. Only one boathouse is permitted for each buildable lot.
  - d. Reserved.
  - e. Boathouses shall be set back a minimum of four feet from and one foot above the ordinary high-water mark and shall be constructed in conformity with local floodplain zoning standards.
  - f. Wall height shall not exceed ten feet. The floor area shall not be less than 200 square feet and shall not exceed 400 square feet. The width of the boathouse cannot exceed two-thirds the length.

- g. Reserved.
  - h. Standards for removal of shoreline vegetation in section 50-189 shall be complied with and the boathouse shall be located within the view corridor.
  - i. Legal pre-existing boathouses located entirely above the ordinary high water mark and entirely within the access and viewing corridor that do not contain plumbing and are not used for human habitation may use the roof as a deck provided that:
    - 1. The boathouse has an existing flat roof.
    - 2. The roof has not side walls or screens.
    - 3. The roof may have railing that meets DSPS standards.
- (8) Open sided or screened structures are exempt from the shoreline setback provided that:
- a. The part of the structure that is nearest to the water is located at least 35 feet landward from the ordinary high water mark.
  - b. The floor area of all the structures in the shoreland setback area will not exceed 200 square feet.
  - c. The structure that is the subject of the request for special zoning permission is single story and has no sides or has open or screened sides.
  - d. The foundation or base of the structure shall not exceed 18 inches above existing natural grade and the wall height shall not exceed ten feet.
  - e. 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. A copy of this plan shall be recorded on the deed to the property.
- (9) 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 are exempt from shoreland setback standards.
- (10) Utility transmission and distribution lines, poles, towers, water towers, pumping stations, well pumphouse covers, private on-site wastewater treatment systems that comply with Wis. Admin. Code 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 storm water runoff from the structure are exempt from shoreland setback standards.
- (11) Devices or systems used to treat runoff from impervious surfaces are exempt from shoreland setback standards.
- (12)

Legal pre-existing exempt structures may be maintained, repaired, replaced, restored, rebuilt and remodeled provided the activity does not expand the footprint and does not go beyond the three-dimensional building envelope of the existing structure. Counties may allow expansion of a structure beyond the existing footprint if the expansion is necessary to comply with applicable state or federal requirements.

- (13) Buildings and structures to be constructed or placed in a floodplain shall be required to comply with any applicable floodplain zoning ordinance.

(Code 1987, § 17.57(5.0); Res. No. 07-07, 3-27-2007; Res. No. 07-07C, 3-25-2008; Res. No. 07-07D, 3-31-2009; Res. No. 07-07E, 12-15-2009 ; Res. No. 07-07G, 10-9-2012; Res. No. 16-21, 8-30-2016)

Sec. 50-189. - Vegetation standards.

To protect water quality, fish and wildlife habitat and natural scenic beauty, and to promote preservation and restoration of native vegetation, the county ordinance shall designate land that extends from the ordinary high water mark to a minimum of 35 feet inland as a vegetative buffer zone and prohibit removal of vegetation in the vegetative buffer zone except as follows.

- (1) The county may allow routine maintenance of vegetation.
- (2) The county may allow removal of trees and shrubs in the vegetative buffer zone to create access and viewing corridors. The viewing corridor may be at least 35 feet wide for every 100 feet of shoreline frontage. The viewing corridor may run contiguously for the entire maximum width or shoreline frontage owned.
- (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) The county may authorize by permit additional vegetation management activities in the vegetative buffer zone. The permit issued under this subd. par. shall require that all management activities comply with detailed plans approved by the county and designed to control erosion by limiting sedimentation into the waterbody, to improve the plant community by replanting in the same area, and to maintain and monitor the newly restored area. The permit also shall require an enforceable restriction to preserve the newly restored area.
- (5) The county may allow removal of trees and shrubs in the vegetative buffer zone on a parcel with ten or more acres of forested land consistent with "generally accepted forestry management practices" as defined in § NR 1.25 (2) (b), Wis. Adm. Code, and described in department publication "Wisconsin Forest Management Guidelines" (publication FR-226), provided that vegetation removal be consistent with these practices.

- (6) Cutting more than 35 feet inland. From the inland edge of the 35-foot area to the outer limits of the shoreland district, the cutting of trees and shrubbery shall be allowed when accomplished using accepted forest management and soil conservation practices which protect water quality.

(Code 1987, § 17.57(6.0); Res. No. 07-07, 3-27-2007; Res. No. 07-07D, 3-31-2009; Res. No. 07-07E, 12-15-2009; Res. No. 16-21, 8-30-2016)

Sec. 50-190. - Land-disturbing activities landward of the vegetation protection area.

- (a) *General standards.* Filling, grading, lagooning, dredging, ditching or excavating may be permitted in the shoreland area provided that:
- (1) It is done in a manner designed to minimize erosion, sedimentation or impairment of fish and wildlife habitat.
  - (2) Filling, grading, lagooning, dredging, ditching or excavating in the shoreland-wetland district meets the requirements of section 50-191(c)(2) and (3).
  - (3) All applicable federal, state and local authority is obtained in addition to a permit under this article.
  - (4) Any fill placed in the shoreland area is continually protected during construction against erosion by the use of riprap, jute netting, plastic cover, filter fabric fencing, etc.
  - (5) It is not done within the vegetative buffer zone unless necessary for establishing or expanding the vegetative buffer.
  - (6) Reserved.
  - (7) Where a DNR permit has been issued which meets the substantial concerns of this article, no county permit will be required unless this article is more restrictive.
- (b) *Landward of the vegetation protection area.* A zoning permit is required for land-disturbing activities landward of the vegetation protection area, which are within 300 feet of the OHWM of navigable water and which has surface drainage toward the water and on which there is any of the following:
- (1) Any filling or grading on slopes of more than 20 percent.
  - (2) Filling or grading of more than 1,000 square feet on slopes of 12 percent to 20 percent.
  - (3) Filling or grading of more than 2,000 square feet on slopes of zero percent to 12 percent.
  - (4) Slopes in excess of 45 percent. On slopes in excess of 45 percent land-disturbing activities are prohibited on shoreland that drain to surface waters.
- (c) In granting a zoning permit under section 50-190, the county zoning administrator shall attach the following conditions, where appropriate:
- (1) The smallest amount of bare ground shall be exposed for as short a time as feasible.

- (2) Temporary ground cover (such as mulch or jute netting) shall be used and permanent vegetative cover shall be established.
  - (3) Diversion berms or bales, silting basins, terraces, filter fabric fencing, and other methods shall be used to prevent erosion.
  - (4) Lagoons shall be constructed to avoid fish trap conditions.
  - (5) Fill shall be stabilized according to accepted engineering standards.
  - (6) Filling shall comply with any local floodplain zoning ordinance and shall not restrict a floodway or destroy the flood storage capacity of a floodplain.
  - (7) Channels or artificial watercourses shall be constructed with side slopes of two units horizontal distance to one unit vertical or flatter which shall be promptly vegetated, unless bulkheads or rip-rap are provided.
- (d) *Soil conservation practices and agricultural drainage maintenance.*
- (1) Soil conservation practices such as tiled terraces, runoff diversions and grassed waterways used for erosion control shall not require a permit under subsection (c) of this section when designed and constructed to Natural Resource Conservation Service technical standards.
  - (2) The maintenance of existing agricultural drainage systems shall be permitted when designed and constructed to Natural Resource Conservation Service technical standards.
- (e) *Impervious surface standards.*
- (1) *Purpose.* Establish impervious surface standards to protect water quality and fish and wildlife habitat and to protect against pollution of navigable waters. County impervious surface standards shall apply to the construction, reconstruction, expansion, replacement or relocation of any impervious surface on a riparian lot or parcel and any non-riparian lot or parcel that is located entirely within 300 feet of the ordinary high-water mark of any navigable waterway.
  - (2) *Calculations of percentage of impervious surface.* Percentage of impervious surface shall be calculated by dividing the surface area of the existing and proposed impervious surfaces on the portion of a lot or parcel that is within 300 feet of the ordinary high water mark by the total surface area of that lot or parcel, and multiplied by 100. Impervious surfaces described in subsection 50-190(5) shall be excluded from the calculation of impervious surface on the lot or parcel. If an outlot lies between the ordinary high water mark and the developable lot or parcel and both are in common ownership, the lot or parcel and the outlot shall be considered one lot or parcel for the purposes of calculating the percentage of impervious surface.
  - (3) *General impervious surface standard.* Up to 15 percent impervious surface is allowed on the portion of a lot or parcel that is within 300 feet of the ordinary high water mark.

- (4) *Maximum impervious surface.* A property may exceed the impervious surface standard under subsection 50-190(3) provided the following standards are met:
- a. For properties where the general impervious surface standard applies under subsection 50-190(3) a property owner may have more than 15 percent impervious surface but not more than 30 percent impervious surface on the portion of a lot or parcel that is within 300 feet of the ordinary high water mark.
  - b. For properties that exceed the standard under subsection 50-190(3) but do not exceed the maximum standard under subsection 50-190(4)(a), a permit can be issued for development with a mitigation plan that meets the standards found in subsection 50-196. Three points of mitigation relating to the treatment of runoff and stormwater shall be chosen by the property owner.
    1. For meeting this requirement, a property owner must submit, along with a mitigation agreement, a site plan completed by a professional land surveyor or professional engineer showing property lines, total square footage of lot, impervious surface areas and total square footage of impervious surface areas.
- (5) *Treated impervious surfaces.* Impervious surfaces that can be documented to show they meet either of the following standards shall be excluded from the impervious surface calculations under subsection 50-190(2):
- a. The impervious surface is treated by appropriately sized 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.
  - c. To qualify for this exemption, property owners shall submit a complete permit application that is reviewed and approved by the county. The application shall be completed by a professional engineer and include the following:
    1. A site plan showing property lines, total square footage of lot, impervious surface areas and size and dimensions of treated areas.
    2. Calculations showing how much runoff is coming from the impervious surface area.
    3. Documentation that the runoff from the impervious surface is being treated by an adequately proposed treatment system, treatment device or internally drained area.
    4. An implementation schedule and enforceable obligation on the property owner to establish and maintain the treatment system, treatment devices or internally drained area. This obligation shall be evidenced by an instrument recorded in the office of the register of deeds prior to the issuance of the permit. Failure of the property owner to properly maintain the treatment device voids this exemption.

(6) *Existing impervious surfaces.* For existing impervious surfaces that were lawfully placed when constructed but that do not comply with the impervious surface standard in subsection 50-190(3) or the maximum pervious surface standard in subsection 50-190(4), the property owner may do any of the following:

- a. Maintain and repair the existing impervious surfaces.
- b. Replace existing impervious surfaces with similar surfaces within the existing building envelope.
- c. Relocate or modify an existing impervious surface with similar or different impervious surface, provided that the relocation or modification does not result in an increase in the percentage of impervious surface that existed on the effective date of the county shoreland ordinance, and the impervious surface meets the applicable setback requirements in § Wis. Admin. Code NR 115.05(1)(b).

(Code 1987, § 17.57(7.0); Res. No. 07-07, 3-27-2007; Res. No. 07-07D, 3-31-2009; Res. No. 07-07E, 12-15-2009 ; Res. No. 07-07G, 10-9-2012; Res. No. 16-21, 8-30-2016)

Sec. 50-191. - Shoreland-wetland district.

(a) *Designation.*

- (1) This district shall include all shorelands within the jurisdiction of this article which are designated as wetlands on the most recent version of the Wisconsin Wetland Inventory as depicted on the Department of Natural Resources Surface Water Data Viewer.
- (2) Locating shoreland-wetland boundaries. Where an apparent discrepancy exists between the shoreland/wetland district boundary shown on the Wisconsin Wetland Inventory maps and actual field conditions at the time the maps were adopted, the zoning administrator shall contact the appropriate district office of the department to determine if the shoreland/wetland district boundary as mapped is in error. If department staff concur with the zoning administrator that a particular area was incorrectly mapped as a wetland, the zoning administrator shall have the authority to immediately grant or deny a zoning permit in accordance with the regulations applicable to the correct zoning district. The zoning administrator shall initiate a map amendment to correct the discrepancy.

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

- (1) Wetlands are seldom suitable as building sites for the following reasons:
  - a. Septic tank systems will not function because of high groundwater.

