

Chapter 275

Shoreland, Wetland and Floodplain Zoning

[HISTORY: Adopted by the Board of Supervisors of Washington County as Ch. 23 of the 1998 Code; amended in its entirety 1-1-2022 by Ord. No. 2021-9. Subsequent amendments noted where applicable.]

Article I

General Provisions and Terminology

§ 275-1 Statutory authorization; finding of fact; statement of purpose; general provisions; title.

- A. Statutory authorization. This chapter is adopted pursuant to the authorization in §§ 59.69, 59.692, 59.694, 87.30 and 281.31, Wis. Stats.
- B. Finding of fact. Uncontrolled use of the shorelands, damage to wetlands, and uncontrolled development and use of the floodplains, lakes, ponds, flowages, rivers or streams of Washington County and pollution of the navigable waters and all land within the shorelands, wetlands, and floodplains of Washington County would adversely affect the public health, safety, convenience, and general welfare and impair its tax base. The Legislature of Wisconsin has delegated responsibility to the counties to further the maintenance of safe and healthful conditions; prevent and control water pollution; protect spawning grounds, fish and aquatic life; control building sites to preserve shore cover and natural beauty; and to provide sound floodplain management and regulations for all floodplains within unincorporated areas of the County. This responsibility is hereby acknowledged by Washington County, Wisconsin.
- C. Statement of purpose. For the purpose of promoting the public health, safety, convenience, welfare and to provide a uniform basis for the preparation, implementation and administration of sound shoreland, wetland, and floodplain regulations for all unincorporated areas of the County, this chapter has been established to:
 - (1) Further the maintenance of safe and healthful conditions and prevent and control water pollution by:
 - (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 on-site wastewater treatment systems.
 - (c) Controlling filling, grading and excavating to prevent serious soil erosion problems.
 - (d) Maintaining the storm and floodwater storage capacity of wetlands and floodplains.
 - (e) Preventing and controlling water pollution by preserving wetlands which filter or store

sediments and human-influenced pollutants that would otherwise drain into waters of the state.

- (f) Preserving and enhancing water quality.
- (g) Limiting impervious surfaces to control runoff which carries pollutants.
- (2) Protect spawning grounds, fish, aquatic life and wildlife habitat by:
 - (a) Preserving wetlands and other fish and aquatic habitat.
 - (b) Regulating pollution sources.
 - (c) Controlling shoreline alterations, dredging and lagooning.
- (3) Control structure sites, placement of structures and land uses by:
 - (a) Separating conflicting land uses.
 - (b) Prohibiting certain uses detrimental to the shoreland, wetland, and floodplain areas.
 - (c) Protecting natural-resource-based recreational opportunities.
 - (d) Setting minimum lot sizes and widths.
 - (e) Regulating minimum structure setbacks from waterways.
 - (f) Using mitigation techniques to limit impacts of structure placement.
 - (g) Establishing maximum height of near-shore structures.
- (4) Preserve and restore shoreland vegetation and natural beauty by:
 - (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 boathouses and other structures.
- (5) Protect life, health and property.
- (6) Minimize expenditures of public monies for costly flood-control projects.
- (7) Minimize rescue and relief efforts, generally undertaken at the expense of the taxpaying public.
- (8) Minimize business interruptions which usually result in the loss of local incomes.
- (9) Minimize damage to public facilities in the floodplains, such as water mains, sewer lines, streets and bridges.

- (10) Minimize the occurrence of future flood-blight areas in floodplains.
 - (11) Discourage the victimization of unwary land and home buyers.
 - (12) Prevent increases in regional flood heights which could increase damage during floods and which may result in conflicts or litigation between property owners.
 - (13) Discourage development in a floodplain if there is any practicable alternative to locate the activity, use or structure outside of the floodplain.
- D. Compliance. The use or development of any land or water, the size, shape and placement of lots, the use, size, type and location of structures on lots, the installation and maintenance of water supply, private on-site wastewater treatment systems and waste disposal facilities, the filling, grading, lagooning, and dredging of any lands, the cutting of shoreland vegetation, the subdivision of lots, a change in the use of any land or water, and the use, change of use, construction, reconstruction, remodeling or expansion of any structure within the areas to be regulated by this chapter shall be in full compliance with the terms of this chapter and other applicable local, state or federal regulations. Signs, structures, and other development shall require a County permit unless otherwise expressly excluded by a provision of this chapter. Property owners, builders and contractors are responsible for compliance with the terms of this chapter.
- E. Municipalities and state agencies regulated. Unless specifically exempted by law, all cities, villages and towns, are required to comply with this chapter and obtain all necessary County permits. State agencies are required to comply when § 13.48(13), Wis. Stats., applies. The construction, reconstruction, maintenance and repair of state highways and bridges by the Wisconsin Department of Transportation are exempt when § 30.2022(1), Wis. Stats., applies. Although exempt from a local zoning permit and permit fees, DOT must provide sufficient project documentation and analysis to ensure that the community is in compliance with Federal, State, and local floodplain standards.
- F. Abrogation and greater restrictions. The provisions of this chapter supersede all the provisions of any County general zoning ordinance adopted under § 59.69, 59.692, 59.694 and 87.30, Wis. Stats., which relate to shorelands, wetlands, and floodplains. A more restrictive ordinance shall continue in full force and effect to the extent of the greater restrictions, but not otherwise.
- (1) This chapter shall not require approval or be subject to disapproval by any town, city, village, council or board.
 - (2) Where a city, town, village or County zoning ordinance relating to shorelands is more restrictive than the provisions contained in this chapter, or any amendments thereto, and predates the effective date of this chapter, that ordinance shall continue in full force and effect to the extent of the greater restrictions to the extent allowed by law, but not otherwise. City, town or village ordinances of greater restriction predating this chapter shall be enforced or defended by the respective governing authority.
 - (3) This chapter is not intended to repeal, abrogate or impair any existing deed restrictions, covenants or easements. However, where this chapter imposes greater restrictions, the provisions of this

chapter shall prevail.

- (4) The provisions of this chapter may establish standards to regulate matters that are not regulated by Chapter NR 115 of the Wisconsin Administrative Code, but that further the purposes of shoreland zoning as described in § 275-1C.

(5) The construction and maintenance of a facility is considered to satisfy the requirements of this Code if:

(a) The Department of Natural Resources has issued all required permits or approvals authorizing the construction or maintenance under ch. 30, 31, 281, or 283.

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

- G. Interpretation. In the interpretation and application of the provisions of this chapter, the provisions shall be held to be minimum requirements and shall be liberally construed in favor of the County and shall not be deemed a limitation or repeal of any other powers granted by Wisconsin Statutes. Where a provision of this chapter is required by Wisconsin Statutes or a standard in Ch. NR 115 and NR 116, Wis. Adm. Code, and where the chapter provision is unclear, the provision shall be interpreted in light of the Wisconsin Statutes or Wisconsin Administrative Code standards in effect on the date of the adoption of this chapter or in effect on the date of the most recent text amendment to this chapter.
[Amended by Ord. No. 2016-38]
- H. Severability. If any portion of this chapter is adjudged unconstitutional or invalid by a court of competent jurisdiction, the remainder of this chapter shall not be affected thereby.
- I. Warning and disclaimer of liability. The degree of flood protection by this chapter is considered reasonable for regulatory purposes and is based on engineering experience and scientific methods of study. Larger floods may occur or the flood height may be increased by man-made or natural causes such as ice jams or bridge openings restricted by debris. Therefore, this chapter does not imply that areas outside of the delineated floodplain or permitted land uses within the floodplain will be totally free from flooding and associated flood damages. Nor does this chapter create liability on the part of, or a cause of action against, Washington County or any officer or employee thereof for any flood damage that may result from reliance on this chapter.
- J. Uses not specified in this chapter. These uses may be permitted by a conditional use permit issued by the Land Use and Planning Committee, provided such uses are similar in character to the permitted uses in the district. Appeals to such Committee decisions can be made to the County Board of Adjustment.
- K. Title. The name of this chapter shall be known and cited as the "Shoreland, Wetland and Floodplain Zoning Ordinance for Washington County."

§ 275-2 Definitions and word use.

Unless specifically defined below, words and phrases used in this chapter shall be interpreted so as to give them the same meaning as they have at common law and to give this chapter its most reasonable application. For the purpose of administering and enforcing this chapter, the terms or words used herein shall be interpreted as follows: Words used in the present tense include the future. Words used in the singular number include the plural, and words in the plural number include the singular. The word "may" is permissive. The word "shall" is mandatory and not discretionary. All distances, unless otherwise specified, shall be measured horizontally.

ACCESS AND VIEWING CORRIDOR

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

ACCESSORY STRUCTURE OR USE

A facility, structure, building or use which is accessory or incidental to the principal use of a property, structure or building, either attached or detached. An accessory structure shall not be used for human habitation. (Also see "structure.")

ADMINISTRATIVE PERMIT

A County permit issued by the Washington County Planning and Parks Department staff to ensure compliance with this chapter for shoreland, wetland and floodplain projects that contains specific conditions of approval.

ADMINISTRATOR

There shall be an Administrative Officer, who shall be the primary enforcement officer under this chapter. The County Planning and Parks Department Administrator established under Chapter 179, Planning and Parks, § 179-6 of the Code of Washington County shall be the Administrative Officer under this chapter. The additional staff enumerated under § 179-6 shall be assigned responsibilities to administer the provisions of this chapter.

AH ZONE

High flood risk. Base flood elevations have been determined. Flood insurance is mandatory and local floodplain development codes apply. These properties have a 1% annual chance of shallow flooding, usually in the form of a pond, with an average depth of one to three feet. See also "area of shallow flooding."

ALTERATION

An enhancement, upgrading or substantial change or modification other than an addition or repair to a dwelling or to electrical, plumbing, heating, ventilation, air-conditioning and other systems within a structure.

AO ZONE

High flood risk. Flood insurance is mandatory and local floodplain development codes apply. River or stream flood hazard areas, and areas with a 1% or greater chance of shallow flooding each year, usually in the form of sheet flow, with an average depth of one to three feet. These areas have a 26% chance of flooding over the life of a twenty-year mortgage. See also "area of shallow flooding."

ARBORACEOUS

Wooded, covered with growing trees and woody brush.

AREA OF SHALLOW FLOODING

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

A ZONES

Those areas shown on a municipality's Official Floodplain Zoning Map (see the term defined below in this § 275-2) which would be inundated by the base flood or regional flood as defined herein. These areas may be numbered as AO, A1 to A30, A99 or be 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.

BACKLOT DEVELOPMENT

A real estate development that often incorporates narrow portions of riparian frontage shared by all backlot (subdivision or condominium lots that do not abut the water) owners. This type of development, also called "keyhole" or "pyramid" development, results in offshore lots accessing a water body via a narrow tract of land. Developers can deed an undivided interest in lots abutting the water. All lot owners within the backlot development become riparian owners.

BASE FLOOD

A Federal Emergency Management Agency term used to describe flood having a 1% chance of being equaled or exceeded in any given year (also see "regional flood"), as published by FEMA as a part of an FIS and depicted on a Flood Insurance Rate Map (FIRM).

BASEMENT

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

BOATHOUSE

Any permanent structure designed and used solely for the purpose of protecting or storing boats, watercraft and related equipment for noncommercial purposes.

BUILDING

See "structure."

BUILDING ENVELOPE

A three-dimensional space within which a structure is built.

BUILDING (STRUCTURE) SETBACK LINE

The distance from the OHWM as determined by the required setback or setback averaging allowed. For the purpose of determining if an existing lot meets the minimum lot width requirements, this will be the area of the lot occupied by the existing principal structure.

BULKHEAD LINE

A geographic line along a reach of navigable water that has been adopted by a municipal ordinance and approved by the Department pursuant to § 30.11, Wis. Stats., and which allows complete filling to the landward side of the line, except where such filling is prohibited by the floodway provisions of this

chapter.

CAMPGROUND

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

CAMPING UNIT

Any portable device, including a tent, 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, pickup truck, or tent that is fully licensed, if required, and ready for highway use.

CANOPY

Trees whose crowns form the topmost layer of a woodland.