- b. Water supplies are often polluted by septic tank wastes that have not been adequately absorbed by the soil.
  - c. Foundations and roads crack due to poor support capabilities and frost action.
  - d. Flooding is common in spring and other times of high water.
- (2) Wetlands provide fish spawning grounds and wildlife habitat, and the natural plant and animal communities found in wetlands provide ecological balance to a watercourse. Wetlands help to prevent water pollution and flooding problems.
- (c) *Permitted uses.* The following uses shall be allowed, subject to general shoreland and shoreland/wetland zoning regulations contained in this article, the provisions of Wis. Stats. chs. 30 and 31 and 281.36 and the provisions of other applicable local, state and federal laws:
- (1) Activities and uses which do not require the issuance of a land use permit, but which must be carried out without any filling, flooding, draining, dredging, ditching, tiling or excavating.
    - 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 cultivation of agricultural crops without disturbing the ecological balance;
    - d. The practice of silviculture, including the planting, thinning and harvesting of timber; and
    - e. The construction or maintenance of duck blinds.
  - (2) Uses which do not require the issuance of a land use permit and which may include limited filling, flooding, draining, dredging, ditching, tiling, or excavating but only to the extent specifically provided as follows:
    - a. Temporary water level stabilization measures necessary to alleviate abnormally wet or dry conditions that would have an adverse impact on silvicultural activities if not corrected;
    - b. The cultivation of cranberries including flooding, dike and dam construction or ditching necessary for the growing and harvesting of cranberries;
    - c. The maintenance and repair of existing agricultural draining systems including ditching, tiling, dredging, excavating and filling necessary to maintain the level of drainage required to continue the existing agricultural use. This includes the minimum filling necessary for disposal of dredged spoil adjacent to the drainage system provided that dredged spoil is placed on existing spoil banks where possible;
    - d. The construction or maintenance of fences for the pasturing of livestock, including limited excavating and filling necessary for such construction or maintenance;
    - e.

The construction or maintenance of piers, docks or walkways built on pilings, including limited excavating and filling necessary for such construction and maintenance; and

- f. The maintenance, repair, replacement or reconstruction of existing town and county highways and bridges, including limited excavating and filling necessary for such maintenance, repair, replacement or reconstruction.
- (3) Uses which require the issuance of a land use permit under section 50-193(b) and which may include limited filling, flooding, draining, dredging, ditching, tiling or excavating, but only to the extent specifically provided as follows:
- a. The construction and maintenance of roads which are necessary to conduct silvicultural activities or agricultural cultivation, provided that:
    1. The road cannot as a practical matter be located outside the wetland;
    2. The road is designed and constructed to minimize adverse impact upon the natural functions of the wetland enumerated in subsections (b) and (e)(2) of this section;
    3. The road is designed and constructed with the minimum cross sectional area practical to serve the intended use;
    4. Road construction activities are carried out in the immediate area of the roadbed only.
  - b. The construction or maintenance of nonresidential buildings, provided that:
    1. The building is essential for and used solely in conjunction with the raising of waterfowl, minnows or other wetland or aquatic animals, or some other use permitted in the shoreland-wetland district;
    2. The building cannot, as a practical matter, be located outside the wetland;
    3. Such building is not designed for human habitation and does not exceed 500 square feet in floor area; and
    4. Only limited filling or excavating necessary to provide structural support for the building is authorized.
  - c. The establishment of public and private parks and recreation areas, natural and outdoor education areas, historic and scientific areas, wildlife refuges, game bird and animal farms, fur animal farms, fish hatcheries, and public boat launching ramps and attendant access roads, provided that:
    1. Any private development is used exclusively for the permitted use and the applicant has received a permit or license under Wis. Stats. ch. 29 where applicable;
    2. Filling or excavating necessary for the construction or maintenance of public boat launching ramps or attendant access roads is allowed only where such construction or maintenance meets the criteria in subsection (c)(3)a.1 through 4 of this section; and
    - 3.

Ditching, excavating, dredging, or dike and dam construction in public and private parks and recreation areas, natural and outdoor education areas, historic and scientific areas, wildlife refuges, game bird and animal farms, fur animal farms, and fish hatcheries is allowed only for the purpose of improving wildlife habitat and to otherwise enhance wetland values.

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

(d) *Prohibited uses.* Any use not listed in subsection (c) of this section is prohibited, unless the wetland or portion of the wetland has been rezoned by amendment of this article in accordance with subsection (e) of this section, Wis. Stats. § 59.69(5)(e) and Wis. Admin. Code ch. NR 115.

(e) *Rezoning of lands in the shoreland-wetland district.*

- (1) For all proposed text and map amendments to the shoreland-wetland provisions of this article, the appropriate district office of the department shall be provided with the following:
  - a. A copy of every petition for a text or map amendment to the shoreland-wetland provisions of this article, within five days of the filing of such petition with the county clerk. Such petition shall include a copy of the Wisconsin Wetland Inventory map adopted as part of this article describing any proposed rezoning of a shoreland-wetland;
  - 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 or flow;
  - b.

Maintenance of dry season streamflow, the discharge of groundwater to a wetland, the recharge of groundwater from a wetland to another area, or the flow of groundwater through a wetland;

- c. Filtering or storage of sediments, nutrients, heavy metals or organic compounds that would otherwise drain into navigable waters;
- d. Shoreline protection against soil erosion;
- e. Fish spawning, breeding, nursery or feeding grounds;
- f. Wildlife habitat; or
- g. Wetlands both within the boundary of designated areas of special natural resource interest and those wetlands which are in proximity to or have a direct hydrologic connection to such designated areas as defined in NR 103.04 which can be accessed at the following web site: [https://docs.legis.wisconsin.gov/code/admin\\_code/nr/100/103](https://docs.legis.wisconsin.gov/code/admin_code/nr/100/103).

- (3) If the department notifies the county zoning agency that a proposed text or map amendment to the shoreland/wetland provisions of this article may have a significant adverse impact upon any of the criteria listed in subsection (e)(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 after written notice of the county board's approval of this amendment is mailed to the Department of Natural Resources. During that 30-day period, the Department of Natural Resources may notify the county board that it will adopt a superseding shoreland ordinance for the county under Wis. Stats. § 59.692(6). If the department does so notify the county board, the effect of this amendment shall be stayed until the Wis. Stats. § 59.69, adoption procedure is completed or otherwise terminated."

(Code 1987, § 17.57(8.0); Res. No. 07-07, 3-27-2007; Res. No. 07-07D, 3-31-2009; Res. No. 07-07E, 12-15-2009; Res. No. 16-21, 8-30-2016)

Sec. 50-192. - Nonconforming uses and structures.

(a) *General provisions.* The lawful use of a building, structure or property which existed at the time this article (or an applicable amendment to this article) took effect and which is not in conformity with the provisions of this article, including the routine maintenance of such building or structure, may be continued, subject to the conditions of this section.

(b) *Nonconforming uses.*

(1) A property owner claiming a nonconforming use and exemption from applicable regulations shall prove by a preponderance of the evidence that:

- a. The use was legally established;
- b. The use predated zoning provisions with which it does not comply;
- c.

The use was active and actual prior to adoption of such provisions and not merely casual and occasional or incidental to the principal use of the property in which case no vested right to continue the use shall have been acquired.

- (2) A nonconforming use of a structure or premises shall not be expanded or enlarged. No such use shall be expanded within a structure which, on the date the use became nonconforming, was only partially devoted to such use.
- (3) Discontinuance. If a nonconforming use is discontinued for 12 consecutive months, any future use of the building, structure or property shall conform to this article.
- (4) Temporary structures. If the nonconforming use of a temporary structure is discontinued, such nonconforming use may not be recommenced.
- (5) Nuisances. Uses which are nuisances shall not be permitted to continue as nonconforming uses.

(c) *Nonconforming structures.*

- (1) Reserved.
- (2) Nonconforming accessory structures. Shoreland nonconforming accessory structures are subject to subsection 50-192(c)(3)b. All other nonconforming accessory structures are limited to ordinary maintenance and repairs and shall not be expanded.
- (3) Nonconforming principal structures.
  - a. Nonconforming principal structures that meet the OHWM setback are permitted ordinary maintenance and repair. Such structures may be altered or expanded provided that:
    1. Modification or replacement of no more than 50 percent of the structural members of the existing external wall perimeter is permitted;
    2. The lifetime total of all expansions is limited to the impervious surface standards of subsection 50-190(e);
    3. Limitations on construction of impervious surfaces and land-disturbing activities in section 50-190 are observed; and
    4. No expansion or addition shall increase the nonconformity of the original structure.
  - b. 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. Further, an existing structure that was lawfully placed when constructed but that does not comply with the required shoreland setback may be vertically expanded unless the vertical expansion would extend more than 35 feet above grade level. Counties may allow expansion of a structure beyond the existing footprint if the expansion is necessary to comply with applicable state or federal requirements.

1. Modification or replacement of no more than 50 percent of the structural members of the existing external wall perimeter is involved;
  2. Roof replacement is limited to a maximum structure height of 18 feet or current height if greater;
  3. Internal improvement is confined to the building envelope (i.e., no additional stories, lateral expansion or accessory construction outside of the perimeter of existing enclosed dwelling space);
  4. The mitigation requirements of section 50-192(d) are implemented;
  5. Decks and porches may be replaced in the same footprint and location as the existing deck or porch, provided one point of mitigation, as described in section 50-192(d) is chosen and implemented; and
- c. Lateral expansion of nonconforming principal structure within the setback. An existing principal structure that was lawfully placed when constructed but that does not comply with the required building setback per subsection 50-188(1) may be expanded laterally, provided that all of the following requirements are met:
1. The use of the structure has not been discontinued for a period of 12 months or more if a nonconforming use.
  2. The existing principal structure is at least 35 feet from the ordinary high water mark.
  3. Lateral expansion is limited to a maximum of 200 square feet over the life of the structure. No portion of the expansion may be any closer to the ordinary high water mark than the closest point of the existing principal structure.
  4. The county shall issue a permit that requires a mitigation plan that shall be approved by the county and implemented by the owner by the date specified in the permit. The mitigation plan shall meet the standards found in section 50-196.
  5. All other provisions of the shoreland ordinance shall be met.
- d. An existing principal structure that was lawfully placed when constructed but that does not comply with the required building setback under subsection 50-188(1), may be expanded horizontally, landward or vertically provided that the expanded area meets the building setback requirements per subsection 50-188(1) and that all other provisions of the shoreland ordinance are met. A mitigation plan is not required solely for expansion under this paragraph, but may be required per subsection 50-190(e).
- e. An existing principal structure that was lawfully placed when constructed but that does not comply with the required water setback per subsection 50-188(1) may be relocated on the property provided all of the following requirements are met:
1. The use of the structure has not been discontinued for a period of 12 months or more.

2. No portion of the relocated structure is located any closer to the ordinary high water mark than the closest point of the existing principal structure and will be at least 35 feet from the water.
3. The relocated structure is limited to a comparable size, or smaller, unless expansions are done in accordance with the provisions of subsection 50-192(3)(c).
4. The county determines that no other location is available on the property to build a principal structure of a comparable size to the structure proposed for relocation that will result in compliance with the required water setback.
5. The mitigation requirements of section 50-196 are implemented.

(4) Reserved.

(5) A structure that is nonconforming as to structural, dimensional or setback standards may not be expanded or enlarged so as to increase its nonconformity.

(6) Nonconforming structures which are located in more than one setback zone shall comply with the standards of the more restrictive zone.

(Code 1987, § 17.57(10.0); Res. No. 07-07, 3-27-2007; Res. No. 07-07D, 3-31-2009; Res. No. 07-07E, 12-15-2009 ; Res. No. 07-07G, 10-9-2012 ; Res. No. 16-21, 8-30-2016)

Sec. 50-193. - Administrative provisions.

(a) *Zoning administrator.*

(1) The zoning administrator shall have the following duties and powers:

- a. Develop and maintain a system of permits for new construction, development, reconstruction, structural alteration or moving of buildings and structures. A copy of applications shall be required to be filed in the office of the county zoning administrator.
- b. Advise applicants as to the provisions of this article and assist them in preparing permit applications and appeal forms.
- c. Develop and maintain a variance procedure which authorizes the board of adjustment to grant such variance from the terms of the ordinance as will not be contrary to the public interest where, owing to special conditions and the adoption of the shoreland zoning ordinance, a literal enforcement of the provisions of the ordinance will result in unnecessary hardship.
- d. Develop and maintain a special exception (conditional use) procedure.
- e. Issue permits and certificates of compliance and inspect properties for compliance with this article.
- f. Keep records of all permits issued, inspections made, work approved and other official actions.

- g. Provide copies of variances, special use permits and decisions on appeals for map or text interpretations and map or text amendments within ten days after they are granted or denied to the appropriate office of the department.
  - h. Investigate and report violations of this article to the appropriate county zoning committee and the district attorney or corporation counsel.
  - i. Develop and maintain an official map of all mapped zoning district boundaries, amendments, and recordings.
- (2) The zoning administrator and his appointed designees shall have powers and authority set forth in section 50-300(c).
- (b) *Land use permits.*
- (1) *Permitted uses in shoreland.* Used permitted in the shoreland are as follows:
- a. One- and two-family individual dwellings.
  - b. Private garages, carports, accessory building and other land uses clearly incidental to the customary principal use.
  - c. Additions to dwellings and accessory buildings.
  - d. Reserved.
  - e. A single travel trailer or RV which meets section 50-83.
  - f. Steps, landings, decks, patios, and walkways.
  - g. Grading and land disturbing activities subject to the provisions of section 50-190.
  - h. All access roads, driveways and entrances may require approval from the township or county highway department and may be subject to the provisions of the county subdivision ordinance.
- (2) *When required.* Except where another section of this article or Wis. Stats. § 59.692(1k), specifically exempts certain types of development from this requirement, a land use permit shall be obtained from the zoning administrator before any new development. This also includes a land use change or any change in the use of an existing building or structure.
- (3) *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:
- a. Name and address of the applicant and property owner;
  - b. Legal description of the property and type of proposed use;
  - c. A sketch of the dimensions of the lot and location of buildings relative to the lot lines, centerline of abutting highways and the ordinary high-water mark of any abutting watercourses, and water level on a date specified and location of any wetlands;
  - d.

Location and description of any existing private water supply or sewage system or notification of plans for any such installation.

- e. Plans for appropriate mitigation when required.
- f. Payment of the appropriate fee.
- g. Additional information required by the zoning administrator.

(4) *Expiration of permit; removal.* Land use permits shall expire 12 months from the date issued if no substantial work has commenced. Permitted work must be completed within 24 months from the date of issuance. Renewal of permits may be approved at no charge.

(c) *Compliance inspections.*

- (1) Prior to, during or after construction of a structure permitted through the zoning office, the zoning administrator or other authorized persons will inspect the property to verify information given on the permit application and verify that the structure conforms to the provisions of this article.
- (2) Upon written request from the owner, the zoning administrator shall issue a certificate of compliance for any building or premises, verifying, after inspection, whether or not such building or use conforms to the provisions of this article.

(d) *Conditional use permits.*

(1) *Conditional uses in shoreland.* Uses deemed conditional are as follows:

- a. Multifamily (three or more) dwelling units.
- b. Roominghouses and boardinghouses (bed and breakfasts).
- c. Mobile homes as defined in this section.
- d. Mobile/manufactured home parks and travel trailer/RV campgrounds, subject to the provisions of state law and administrative rules.
- e. Public and semi-public uses, including, but not limited to, public and private schools, churches, public parks and recreational areas, hospitals, rest homes and homes for the aged, fire and police stations, and historic sites.
- f. Airports.
- g. Quarrying, mining, and processing of products from these activities.
- h. Recreational service-oriented uses, such as resorts and motels, tourist rooming houses, restaurants and cocktail lounges, marinas, sport shops and bait sales and other recreational services which in the opinion of the county zoning committee are of the same general character or clearly incidental to a permitted use or use authorized by a conditional permit.
- i.

Commercial telephone, telegraph, and power transmission and communication towers, substations, relay, and repeater stations and accompanying towers, equipment housing and other necessary appurtenant equipment and structures.

- j. Dams, plants for production of electric power and flowage areas.
  - k. Home based-business.
  - l. Private garages, carports, and accessory building where no principal structure exists on the property and the owner does not live within five miles of the property.
- (2) *Application for a conditional use permit.* Only a use listed as a conditional use in this article and not specifically prohibited in the shoreland and shoreland/wetland district shall be permitted only after an application has been submitted to the zoning administrator and a conditional use permit has been granted by the county zoning committee.
- (3) *Standards applicable to all conditional uses.* In passing upon a conditional use permit, the county zoning committee shall evaluate the effect of the proposed use upon:
- a. The maintenance of safe and healthful conditions;
  - b. The prevention and control of water pollution including sedimentation;
  - c. Compliance with local floodplain zoning ordinances and opportunity for damage to adjacent properties due to altered surface water drainage;
  - d. The erosion potential of the site based upon degree and direction of slope, soil type and vegetative cover;
  - e. The location of the site with respect to existing or future access roads;
  - f. The need of the proposed use for a shoreland location;
  - g. Its compatibility with uses on adjacent land;
  - h. The amount of liquid and solid wastes to be generated and the adequacy of the proposed disposal systems;
  - i. Location factors under which:
    - 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;
    - 3. Use locations within an area tending to minimize the possibility of pollution shall be preferred over use locations tending to increase that possibility.
- (4) *Conditions attached to conditional use permits.* Upon consideration of the factors listed in subsection (d)(3)i of this section, the county zoning 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. Such conditions may include specifications for, without limitation because of specific

enumeration: type of shore cover; specific sewage disposal and water supply facilities; landscaping and planting screens; period of operation; operational control; sureties; deed restrictions; location of piers, docks, parking and signs; and type of construction. To secure information upon which to base its determination, the county zoning committee shall require the applicant to furnish, in addition to the information required for a zoning permit, the following written information:

- a. A plan of the area showing surface contours, soil types, ordinary high-water marks, groundwater conditions, subsurface geology 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 arrangement 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; and
  - f. The written plan and information signed by the applicant.
- (5) *Notice, public hearing and decision.* Before passing upon a conditional use permit, the county zoning committee shall hold a public hearing. Notice of such public hearing, specifying the time, place and matters to come before the committee, shall be given as a Class 2 notice under Wis. Stats. ch. 985. Also a copy of the notice shall be posted in the vicinity of the conditional use, where practical, and notice of the public hearing shall be mailed to the owners of all lands within 500 feet of any part of the land included in such proposed conditional use, and the town board of the township in which the affected land is located, at least ten days before such public hearing. The lake management district or association shall also be notified at least ten days before the hearing. The lake management district or association shall notify the county zoning office of a contact person. The failure of such notice to reach any property owner shall not invalidate any conditional use. Such notice shall be provided to the appropriate district office of the department at least ten days prior to the hearing. The committee shall state in writing the grounds for granting or refusing the conditional use permit. The failure of such notice shall be provided to the appropriate office of the department at least ten days prior to the hearing.
- (6) *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 office of the department within ten days after it is granted or denied.

(7)

*Revocation.* Where the conditions of a conditional use permit are violated, the conditional use permit shall be revoked by the county zoning committee.

- (8) *Appeal of conditional use permit denial.* When a conditional use permit is denied by the county zoning committee, the applicant may appeal that decision to the county board of adjustment as outlined in subsection (f) of this section.
  - (9) *Uses not listed in subsection (b) or (d).* Any use not listed in subsection (b) or this subsection (d) of this section is prohibited in this district.
- (e) *Variances.*
- (1) The board of adjustment may grant upon application a variance from the dimensional standards of this article where an applicant convincingly demonstrates that:
    - a. Literal enforcement of the provisions of the article will result in unnecessary hardship on the applicant;
    - b. The hardship is due to special conditions unique to the property;
    - c. Such variance is not contrary to the public interest.
    - d. The request represents the minimum relief necessary to relieve unnecessary burdens.
  - (2) No use variance. A variance shall not grant or increase any use of property which is prohibited in the zoning district.
  - (3) Relaxation of standards for persons with disabilities. The zoning department may issue a building permit to relax dimensional standards of this article in order to provide reasonable accommodation of persons with disabilities as required by provisions federal and state law. Such relaxation shall be consistent with federal guidelines for accommodation of persons with disabilities and shall, where applicable, be terminated when the facility is no longer in use by a disabled person. A person applying for a permit for construction under this section shall establish the nature and extent of the disability and that the relaxation requested is the minimum necessary to provide reasonable use of the facility.
  - (4) Notice, hearing and decision. Before passing on an application for a variance, the board of adjustment shall hold a public hearing. Notice of such hearing specifying the time, place and matters of concern shall be given a Class 2 notice under Wis. Stats. ch. 985. Such notice shall be provided to the appropriate office of the department at least ten days prior to the hearing. In addition, a copy of the notice shall be posted in the vicinity of the proposed variance, where practical, and notice of the public hearing shall be mailed to the owners of all lands within 500 feet of any part of the land included in such proposed variance, and the town board of the township in which the affected land is located, at least ten days before such public hearing. The lake management district or association shall also be notified at least ten days before the hearing. The lake management district or association shall notify the county zoning office of a contact person. The failure of such notice to reach any property owner shall not invalidate any

variance. The board shall state in writing the reasons for granting or refusing a variance and shall provide a copy of such decision to the appropriate department office within ten days of the decision.

- (5) 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, restored, rebuilt or remodeled if the activity does not expand the footprint of the authorized structure. Additionally, the structure may be vertically expanded unless the vertical expansion would extend more than 35 feet above grade level. Counties may allow expansion of a structure beyond the existing footprint if the expansion is necessary to comply with applicable state or federal requirements.

(f) *Board of adjustment.*

- (1) *Board powers.* With regard to this article, the county board of adjustment shall have the powers set forth in section 50-303 and Wis. Stats. § 59.694, except as specifically limited in this subsection (f).
- (2) *Conditions and limitations.* In granting a conditional use permit on appeal, the board shall not impose conditions which are more restrictive than any of the specific standards in this article. Where this article is silent as to the extent of restrictions, the board may impose any reasonable permit to effect the purpose of this article.

(g) *Fees.* The county board may, by resolution, adopt fees for the following:

- (1) Land use permits.
- (2) Building permits.
- (3) Certificates of compliance.
- (4) Variances.
- (5) Public hearings.
- (6) Legal notice publications.
- (7) Conditional use permits.
- (8) Appeals.

(Code 1987, § 17.57(11.0); Ord. No. 97-79, 12-16-1997; Res. No. 07-07, 3-27-2007; Res. No. 07-07D, 3-31-2009; Res. No. 07-07E, 12-15-2009; Res. No. 16-21, 8-30-2016)

Sec. 50-194. - Changes and amendments.

- (a) The county board may from time to time, alter, supplement or change the boundaries of use districts and regulations contained in this article in accordance with the requirements of Wis. Stats. § 59.69(5)(e), Wis. Admin. Code ch. NR 115 and this article where applicable.
- (b) Amendments to this article may be made on petition of any interested party as provided in Wis. Stats. § 59.69(5)(e).

- (c) Every petition for a text or map amendment filed with the county clerk shall be referred to the county zoning agency. A copy of each petition shall be mailed to the appropriate office of the department within five days of the filing of the petition with the county clerk. Written notice of the public hearing to be held on a proposed amendment shall be provided to the appropriate office of the department at least ten days prior to the hearing.
- (d) A copy of the county board's decision on each proposed amendment shall be forwarded to the appropriate office of the department within ten days after the decision is issued.

(Code 1987, § 17.57(12.0); Res. No. 07-07, 3-27-2007; Res. No. 07-07D, 3-31-2009; Res. No. 07-07E, 12-15-2009; Res. No. 16-21, 8-30-2016)

Sec. 50-195. - Enforcement and penalties.