CERTIFICATE OF COMPLIANCE

A certification issued by the administrator stating that the use of land or a structure, the elevation of fill or the first floor of a structure is in compliance with all of the provisions of this chapter.

CHANNEL

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

CONDITIONAL USE

A use which is permitted by this chapter, provided that certain conditions specified in the chapter are met and that a County permit is granted by the Land Use and Planning Committee.

CONTIGUOUS DRY-LAND ACCESS

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

COUNTY ZONING AGENCY

The Washington County Planning and Parks Department designated by the County Board to act in all matters pertaining to County planning and zoning.

CRAWLWAY or CRAWL SPACE

A shallow, unfinished enclosed area below the first floor or under the roof of a building, generally less than five feet in height, for access to plumbing and electrical utilities.

DECK

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

DEPARTMENT

The Wisconsin Department of Natural Resources.

DEVELOPMENT

Any man-made change to improved or unimproved real estate, including, but not limited to, the construction of structures or accessory structures; the construction of additions or substantial alterations

to structures or accessory structures; the placement of mobile homes; mining, ditching, lagooning, dredging, filling, grading, paving, excavation or drilling operations and the deposition or extraction of earthen materials or equipment; and the installation, repair or removal of private or public sewerage disposal systems or water supply facilities.

DRAINAGE SYSTEM

One or more artificial ditches, tile drains or similar devices which collect surface runoff or groundwater and convey it to a point of discharge.

DRY-LAND ACCESS

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

ENCROACHMENT

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

EXISTING PATTERN OF DEVELOPMENT

The presence of a principal structure within 250 feet of a proposed principal structure in both directions along the shoreline.

FEDERAL EMERGENCY MANAGEMENT AGENCY (FEMA)

The federal agency that administers the National Flood Insurance Program.

FLOOD or FLOODING

A general and temporary condition of partial or complete inundation of normally dry land areas caused by the overflow of inland waters, or the unusual and rapid accumulation or runoff of surface waters from any source. A "flood" could also be a sudden increase caused by an unusually high-water level in a natural body of water accompanied by a severe storm, or by an unanticipated force of nature, such as a seiche, or by some unusual event.

FLOOD FREQUENCY

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

FLOODFRINGE

That portion of the floodplain outside of the floodway which is covered by floodwaters during the regional flood; it is generally associated with standing water rather than rapidly flowing water.

FLOOD HAZARD BOUNDARY MAP

A map prepared for the County by the Federal Emergency Management Agency, designating approximate flood hazard areas. Flood hazard areas are designated as unnumbered A Zones and do not contain floodway lines or regional flood elevations. Said map forms the basis for both the regulatory and insurance aspects of the National Flood Insurance Program until superseded by a Flood Insurance Study and a Flood Insurance Rate Map.

FLOOD INSURANCE RATE MAP (FIRM)

A map of a community on which the Federal Insurance Administration has delineated both the 100-year

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

A technical engineering examination, evaluation and determination of the County flood hazard areas. It provides maps designating those areas affected by the regional flood and provides both flood insurance rate zones and regional flood elevations as well as floodway lines. The flood hazard areas are designated as numbered A Zones. Flood insurance study maps form the basis for both the regulatory and the insurance aspects of the National Flood Insurance Program.

FLOODPLAIN

The land which has been or may be hereafter covered by floodwater during the regional flood. The floodplain includes the floodway and the floodfringe as those terms are defined in Ch. NR 116, Wis. Adm. Code.

FLOODPLAIN ISLANDS

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

FLOODPLAIN MANAGEMENT

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

FLOOD PROFILE

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

FLOODPROOFING

Any combination of structural and nonstructural additions, changes or adjustments which reduce or eliminate flood damage to unimproved or improved real estate, water and sanitary facilities, structures and their contents in compliance with the standards listed in the Wisconsin Administrative Code for the purpose of reducing or eliminating flood damage.

FLOOD PROTECTION ELEVATION

An elevation that corresponds to a point 2.0 feet above the regional flood. (Also see "freeboard.")

FLOOD STORAGE

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

FLOODWAY

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

FLOODWAY ENCROACHMENT LINES

Represent the limits of obstruction to flood flows. These lines are designated on both sides of, and generally parallel to, the channel of a river or stream. They are established by assuming that the area landward (outside of the encroachment lines) will ultimately be developed in such a way that it will not convey flood flows, but the development will not cause an increase to regional flood elevations

upstream. It is assumed that any development riverward of these lines will cause an obstruction and will require a detailed analysis (single degree of hydraulic encroachment) to determine its effect on the regional flood elevations upstream.

FOOTPRINT - STRUCTURES

The land area covered by a structure at ground level measured on a horizontal plane. The footprint of a residence or building includes the horizontal plane bounded by the furthest exterior wall and eave, if present, projected to natural grade. For structures without walls (decks, stairways, patios, carports): a single horizontal plane bounded by the furthest portion of the structure projected to natural grade. For the purposes of replacing or reconstructing a nonconforming building with walls, the footprint shall not be expanded by enclosing the area that is located within the horizontal plane from the exterior wall to the eaves projected to natural grade. This constitutes a lateral expansion under NR 115, Wis. Adm. Code, and would need to follow NR 115.05(1)(g)5.

FREEBOARD

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

GROUND COVER

Plants that grow from a few inches to two to three feet tall and cover a significant area of soil in order to help prevent soil loss and provide a ground layer of habitat for wildlife.

HABITABLE STRUCTURE

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

HEARING NOTICE

Publication or posting meeting the requirements of Ch. 985, Wis. Stats. A Class 2 notice is required at a minimum for all zoning ordinance and map amendments; published twice, once each week consecutively, the last publication at least a week (seven days) before the hearing.

HERBACEOUS

Plants with flexible, green stems with few to no woody parts, typically includes, annuals, perennials, or biennials.

HIGHEST ADJACENT GRADE

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

HIGH FLOOD DAMAGE POTENTIAL

Damage that could result from flooding, including any danger to human life or public health or the potential for any significant economic loss to a structure or its contents.

HISTORIC STRUCTURE

(Federal Rule, October, 1990) any structure that is:

- A. 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;

- B. 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;
- C. 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
- D. 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 directly by the Secretary of the Interior in states without approved programs.

HYDRAULIC REACH

That portion of the river or stream extending from one significant change in the hydraulic character of the river or stream to the next significant change. These changes are usually associated with breaks in the slope of the water surface profile and may be caused by bridges, dams, expansion and contraction of the water flow, and changes in stream bed slope or vegetation.

HYDROLOGIC REACH

A designated length of river, stream or lake where the storage of floodwaters therein has been taken into account to reduce the regulatory flood discharge. Major man-made or natural changes in the river character, limits of political jurisdiction, or a change in the flood routing technique used to determine the storage and translation of a flood wave through the area of interest may be used to define the end of a hydrologic reach (e.g., a dam may be considered a major man-made change in the river character or a change from channel routing to reservoir routing may be considered a major change in the flood-routing technique).

ICE FISHING SHANTY

Any structure used for the purpose of ice fishing. Temporary structure that must comply with required setback distances when not on the ice.

IMPERVIOUS SURFACE

Any artificial or natural area which does not allow the entrance or passage of water or sediment into the ground surface. Impervious surface excludes frozen soil but includes buildings, structures, concrete or asphalt surfaces, gravel or traffic bond surfaces, decks with no space in between the decking, bricks or pavers with no spacing between, which are placed on traffic bond, sidewalks, driveways, parking lots and streets, unless specifically designed, constructed and maintained to be pervious. Roadways as defined in s. 340.01(54), Wis. Adm. Code, or sidewalks as defined in s. 340.01(58), Wis. Adm. Code, are not to be calculated as impervious surfaces.

INCREASE IN REGIONAL FLOOD HEIGHT

A calculated upward rise in the regional flood elevation, greater than zero feet, resulting from 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.

JOINT BOUNDARY OR INTERGOVERNMENTAL AGREEMENT AREA

An agreement created and approved pursuant to provisions outlined in Chapter 66 of the Wisconsin

Statutes or any intergovernmental agreement approved by the governing boards of the respective municipalities where such agreement contains provisions on the subject of land use and contains significant environmental protections for any water body within the scope of the land subject to the agreement.

LAND USE

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

LOWEST ADJACENT GRADE

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

LOWEST FLOOR

The lowest floor of the lowest enclosed area (including basement).

MAINTENANCE

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

MANUFACTURED HOME

A structure, transportable in one or more sections, which is built on a permanent chassis and is designed to be used with or without a permanent foundation when connected to required utilities. For the purpose of this chapter, it does not include mobile recreational vehicles or travel trailers.

MINOR STRUCTURES

One or more structures totaling 200 square feet or less that is allowed within 35 feet to 74.99 feet from the OHWM. The structures must have no sides, open sides or screened sides and may include a roof.

MITIGATION

The balancing of measures that are designed, implemented and function to restore natural functions and values that are otherwise lost through development and human activities. Mitigation includes, but is not limited to, the installation of vegetative buffers or removal of nonconforming structures and selected stormwater measures to preserve and enhance water quality and aesthetics. Mitigation applies to the property as a whole and not just to the portion of the frontage that might be in front of the unit impacted.

MOBILE RECREATIONAL VEHICLE

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

MOBILE/MANUFACTURED HOME PARK, EXPANSION TO EXISTING

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

MOBILE/MANUFACTURED HOME PARK OR SUBDIVISION

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

MOBILE/MANUFACTURED HOME PARK OR SUBDIVISION, EXISTING

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

MODEL, CORRECTED EFFECTIVE

A hydraulic engineering model that corrects any errors that occur in the duplicative effective model, adds any additional cross sections to the duplicative effective model, or incorporates more detailed topographic information than that used in the current effective model.

MODEL, DUPLICATIVE EFFECTIVE

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

MODEL, EFFECTIVE

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

MODEL, EXISTING (PREPROJECT)

A modification of the duplicative effective model or corrected effective model to reflect any man-made modifications that have occurred within the floodplain since the date of the effective model but prior to the construction of the project for which the revision is being requested. If no modification has occurred since the date of the effective model, then this model would be identical to the corrected effective model or duplicative effective model.

MODEL, REVISED (POST-PROJECT)

A modification of the existing or preproject conditions model, duplicative effective model or corrected effective model to reflect revised or post-project conditions.

MUNICIPALITY or MUNICIPAL

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

NAVD or NORTH AMERICAN VERTICAL DATUM

Elevations referenced to mean sea level datum, 1988 adjustment.

NAVIGABLE WATERS

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. The Wisconsin Supreme Court has declared navigable bodies of water those that have a bed differentiated from adjacent uplands and levels or flow sufficient to support navigation by a recreational craft of the shallowest draft on an annually recurring basis [Muench v. Public Service Committee, 261 Wis. 492 (1952) and DeGayner Co., Inc. v. Dept. of Natural Resources, 70 Wis. 2d 936 (1975)]. For example, a stream which is navigable by a skiff or canoe during normal spring high-water is navigable in fact under the laws of this state, though it may be dry during other seasons. For lands adjacent to farm draining ditches, see § 275-

3A(4) of this chapter.

NEW CONSTRUCTION

For floodplain management purposes, "new construction" means structures for which the start of construction commenced on or after the effective date of floodplain zoning regulations adopted by the County 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

Elevations referenced to mean sea level datum, 1929 adjustment.

NONCONFORMING BUILDING

See "nonconforming structure."

NONCONFORMING STRUCTURE

An existing lawful structure which is not in conformity with the dimensional or structural requirements of this chapter for the area of the district which it occupies (e.g., an existing residential structure in the floodfringe district is a conforming use; however, if the first floor is lower than the flood protection elevation, the structure is nonconforming).

NONCONFORMING USE

An existing lawful use or accessory use of a structure which is not in conformity with the provisions of this chapter for the area of the district which it occupies.

NONFLOOD DISASTER

A fire or an ice storm, tornado, windstorm, mudslide or other destructive act of nature, but excludes a flood.

NUISANCE

Any use or structure causing significant harm, injury or impairment to the general health, safety or welfare of the public.

OBSTRUCTION TO FLOW

Any development which blocks the conveyance of floodwaters such that the development by itself or in conjunction with any future similar development will cause an increase in regional flood height.

OFFICIAL FLOODPLAIN ZONING MAP

That map, adopted and made part of this chapter, as described in § 275-14C, which has been approved by the Department and Federal Emergency Management Agency.

OPEN FENCES

A fence that has more than 50% open space.

OPEN SPACE USE

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

ORDINARY HIGH-WATER MARK (OHWM)

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.

PERSON

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

PREVIOUSLY DEVELOPED LAND

Any land, parcel or lot that meets the definition of development (see term defined above in this section) as of the date of enactment of this chapter.

PRINCIPAL STRUCTURE

The main or primary building on a lot that is used for a residence, place of business, or other recreational purposes.

PRIVATE ON-SITE WASTEWATER TREATMENT SYSTEM

A sewage treatment and disposal system serving one structure with a septic tank and soil absorption field located on the same parcel as the structure. It also means an alternative sewage system approved by the Department of Safety and Professional Services, including a substitute for the septic tank or soil absorption field, a holding tank, a system serving more than one structure or a system located on a different parcel than the structure.

PUBLIC PURPOSE FACILITY

Any structure or improvement required by a governmental unit or agency in the interest of the health, safety, or welfare of the public as a condition to granting a permit or approval to the petitioner. Public purpose facilities may include, but are not limited to, roads, sidewalks, utilities, pollution-control facilities and railroads.

PUBLIC UTILITIES

Those utilities installed for the benefit of the general public using underground or overhead transmission lines, such as electric, telephone and telegraph, and distribution and collection systems, such as water, sanitary sewer and storm sewer.

REASONABLY SAFE FROM FLOODING

Base floodwaters will not inundate the land or damage structures to be removed from the floodplain and any subsurface waters related to the base flood will not damage existing or proposed buildings.

RECONSTRUCTION

To construct again or to establish or assemble again involving structural components.

REGIONAL FLOOD

A flood determined to be representative of large floods known to have generally occurred in Wisconsin. A regional flood is a flood with a one percent chance of being equaled or exceeded in any given year, and if depicted on the FIRM, the Regional Flood Elevation is equivalent to the Base Flood Elevation. This means that during a typical thirty-year mortgage period, the regional flood has a 26% chance of occurrence.

RIPRAP

The placement of various-size rocks or natural materials along the shoreline to prevent erosion. Riprap requires the installation of erosion-control fabric placed on the exposed soil below the rocks. ~~Concrete~~

~~seawalls are not permitted without a conditional use permit.~~

ROUTINE MAINTENANCE OF VEGETATION

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

SAND BLANKET/PEA GRAVEL

A layer of sand or pea gravel placed on the bed of a lake or stream.

SHORELANDS

Lands within the following distances from the ordinary high-water mark (OHWM) of navigable waters: 1,000 feet from a lake, pond or flowage; and 300 feet from a river or stream or to the landward side of the floodplain, whichever distance is greater.

SHORELAND SETBACK AREA

The area in a shoreland that is within a certain distance of the ordinary high-water mark in which the construction or placement of buildings or structures has been limited or prohibited by this chapter. Except as more specifically defined in this chapter, the area is described as "75 feet from the ordinary high-water mark."

SHORELAND-WETLAND DISTRICT

The zoning district, created as a part of this chapter, comprised of shorelands that are designated as wetlands on the Wisconsin DNR wetland inventory maps which have been adopted and made a part of this chapter.

SHORELINE RECREATIONAL AREA

The area 35 feet to 75 feet landward of the ordinary high-water mark (OHWM) ~~and any 30 feet in 100-foot area along the shoreline.~~

SHRUB LAYER

Woody bushes and tree saplings that are three feet to 12 feet tall.

SILVICULTURE

The science and art of cultivating (i.e., growing and tending) forest crops, based on a knowledge of silvics.

START OF CONSTRUCTION

The date the building permit was issued, provided the actual start of construction, repair, reconstruction, rehabilitation, addition, placement, or other improvement was within 180 days of the permit date. For floodplain zoning purposes, 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.

STORAGE CAPACITY OF A FLOODPLAIN

The volume of space above an area of floodplain land that can be occupied by floodwater of a given stage at a given time, regardless of whether the water is moving.

STORMWATER MANAGEMENT

Any measures taken to permanently reduce or minimize the negative impacts of stormwater runoff quantity and quality from land development activities. An "approved" stormwater management plan means approved by the Washington County Land and Water Conservation Division~~department~~, town or other government agency having such authority to grant approval.

STRUCTURAL COMPONENTS

Any supporting member of a building or structure, including but not limited to the foundation, walls, floor systems, ceilings, roofs, decks and appendages.

STRUCTURE

A principal structure or any accessory structure which is a man-made object with form, shape and utility, either permanently or temporarily attached to, placed upon or set into the ground, stream bed or lake bed, which includes, but is not limited to, such objects as roofed and walled structures, garage, shed, boathouse, sidewalk, walkway, patio, decks, ice fishing shanties, gas or liquid storage tanks, bridges, dams, culverts, retaining wall, porch or fire pit.

SUBDIVISION

Has the meaning given in Chapter 257, Land Divisions, of the Code of Washington County and § 236.02(12), Wis. Stats.

SUBSTANTIAL DAMAGE

Damage of any origin sustained by a structure whereby the cost of restoring the structure to its predamaged condition would equal or exceed 50% of the equalized assessed value of the structure before the damage occurred.

SUBSTANTIAL IMPROVEMENT

Any repair, reconstruction, rehabilitation, addition or improvement of a building or structure, the cost of which equals or exceeds 50% 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 an historic structure, provided that the alteration will not preclude the structure's continued designation as an historic structure.

TRAM/LIFT

A motorized, box-like container or carrier that travels on a rail.

UNNECESSARY HARDSHIP

The inability to conform to the provisions of this chapter due to special conditions which were not self-created, affecting a particular property, that would unreasonably prevent the owner from using the

property for a permitted purpose or would render conformity with such restrictions unnecessarily burdensome.

UTILITIES

Any public or private water supply, waste collection or disposal system, including, but not limited to, private and public wells and their attendant facilities, private on-site wastewater treatment systems and public sewage collection systems.

VARIANCE

An authorization granted by the County Board of Adjustment to construct, alter or use a structure in a manner that deviates from the dimensional standards of this chapter. A variance may not permit the use of a property that would otherwise be prohibited by this chapter or allow construction not protected to the flood protection elevation.

VIOLATION

The failure of a structure or other development or land activity to be fully compliant with this chapter. A structure or other development without required permits, lowest floor elevation documentation, floodproofing certificates or required floodway encroachment calculations is presumed to be in violation until such time as that documentation is provided.

WATERSHED

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

WATER SURFACE PROFILE

A graphic representation showing the elevation of the water surface of a watercourse for each position along a reach of river, stream or lake at a certain flood flow. A water surface profile of the regional flood is used in regulating floodplain areas.

WELL

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

WETLAND ALTERATION

Any construction, filling, flooding, draining, dredging, ditching, tiling, excavating, temporary water level stabilization measures or dike and dam construction in a wetland area.

WETLANDS

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

ZONING PERMIT

A County permit ~~Shoreland, wetland, or floodplain zoning permits~~ issued by the Washington County Planning and Parks Department ~~staff to ensure compliance with this chapter for shoreland, wetland and floodplain projects that contains specific conditions of approval.~~

Article II

Shoreland Zoning

§ 275-3 General provisions; Shoreland Zoning District.

- A. Areas to be regulated: Shoreland District. Areas regulated by this chapter shall include all the lands (referred to herein as "shorelands") in the unincorporated areas of Washington County which are:
- (1) Within 1,000 feet of the ordinary high-water mark (OHWM) of navigable lakes, ponds or flowages. Lakes, ponds or flowages in Washington County shall be presumed to be navigable if they are shown on the approved shoreland Zoning Maps.
 - (2) Within 300 feet of the OHWM of navigable rivers or streams, or to the landward side of the floodplain, whichever distance is greater. Rivers and streams in Washington County shall be presumed to be navigable if they are shown on the approved shoreland Zoning Maps. When a project is proposed in the shoreland of a river or stream, the administrator shall inspect the project site to determine whether the stream is navigable as defined in § 275-2 of this chapter or shall contact the regional office of the Department for a determination of navigability. Flood hazard boundary maps, flood insurance rate maps, flood boundary/floodway maps, County soil survey maps or other existing County shoreland, wetland and floodplain Zoning Maps may be used to assist with the delineation of floodplain areas.
 - (3) Determinations of navigability and OHWM location shall initially be made by the administrator. When questions arise, the administrator shall contact the appropriate regional office of the Department for a final determination of navigability or OHWM. [The County may work with surveyors with regard to §59.692(1h), Wis. Stats.]
 - (4) Under § 281.31, Wis. Stats., and NR 115, Wis. Adm. Code, notwithstanding any other provision of law or administrative rule promulgated thereunder, this chapter does not apply to lands adjacent to farm drainage ditches if:
 - (a) Such lands are not adjacent to a natural navigable stream or river; and
 - (b) Those parts of such drainage ditches adjacent to such lands were not navigable streams before ditching; or
 - (c) Lands adjacent to artificially constructed drainage ditches, ponds or stormwater retention ponds or basins that are not hydrologically connected to a navigable water body.
- B. Areas to be regulated: Shoreland Zoning Maps. Areas regulated by this chapter shall include all the lands in the unincorporated limits of Washington County, Wisconsin, that are designated as shorelands as defined in § 275-2. The maps designated below are hereby adopted and made part of this chapter and are on file in the office of the Planning and Parks Department. **[Amended by Ord. No. 2016-38]**
- (1) Southeastern Wisconsin Regional Planning Commission (SEWRPC) and the Department of Natural Resources (DNR), 2010 Regional Wetland Inventory, publication date 2011-2012, and as subsequently amended by field determinations.

(2) Shoreland, Wetland and Floodplain Zoning Maps, as adopted as part of this chapter.

- C. General height regulation. To protect and preserve wildlife habitat and natural scenic beauty, on or after February 1, 2010, construction of a structure taller than 35 feet placed within 75 feet of the OHWM is prohibited.

§ 275-4 Lot dimensions.

- A. Purpose. Minimum lot sizes in the shoreland area shall be established to afford protection against dangers to health, safety and welfare and to protect against pollution of adjacent waterbodies. Lands located under public waters cannot be included when calculating minimum lot dimensions and square footage requirements for compliance with this chapter.
- B. Minimum size for lots to be created served by public sanitary sewer. The minimum lot area shall be 10,000 square feet, and the minimum average lot width shall be 65 feet. The width shall be calculated by averaging measurements at the following locations:
- (1) The OHWM.
 - (2) The building setback line.
 - (3) The rear lot line.
- C. Minimum size for lots to be created not served by public sanitary sewer. The minimum lot area shall be 20,000 square feet, and the minimum lot width shall be 100 feet with at least 100 feet of frontage at the ordinary high-water mark. The width shall be calculated by averaging measurements at the following locations:
- (1) The OHWM.
 - (2) The building setback line.
 - (3) The rear lot line.
- D. Substandard lots. An existing lot or parcel that met minimum area and minimum average width requirements when created, but does not meet the lot size requirements, may be used as a building site upon issuance of a ~~zoning~~ permit by the administrator if it meets all of the following requirements:
- (1) Such use is permitted in the zoning district.
 - (2) The lot or parcel has never been reconfigured, combined, or merged with another lot or parcel by plat, survey, or consolidation into one property tax parcel.
 - (3) The lot or parcel has never been developed with one or more of its structures placed partly or wholly on the adjacent lot or parcel.
 - (4) The lot or parcel complies with all other dimensional requirements of this chapter.

- E. Lots in cluster subdivisions. Lots in cluster subdivisions not served by public sanitary sewers may be reduced to the minimum allowed by the County Sanitary Code pursuant to the procedures set forth in § 275-9B of this chapter.
- F. Other substandard lots. Except for lots which meet the requirements of § 275-4D, a lot or parcel with dimensions lesser than those required in § 275-4B or C may be allowed only if a variance is granted by the County Board of Adjustment.