- (1) *Penalty.* Any person, firm or corporation, including those doing work for others, who violates any of the provisions of this section shall be subject to a forfeiture of not less than \$50.00 nor more than \$500.00 for each violation plus the cost of prosecution. Each day a violation exists shall constitute a distinct and separate violation of this section and as such, forfeitures shall apply accordingly. The zoning administrator shall refer violations to the corporation counsel who shall prosecute violations.
- (2) *Injunction.* Any use or action which violates the provisions of this section shall be subject to a court injunction prohibiting such violation.
- (3) *Responsibility for compliance.* It shall be the responsibility of the applicants as well as their agent or other persons acting on their behalf to comply with the provisions of this section. Any person, firm or corporation, causing a violation or refusing to comply with any provision of this section will be notified in writing of such violation by the county zoning administrator or his designated zoning deputy. Each day a violation exists shall constitute a distinct and separate violation of this ordinance and, as such, forfeitures shall apply accordingly. Every violation of this ordinance is a public nuisance and the creation thereof may be enjoined and the maintenance thereof may be abated pursuant to Wis. Stats. § 59.69(11).
- (4) *Suspension of permit.* Whenever the zoning administrator, assistant zoning administrator or deputy zoning administrator, determines there are reasonable grounds for believing there is a violation of any provision of this section, the zoning administrator, assistant zoning administrator or deputy zoning administrator shall give notice to the owner of record as hereinafter provided. Such notice shall be in writing and shall include a statement of the reason for the suspension of the permit. It shall allow 30 days for the performance of any act it requires. If work cannot be completed in the 30 day period, an extension may be granted if reason of hardship prevail and can be verified. Such notice or order shall be deemed to have been properly served upon such owner or agent when a copy thereof has been sent by registered mail to owner's last known address or when the owner has been served by such notice by any method authorized by the

laws of Wisconsin. The owner of record has the right to appeal any decision by the zoning administrator, assistant zoning administrator or deputy zoning administrator or apply to the Vilas County Board of Adjustment for a variance from the strict rule of the Ordinance within 30 days of receipt of a notice or order.

(5) *Emergency conditions.* Whenever the zoning administrator finds that an emergency exists such as sudden, unexpected occurrences or combinations thereof, unforeseen conditions or circumstances at the time beyond one's control, adverse weather conditions, meeting a timetable which requires immediate action to protect the public health, safety and welfare, the administrator may, without notice or hearing, issue an order citing the existence of such emergency and may require that such action be taken as may be deemed necessary to meet the emergency. The administrator shall notify the chairperson of the zoning committee within 24 hours of such situations. Notwithstanding any other provisions of this section such order shall become effective immediately. Any person to whom such order is directed shall comply therewith immediately. Appeals or challenges to emergency orders may be brought after emergency conditions have ceased, to the board of adjustment.

(Code 1987, § 17.57(13.0); Res. No. 07-07, 3-27-2007; Res. No. 07-07D, 3-31-2009; Res. No. 07-07E, 12-15-2009; Res. No. 16-21, 8-30-2016)

Sec. 50-196. - Mitigation.

When a permit is issued requiring mitigation under Sections 50-190(e)(4), 50-192(c)(3)c. or 50-192(c)(3)e. the property owner must submit a complete permit application that is reviewed and approved by the county. The application shall include a plan that outlines the proposed mitigation measures and meets the following criteria:

(1) Mitigation schedule:

<p>Mitigation points are required  for developing property  under the following conditions:</p>	<p>Opportunities to earn mitigation points include:</p>
<p>Impervious surface coverage  is greater than 15%  but less than 20%—2 points</p>	<p>Removal of a structure within the shoreland setback—Up to 3 points</p>

<p>Impervious surface coverage  is from 20% to 30%—3 points</p>	<p>Installation of a Rain Garden—Up to 3 points</p>
<p>Lateral Expansion of Nonconforming  principal structure within the  shoreland setback,  <u>Section 50-192(c)(3)c.</u>—3 points</p>	<p>Installation of a  Stormwater Infiltration System—3 points</p>
<p>Relocation of Nonconforming  principal structure within the shoreland  setback, <u>Section 50-192(c)(3)e.</u>—1 point</p>	<p>Existing compliant shoreland buffer—3 points</p>
	<p>Active Restoration (Accelerated Recovery) of a compliant shoreland buffer—3 points</p>
	<p>Passive Restoration (Natural Recovery) of a compliant shoreland buffer—1 point</p>
	<p>Increasing depth of an existing compliant shoreland buffer 2 points for every 15 feet of depth</p>
	<p>Reducing width of allowable view and access corridor(s)—1 point for every 15-foot reduction</p>

	<p>If lot size is larger than prescribed minimum —1 point for every 10,000 sq. ft. increment of lot area which may not be subdivided from remaining parcel.</p>
	<p>Sea Wall Removal and Bank Stabilization—3 points</p>
	<p>Increasing Shoreland Setback—1 point for every 15-foot increase beyond required. (Maximum of 3 points)</p>
	<p>Removal of an existing artificial sand beach at least 200 sq. ft. in size within 35 feet of the OHWM with active restoration (accelerated recovery) of area—1 point</p>

- (2) All mitigation shall be designed and installed as specified in the most current Rusk County Shoreland Mitigation Guidebook as approved by the zoning committee which is intended to restore natural functions lost through development and human activities.
- (3) The mitigation measures shall be proportional in scope to the impacts on water quality, near-shore aquatic habitat, upland wildlife habitat and natural scenic beauty.
- (4) An implementation schedule and enforceable obligation on the property owner to establish and maintain the mitigation measures.
  - a. The enforceable obligations shall be evidenced by an affidavit recorded in the office of the register of deeds.
  - b. All shoreland mitigation activities must begin within one year of the recording date of the mitigation affidavit or in accordance with a timeline that is written into the mitigation plan and must be completed in accordance with said timeline or within two years of the recording date if a timeline has not been established.

(Res. No. 16-21, 8-30-2016)

Secs. 50-197—50-213. - Reserved.

ARTICLE VIII. - PLANNED UNIT DEVELOPMENT (PUD) DISTRICT

Sec. 50-214. - Intent.

This district is intended to provide for large-scale residential or residential/recreational development. This district shall have no definite boundaries until such are approved by the county board on the recommendation of the zoning committee in accordance with procedures prescribed for zoning amendments by Wis. Stats. § 59.69.

(Code 1987, § 17.58)

Sec. 50-215. - Submission of plans for proposed development.

Plans for the proposed development shall be submitted in duplicate and shall show the location, size and proposed use of all structures and land included in the areas involved. The plans may provide for a combination of single and multifamily development as well as related commercial uses, provided that the plans indicate that:

- (1) A single area of at least five acres is involved.
- (2) Each residential building and lot in the district will conform to the RR-1 district requirements and each commercial building and lot will conform to the C-1 district requirements.
- (3) Adequate streets and sidewalks as determined to serve the needs of the area involved will be provided.
- (4) Adequate access to public streets and proper internal circulation will be provided.
- (5) Adequate sewer and water facilities will be provided.
- (6) The development will constitute a reasonable extension of the living areas in the county and will be compatible with surrounding land uses.

(Code 1987, § 17.58)

Secs. 50-216—50-236. - Reserved.

ARTICLE IX. - ZONING SCHEDULE

Sec. 50-237. - Dimensional requirements.

The following table represents the dimensional requirements for the county:

	RR-1	RR-2	RR-3	A-1	C-1	I-1	F-1
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<i>Building Height Limit</i>	35 feet*	35 feet*	35 feet*	35 feet**	35 feet*	60 feet*	35 feet*
<i>Required Lot Area</i>							
With public sewer	40,000	30,000	10,000	1 acre	10,000	1 acre	1 acre
Without public sewer	40,000	30,000	20,000	1 acre	20,000	5 acres	1 acre
Within shorelands	40,000	30,000	20,000	1 acre	1 acre	5 acres	1 acre
<i>Buildable Lot Width</i>							
With public sewer	200	150	100	200	75	200	100
Without public sewer	200	150	100	200	200	200	200
<i>Yard Required</i>							
Front	30	30	30	50	10	50	30
Side, principal building	10	10	10	20	10	20	10
Within shoreland	10	10	10	20	10	20	10
Side, accessory building	5	5	5	10	5	10	5
Rear	25	25	25	50	20	50	40
<i>Floor Area Square Feet</i>							
Principal residence							
3 bedrooms	700	700	700	1000	700	700	700
2 bedrooms	600	600	600	900	600	600	600
1 bedroom	500	500	500	800	500	500	500
<i>Seasonal Cabins and Mobile Homes</i>							
3 bedrooms	440	440	440	440			440
2 bedrooms	340	340	340	340			340
1 bedroom	240	240	240	240			240
*Except towers							
**Except silos and farm structures							
+2 sides must equal at least 35 feet							

(Code 1987, § 17.59 ; Res. No. 07-07G, 10-9-2012; Amend. of 11-12-2013.)

Secs. 50-238—50-267. - Reserved.

#### ARTICLE X. - NONCONFORMING USES

Sec. 50-268. - Defined and regulated.

Present uses of buildings, signs and premises may be continued even though they do not conform to the restriction of this chapter. Ordinary maintenance and repair is unlimited. No structural alterations, addition or repair to any building or structure with a nonconforming use or any nonconforming building or structure,

over the life of the building or structure, shall exceed 50 percent of its, existing square footage, unless it is permanently changed to conform to the requirements of this article. Any nonconforming use or building that is abandoned for one year shall be discontinued permanently.

Definitions:

*Structural alterations:* External alterations or additions to a structure which does not include ordinary maintenance and repair.

(Code 1987, § 17.60; Ord. No. 96-60, 9-24-1996 ; Res. No. 07-07G, 10-9-2012; Res. No. 16-21, 8-30-2016)

Secs. 50-269—50-299. - Reserved.

## ARTICLE XI. - ADMINISTRATION

Sec. 50-300. - County zoning administrator.

- (a) *Designation.* The county zoning committee shall appoint a zoning administrator for the administration and enforcement of the provisions of this chapter. The county zoning committee may also authorize designation of deputy zoning administrators to assist in the enforcement and administration of this chapter.
- (b) *Duties.* In administering and enforcing this chapter, the zoning administrator and any of his deputies shall perform the following duties:
  - (1) Provide necessary forms and applications for use permits.
  - (2) Issue land use permits where the provisions of this chapter have been complied with.
  - (3) Issue conditional use permits when authorized by the zoning committee.
  - (4) Survey the county, upon adoption of this chapter and when necessary upon the passage of amendments, identify and record information relative to nonconforming uses and structures.
  - (5) Maintain files of applications, permits and other relevant information.
  - (6) Make an annual report of the activities to the zoning committee.
- (c) *Powers.* The zoning administrator and his appointed deputies shall have powers and authority including, but not limited to:
  - (1) Access to any structure or premises for the purpose of performing his duties between 8:00 a.m. and 6:00 p.m. by the permission of the owner or upon issuance of a special inspection warrant.
  - (2) Upon reasonable cause or question as to proper compliance, revoke any land use permit and issue cease and desist orders requiring the cessation of any building, moving, alteration or use which is in violation of the provisions of this chapter.

(3) Citation authority pursuant to county resolutions.

(Code 1987, §§ 17.57(11.0), 17.65; Ord. No. 97-79, 12-16-1997; Res. No. 07-07, 3-27-2007; Res. No. 07-07D, 3-31-2009; Res. No. 07-07E, 12-15-2009)

Sec. 50-301. - Land use permits.

- (a) *Permit required.* No structure shall be built, moved or structurally altered, and no land use shall be substantially altered until a land use permit has been issued by the zoning administrator. He shall not issue a permit for a structure or a use not in conformity with the requirements of this chapter. The fee for filing of applications for land use permits shall be established by the zoning committee. A copy of the current fee schedule shall be kept on file in the office of the zoning administrator.
- (b) *Application procedure.* Applications for land use permits shall be accompanied by scale maps or drawings showing accurately the location, size and shape of the lots involved and of any proposed structures, including the relation to abutting streets or lakes or streams, and the existing and proposed use of each structure and lot, and the number of families to be accommodated.
- (c) *Expiration.* Land 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. Land use permits for land use changes shall expire 18 months from their date of issuance where no action has been taken to accomplish such changes.
- (d) *Exceptions.* A land use permit is not required for farm buildings or school bus stop shelters, provided such structures meet the dimensional and setback requirements of this chapter.

(Code 1987, § 17.66; Res. No. 96-96, 12-10-1996)

Sec. 50-302. - Violations.