§ 275-5 Setbacks from water.

- A. ~~Lots that abut on navigable waters.~~ Except as reduced under this section, all temporary and permanent structures shall be set back 75 feet from the OHWM of navigable waters to the nearest part of a building or structure.
- B. Reduced principal structure setbacks (setback averaging). Where an existing pattern of development in the area of the proposed construction is at a setback less than required, a setback less than the 75-foot required setback from the OHWM shall be permitted for a proposed principal structure and shall be determined as follows:
 - (1) Where there are existing principal structures in both directions, the setback shall equal the average of the distances the two existing principal structures are set back from the OHWM, provided all of the following are met:
 - (a) Both of the existing principal structures are located on lots immediately adjacent to the lot of ~~to~~ the proposed principal structure.
 - (b) Both of the existing principal structures are located within 250 feet of the proposed principal structure and are the closest structure.
 - (c) Both of the existing principal structures are located less than 75 feet from the OHWM.
 - (d) The average setback shall not be reduced to less than 35 feet from the OHWM of any navigable water.
 - (2) Where this is an existing principal structure in only one direction, the setback shall equal the distance the existing principal structure is set back from the OHWM and the required setback of 75 feet from the OHWM, provided all of the following are met:
 - (a) The existing principal structure is located on a lot immediately adjacent to the lot of ~~to~~ the proposed principal structure.
 - (b) The existing principal structure is located within 250 feet of the proposed principal structure and is the closest structure.
 - (c) The existing principal structure is located less than 75 feet from the OHWM.
 - (d) The average setback shall not be reduced to less than 35 feet from the OHWM of any

navigable water.

- (e) When a new principal structure qualifies for a reduced building setback, unenclosed accessory structures (functional appurtenances), such as open decks or patios, if built in conjunction with the principal structure are allowed to be constructed at the reduced setback.

C. Boathouses. Boathouses are exempt from the shoreland setback standards in § 275-5A if all of the following apply:

- (1) Boathouses shall contain no plumbing, be used solely for the storage of boats and related equipment, and shall not be designed, constructed or used for human habitation.
- (2) One boathouse is permitted on a lot as an accessory structure.
- (3) Boathouses shall be entirely above the OHWM.
- (4) Boathouses shall not exceed one story in height above the final grade as measured on the water body side and 450 square feet in floor area. The minimum size of a boathouse is 200 square feet. The boathouse must have an appropriate door or double-wide doors facing the water body for the purpose of entry and exit for boats or watercraft. Fireplaces, plumbing or other features inconsistent with the purpose of the structure are prohibited.
- (5) Boathouses shall be constructed in conformity with this chapter.
- (6) For boathouses with a flat roof, decks are allowed to be constructed on the flat roof. No sidewalls or screens are allowed on the roof. Railings on the roof are allowed provided the railing meets the Department of Safety and Professional Services standards.
- (7) Boathouses shall be located in the access and viewing corridor.

D. Water access structures. Water access structures are exempt from the shoreland setback standard set forth at § 275-5A. Stairs, ramps, motorized lifts and walkways landward of the OHWM are allowed when necessary to access the shoreline. The following conditions shall apply as conditions of the permit:

- (1) A maximum of one ~~set of walkway or stairway, including safety railings, stairs~~ per property with a maximum width of 60 inches (outside dimensions, including railings) is allowed.
- ~~(2) Stairways can be elevated or excavated and may include safety railings.~~
- ~~(23)~~ Landings are allowed but shall not exceed 25 square feet in area, and only one landing is permitted per each 12 feet of vertical separation.
- ~~(4) Sidewalks and other walkways may be allowed within the corresponding setback for access to structures and the shoreline, but shall not exceed 60 inches (outside dimension) in width.~~
- ~~(35)~~ In addition to the one set of stairs, one motorized tram/lift and the associated landings for each property for access purposes may be permitted, but each landing shall not exceed 25 square feet.

The motorized tram/lift shall not exceed 25 square feet. No canopies are allowed on the tram/lift.

(46) All water access structures must be located within the access and viewing corridor.

E. Minor structures. **[Amended by Ord. No. 2016-38]**

- (1) ~~An administrative~~ permit shall be granted for the construction or placement of a minor structure on property in a shoreland setback area if all the following apply:
 - (a) The part of a structure that is nearest to the water is located at least 35 feet landward from the OHWM.
 - (b) The total floor area of all structures, except boathouses and walkways, in the shoreland setback area of the property will not exceed 200 square feet. This includes all existing structures and any portion of the principal structure that is within the shoreland setback area.
 - (c) The structure that is the subject of the request for ~~an administrative~~ permit may have a roof but has no sides or has open or screened sides.
 - (d) Structures shall be constructed using materials that blend with the natural shoreline vegetation in the vicinity of the construction during the peak growing season.
 - (e) The property owner must gain approval from the Planning and Parks Department of a plan, as outlined in ~~Subsection § 275-8CE(2)~~, that preserves or establishes a vegetative buffer zone that covers at least 70% of the half of the 75-foot shoreland setback area that is nearest to the OHWM.

~~(2) Vegetative buffer plan. Before an administrative permit may be granted to the property owner for a minor structure as provided in Subsection E(1), the property owner shall:~~

~~(a) Submit a plot plan detailing the vegetative buffer to the Planning and Parks Department for approval showing all the following:~~

~~[1] Current photographs of status of property, including all structures within the corresponding setback of the OHWM.~~

~~[2] Documentation, by photograph or list, of existing vegetation inhabiting the shoreland setback area.~~

~~[3] A vegetative buffer plan that covers at least 70% of the half of setback area nearest the water and clearly describes planting location, species, and size at planting and at maturity, expected maturity dates for each planting, appearance at maturity and a sketch of the buffer as depicted from the water perspective at maturity.~~

~~[4] Installation schedule and completion date within one year of approval of permit.~~

~~[5] Erosion control methods/plan for period of installation and stabilization of site.~~

- ~~[6]—Maintenance plan for the vegetative buffer.~~
- ~~[7]—These provisions shall be in addition to the removal of shore cover provisions in § 275-6.~~
- ~~(b) Post bond, escrow or letter of credit with Planning and Parks Department in accordance with the following terms:~~
- ~~[1]—The amount of the bond, escrow or letter of credit shall be determined by the Planning and Parks Department and shall be based on the estimated cost of developing and installing an adequate vegetative buffer, plus any cost required to maintain the buffer during the installation phase or immediately thereafter to ensure its viability.~~
- ~~[2]—Every bond, escrow or letter of credit shall be accompanied by a written agreement describing the purpose, amounts, and conditions for release.~~
- ~~[3]—The Planning and Parks Department shall release the bond, escrow, or letter of credit only after full compliance has been achieved with the following:~~
- ~~[a]—Inspection and approval of the installation upon completion of the buffer by the Planning and Parks Department to ensure consistency with proposed plans.~~
- ~~[b]—Submittal of a copy of the recorded affidavit required in Subsection E(2)(c).~~
- ~~[4]—The Planning and Parks Department may withhold releasing the bond, escrow or letter of credit until the vegetative buffer is fully established as determined by the Planning and Parks Department.~~
- ~~[5]—The permit holder may apply for a prorated partial release based on completion or partial completion of certain portions of the buffer or satisfaction of certain requirements under Subsection E(2)(b){3} above.~~
- ~~[6]—The Planning and Parks Department shall withhold from the bond, escrow or letter of credit any costs incurred by the County to complete installation or maintenance of the vegetative buffer through enforcement action described within this chapter.~~
- ~~(c) Provide evidence that an affidavit has been recorded at the Washington County Register of Deeds office, describing:~~
- ~~[1]—The property's legal description.~~
- ~~[2]—The minor structure's size, appearance and location.~~
- ~~[3]—The vegetative buffer.~~
- ~~[4]—The requirement that the vegetative buffer must be preserved permanently in order to maintain the minor structure in the corresponding setback area.~~
- ~~(d) Submit administrative permit fee to the Planning and Parks Department at the time of the~~

F. In addition to § 275-5C and E, all of the following structures are exempt from the shoreland setback standard in § 275-5A:

- (1) 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.
- (2) Utility transmissions and distribution lines, poles, towers, water towers, pumping stations, well pump house covers, private on-site wastewater systems that comply with Ch. SPS 383, Wis. Adm. Code, and other utility structures that have no feasible alternative location outside of the minimum setback and that employ best management practices to infiltrate or otherwise control stormwater runoff from the structure.

(3) A fence along roadways that meets all of the following requirements:

- (a) A height not taller than 15 feet.
- (b) Located not less than 2 feet landward of the ordinary high water mark.
- (c) Located entirely outside of a highway right-of-way
- (d) Located not less than 10 feet from the edge of a roadway and not more than 40 feet from the edge of a roadway or highway right-of-way, whichever is greater.
- (e) Generally perpendicular to the shoreline.

(4) A bridge for which the Department of Natural Resources has issued a permit under s. 30.123, Stats.

G.(3) Consistent with § 59.692(1k)(a)2m, Wis. Stats., existing exempt structures may be maintained, repaired, replaced, restored, rebuilt or remodeled, provided that the activity does not expand the footprint and does not go beyond the three-dimensional building envelope of the existing structure. Expansion of a structure beyond the existing footprint is allowed if the expansion is necessary to comply with applicable State or Federal requirements.

NOTE: Section 59.692 (1k) (a) 2m prohibits counties from requiring any approval or imposing any fee or mitigation requirement for the activities specified in section ~~275-5GF(3)~~. However, it is important to note that property owners may be required to obtain permits or approvals and counties may impose fees under ordinances adopted pursuant to other statutory requirements, such as floodplain zoning, general zoning, sanitary codes, building codes, or even stormwater erosion control.

H.G. Structure setbacks to wetlands. All structures shall have a minimum setback of 25 feet from a wetland. This applies to all wetlands shown on the Official Washington County Shoreland, Wetland, and Floodplain Zoning Maps. These setbacks shall not apply to the maintenance of existing private driveways that are within a wetland or the construction or maintenance of a private driveway within 25 feet of a wetland provided that the driveway complies with section ~~275-12C(3)(f)[2-4]~~ of this chapter.

I.H. Floodplain structures. Buildings and structures to be constructed or placed in a floodplain shall comply with applicable floodplain zoning ordinances.

§ 275-6 **Removal of shore cover.**

- A. Purpose. The purpose of tree, shrubbery and ground cover cutting regulations applicable to the shoreland area is to protect scenic beauty, control erosion and reduce effluent and nutrient flow from the shoreland and protect aquatic and shoreline wildlife habitat. The provisions shall not apply to the removal of dead, diseased or dying trees or shrubbery. These provisions shall be in addition to the vegetative buffer provisions required in § 275-~~8C5E(2)~~. [Amended by Ord. No. 2016-38]
- B. Shoreland cover cutting. [Amended by Ord. No. 2016-38]
- (1) Access and viewing corridor. Tree, shrubbery and ground cover cutting in an area parallel to the OHWM, extending inland from all points along the OHWM, shall be limited to: 10-feet or up to 35 percent of the shoreline frontage, whichever is greater, except that the maximum width of an access and viewing corridor may not exceed 200 feet. The access and viewing corridor may run contiguously for the entire maximum allowed width of 200 feet. No more than 35% of any 100-feet, as measured along the OHWM, may be clear-cut to a depth of 35 feet landward of the OHWM. From the inland edge of the thirty-five-foot area to the outer limits of the shoreland, the cutting of trees, shrubbery, and ground cover shall be allowed when accomplished using accepted forest management and soil conservation practices which protect water quality.
 - (2) The ground cover must be preserved. The area used for a boathouse is to be included in the access and view corridor as clear-cutting area in applying the limits specified in Subsection DB(1) and (2). Natural shrubbery and ground cover shall be preserved as far as practicable, and where removed, it shall be replaced with other shrubbery or ground cover that is equally or more effective in retarding runoff, preventing erosion and preserving natural beauty.
- C. Paths. Any path, road or passage within the access and view corridor clear-cut area shall be constructed and planned in accordance with the current version of Wisconsin's Forestry Best Management Practices for Water Quality. ~~Paths shall be included in the clear-cut area as stated in Subsection B.~~
- D. Cutting plan. As an alternative to § 275-6B of this chapter, a special cutting plan allowing greater cutting may be permitted by the administrator ~~Land Use and Planning Committee by issuance of a conditional use permit~~, pursuant to § 275-21E of this chapter. An application for such a ~~conditional use~~ permit shall include a plan of the lot and such information as may be required on the application form supplied by the administrator. The plan shall include a complete list of all canopy, shrub layer, and ground cover and show the location of each proposed planting on the site. A permit may only be ~~The Committee may granted such a conditional use permit only~~ if it is determined ~~finds~~ that such special cutting plans:

- (1) Will not cause undue erosion or destruction of scenic beauty; and

- (2) Will provide substantial visual screening from the water of dwellings, accessory structures, retaining walls, and parking areas. Where the plan calls for replacement plantings, the ~~administrator~~ Committee may require the submission of a bond which guarantees the performance of the planned tree, shrubbery or ground cover replacement by the lot owner.

§ 275-7 Nonconforming uses and structures; shoreland.

- A. General provisions. The lawful use of a structure or property which existed at the time this chapter was adopted, or an applicable amendment to this chapter took effect, and which is not in conformity with the provisions of this chapter, including the routine maintenance of such a structure, may be continued, subject to the following conditions:
- (1) If a nonconforming use, permanent or temporary, is discontinued for 12 consecutive months, it is no longer allowed, and any future use of the property or structure shall be made to conform to the applicable requirements of this chapter.
 - (2) The maintenance and repair of boathouses that extend waterward beyond the OHWM of any navigable waters shall comply with the requirements of § 30.121, Wis. Stats.
 - (3) Uses or structures which have been deemed nuisances shall not be allowed to continue as nonconforming and shall be removed or discontinued.
 - (4) Minor structures constructed in compliance with § **275-5E** of this chapter are deemed legal, conforming structures.
 - (5) Design review and impervious areas standards of § **275-11** apply to all structures and/or development addressed in this section.
 - (6) Maintenance, repair, replacement, restoration, rebuilding or remodeling may be allowed if the activity does not expand the footprint, or change the use or purpose unless it complies with ordinance provisions, of the nonconforming structure including, but not limited to, detached garages, sheds, barns, gazebos, patios, decks, swimming pools, hot tubs, fences, retaining walls, driveways, parking lots, sidewalks, detached stairways and lifts. An existing structure that was lawfully placed when constructed, but does not comply with the required setback, may be vertically expanded unless the vertical expansion would extend more than 35 feet above grade level. Expansion beyond the footprint may be allowed to comply with applicable state or federal requirements.
 - (7) No modification or addition to any nonconforming structure or any structure with a nonconforming use which would exceed the impervious area limits as listed in § **275-11** shall be allowed unless the entire structure is permanently changed to a conforming structure with a conforming use in compliance with the applicable requirements of this chapter and contiguous dry-land access is provided in compliance with § **275-16C(1)(c) or (d)**.
- B. Expansion of an existing nonconforming principal structure beyond setback. An existing principal structure that was lawfully placed when constructed but that does not comply with the required building

setback under § **275-5A** may be expanded laterally, landward or vertically, provided that the expanded area meets the building setback requirements per § **275-5A** and that all other provisions of this chapter are met. A mitigation plan is not required solely for expansion under this subsection, but may be required per § **275-11**.

- C. Relocation of nonconforming principal structure. An existing principal structure that was lawfully placed when constructed but that does not comply with the required building setback per § **275-5A** 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 if a nonconforming use.
 - (2) The existing principal structure is at least 35 feet from the ordinary high-water mark.
 - (3) 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.
 - (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 shoreland setback requirement per § **275-5A**.
 - (5) The County shall issue a permit that requires a mitigation plan that shall be approved by the County and implemented by the property owner by the date specified in the permit. The mitigation plan shall meet the standards found in § **275-8**
 - (6) All other provisions of this chapter shall be met.
- D. 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 under § **275-5A** may be expanded laterally, landward, all other provisions of this chapter, and the following requirements are met:
- (1) The use of the structure has not been discontinued for a period of 12 months or more.
 - (2) The existing principal structure is at least 35 feet from the OHWM.
 - (3) The lateral expansion is limited to a maximum of 200 square feet over the life of the structure and no portion is closer to the OHWM 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 property owner by the date specified in the permit. The mitigation plan shall meet the standards found in § **275-8**.
- E. Maintenance, Repair, Replacement of Illegal Structures. ~~(s. 59.692 (1k)(a)2c, Stats)~~ A structure that was illegally constructed which is older than ten years and may not be enforced under the shoreland ordinance ~~(s. 59.692(1t), Stats)~~ may be maintained, repaired, replaced, restored, rebuilt or remodeled if the activity does not expand the footprint of the structure. (No vertical or lateral expansion allowed for

structures in violation.)

§ 275-8 **Vegetation and mitigation.**

- A. Purpose. To protect natural scenic beauty, fish and wildlife habitat, and water quality, the planting of vegetation and other natural buffers are encouraged and the removal of shore cover is regulated under § 275-6.
- ~~B. The creation of buffer zones, removal of structures that do not meet setbacks and other measures may be used as negotiated options that are detailed in this section. Whenever mitigation is required by this chapter, a minimum of three mitigation points must be achieved.~~
- BC. Mitigation. Before a permit is issued for projects that require mitigation under § 275-7C, 275-7D or 275-11E, the property owner shall submit a mitigation plan for review and approval by the county that includes the following: The following mitigation practices may be used to obtain the necessary mitigation points. Existing buffer zones may be used to meet the mitigation point totals. [Amended by Ord. No. 2016-38]
- (1) Mitigation practices. ~~Buffer zone options.~~ The following mitigation options may be used to meet mitigation requirements. Existing buffers or previously permitted mitigation practices may not be used to meet additional mitigation requirements unless agreed to under Subsection (1)(h). [Amended by Ord. No. 2016-38]
- (a) Arboraceous buffer. Provide a shoreline tree and shrub buffer, outside the edges of the viewing corridor, that is within 35-feet of the OHWM and is greater than or equal to three-times the area of the proposed addition or structure to be located within the setback, ~~Primary active buffer zone. Shore buffer zone within 35 feet of the OHWM, including trees, shrubbery, ground cover and other natural vegetation,~~ and subject to the conditions in Subsection ~~C(2)(a) and (b).~~ A shoreline recreational area as defined in § 275-2 is allowed. ~~Three points.~~
- (b) Herbaceous buffer. Provide a shoreline grass buffer, outside the edges of the viewing corridor, that is within 35-feet of the OHWM and is greater than or equal to four-times the area of the proposed addition or structure to be located within the setback, and ~~Secondary active buffer zone. An additional 15 feet of buffer zone depth inland from the OHWM beyond the 35 feet of buffer zone already established, providing a total of 50 feet of buffer zone depth,~~ subject to the conditions in Subsection ~~C(2)(a).~~ Two points.
- (c) Native grasses and forbs buffer. Provide a native prairie shoreline buffer, outside the edges of the viewing corridor, that is within 35-feet of the OHWM and is greater than or equal to two-times the area of the proposed addition or structure to be located within the setback, and subject to the conditions in Subsection ~~(2)(a) and (c).~~ Recreational area buffer zone. Shore buffer zone within 15 feet of the OHWM, including within the space that may otherwise have been occupied by the recreational area, except that a footpath of no more than five feet in width may be maintained, subject to the conditions in Subsection C(2). Two points.

- (d) Minimize the access and viewing corridor. Expansion of an existing shoreline buffer that significantly narrows the viewing corridor to the minimum 10-foot width for the full 35-foot depth (landward) from the OHWM inclusive of the water access structure. The existing shoreline buffer and expansion should meet or be enhanced to meet the requirements of Subsection (1)(a), (b) or (c) above and the conditions of Subsection (2)(a), (b) or (c) below.~~Passive buffer zone. Shoreland vegetation buffer area within 35 feet of the OHWM, including unmowed grass or other ground cover vegetation, but without the tree and shrub layers required to meet the three-point mitigation standard. A shoreline recreational area as defined in § 275-2 is allowed. Two points.~~
- (e) Shoreline recreational buffer. A landward buffer between 35 feet and 75 feet from the OHWM that is greater than or equal to four-times the area of the proposed addition or structure within the setback. A shoreline recreational buffer should meet or be enhanced to meet the requirements of Subsection (1)(a), (b) or (c) above and the conditions of Subsection (2)(a), (b) or (c) below.~~Side lot buffer zone. A ten-foot-wide, side lot buffer zone, including trees, shrubbery, ground cover and other natural vegetation extending along a side lot line for a depth of at least 75 feet from the OHWM. One point. The side lot buffer area is subject to the conditions in Subsection C(2). Points for side lot line buffers may be additive, for a maximum of two points, if buffer areas exist and are maintained along both side lot lines.~~
- (f) Removal of existing minor or accessory structure within 50-feet of the OHWM that is relatively equal to the area of the proposed addition or structure within the setback.
- (g) Installation of a rain garden or other impervious treatment device designed to treat a minimum of two-times the surface area being mitigated (this is not to be considered an option if needed under § 275-11F unless sized to meet both requirements).
- (h) Other mitigation practices deemed appropriate by the administrator that are likely to provide significant benefits to meet the objectives of this chapter. Factors that will be considered in making this determination include, but are not limited to:
 - [1] Runoff diversion and/or retention.
 - [2] Re-location of impervious areas.
 - [3] Removal of existing impervious areas.
 - [4] Vegetative screening of structures as viewed from the water surface.
 - [5] Parcel size.
 - [6] Significance toward meeting ordinance objectives.

(2) Conditions.

- (a) Buffers provided for minor structures or mitigation purposes shall not be mowed and only routine maintenance of vegetation is authorized.~~No mowing is permitted in the undisturbed~~

~~buffer zone.~~

- (b) The establishment of buffer zones ~~specific to except under~~ Subsection C(1)(~~ad~~) are subject to a density of at least one tree per 200 square feet and two shrubs per 100 square feet of buffer zone area. Ground cover shall be established to provide an adequate number of ~~ground cover~~ plants to ~~obtain establish~~ complete coverage of exposed soil in one growing season ~~and~~ subject to a density of 50 plants per 100 square feet or seeded at a rate of 4 ounces 1,000 square feet. This density must be maintained through the maturity of the species.

- (c) Establishing native grasses and forbes specific to Subsection C(1)(c) are subject to mix that includes at least 3 native grasses and 2 native wildflowers. Establishing native grasses and forbes is not a simple process and consultation with a landscape architect or other applicable native vegetation specialist to oversee and verify the planting process and its successful establishment is recommended.