Except as otherwise provided, any person who violates this chapter shall forfeit an amount as provided in the county fine and forfeiture schedule, plus costs of prosecution, for each day of violation. Default of payment may result in imprisonment in the county jail for a period of not more than six months. Every violation of this chapter is a public nuisance and the creation thereof may be enjoined and the maintenance thereof may be abated, including, but not limited to, requirements that the property be restored to its condition prior to such violation pursuant to Wis. Stats. § 59.69.

(Code 1987, § 17.67)

Sec. 50-303. - Board of adjustment.

The county board of adjustment shall have the following powers:

- (1) Grant a variance from only the dimensional standards of this chapter.

(2) Hear and decide appeals where it is alleged that there is an error or an abuse of discretion in any order, requirement, decision or determination made by an administrative official in the enforcement or administration of this chapter.

(3) Hear and decide appeals from a conditional use permit decision of the county zoning committee pursuant to section 50-190(b) or section 50-193(d), and from the denial by the county zoning committee to issue a conditional use permit. See sections 50-112 and 50-113.

(Code 1987, §§ 17.57(11.0), 17.68; Ord. No. 97-79, 12-16-1997; Res. No. 07-07, 3-27-2007; Res. No. 07-07D, 3-31-2009; Res. No. 07-07E, 12-15-2009)

#### Sec. 50-304. - Amendments.

(a) *Procedure.* The county board may amend this chapter in accordance with the procedures prescribed by Wis. Stats. § 59.69.

(b) *Fee.* Any petition for amendment submitted by other than a governmental body shall be accompanied by a fee to defray the cost of advertising, investigation and processing.

(Code 1987, § 17.69)

#### Sec. 50-305. - Public hearings.

(a) *Notice.* Adequate notice shall be given of any public hearing required by the provisions of this chapter, stating the time and place of such hearing and the purpose for which it is being held.

(b) *Procedure.*

(1) *Posting and publishing.* Notice of public hearing shall be given as per Wis. Stats. § 59.69.

(2) *Notice of proposed change.* In addition, when the hearing involved a proposed change in the zoning district classification of any property, or the granting of a conditional use, the town in which the affected land is located shall be notified as per Wis. Stats. § 59.69. Also, a copy of the notice shall be posted in the vicinity of the proposed change or conditional use, where practical, and notice of the public hearing shall be mailed to the owners of all lands within 300 feet of any part of the land included in such proposed change or conditional use at least ten days before such public hearing. The failure of such notice to reach any property owner shall not invalidate any amending ordinance or grant of a conditional use.

(Code 1987, § 17.70)

#### Sec. 50-306. - Zoning fee schedule.

A county zoning fee schedule is available in the office of the county clerk.

(Code 1987, § 17.71; Res. No. 98-58, 10-20-1998)

Secs. 50-307—50-330. - Reserved.

## ARTICLE XII. - FLOODPLAIN ZONING

### DIVISION 1. - GENERALLY

Sec. 50-331. - Statutory authorization.

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

(Code 1987, § 20.01(1); Res. No. 87-03, 4-21-1987; Res. No. 04-55, 12-14-2004)

Sec. 50-332. - Finding of fact.

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

(Code 1987, § 20.01(2); Res. No. 87-03, 4-21-1987)

Sec. 50-333. - Statement of purpose.

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 landbuyers 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.

(Code 1987, § 20.01(3); Res. No. 87-03, 4-21-1987)

Sec. 50-334. - General provisions.

- (a) *Areas to be regulated.* This article regulates all areas that would be covered by the regional flood or base flood as shown on the flood insurance rate map (FIRM) or other maps approved by DNR. Base flood elevations are derived from the flood profiles in the flood insurance study (FIS) and are shown as AE, A1-30, and AH zones on the FIRM. Other regulatory zones are displayed as A and AO zones. Regional flood elevations (RFE) may be derived from other studies. If more than one map or revision is referenced, the most restrictive information shall apply.
- (b) *Official maps and revisions.*
- (1) *Designation; revision.* The boundaries of all floodplain districts are designated as AE, AH, AO or A1-30 on the maps based on the flood insurance study (FIS) listed in subsection (b)(2) of this section and the revisions in the county floodplain appendix. Any change to the base flood elevations (BFE) or any changes to the boundaries of the floodplain or floodway in the FIS or on the flood insurance rate map (FIRM) must be reviewed and approved by the DNR and FEMA through the letter of map change process (see s. 8.0 Amendments) 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 county zoning office. If more than one map or revision is referenced, the most restrictive information shall apply.
- (2) *Official maps based on the FIS by FEMA, dated March 17, 2014.*

Flood insurance rate map panel numbers:

55107C0070D, 55107C0090D, 55107C0095D, 55107C0115D, 55107C0120D, 55107C0140D, 55107C0145D, 55107C0165D, 55107C0170D, 55107C0190D, 55107C0195D, 55107C0210D, 55107C0230D, 55107C0235D, 55107C0245D, 55107C0255D, 55107C0260D, 55107C0265D, 55107C0270D, 55107C0280D, 55107C0285D, 55107C0290D, 55107C0295D, 55107C0305D, 55107C0310D, 55107C0315D, 55107C0317D, 55107C0319D, 55107C0320D, 55107C0330D, 55107C0335D, 55107C0337D, 55107C0338D, 55107C0339D, 55107C0345D, 55107C0360D, 55107C0365D, 55107C0370D, 55107C0380D, 55107C0385D, 55107C0389D, 55107C0390D, 55107C0395D, 55107C0410D, 55107C0420D, 55107C0430D, 55107C0435D, 55107C0440D, 55107C0445D, 55107C0455D, 55107C0460D, 55107C0465D, 55107C0470D, 55107C0480D, 55107C0484D, 55107C0485D, 55107C0486D, 55107C0487D, 55107C0488D, 55107C0489D, 55107C0491D, 55107C0492D, 55107C0493D, 55107C0494D, 55107C0501D, 55107C0502D, 55107C0503D, 55107C0504D, 55107C0510D, 55107C0511D, 55107C0515D, 55107C0520D, 55107C0530D, 55107C0535D, 55107C0540D, 55107C0545D, 55107C0555D, 55107C0560D, 55107C0565D, 55107C0570D, 55107C0580D, 55107C0590D, 55107C0595D, 55107C0610D, 55107C0620D, 55107C0630D, 55107C0635D, 55107C0640D, 55107C0645D, 55107C0651D, 55107C0652D, 55107C0653D, 55107C0654D, 55107C0658D, 55107C0659D, 55107C0660D, 55107C0665D, 55107C0666D, 55107C0667D, 55107C0676D, 55107C0677D, 55107C0678D,

55107C0679D, 55107C0685D, 55107C0686D, 55107C0687D, 55107C0691D, 55107C0692D, 55107C0705D, 55107C0710D, 55107C0715D, 55107C0720D, 55107C0730D, 55107C0735D, 55107C0740D, 55107C0745D

all dated March 17, 2014; with corresponding profiles that are based on the flood insurance study (FIS) volume number 55107CV000B, dated March 17, 2014.

- (3) *Official maps based on other studies.* Any maps referenced in this section must be approved by the DNR.
- a. Report of Hydraulic Modeling for Lea Lake Dam (a.k.a. Lea Flowage Dam), dated July 9, 2004, prepared by Carthel Engineering for Morgan and Parmley and Rusk County Forestry. Approved by the DNR and FEMA.
  - b. Report of Regional Flood Elevation Determination Chippewa River for Patrick Kelly, April 1996, prepared by Cooper Engineering. Approved by the DNR and FEMA.
  - c. Report of Regional Flood Elevation Determination Chippewa River for Patrick Kelly, July 1995, prepared by Cooper Engineering. Approved by the DNR and FEMA.
  - d. Dam Break Analysis for Hemlock Creek, October 1, 1993, prepared by Envirosystems Consulting Group. Approved by the DNR and FEMA.
  - e. Dam Break Analysis for Island Lake, February 12, 2012, prepared by Morgan and Parmley, Ltd. Approved by the DNR Field File #54.02, KSN 294.
  - f. Dam Break Analysis for Middle Fork Main Creek, August 10, 2009, prepared by Northern Environmental. Approved by the DNR. Field File 54.17.
  - g. Letter of Map Revision 18-05-1900P affecting map panel numbers 55107C0465D and 55107C0470D Effective February 1, 2019. (Amacoy Lake Levee) - including that part of the Chippewa River studied in the Engineering Report for Amacoy Lake Levee dated May, 2016 and approved by the WI DNR on December 4, 2018.
  - h. Floodplain study Appendix: All DNR and FEMA approved floodplain maps, flood profiles, floodway data tables, regional or base flood elevations and other information located in the appendix of the ordinance from which this article is derived, on file in the county clerk's office.
- (c) *Establishment of floodplain zoning districts.* The regional floodplain areas are divided into three districts as follows:
- (1) The FW Floodway District is the channel of a river or stream and those portions of the floodplain adjoining the channel required to carry the regional floodwaters and are contained within AE zones as shown on the FIRM.
  - (2) The FF Floodfringe District is that portion of the floodplain between the regional flood limits and the floodway.

- (3) The GFP General Floodplain District is those areas that have been or may be covered by floodwater during the regional flood.
- (d) *Locating floodplain boundaries.* Discrepancies between boundaries on the official floodplain zoning map and actual field conditions shall be resolved using the criteria in subsection (d)(1) or (2) of this section. If a significant difference exists, the map shall be amended according to section 50-191. The zoning administrator can rely on a boundary derived from a profile elevation to grant or deny a land use permit, whether or not a map amendment is required. The zoning administrator shall be responsible for documenting actual pre-development field conditions and the basis upon which the district boundary was determined and for initiating any map amendments required under this section. Disputes between the zoning administrator and an applicant over the district boundary line shall be settled according to section 50-190(c) and the criteria in subsections (d)(1) and (2) of this section.
- (1) If flood profiles exist, the map scale and the profile elevations shall determine the district boundary. The regional or base flood elevations shall govern if there are any discrepancies.
- (2) Where flood profiles do not exist, the location of the boundary shall be determined by the map scale, visual on-site inspection and any information provided by the department.

**Note—** Where the flood profiles are based on established base flood elevations from a FIRM, FEMA must also approve any map amendment.

- (e) *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 base flood elevation, the fill is contiguous to land outside the floodplain, and the map is amended pursuant to section 50-191
- (f) *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.
- (g) *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 is exempt when Wis. Stats. § 30.2022 applies.
- (h) *Abrogation and greater restrictions.*
- (1) 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.
- (2)

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.

- (j) *Warning and disclaimer of liability.* The flood protection standards in this article are based on engineering experience and 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 municipality or any officer or employee thereof for any flood damage that may result from reliance on this article.
- (k) *Annexed areas for cities and villages.* The county floodplain zoning provisions in effect on the date of annexation shall remain in effect and shall be enforced by the municipality for all annexed areas until the municipality adopts and enforces an ordinance which meets the requirements of Wis. Admin. Code ch. NR 116 and 44 CFR 59-72, National Flood Insurance Program (NFIP). These annexed lands are described on the municipality's official zoning map. County floodplain zoning provisions are incorporated by reference for the purpose of administering this section and are on file in the office of the municipal zoning administrator. All plats or maps of annexation shall show the regional flood elevation and the floodway location.
- (l) *General development standards.* The community shall review all permit applications to determine whether proposed building sites will be reasonably safe from flooding. If a proposed building site is in a floodprone area, all new construction and substantial improvements shall be designed or modified and adequately anchored to prevent flotation, collapse, or lateral movement of the structure resulting from hydrodynamic and hydrostatic loads; be constructed with materials resistant to flood damage; be constructed by methods and practices that minimize flood damages; and be constructed with electrical, heating, ventilation, plumbing, and air conditioning equipment and other service facilities designed and/or located so as to prevent water from entering or accumulating within the components during conditions of flooding. Subdivisions shall be reviewed for compliance with the above standards. All subdivision proposals (including manufactured home parks) shall include regional flood elevation and floodway data for any development which meets the subdivision definition of this article.

(Code 1987, § 20.01(5); Res. No. 87-03, 4-21-1987; Res. No. 04-55, 12-14-2004; Res. No. 05-34, 7-26-2005; Res. No. 10-05, 1-26-2010; Res. of 3-29-2011; Amend. of 11-12-2013; Res. No. 10-05C, 1-27-2015; Res. No. 16-21A, 1-22-2019)

Secs. 50-335—50-355. - Reserved.