~~D.—Removal of structures. Points may be obtained for the removal of structures as set forth below:~~

- (1) ~~Removal of an existing principal structure or parts of a principal structure located within the required setback from the OHWM to a site that meets the OHWM setback requirements for new development on that water body. Three points.~~
- (2) ~~Removal of all existing accessory structures located within 35 feet of the OHWM, with the result that all such structures, including boathouses, meet the setback required for the class water body. Two points.~~
- (3) ~~Removal of any existing accessory structures located between 35 feet and the required setback from the OHWM, with the result that all such structures, including boathouses, are located to the required setback from the OHWM. One point.~~
- (4) ~~No nonprincipal, accessory structures are located less than the required setback from the OHWM. This point is not additive to points awarded for removal of structures from Subsection D(1) and (2). One point.~~

~~E.—Other practices.~~

- (1) ~~At the discretion of the administrator, up to three additional mitigation points may be approved for restoration or protection activities that are likely to provide significant benefits to meet the objectives of this chapter. Examples may include but are not limited to construction of a stormwater detention basin or implementation of other stormwater management plan activities, replacement of seawalls with bioengineered structures, or removal of artificial sand beaches in compliance with all applicable statutes and provisions set forth in the Wisconsin Administrative Code.~~
- (2) ~~Factors to be considered in making the determination of number of points and approval of alternative mitigation practices include, but are not limited to:~~

- ~~(a) Runoff diversion and/or retention.~~
- ~~(b) Lot configuration.~~
- ~~(c) Parcel size.~~
- ~~(d) Location of impervious areas.~~
- ~~(e) Sensitivity and level of development of the water body.~~
- ~~(f) Significance toward meeting ordinance objectives.~~
- ~~(g) Type, density and filtering capacity of vegetation/ground cover.~~
- ~~(h) Replacement of a private on-site wastewater treatment system with a code-compliant system.~~
- ~~(i) Removal of existing impervious areas.~~

CF. Mitigation and vegetation buffer planplan. Before a permit may be granted to the property owner for a minor structure per § 275-5E, or for the replacement or relocation a nonconforming structure per § 275-7C, or lateral expansion of a nonconforming structure per § 275-7D, or to exceed the Maximum Impervious Surface standards per § 275-11E, the property owner shall include all of the following:

- (1) Submit a plot plan signed and dated by the property owner detailing the vegetative buffer or mitigation practice ~~A mitigation plan shall be submitted to the administrator for review and approval. The plan shall indicate the selected mitigation strategies and shall be signed and dated by the property owner and filed with the Planning and Parks Department prior to the issuance of the zoning permit.~~
- (2) Provide current photographs showing status of property, including all structures within the corresponding setback of the OHWM and documentation, by photograph or list, of existing vegetation inhabiting the shoreland setback area.
- (3) For vegetative buffers plans, provide details that clearly describes planting location, species, and size at planting and at maturity, expected maturity dates for each planting, appearance at maturity and a sketch of the buffer as depicted from the water perspective at maturity.
- (4) Installation schedule and completion date within one year of approval of permit.
- (5) Erosion control methods/plan for period of installation and stabilization of site.
- (6) Maintenance plan for the vegetative buffers or impervious treatment practices.
- (7) Financial guarantee. A financial guarantee in the form of cash, bond, escrow account or irrevocable letter of credit shall be required in accordance with the following terms:
 - (a) The type and amount of the financial guarantee shall be determined by the administrator and shall be based on the estimated cost of developing and installing the mitigation plan or

vegetative buffer, plus any cost required for maintenance during the installation phase or immediately thereafter to ensure viability.

(b) Each financial guarantee shall be accompanied by a written agreement describing the purpose, amounts, and conditions for release.

(c) The administrator shall release the financial guarantee only after full compliance has been achieved with the following:

[1] Inspection and approval of the installation upon completion of the buffer by the administrator to ensure consistency with proposed plans.

[2] Submittal of a copy of the recorded affidavit required in Subsection C(9).

(d) The permit holder may apply for a prorated partial release based on completion or partial completion of certain portions of the buffer or satisfaction of certain requirements under Subsection (7)(c) above.

(8) The administrator shall withhold from the financial guarantee amount released to the permit holder for any costs incurred by the County to complete installation or maintenance of the mitigation plan or vegetative buffer through enforcement action described within this chapter.

(9) Provide evidence that an affidavit has been recorded at the Washington County Register of Deeds office, describing:

(a) The property's legal description.

(b) The purpose for mitigation or buffer and details relative to size, appearance and location.

(c) The mitigation practice or vegetative buffer plan.

~~(a)~~(d) The requirement that mitigation practice or vegetative buffer must be preserved and maintained permanently, unless the property owner receives approval of a new mitigation plan meeting the same requirements.

~~(2) The mitigation measures shall be maintained permanently, unless the property owner receives approval of a new, approved mitigation plan meeting the same point requirements.~~

~~(3) Notwithstanding any other provision of this chapter, the current owner is solely responsible for compliance with the terms of this chapter.~~

~~(4) Recording. The mitigation plan shall be recorded in the Register of Deeds office.~~

~~(5) Mitigation measures shall be proportional to the amount and impacts.~~

DG. Certification of completion. Within 18 months of issuance of the ~~zoning~~ permit, the property owner shall complete the mitigation practices or vegetative buffer and shall certify, in writing, to the administrator that the project required mitigation has been completed. As part of the certification, the

property owner shall submit photos ~~as document~~ation, ing the mitigation measures and the Planning and Parks Department staff may conduct an on-site compliance inspection.

EH. Subsequent development. Subsequent ~~zoning~~ permit applications shall require additional mitigation and will be dependent on the scope of the project and proportionate to the proposed activity. These will be minimal, provided the original mitigation measures are maintained.

§ 275-9 Land division review and sanitary regulations.

A. Land division review. County review, pursuant to Chapter 257, Land Divisions, of the Code of Washington County and § 236.45, Wis. Stats., of 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 shall include the following factors:

- (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 Wisconsin Administrative Code provisions.

B. Conditional use permit to achieve reduced lot sizes and setbacks. **[Amended by Ord. No. 2016-38]**

- (1) Purpose. In some instances, where an individual lot or small tract of land has unique characteristics, such as unique terrain, which would result in unnecessary hardship as defined in § 275-2, if the owner were required to comply with one or more of the requirements for minimum lot sizes, width and setback, the County Board of Adjustment may grant a variance that will not be contrary to the public interest. In other instances where larger areas are involved, the appropriate method for seeking a relaxation of the same minimum standards is by a planned unit development or condominium conditional use permit. The conditional use permit is intended to permit smaller lots and setbacks where the physical layout of the lots is so arranged (often by setting them back farther from navigable water) as to better assure the control of pollution and preservation of ground cover than would be expected if the lots were developed with the normal lot sizes and setbacks and without special conditions placed upon the planned unit development or condominium at the time of its approval. A condition of all planned unit development or condominium conditional use permits is the preservation of certain open space, preferably on the shoreland, permanently.
- (2) Requirements for planned unit development or condominium. The Land Use and Planning Committee may, at its discretion, upon its own motion or upon petition, approve a planned unit development or condominium either by approving first a conditional use permit and then a plat or by approving only a plat for the specific planned residential project upon finding, after a public hearing, that all of the following facts exist:
 - (a) Area. The area for the proposed planned unit development or condominium shall comply with

the minimum acreage required by the municipality's controlling ordinance, but in no case shall the acreage involved be less than five acres.

- (b) Pollution control. The location and nature of the private on-site wastewater treatment systems which will serve the home sites individually or collectively will assure that effluent from the private on-site wastewater treatment systems will not reach the groundwater or surface waters in a condition which would adversely contribute to health hazards, taste, odor, turbidity, fertility or impair the aesthetic character of navigable waters.
 - (c) Preservation of ground cover. The location of building sites and the dedication of part of the land for use by the public or residents of the planned unit development or condominium will preserve the ground cover of the shoreland and scenic beauty of the navigable water, prevent erosion and other pertinent factors. Land not used for lots and streets shall be dedicated permanently to remain in open space. This may be accomplished by conveyance in common to each of the owners of lots in the development; a homeowner's association or similar legally constituted body shall be created to maintain the open-space land. Any restriction placed on platted land by covenant, grant of easement or any other manner which was required by a public body or which names a public body as grantee, promise or beneficiary shall vest in the public body the right to enforce the restriction at law or in equity against anyone who has or acquires an interest in the land subject to the restriction.
 - (d) Density. The number of platted building sites shall not exceed those which would have been possible if the same land were platted in accordance with the minimum lot sizes, setbacks and widths provided by the applicable provisions in this chapter. This figure shall be determined by dividing the total area of the subdivision, excluding streets, by the minimum lot sizes required by § **275-4** of this chapter.
 - (e) Lot sizes, widths, setbacks and tree-cutting. The lot sizes, widths and setbacks shall not be less than those provided for in §§ **275-4** and **275-5** of this chapter and shall be of adequate size and distance so as to not cause pollution or erosion along streets or other public highways and waterways. Shore cover provisions in § **275-6** of this chapter shall apply.
- (3) Procedure for establishing a planned unit development or condominium conditional use permit. The procedure for obtaining a County conditional use permit for a planned unit development or condominium shall be as follows:
- (a) Petition. An application setting forth all of the facts required in Subsection **B(2)** of this section shall be submitted to the administrator with sufficient copies to provide for distribution as required by Subsection **B(3)(b)** of this section.
 - (b) Review and hearing. The application shall be submitted to the Land Use and Planning Committee, which shall hold a public hearing. Copies of the notice of the hearing shall also be sent to the appropriate regional office of the Department as described in § **275-21E(4)** of this chapter. The Committee's deliberations shall include the recommendations of any federal, state or local agency with which the Land Use and Planning Committee consults. If a petition

seeks approval of a planned unit development or condominium plat without first seeking the granting of a conditional use permit, a hearing shall be held on such plat. If, however, a hearing is first held on the conditional use permit for a planned unit development or a condominium, a second public hearing need not be held in connection with the approval of a subsequent plat or plats which complies with the conditional use permit as approved.

- (c) Findings and conditions of approval. The Committee shall make written findings as to the compliance or noncompliance of the proposed County permit with each of the applicable requirements set forth in Subsection **B(2)** of this section. If the petition is granted in whole or part, the Committee shall attach such written conditions to the approval as are required by and consistent with Subsection **B(2)** of this section. The conditions of approval shall in all cases establish the specific restrictions applicable with regard to minimum lot sizes, width, setbacks and the location of private on-site wastewater treatment systems and the preservation of ground cover and open space.
- (d) Planning studies. A landowner or petitioner may at his or her own expense develop the facts required to establish compliance with the provisions of Subsection **B(2)** or may be required to contribute funds to the County to defray all or part of the cost of such studies being undertaken by the County or any agency or person with whom the County contracts for such work.

C. Sanitary regulations. All County sanitary regulations for the protection of health and the preservation and enhancement of water quality shall apply to this chapter.

- (1) Where public water supply systems are not available, private well construction shall conform to the Wisconsin Administrative Code.
- (2) Where a public sewage collection and treatment system is not available, design and construction of private on-site wastewater treatment systems shall be governed by the County sanitary code.

D. Back lot development. No backlot development as defined in § **275-2** shall be permitted on any lands fronting on a water body, except as may be specifically allowed under the terms of a conditional use permit for a planned unit development or condominium. **[Amended by Ord. No. 2016-38]**

§ 275-10 **Filling, grading, lagooning, dredging, ditching, excavating and paving.**

A. Zoning permits. Filling, grading, lagooning, dredging, ditching, excavating or paving in excess of 450 square feet may be authorized by a zoning permit in the shoreland area, provided that:

- (1) The activity is done in a manner designed to minimize erosion, sedimentation and impairment of fish and wildlife habitat and scenic beauty.
- (2) Filling, grading, lagooning, dredging, ditching, excavating and paving in a shoreland-wetland district meets the requirements of § **275-12C(2)** of this chapter.
- (3) All applicable federal, state and local permits are obtained in addition to a County permit under this

chapter.

- (4) Any fill placed in the shoreland area is protected against erosion by the use of riprap, vegetative cover or a bulkhead.

B. Administrative permit.

- (1) General. An administrative permit is required for filling, grading, lagooning, dredging, ditching, excavating and paving of more than 2,000 square feet which is within 300 feet landward of the OHWM of navigable water and which has surface drainage toward the water ~~on which there is either:~~

~~(a) Any filling or grading on slopes of more than 20%.~~

~~(b) Filling or grading of more than 1,000 square feet on slopes of 12% to 20%.~~

~~(c) Filling or grading of more than 2,000 square feet on slopes less than 12%.~~

- (2) County permit conditions as listed in §§ **275-8** and **275-21E(2)** and **(3)** shall be attached to administrative permits, where appropriate.
- (3) An appeal of an administrative permit decision can be made to the Land Use and Planning Committee. The Land Use and Planning Committee decision can be appealed to the County Board of Adjustment.

- C. Conditional use permits. Except as provided in Subsections **A** and **B** of this section, a conditional use permit is required for all filling, grading, lagooning, dredging, ditching, excavating and paving of one acre or more ~~than 15,000 square feet~~ within 300 feet of the OHWM of a navigable water body. ~~A conditional use permit will also be required for all filling, grading, lagooning, dredging, ditching, excavating and paving of more than 10,000 square feet but less than 15,000 square feet within 300 feet of the OHWM if the slope is greater than 12%.~~ See § **275-21** for other conditional use permit requirements. **[Amended by Ord. No. 2016-38]**

D. Exemptions from permits.

- (1) Soil conservation practices and agricultural drainage maintenance.
 - (a) Conservation practices used for erosion control or water quality improvement shall not require a County permit under Subsection **A**, **B** or **C** of this section when designed and constructed to Natural Resource Conservation Service technical standards.
 - (b) The maintenance of existing agricultural drainage systems shall be permitted in conformity with the following construction standards:
 - [1] The maintenance dredging of farm drainage ditches is limited to reestablishing the original cross section unless a conditional use permit, administrative permit or zoning permit under Subsection **A**, **B** or **C** of this section is obtained.

[2] Ditch banks shall be constructed at a slope of three horizontal to one vertical or flatter.

[3] Ditch banks shall be maintained in a vegetative cover.

- (2) A County permit will not be required for filling, grading, lagooning, dredging, ditching, excavating or paving for areas of less than 450 square feet with a depth of filling less than six inches ~~and on less than a 12% slope~~ in a Shoreland or Floodfringe District. This does not apply to projects that change or increase the drainage in the project area or adjacent properties.
- (3) A County permit will not be required for placing gravel, pavers, bricks, asphalt or concrete over existing gravel roads or driveways if it does not cause a change in grade of more than six inches or affect drainage on adjacent properties and does not require a County permit under Subsections A, B and C of this section and § 275-12.
- (4) After receipt of a Department permit or exemption, no County permit is required for the reconstruction or maintenance of existing riprap, provided similar materials are used and no expansion or addition is done to the riprap.
- (5) After receipt of a Department permit or exemption, County permits will not be required for dredging, pea gravel, sand blankets, standpipes and fish cribs below the OHWM.
- (6) The replacement or reconstruction of existing town and County highways and bridges is allowed without a permit, provided the Planning and Parks Department is given a complete set of construction/erosion control plans for replacement or reconstruction and approves the plans prior to the start of construction. For maintenance of roads and road ditches, the Wisconsin Best Management Practices shall be followed.
- (7) The repair and maintenance of stormwater management facilities is allowed without a permit if completed under the direction of the Washington County Land and Water Conservation Division of the Planning and Parks Department or other government agency. A complete set of plans shall be submitted to the Planning and Parks Department and approved prior to the start of construction.

E. Permit conditions. In granting a ~~conditional use~~ permit under this Chapter, Subsection C of this section, ~~the Land Use and Planning Committee or~~ staff shall attach the following conditions, where appropriate, in addition to those provisions specified in § 275-21A and E: ~~In granting an administrative permit under Subsection B of this section, the Planning and Parks Department shall attach the following conditions where appropriate in addition to those provisions specified in § 275-21A and E:~~

- (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 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 three units horizontal distance to one unit vertical or flatter, which shall be promptly vegetated, unless bulkheads or riprap are provided.

F. Dams. All work on existing or proposed dams must be authorized by a Department permit. All work related to the project landward of the OHWM will require County permits as enumerated in this chapter.

§ 275-11 Design review and impervious surfaces.

- A. Purpose. Establish impervious surface standards to protect water quality and fish and wildlife habitat and to protect against pollution of navigable waters. County impervious surface standards shall apply to the construction, reconstruction, expansion, replacement or relocation of any impervious surface on a riparian lot or parcel and any nonriparian lot or parcel that is located entirely within 300 feet of the ordinary high-water mark of any navigable waterway.
- B. Calculation of percentage of impervious surface.
 - (1) 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 E of this section shall be excluded from the calculation of impervious surface on the lot or parcel. If an out-lot 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 out-lot shall be considered one lot or parcel for the purposes of calculating the percentage of impervious surface.
 - (2) For properties that have been condominiumized, the impervious surface calculations apply to the entire property. The property is still under one legal description and the proposed expansion to a unit is not the only impervious surface calculated since the regulation states lot or parcel and not a unit. It will be important to remember, also, that mitigation applies to the property as whole and not just to the portion of the frontage that might be in front of the unit impacted.
- C. General impervious surface standard. Except as allowed in § 275-11C, D and E, allow up to 15% impervious surface on the portion of a lot or parcel that is within 300 feet of the ordinary high-water mark.
- D. Impervious surface standard for highly developed shorelines. Up to 30% impervious surface area for residential land use and up to 40% impervious surface area for commercial, industrial or business land uses for lands that meets one of the following standards:
 - (1) The highly developed shoreline is identified as an "urbanized area" or "urban cluster" in the 2010 United States census or has a commercial, industrial, or business land use as of January 31, 2013.

The Urbanized Area or Urban Cluster in the 2010 US Census can be found on the Washington County GIS Interactive Map.

- (2) After conducting a hearing and receiving approval by the Department of Natural Resources, the County has mapped additional areas of highly developed shorelines that are at least 500 feet in length and meet the one of the following criteria:
 - (a) The majority of the lots are developed with more than 30% of impervious surface area.
 - (b) Located on a lake served by a sewerage system as defined in Ch. NR 110.03(30), Wis. Adm. Code.
 - (c) The majority of the lots contain less than 20,000 square feet in area.

E. Maximum impervious surface. A property may exceed the impervious surface standard under Subsection **B** or **C** of this section, provided the following standards are met:

- (1) For properties where the general impervious surface standard applies under § **275-11C**, a property owner may have more than 15% impervious surface but not more than 30% impervious surface on the portion of a lot or parcel that is within 300 feet of the ordinary high-water mark.
- (2) For properties on shorelands where the impervious surface standard for highly developed shorelines applies under ~~§ 275-11D~~**Subsection C of this section**, a property owner may have more than 30% impervious surface but not more than 40% impervious surface for residential land uses. For commercial, industrial or business land uses, a property owner may have more than 40% impervious surface but not more than 60% impervious surface.
- (3) For properties that exceed the standard under Subsection **B**, **C**, **D** or **E**, but do not exceed the maximum impervious standard herein, a permit can be issued for development with a mitigation plan that meets the standards found in ~~§ 275-8~~**this chapter**.

F. Treated impervious surfaces.

- (1) Impervious surfaces that can be documented to show they meet either of the following standards shall be excluded from the impervious surface calculations under § **275-11B**.
 - (a) The impervious surface is treated by devices such as stormwater ponds, constructed wetlands, infiltration basins, rain gardens, bioswales or other engineered systems; or
 - (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.
- (2) In order to qualify for exclusion from the calculation, an application demonstrating the following must be submitted, reviewed and approved by the County:
 - (a) Calculations showing the amount of runoff from the impervious surface area; and

- (b) Documentation demonstrating the impervious surface runoff is being treated by a proposed treatment system, treatment device or internally drained area; and
 - (c) An implementation schedule and an enforceable obligation of the property owner that the treatment method established for the runoff will be maintained as evidenced by an instrument recorded in the Office of the Register of Deeds to permit issuance; and
 - (d) The documentation required in this subsection shall be prepared and submitted by a Professional Engineer, Landscape Architect or other appropriately qualified licensed professional and shall be designed in accordance with the Department of Natural Resources Storm Water post-construction technical standards.
- G. Existing impervious surfaces. For existing impervious surfaces that were lawfully placed when constructed but that do not comply with the impervious surface standard in § 275-11C or the maximum impervious surface standard in § 275-11D, the property owner may do any of the following:
- (1) Maintain and repair the existing impervious surfaces;
 - (2) Replace existing impervious surfaces with similar surfaces within the existing building envelope;
 - (3) Relocate or modify an existing impervious surface with similar or different impervious surface, provided that the relocation or modification does not result in an increase in the percentage of impervious surface that existed on the effective date of this chapter, and the impervious surface meets the applicable setback requirements in Ch. NR 115.05(1)(b), Wis. Adm. Code.

Article III

Shoreland-Wetland Zoning

§ 275-12 Shoreland-Wetland District.

A. Designation.

- (1) This district shall include all shorelands within the jurisdiction of this chapter which are wetlands as shown on the Wisconsin Department of Natural Resources Wetland Inventory Maps that are adopted and made a part of this chapter. The most recent version of the Wisconsin Wetland Inventory as depicted on the Department of Natural Resources Surface Water Data Viewer is made part of this ordinance. The maps can be viewed at <https://dnrmaps.wi.gov/H5/?viewer=SWDV>.
- (2) Locating shoreland-wetland boundaries. Where an apparent discrepancy exists between the shoreland-wetland district boundary shown on the Wisconsin Department of Natural Resources Wetland Inventory Maps and actual field conditions at the time the maps were adopted, the administrator shall contact the appropriate regional office of the Department to determine if the shoreland-wetland district boundary as mapped is in error. If Department staff concurs with the administrator that a particular area was incorrectly mapped as a wetland, the 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 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.
- C. Permitted uses. The following uses shall be allowed, subject to general shoreland zoning regulations contained in this chapter, the provisions of Chs. 30 and 31, and 281.36 Wis. Stats., and the provisions of other applicable local, state and federal laws: **[Amended by Ord. No. 2016-38]**
- (1) Activities and uses which do not require the issuance of a ~~zoning~~ permit, but which must be carried out without any filling, flooding, draining, dredging, ditching, tiling or excavating, except allowed as follows:
- (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.
 - (d) The cultivation of agricultural crops.
 - (e) The practice of silviculture, including the planting, thinning and harvesting of timber.
 - (f) The construction or maintenance of duck blinds.
 - (g) The maintenance of fences for the pasturing of livestock.
 - (h) The maintenance of piers, docks, or walkways built on pilings.
 - (i) The repair and maintenance of stormwater management facilities under the direction of the Land and Water Conservation Division of the Planning and Parks Department or other government agency. A complete set of plans shall be submitted to the Planning and Parks Department and approved prior to the start of construction.
 - (j) The maintenance and repair of existing agricultural drainage systems, including ditching, tiling, dredging, excavating and filling necessary to maintain the level of drainage required to continue the existing agricultural use. This includes the minimum filling necessary for disposal of dredged spoils adjacent to the drainage system, provided that the dredged spoils are placed on existing spoil banks where possible, provided that the depth of ditch is not increased and three-to-one side slopes are maintained and the dredged spoil is stabilized.
- (2) Activities and uses which do not require a County permit or County-imposed mitigation, but may require compliance with state or federal wetland regulations.

- (a) The replacement or reconstruction of existing town and County highways, bridges and culverts, including limited excavating and filling necessary for such maintenance, repair, replacement or reconstruction, provided that Land Use and Planning Committee is given a complete set of the construction and/or erosion control plans for new construction or reconstruction and approves the plans prior to the start of construction.
 - (b) For maintenance of roads and road ditches, the Wisconsin Best Management Practices shall be followed.
- (3) Activities and uses which require the issuance of a ~~zoning~~ permit under § ~~275-10A~~ of this chapter and which may include limited filling, flooding, draining, dredging, ditching, tiling or excavating, but only to the extent specifically provided below:
- (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 crops as authorized in the Wisconsin Administrative Code, including flooding, dike and dam construction or ditching necessary for the growing and harvesting of cranberries, wild rice or other similar agricultural products.
 - (c) The construction of fences for the pasturing of livestock, including limited excavating and filling necessary for such construction.
 - (d) The construction of piers, docks or walkways built on pilings, including limited excavating and filling necessary for such construction.
 - (e) The construction of electric, gas, telephone, railroad lines, water and sewer transmission and distribution facilities by public utilities and cooperative associations organized for the purpose of producing or furnishing heat, light, power or water. Construction may be permitted, provided that:
 - [1] The transmission and distribution facilities cannot, as a practical matter, be located outside the wetland.
 - [2] Such construction or maintenance is done in a manner designed to minimize adverse impact upon the natural functions of the wetland enumerated in Subsection **E(2)**.
 - (f) The construction and maintenance of private roads which shall include driveways which are necessary to conduct silvicultural activities or agricultural cultivation, and the maintenance only of other existing private driveways, provided that:
 - [1] The private driveway cannot, as a practical matter, be located outside the wetland.
 - [2] The private driveway is designed, constructed and maintained to minimize adverse impact upon the natural functions of the wetland enumerated in Subsection **E(2)** of this section.