## DIVISION 2. - GENERAL STANDARDS APPLICABLE TO ALL FLOODPLAIN DISTRICTS

Sec. 50-356. - General development standards.

The community shall review all permit applications to determine whether proposed building sites will be reasonably safe from flooding. If a proposed building site is in a floodprone 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 materials resistant to flood damage; be constructed by methods and practices that minimize flood damages; and be constructed with electrical, heating, ventilation, plumbing, and air conditioning equipment and other service facilities designed and/or located so as to prevent water from entering or accumulating within the components during conditions of flooding. Subdivisions shall be reviewed for compliance with the above standards. All subdivision proposals (including manufactured home parks) shall include regional flood elevation and floodway data for any development which meets the subdivision definition of this article and all other requirements in [section] 50-490(b). 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.

( Amend. of 11-12-2013 )

Sec. 50-357. - Hydraulic and hydrologic analyses.

- (a) No floodplain development shall:
  - (1) Obstruct flow, defined as development which blocks the conveyance of floodwaters by itself or with other development, causing any increase in the regional flood height; or
  - (2) Cause any increase in the regional flood height due to floodplain storage area lost.
- (b) The zoning administrator shall deny permits if it is determined the proposed development will obstruct flow or cause any increase in the regional flood, based on the officially adopted FIRM or other adopted map, unless the provisions of division 8 are met.
- (c) Obstructions or increases equal to or greater than 0.01 foot 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 50-191.

(Code 1987, § 20.02(1); Res. No. 87-03, 4-21-1987; Amend. of 11-12-2013 )

**Note**— This section refers to obstructions or increases in base flood elevations as shown on the officially adopted FIRM or other adopted map. Any such alterations must be reviewed and approved by FEMA and the DNR.

Sec. 50-358. - Watercourse alterations.

No land use permit to alter or relocate a watercourse in a mapped floodplain shall be issued until the local official has notified in writing all adjacent municipalities, the department and FEMA regional offices and required the applicant to secure all necessary state and federal permits. The standards of section 50-357 must be met and the flood carrying capacity of any altered or relocated watercourse shall be maintained. As soon as is practicable, but not later than six months after the date of the watercourse alteration or relocation, and pursuant to division 8, the community shall apply for a letter of map revision (LOMR) from FEMA. Any such alterations must be reviewed and approved by FEMA and the DNR through the LOMC process.

(Code 1987, § 20.02(2); Res. No. 87-03, 4-21-1987; Amend. of 11-12-2013)

Sec. 50-359. - Additional requirements for development requiring state permits.

Development which requires a permit from the department, 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 the floodplain zoning ordinance are made according to division 8.

(Code 1987, § 20.02(3); Res. No. 87-03, 4-21-1987; Amend. of 11-12-2013)

Sec. 50-360. - Public or private campgrounds.

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

- (1) The campground is approved by the department of health services or its agent.
- (2) A land use permit for the campground is issued by the zoning committee.
- (3) The character of the water body and the elevation of the campground is 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 county zoning office, 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. The floodway plan or the floodfringe plan shall include:
  - a. Who is responsible for moving each and every camping unit;
  - b. Contact information of the camping unit owners;
  - c. Contact information of the party contracted to move the camping units; and

- d. Descriptions of the equipment to be used for the evacuation of the camping units.
- (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 services or its agent and all other applicable regulations.
  - (6) Only camping units that are fully licensed, if required, 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. For campgrounds in the floodfringe, in lieu of moving camping units every 180 days, the campground owner and camping unit owner shall prove they have the ability to move the camping unit (i.e., the camping units wheels shall be inflated to the required level, no permanent skirting, and no additions or decks attached to the camping unit).
  - (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 municipality 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 section 50-186 or 50-187 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.

(Code 1987, § 20.02(4); Res. No. 87-03, 4-21-1987; Res. No. 04-55, 12-14-2004; Res. 05-54, 11-8-2005; Amend. of 11-12-2013.)

Secs. 50-361—50-378. - Reserved.

DIVISION 3. - FLOODWAY DISTRICT (FW)

Sec. 50-379. - Applicability.

This division applies to all floodway areas on the floodplain zoning maps and those identified pursuant to section 50-437.

(Code 1987, § 20.03(1); Res. No. 87-03, 4-21-1987)

Sec. 50-380. - Permitted uses.

The following open space uses are allowed in the floodway district and the floodway areas of the general floodplain district, if they are not prohibited by any other ordinance, they meet the standards in sections 50-381 and 50-382 and all permits or certificates have been issued according to section 50-490:

- (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 50-381.
- (4) Uses or structures accessory to open space uses, or classified as historic structures that comply with sections 50-381 and 50-382.
- (5) Extraction of sand, gravel or other materials that comply with s. section 50-381.
- (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 50-381.

(Code 1987, § 20.03(2); Res. No. 87-03, 4-21-1987)

Sec. 50-381. - Standards for developments in the floodway.

(a) General.

- (1) Any development in the floodway shall comply with division 2 of this article and have a low flood damage potential.
- (2) Applicants shall provide the following data to determine the effects of the proposal according to division 2 of this article:
  - a. A cross section elevation view of the proposal, perpendicular to the watercourse, showing if the proposed development will obstruct flow; or
  - b.

An analysis calculating the effects of this proposal on regional flood height.

- (3) The zoning administrator shall deny the permit application if the project will cause any increase in the flood elevations upstream or downstream, based on the data submitted for subsection (a)(2) of this section.
- (b) *Structures.* Structures accessory to permanent open space uses, or functionally dependent on a waterfront location may be allowed by permit if the structures comply with the following criteria:
  - (1) The structures are not designed for human habitation and do not have a high flood damage potential and is constructed to minimize flood damage;
  - (2) It must be anchored to resist floatation, collapse and lateral movement;
  - (3) Mechanical and utility equipment must be elevated or flood proofed to or above the flood protection elevation;
  - (4) It must not obstruct flow of floodwaters or cause any increase in flood levels during the occurrence of the regional flood; and
  - (5) It 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.
- (c) 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 50-357.
- (d) Fills or deposition of materials may be allowed by permit, if:
  - (1) The requirements of section 50-357 are met;
  - (2) No material is deposited in navigable waters unless a permit is issued by the department pursuant to Wis. Stats. ch. 30, and a permit pursuant to s. 404 of the Federal Water Pollution Control Act, Amendments of 1972, 33 USC 1344 et seq. 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.

(Code 1987, § 20.03(31); Res. No. 87-03, 4-21-1987; Res. No. 10-05, 1-26-2010; Amend. of 11-12-2013)

**Editor's note**— An amendment adopted Nov. 12, 2013, changed the title of § 50-381 from "Standards for development in floodway areas" to "Standards for developments in the floodway."

Sec. 50-382. - Prohibited uses.

All uses not listed as permitted uses in section 50-380 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 department-approved campgrounds that meet the applicable provisions of local ordinances and Wis. Admin. 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. Admin. 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. Admin. Code § NR 110.15(3)(b);
- (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.

(Code 1987, § 20.03(4); Res. No. 87-03, 4-21-1987; Amend. of 11-12-2013)

Secs. 50-383—50-407. - Reserved.

#### DIVISION 4. - FLOODFRINGE DISTRICT (FF)

Sec. 50-408. - Applicability.

This division applies to all floodfringe areas shown on the floodplain zoning maps and those identified pursuant to section 50-437.

(Code 1987, § 20.04(1); Res. No. 87-03, 4-21-1987)

Sec. 50-409. - Permitted uses.

Any structure, land use, or development is allowed in the floodfringe district if the standards in section 40-410 are met, the use is not prohibited by this or any other ordinance or regulation and all permits or certificates specified in section 50-490 have been issued.

(Code 1987, § 20.04(2); Res. No. 87-03, 4-21-1987)

Sec. 50-410. - Standards for development in the floodfringe.

Section 50-357 shall apply in addition to the following requirements according to the use requested. Any existing structure in the floodfringe must meet the requirements of division 6, nonconforming uses:

- (1) *Residential uses.* Any structure, including a manufactured home, which is to be erected, constructed, or moved into the floodfringe, shall meet or exceed the following standards. Any existing structure in the floodfringe must meet the requirements of division 6, nonconforming uses:
  - a. The elevation of the lowest floor, shall be at or above the flood protection elevation on fill unless the requirements of section 50-410(1)(b) can be met. The fill shall be one foot or more above the regional flood elevation extending at least 15 feet beyond the limits of the structure;
  - b. The basement or crawlway floor may be placed at the regional flood elevation if it is dry floodproofed to the flood protection elevation. No basement or crawlway floor is allowed below the regional flood elevation;
  - c. Contiguous dryland access shall be provided from a structure to land outside of the floodplain, except as provided in subsection (1)d of this section.
  - d. In developments where existing street or sewer line elevations make compliance with subsection (1)c of this section impractical, the municipality may permit new development and substantial improvements where access roads are below the regional flood elevation, if:
    1. The municipality 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
    2. The municipality has a DNR-approved emergency evacuation plan.
- (2) *Accessory structures or uses.*
  - a. Accessory structures shall be constructed on fill with its lowest floor at or above the regional flood elevation.

(3)

*Commercial uses.* Any commercial structure which is erected, altered or moved into the floodfringe shall meet the requirements of this section. Subject to the requirements of subsection (5) 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.

- (4) *Manufacturing and industrial uses.* Any manufacturing or industrial structure which is erected, altered or moved into the floodfringe shall have the lowest floor elevated to or above the flood protection elevation or meet the floodproofing standards in section 50-494. Subject to the requirements of subsection (5) 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.
- (5) *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 50-494. Adequate measures shall be taken to ensure that such materials will not enter the water body during flooding.
- (6) *Public utilities, streets and bridges.* All utilities, streets and bridges shall be designed to be compatible with comprehensive floodplain development plans, and:
  - a. When failure of public utilities, streets and bridges would endanger public health or safety, or where such facilities are deemed essential, construction or repair to such facilities shall only be permitted if they are designed to comply with section 50-494;
  - b. Minor roads or nonessential utilities may be constructed at lower elevations if they are designed to withstand flood forces to the regional flood elevation.
- (7) *Sewage systems.* All private onsite waste treatment systems (POWTS) shall be designed to minimize or eliminate infiltration of flood water into the system, pursuant to section 50-494, to the flood protection elevation and shall meet the provisions of all local ordinances and Wis. Admin. Code ch. SPS 383.
- (8) *Wells.* All wells shall be designed to minimize or eliminate infiltration of flood waters into the system, pursuant to section 50-494, to the flood protection elevation and shall meet the provisions of Wis. Admin. Code chs. NR 811 and 812.
- (9) *Solid waste disposal sites.* Disposal of solid or hazardous waste is prohibited in floodfringe areas.
- (10) *Deposition of materials.* Any deposited material must meet all the provisions of this article.
- (11) *Manufactured homes.*
  - a. 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.

- b. In existing manufactured home parks, all new homes, replacement homes on existing pads, and substantially improved homes shall:
  - 1. Have the lowest floor elevated to the flood protection elevation; and
  - 2. Be anchored so they do not float, collapse or move laterally during a flood.
- c. Outside of existing manufactured home parks, including new manufactured home parks and all single units outside of existing parks, all new, replacement and substantially improved manufactured homes shall meet the residential development standards for the floodfringe in section 50-410.

(12) *Mobile recreational vehicles*. All mobile recreational vehicles that are on site for 180 consecutive days or more or are not fully licensed and ready for highway use shall meet the elevation and anchoring requirements in section 50-410. 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.

(Code 1987, § 20.04(3); Res. No. 87-03, 4-21-1987; Res. No. 04-55, 12-14-2004; Res. No. 10-05, 1-26-2010; Amend. of 11-12-2013)

**Editor's note**— An amendment adopted Nov. 12, 2013, changed the title of § 50-410 from "Standards for development in floodfringe areas" to "Standards for development in the floodfringe."

Secs. 50-411—50-433. - Reserved.

#### DIVISION 5. - GENERAL FLOODPLAIN DISTRICT (GFP)

Sec. 50-434. - Applicability.

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

(Code 1987, § 20.05(1); Res. No. 87-03, 4-21-1987; Amend. of 11-12-2013)

Sec. 50-435. - Permitted uses.

- (a) Pursuant to section 50-437, it shall be determined whether the proposed use is located within the floodway or floodfringe.
- (b) Those uses permitted in the floodway and floodfringe districts are allowed within the general floodplain district, according to the standards of section 50-188(6), provided that all permits or certificates required under section 50-490 have been issued.

(Code 1987, § 20.05(2); Res. No. 87-03, 4-21-1987; Amend. of 11-12-2013)

Sec. 50-436. - Standards for development in the general floodplain district.

Division 3 of this article applies to floodway areas; division 4 of this article applies to floodfringe areas. The rest of this division applies to either district.

(1) In AO/AH zones the structure's lowest floor must meet one of the conditions listed below whichever is higher:

- a. At or above the flood protection elevation; or
- b. Two feet above the highest adjacent grade around the structure; or
- c. The depth as shown on the FIRM.

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

(Code 1987, § 20.05(3); Res. No. 87-03, 4-21-1987; Amend. of 11-12-2013)

Sec. 50-437. - Determining floodway and floodfringe limits.

Upon receiving an application for development within the general floodplain 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 general floodplain district limits, stream channel, and existing floodplain developments, along with a legal description of the property, fill limits and elevations, building floor elevations and flood proofing measures and the floodzone shown on the FIRM;
- (2) Require the applicant to furnish any of the following information deemed necessary by the department to evaluate the effects of the proposal upon flood height and flood flows, regional flood elevation and to determine floodway boundaries:
  - a. A hydrologic and hydraulic study as specified in section [50-357];
  - b. A 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. Reserved.
  - d. Specifications for building construction and materials, floodproofing, filling, dredging, channel improvement, storage, water supply and sanitary facilities;

(Code 1987, § 20.05(4); Res. No. 87-03, 4-21-1987; Amend. of 11-12-2013)

Secs. 50-438—50-457. - Reserved.

## DIVISION 6. - NONCONFORMING USES

Sec. 50-458. - General regulations.

- (a) Applicability. If these standards conform with 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 following conditions:
  - (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. This includes painting, decorating, paneling and other nonstructural components and the maintenance, repair or replacement of existing private sewage or water supply systems or connections to public utilities. Any costs associated with the repair of a damaged structure are not considered maintenance.
  - (2) The municipality shall keep a record which lists all nonconforming uses and nonconforming structures, their present equalized assessed value, the cost of all modifications or additions which have been permitted, and the percentage of the structure's total current value those modifications represent.
  - (3) No modification or addition to any nonconforming structure or any structure with a nonconforming use, which over the life of the structure 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 division. Contiguous dry land access must be provided for residential and commercial uses in compliance with [section] 50-410(1)c. 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.
  - (4) 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 ordinance. Contiguous dry land access must be provided for residential and commercial uses in compliance with section 50-410(1).

- (5) If on a per event basis the total value of the work being done under [subsections] (d) and (e) 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 ordinance. Contiguous dry land access must be provided for residential and commercial uses in compliance with section 50-410(1).
- (6) a. Except as provided in subsection (2) 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 article requirements. A structure is considered substantially damaged if the total cost to restore the structure to its pre-damaged condition equals or exceeds 50 percent of the structure's present equalized assessed value.
- b. For nonconforming buildings that are substantially damaged or destroyed by a nonflood disaster, the repair or reconstruction of any such nonconforming building shall be permitted in order to restore it to the size and use in effect prior to the damage event, provided that the minimum federal code requirements below are met and all required permits have been granted prior to the start of construction.
1. Residential structures:
    - a. Shall have the lowest floor, including basement, elevated to or above the base flood elevation using fill, pilings, columns, posts or perimeter walls. Perimeter walls must meet the requirements of section 50-494(b).
    - b. 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.
    - c. Shall be constructed with electrical, heating, ventilation, plumbing and air conditioning equipment and other service facilities that are designed and/or elevated so as to prevent water from entering or accumulating within the components during conditions of flooding.
    - d. In A zones, obtain, review and utilize any flood data available from a federal, state or other source.
    - e. In AO zones with no elevations specified, shall have the lowest floor, including basement, meet the standards in section 50-436(1).
    - f.

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

2. Nonresidential structures:

- a. Shall meet the requirements of section 50-458(b)(1)–(5).
- b. Shall either have the lowest floor, including basement, elevated to or above the regional flood elevation; or, together with attendant utility and sanitary facilities, shall meet the standards in section 50-494(a) or (b).
- c. In AO zones with no elevations specified, shall have the lowest floor, including basement, meet the standards in section 50-436(1).

- (7) 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 50-383, flood-resistant materials are used, and construction practices and floodproofing methods that comply with section 50-494 are used. Repair or rehabilitation of historic structures shall be exempt from the development standards of section 50-458(b)(1) 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.

(Code 1987, § 20.06(1); Res. No. 87-03, 4-21-1987; Res. No. 04-55, 12-14-2004; Amend. of 11-12-2013 ; Amend. of 11-12-2013(2))

Sec. 50-459. - Floodway district.

- (a) (1) No modification or addition shall be allowed to any nonconforming structure or any structure with a nonconforming use in the floodway district, unless such modification or addition:
  - a. Has been granted a permit or variance which meets all article requirements;
  - b. Meets the requirements of section 50-458;
  - c. Shall not increase the obstruction to flood flows or regional flood height; and
  - d. The use must be limited to parking, building access or limited storage.
- (2) 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 or limited storage.
- (b) No new POWTS, or addition to an existing POWTS, except where an addition has been ordered by a government agency to correct a hazard to public health, shall be allowed in the floodway. Any replacement, repair or maintenance of an existing POWTS in a floodway area shall meet the applicable requirements of all municipal ordinances and Wis. Admin. Code ch. SPS 383.
- (c) No new well or modification to an existing well used to obtain potable water shall be allowed in the floodway. Any replacement, repair or maintenance of an existing well in the floodway shall meet the applicable requirements of all municipal ordinances and Wis. Admin. Code chs. NR 811 and 812.

(Code 1987, § 20.06(2); Res. No. 87-03, 4-21-1987; Res. No. 04-55, 12-14-2004; Res. 10-05, 1-26-2010; Amend. of 11-12-2013)

**Editor's note**— An amendment adopted Nov. 12, 2013, changed the title of § 50-459 from "Floodway areas" to "Floodway district."

Sec. 50-460. - Floodfringe district.

- (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 municipality, and meets the requirements of section 50-410, 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 a high flood damage potential, the board of adjustment, using the procedures established in section 50-492, 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 regional flood elevation for residential or commercial structures;
  - (2) Human lives are not endangered;
  - (3) Public facilities, such as water or sewer, shall not be installed;
  - (4) Flood depths shall not exceed two feet;
  - (5) Flood velocities shall not exceed two feet per second; and
  - (6) The structure shall not be used for storage of materials as described in section 50-410.
- (c) Reserved.

(d) All new private on-site wastewater disposal systems, or addition to, replacement, repair or maintenance of a POWTS shall meet all the applicable provisions of all local ordinances and Wis. Admin. Code ch. SPS 383.

(e) All new wells, or addition to, replacement, repair or maintenance of a well shall meet the applicable provisions of this article and Wis. Admin. Code chs. NR 811 and 812.

(Code 1987, § 20.06(3); Res. No. 87-03, 4-21-1987; Res. 04-55, 12-14-2004; Amend. of 11-12-2013)

**Editor's note**— An amendment adopted Nov. 12, 2013, changed the title of § 50-460 from "Floodfringe areas" to "Floodfringe district."

Secs. 50-461—50-488. - Reserved.

## DIVISION 7. - ADMINISTRATION

Sec. 50-489. - Zoning administrator—Authority to administer article.

Where a zoning administrator, planning agency or a board of adjustment has already been appointed to administer a zoning ordinance adopted under Wis. Stats. §§ 59.69 and 59.692, these officials shall also administer this article.

(Code 1987, § 20.07(intro.); Res. No. 87-03, 4-21-1987; Res. No. 04-55, 12-14-2004)

Sec. 50-490. - Same—Duties.

- (a) *Generally*. The zoning administrator is authorized to administer this article and shall have the following duties and powers:
- (1) Advise applicants of the article provisions, assist in preparing permit applications and appeals, and assure that the regional flood elevation for the proposed development is shown on all permit applications.
  - (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 and 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 regional flood elevations;
    - c. Records of 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. List of nonconforming structures and uses.
  - f. Floodproofing certificates.
- (5) Submit copies of the following items to the department 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 substantial damage assessments performed and all related correspondence concerning the assessments;
  - c. Copies of case-by-case analyses, and other required information including an annual summary of the floodplain zoning actions taken.
- (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 department regional office.
- (7) Submit copies of amendments to the FEMA regional office.
- (b) *Land use permit.* A land use permit shall be obtained before any new development or any repair or change in the use of a building or structure, including sewer and water facilities, may be initiated. Application to the zoning administrator shall include:
- (1) *General information.* A permit application shall furnish the following information:
    - a. Name and address of the applicant, property owner and contractor;
    - b. 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 centerlines;
    - 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 the vertical datum of the adopted study, either National Geodetic and Vertical Datum (NGVD), or North American Vertical Datum (NAVD);

- h. Data sufficient to determine the regional flood elevation in NGVD or NAVD at the location of the development and to determine whether or not the requirements of 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 50-357. This may include any of the information noted in section 50-381.
- (3) *Data requirements to analyze developments.* Hydraulic and hydrologic studies to analyze development.
- a. All hydraulic and hydrologic studies shall be completed under the direct supervision of a professional engineer registered in the state. The study contractor shall be responsible for the technical adequacy of the study. All studies shall be reviewed and approved by the department.
    - 1. Zone A floodplains:
      - a. Hydrology.
        - i. The appropriate method shall be based on the standards in ch. NR 116.07(3), Wis. Admin. Code, *Hydrologic Analysis: Determination of Regional Flood Discharge*.
      - b. Hydraulic modeling. The regional flood elevation shall be based on the standards in ch. NR 116.07(4), Wis. Admin. Code, *Hydraulic Analysis: Determination of Regional Flood Elevation* and the following:
        - i. Determination of the required limits of the hydraulic model shall be based on detailed study information for downstream structures (dam, bridge, culvert) to determine adequate starting WSEL for the study.
        - ii. Channel sections must be surveyed.
        - iii. Minimum four-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.
  - c. Mapping. A work map of the reach studied shall be provided, showing all cross section locations, floodway/floodplain limits based on best available topographic data, geographic limits of the proposed development and whether the proposed development is located in the floodway.
    - i. If the proposed development is located outside of the floodway, then it is determined to have no impact on the regional flood elevation.
    - ii. If any part of the proposed development is in the floodway, it must be added to the base model to show the difference between existing and proposed conditions. The study must ensure that all coefficients remain the same as in the existing model, unless adequate justification based on standard accepted engineering practices is provided.
2. Zone AE floodplains.
- a. Hydrology. If the proposed hydrology will change the existing study, the appropriate method to be used shall be based on ch. NR 116.07(3), Wis. Admin. Code, Hydrologic Analysis: Determination of Regional Flood Discharge.
  - b. Hydraulic model. The regional flood elevation shall be based on the standards in ch. NR 116.07(4), Wis. Admin. Code, Hydraulic Analysis: Determination of Regional Flood Elevation and the following:
    - i. Duplicate effective model. The effective model shall be reproduced to ensure correct transference of the model data and to allow integration of the revised data to provide a continuous FIS model upstream and downstream of the

revised reach. If data from the effective model is available, models shall be generated that duplicate the FIS 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 department review.
  - iii. Existing (pre-project conditions) model. The existing model shall be required to support conclusions about the actual impacts of the project associated with the revised (post-project) model or to establish more up-to-date models on which to base the revised (post-project) model.
  - iv. Revised (post-project conditions) model. The revised (post-project conditions) model shall incorporate the existing model and any proposed changes to the topography caused by the proposed development. This model shall reflect proposed conditions.
  - v. All changes to the duplicate effective model and subsequent models must be supported by certified topographic information, bridge plans, construction plans and survey notes.
  - vi. Changes to the hydraulic models shall be limited to the stream reach for which the revision is being requested. Cross sections upstream and downstream of the revised reach shall be identical to those in the effective model and result in water surface elevations and topwidths computed by the revised models matching those in the effective models upstream and downstream of the revised reach as required. The effective model shall not be truncated.
- c. Mapping. Maps and associated engineering data shall be submitted to the department for review which meet the following conditions:
- i. Consistency between the revised hydraulic models, the revised floodplain and floodway delineations, the revised flood profiles, topographic work map, annotated FIRMs and/or flood boundary floodway maps (FBFMs), construction plans, bridge plans.
  - ii. Certified topographic map of suitable scale, contour interval, and a planimetric map showing the applicable items. If a digital version of the map is available, it may be submitted in order that the FIRM may be more easily revised.
  - iii. Annotated FIRM panel showing the revised one percent and 0.2 percent annual chance floodplains and floodway boundaries.
  - iv. If an annotated FIRM and/or FBFM and digital mapping data (GIS or CADD) are used then all supporting documentation or metadata must be included with the data submission along with the Universal Transverse Mercator (UTM)

projection and State Plane Coordinate System in accordance with FEMA mapping specifications.

- v. The revised floodplain boundaries shall tie into the effective floodplain boundaries.
  - vi. All cross sections from the effective model shall be labeled in accordance with the effective map and a cross section lookup table shall be included to relate to the model input numbering scheme.
  - vii. Both the current 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.
- (4) *Expiration.* All permits issued under the authority of this article shall expire no more than 180 days after issuance. The permit may be extended for a maximum of 180 days for good and sufficient cause.
- (c) *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 article 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 50-494 are met. This certification shall be submitted prior to permit expiration.
- (d) *Other permits.* Prior to obtaining a floodplain development permit, the applicant must secure all necessary permits from federal, state, and local agencies, including but not limited to those required by the U.S. Army Corps of Engineers under section 404 of the Federal Water Pollution Control Act, Amendments of 1972, 33 USC 1344.

(Code 1987, § 20.07(1); Res. No. 87-03, 4-21-1987; Res. No. 04-55, 12-14-2004; Res. No. 10-05, 1-26-2010; Amend. of 11-12-2013; Amend. of 11-12-2013(2))

Sec. 50-491. - Zoning agency.

- (a) The county zoning committee shall:
  - (1)

Oversee the functions of the office of the zoning administrator; and

(2) Review and advise the county board of supervisors on all proposed amendments to this article, maps and text.

(b) The zoning agency shall not:

(1) Grant variances to the terms of this article in place of action by the board of adjustment/appeals; or

(2) Amend the text or zoning maps in place of official action by the county board of supervisors.

(Code 1987, § 20.07(2); Res. No. 87-03, 4-21-1987; Res. No. 04-55, 12-14-2004)

Sec. 50-492. - Board of adjustment/appeals.

(a) *Generally.* The board of adjustment/appeals, created under Wis. Stats. § 59.694, is hereby authorized or shall be appointed to act for the purposes of this article. The board shall exercise the powers conferred by state law and adopt rules for the conduct of business. The zoning administrator may not be the secretary of the board.

(b) *Powers and duties.* The board of adjustment/appeals shall:

(1) *Appeals.* Hear and decide appeals where it is alleged there is an error in any order, requirement, decision or determination made by an administrative official in the enforcement or administration of this article.

(2) *Boundary disputes.* Hear and decide disputes concerning the district boundaries shown on the official floodplain zoning map.

(3) *Variances.* Hear and decide, upon appeal, variances from the article standards.

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

(d) *Notice and hearing for appeals, including variances.*

(1) *Notice.* The board shall:

a. Fix a reasonable time for the hearing;

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

c. Assure that notice shall be mailed to the parties in interest and the department regional office at least ten days in advance of the hearing.

(2) *Hearing.* Any party may appear in person or by agent or attorney. The board shall:

- a. Resolve boundary disputes according to subsection (e) of this section.
  - b. Decide variance applications according to section 50-493.
  - c. Decide appeals of permit denials.
- (3) *Decision*. The final decision regarding the appeal or variance application shall:
- a. Be made within a reasonable time;
  - b. Be sent to the department regional office within ten days of the decision;
  - c. Be a written determination signed by the chairperson or secretary of the board;
  - d. State the specific facts which are the basis for the board's 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;
  - 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 proceedings.
- (e) *Boundary disputes*. The following procedure shall be used by the board 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) In all cases, the person contesting the boundary location shall be given a reasonable opportunity to present arguments and technical evidence to the board.
  - (3) If the boundary is incorrectly mapped, the board should inform the zoning committee or the person contesting the boundary location to petition the county board of supervisors for a map amendment according to division 8 of this article.

(Code 1987, § 20.07(3); Res. No. 87-03, 4-21-1987; Res. No. 04-55, 12-14-2004; Res. No. 10-05, 1-26-2010)

Sec. 50-493. - Variance.

- (a) The board may, upon appeal, grant a variance from the standards of this article if an applicant convincingly demonstrates that:
  - (1) Literal enforcement of the article provisions will cause unnecessary hardship;
  - (2) 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;
  - (3) The variance is not contrary to the public interest; and
  - (4) The variance is consistent with the purpose of this article in section 50-176.

- (b) In addition to the criteria in subsection (a) of this section, to qualify for a variance under FEMA regulations, the following criteria must be met:
- (1) The variance shall not cause any increase in the regional flood elevation;
  - (2) Variances can only be granted for lots that are less than one-half acre and are contiguous to existing structures constructed below the RFE;
  - (3) Variances shall only be granted upon a showing of good and sufficient cause, shall be the minimum relief necessary, shall not cause increased risks to public safety or nuisances, shall not increase costs for rescue and relief efforts and shall not be contrary to the purpose of this article.
- (c) A variance shall not:
- (1) Grant, extend or increase any use prohibited in the zoning district.
  - (2) Be granted for a hardship based solely on an economic gain or loss.
  - (3) Be granted for a hardship which is self-created.
  - (4) Damage the rights or property values of other persons in the area.
  - (5) Allow actions without the amendments to this article or maps required in section 50-514.
  - (6) Allow any alteration of an historic structure, including its use, which would preclude its continued designation as an historic structure.
- (d) When a floodplain variance is granted, the board shall notify the applicant in writing that it may increase risks to life and property and flood insurance premiums could increase up to \$25.00 per \$100.00 of coverage. A copy shall be maintained with the variance record.
- (e) For appeals of all denied permits, the board shall:
- (1) Follow the procedures of section 50-492;
  - (2) Consider zoning agency recommendations; and
  - (3) Either uphold the denial or grant the appeal.
- (f) For appeals concerning increases in regional flood elevation, the board shall:
- (1) Uphold the denial where the board agrees with the data showing an increase in flood elevation. Increases may only be allowed after amending the flood profile and map and all appropriate legal arrangements are made with all adversely affected property owners as per the requirements of division 8.
  - (2) Grant the appeal where the board agrees that the data properly demonstrates that the project does not cause an increase, provided no other reasons for denial exist.

(Code 1987, § 20.07(4); Res. No. 87-03, 4-21-1987; Res. No. 04-55, 12-14-2004; Amend. of 11-12-2013)

Sec. 50-494. - Floodproofing.

- (a) No permit or variance shall be issued for a non-residential structure designed to be watertight below the regional flood elevation until the applicant submits a plan certified by a registered professional engineer or architect that the floodproofing measures will protect the structure or development to the flood protection elevation and submits a FEMA floodproofing certificate.
- (b) For a structure designed to allow the entry of floodwaters, no permit or variance shall be issued until the applicant submits a plan either:
  - (1) Certified by a registered professional engineer or architect; or
  - (2) Meets or exceeds the following standards:
    - a. A minimum of two openings having a total net area of not less than one square inch for every square foot of enclosed area subject to flooding;
    - b. The bottom of all openings shall be no higher than one foot above grade; and
    - c. Openings may be equipped with screens, louvers, valves, or other coverings or devices provided that they permit the automatic entry and exit of floodwaters.
- (c) Floodproofing measures shall be designed, as appropriate, to:
  - (1) Withstand flood pressures, depths, velocities, uplift and impact forces and other regional flood factors;
  - (2) Protect structures to the flood protection elevation;
  - (3) Anchor structures to foundations to resist flotation and lateral movement;
  - (4) Minimize or eliminate infiltration of flood waters; and
  - (5) Minimize or eliminate discharges into flood waters.

(Code 1987, § 20.07(5); Res. No. 87-03, 4-21-1987; Res. No. 04-55, 12-14-2004; Amend. of 11-12-2013)

#### Sec. 50-495. - Public information.

- (a) All maps, engineering data and regulations shall be available and widely distributed.
- (b) All real estate transfers should show what floodplain district any real property is in.
- (c) Place marks on structures to show the depth of inundation during the regional flood.

(Code 1987, § 20.07(6); Res. No. 87-03, 4-21-1987; Res. No. 04-55, 12-14-2004; Res. No. 10-05, 1-26-2010; Amend. of 11-12-2013)

#### Secs. 50-496—50-513. - Reserved.

#### DIVISION 8. - AMENDMENTS

Sec. 50-514. - Authority to change or supplement floodplain zoning district boundaries.

Obstructions or increases may only be permitted if amendments are made to this ordinance, the official floodplain zoning maps, floodway lines and water surface profiles, in accordance with section 50-515.

- (1) In AE zones with a mapped floodway, no obstructions or increases shall be permitted unless the applicant receives a conditional letter of map revision from FEMA and amendments are made to this ordinance, the official floodplain zoning maps, floodway lines and water surface profiles, in accordance with section 50-515. Any such alterations must be reviewed and approved by FEMA and the DNR.
- (2) In A zones increases equal to or greater than 1.0 foot may only be permitted if the applicant receives a conditional letter of map revision from FEMA and amendments are made to this ordinance, the official floodplain maps, floodway lines, and water surface profiles, in accordance with this section.

The county board of supervisors may change or supplement the floodplain zoning district boundaries and this article in the manner outlined in [section] 50-515. Actions which require an amendment to the ordinance and/or submittal of a letter of map changes (LOMC) include, but are not limited to, the following:

- (1) Any fill or floodway encroachment that obstructs flow causing an increase in the regional flood height;
- (2) Any change to the floodplain boundaries and/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 a floodplain zoning ordinance text required by Wis. Admin. Code § NR 116.05, or otherwise required by law, or for changes by the municipality.
- (6) All channel relocations and changes to the maps to alter floodway lines or to remove an area from the floodway or the floodfringe that is based on a base flood elevation from a FIRM requires prior approval by FEMA.
- (7) Any changes to any other officially adopted floodplain maps listed in section 50-334(b)(3).
- (8) Any floodplain.

(Code 1987, § 20.08(1); Res. No. 87-03, 4-21-1987; Amend. of 11-12-2013; Amend. of 11-12-2013(2))

Sec. 50-515. - Procedures.

- (a) Ordinance amendments may be made upon petition of any interested party according to the provisions of Wis. Stats. § 62.23. The petitions shall include all data required by sections 50-437 and 50-491. The land use permit shall not be issued until a letter of map revision is issued by

FEMA for the proposed changes.

- (b) The proposed amendment shall be referred to the zoning agency for a public hearing and recommendation to the county board of supervisors. The amendment and notice of public hearing shall be submitted to the department regional office for review prior to the hearing. The amendment procedure shall comply with the provisions of Wis. Stats. § 59.69 for counties.
- (c) No amendments shall become effective until reviewed and approved by the department.
- (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.

(Code 1987, § 20.08(2); Res. No. 87-03, 4-21-1987; Res. No. 04-55, 12-14-2004; Amend. of 11-12-2013)

Sec. 50-516. - Enforcement and penalties.

Any violation of the provisions of this article by any person shall be unlawful and shall be referred to the municipal attorney who shall expeditiously prosecute all such violators. A violator shall, upon conviction, forfeit to the municipality a penalty of \$50.00 for each violation, together 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 municipality, the state, or any citizen thereof pursuant to Wis. Stats. § 87.30.

(Code 1987, § 20.09; Res. No. 87-03, 4-21-1987; Res. of 3-29-2011)