[3] The private driveway is designed, constructed and maintained with the minimum cross-sectional area practical to serve the intended use.

[4] Private driveway construction and maintenance activities are carried out in the immediate area of the private driveway bed only.

(g) The construction or maintenance of nonresidential structures, provided that:

[1] The structure 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 structure cannot, as a practical matter, be located outside the wetland.

[3] Such structure is not designed for human habitation and does not exceed 450 square feet in floor area.

[4] Only limited filling or excavating necessary to provide structural support for the structure is authorized.

(h) 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 County permit or license under Ch. 29, Wis. Stats., 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)(g)[1]** through **[4]** of this section.

[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. Prohibited uses. Any use not listed in Subsection **C(1)** or **(2)** of this section is prohibited, unless the wetland or portion of the wetland has been rezoned by amendment of this chapter in accordance with Subsection **E** of this section and § **275-22** of this chapter and § 59.69(5)(e), Wis. Stats.

E. Rezoning of lands in the shoreland-wetland district.

(1) For all proposed text and map amendments to the shoreland-wetland provisions of this chapter, the appropriate regional 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 chapter, within five days of the filing of such petition with the administrator, which shall include a copy of the Wisconsin Wetland Inventory Map adopted as a part of this chapter, describing the proposed rezoning.
 - (b) Written notice of the public hearing to be held on a proposed amendment at least 10 days prior to such hearing.
 - (c) A copy of the Land Use and Planning Committee findings and recommendations on each proposed amendment within 10 days after the submission of those findings and recommendations to the County Board.
 - (d) Written notice of the County Board's decision on the proposed amendment within 10 days after it is issued.
- (2) A wetland, or a portion thereof, in the shoreland-wetland district shall not be rezoned if the proposed rezoning may result in a significant adverse impact upon any of the following:
- (a) Storm and floodwater storage capacity.
 - (b) Maintenance of dry-season stream flow, the discharge of groundwater to a wetland, the recharge of groundwater from a wetland to another area or the flow of groundwater through a wetland.
 - (c) Filtering or storage of sediments or other human-influenced pollutants, including 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.
 - (g) Areas of special recreational, scenic or scientific interest, including scarce wetland types.
- (3) If the Department notifies the County zoning agency that a proposed text or map amendment to the shoreland-wetland provisions of this chapter may have a significant adverse impact upon any of the criteria listed in Subsection **E(2)** of this section, the amendment shall contain the following provision:

This chapter shall become effective on the 31st day after written notice of passage is mailed to the Department and subject to publication as provided by law unless the County Board designates a specific date for implementation. If, prior to the effective date, the Department notifies the Board that it will adopt a superseding shoreland ordinance under § 59.692(6), Wis. Stats., the effect of this amendment shall be stayed until the § 59.692(6), Wis. Stats., adoption procedure is completed or otherwise terminated.

- (4) A wetland, or a portion thereof, in the shoreland-wetland district shall be eligible for a rezoning and ~~conditional-use~~ permit if the proposed project complies with Subsections C(3) and E(1) through (3) of this section and § 275-22.

§ 275-13 Nonconforming uses and structures; wetland within shoreland.

The nonconforming uses and structures regulations set forth in § 275-7 of Article II apply to development and activities in the Shoreland-Wetland District.

Article IV
Floodplain Zoning

§ 275-14 General provisions; Floodplain Zoning District.
[Amended by Ord. No. 2016-38]

- A. Areas to be regulated: Areas regulated by this chapter shall include all lands in the unincorporated limits of Washington County, Wisconsin, that would be covered by the regional flood identified as zones A, AO, AH, A1-30, AE, on the Flood Insurance Rate Map. Additional areas identified on maps approved by the Department of Natural Resources (DNR) and Washington County may also be regulated under the provisions of this ordinance, where applicable.
- B. Official Maps & Revisions: Floodplain zoning district boundaries are designated as zones A, A1-30, AE, AH, AO, on the Flood Insurance Rate Maps (FIRMs) based on flood hazard analyses summarized in the Flood Insurance Study (FIS) listed in subd. (1) below. Additional flood hazard areas subject to regulation under this ordinance are identified on maps based on studies approved by the DNR and adopted by Washington County and listed in subd. (2) below. These maps and revisions are on file in the office of the Washington County Planning and Parks Department.
- C. Official floodplain maps. **[Amended by Ord. No. 2016-38]**
- (1) Based on the Flood Insurance Study (FIS).
- (a) Flood Insurance Rate Map (FIRM), panel numbers: 55131C0042D, 55131C0044D, 55131C0045D, 55131C0061D, 55131C0062D, 55131C0063D, 55131C0064D, 55131C0070D, 55131C0086D, 55131C0087D, 55131C0145D, 55131C0151D, 55131C0152D, 55131C0153D, 55131C0154D, 55131C0156D, 55131C0157D, 55131C0158D, 55131C0159D, 55131C0162D, 55131C0164D, 55131C0166D, 55131C0167D, 55131C0168D, 55131C0169D, 55131C0176D, 55131C0177D, 55131C0181D, 55131C0183D, 55131C0188D, 55131C0088D, 55131C0089D, 55131C0091D, 55131C0093D, 55131C0132D, 55131C0135D, 55131C0252D, dated 11/20/2013;
- (b) Flood Insurance Rate Map (FIRM), panel numbers: 55131C0020E, 55131C0040E, 55131C0110E, 55131C0119E, 55131C0120E, 55131C0127E, 55131C0130E, 55131C0136E, 55131C0137E, 55131C0138E, 55131C0139E, 55131C0206E, 55131C0207E, 55131C0208E, 55131C0209E, 55131C0216E, 55131C0217E, 55131C0218E, 55131C0219E, 55131C0226E, 55131C0227E, 55131C0228E, 55131C0229E, 55131C0233E, 55131C0234E, 55131C0236E, 55131C0237E, 55131C0238E, 55131C0239E, 55131C0241E, 55131C0242E, 55131C0243E,

- 55131C0244E, 55131C0306E, 55131C0307E, 55131C0308E, 55131C0309E, 55131C0326E, 55131C0327E, 55131C0328E, 55131C0329E, 55131C0331E, 55131C0333E, dated 10/16/2015;
- (c) Flood Insurance Rate Map (FIRM), panel numbers: 55131C0142E, 55131C0144E, 55131C0161E, 55131C0163E, 55131C0178E, 55131C0179E, 55131C0186E, 55131C0187E, 55131C0189E, 55131C0191E, 55131C0193E, 55131C0231F, 55131C0232E, 55131C0251E, 55131C0253E, 55131C0254E, 55131C0256E, 55131C0257E, 55131C0258E, 55131C0259E, 55131C0261F, 55131C0262E, 55131C0263F, 55131C0264E, 55131C0266E, 55131C0267E, 55131C0268E, 55131C0269E, 55131C0276E, 55131C0277E, 55131C0278E, 55131C0279E, 55131C0281E, 55131C0286E, 55131C0287E, 55131C0288E, and 55131C0289E, dated 02/25/2022.
 - (d) Flood Insurance Study (FIS) for Washington County (unincorporated areas) 55131CV001C, 55131CV002C, 55131CV003C, 55131CV004C, 55131CV005C, 55131CV006C, dated 02/25/2022.
 - (e) Letter(s) of Map Revision (LOMR); Approved by the DNR and FEMA:
 - [1] 15-05-0254P-550471, dated July 1, 2015.
 - [2] 16-05-1498P-550471, dated June 2, 2016.
 - [3] 17-05-4823P-550471, dated February 7, 2018.
- (2) Official Maps: Based on other studies. Any maps referenced in this section must be approved by the DNR and be more restrictive than those based on the FIS at the site of the proposed development.
- (a) Hydraulic Analysis of the Ashippun River for Druid Lake Floodway Determination, Town of Erin, Washington County, Wisconsin, dated April 2015, prepared by R. A. Smith National and approved by the Wisconsin Department of Natural Resources on April 17, 2015.
 - (b) Hydraulic Analysis of Rubicon River for Pike Lake Floodway Determination, Town of Hartford, Washington County, Wisconsin, dated February 2017, prepared by R. A. Smith National and approved by the Wisconsin Department of Natural Resources on March 10, 2017. The Federal Emergency Management Agency approved the Letter of Map Revision dated September 21, 2017. **[Added 3-13-2018 by Ord. No. 2017-42]**
 - (c) One-Hundred-Year Dam Failure Floodplain Map, dated December 15, 2001, for the Ehne Dam in the Town of Farmington, prepared by Stormwater Solutions Engineering and approved by the Department on August 31, 2012.
 - (d) Flood Storage Map, panel numbers 1 through 8, dated 02/25/2022, approved by the DNR.
- (3) Establishment of floodplain zoning districts. The regional floodplain areas within the jurisdiction of this chapter are hereby divided into four districts, defined as follows:

- (a) The "Floodway District" consists of the channel of a river or stream and those portions of the floodplain adjoining the channel that are required to carry and discharge the regional floodwaters and are contained within AE Zones as shown on the FIRM, or within A Zones shown on the FIRM when determined according to § **275-17E**.
 - (b) The "Floodfringe District" consists of that portion of the floodplain outside the floodway within AE Zones on the FIRM, or, when floodway limits have been determined according to § **275-17E**, within A Zones shown on the FIRM.
 - (c) The "General Floodplain District" consists of all areas which have been or may be covered by floodwater during the regional flood in which a floodway boundary has not been delineated on the FIRM and also includes shallow flooding areas identified as AH and AO zones on the FIRM.
 - (d) The "Flood Storage District" is that area of the floodplain where storage of floodwaters is calculated to reduce the regional flood discharge.
- (4) Locating floodplain boundaries. Discrepancies between boundaries on the Official Floodplain Zoning Map and actual field conditions shall be resolved using the criteria in Subsection **C(4)(a)** or **(b)** below. If a significant difference exists, the map shall be amended according to § **275-22**. The 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 administrator shall be responsible for documenting actual predevelopment 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 administrator and an applicant over the district boundary line shall be settled according to § **275-21F(4)** and the criteria in Subsection **C(4)(a)** and **(b)** below. Where the flood profiles are based on established base flood elevations from a FIRM, FEMA must approve any map amendment or revision pursuant to § **275-22**.
- (a) If flood profiles exist, the map scale and the profile elevations shall determine the district boundary. The regional or base flood elevations shall govern if there are any discrepancies.
 - (b) Where flood profiles do not exist for projects, the location of the boundary shall be determined by the map scale.
- (5) Removal of lands from floodplain.
- (a) Compliance with the provisions of this chapter shall not be grounds for removing lands from the Floodplain District, unless they are removed by filling to a height of at least two feet above the regional flood elevation, the fill is contiguous to land lying outside the Floodplain District, and the map is amended pursuant to § **275-22** of this chapter.
 - (b) The delineation of any of the Floodplain Districts may be revised by the community where natural or man-made changes have occurred and/or where more detailed studies have been conducted. However, prior to any such change, approval must be obtained from the Wisconsin Department of Natural Resources and Federal Emergency Management Agency. A completed

Letter of Map Revision is a record of this approval. The floodplain administrator shall not sign a community acknowledgement form unless all criteria set forth in the following paragraphs are met:

- [1] The land and/or land around the structure must be filled at least two feet above the regional or base flood elevation;
- [2] The fill must be contiguous to land outside the floodplain; Applicant shall obtain floodplain development permit before applying for a LOMR or LOMR-F;
- (c) Removal of lands from the floodplain may also occur by operation of §87.30(1)(e), Wis. Stat. if a property owner has obtained a letter of map amendment from the federal emergency management agency under 44 C.F.R. 70.

D. General standards applicable to all floodplain districts.

- (1) Except as provided herein, no development shall be allowed in the floodplain which, acting in combination with existing or future similar works, will:
 - (a) 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
 - (b) Cause any increase in the regional flood height due to floodplain storage area lost.
- (2) The zoning administrator shall deny permits if it is determined the proposed development will obstruct flow or cause any increase in the regional flood height, based on the officially adopted FIRM or other adopted map, unless the provisions of § **275-22D** *Floodplain Amendments* are met.,
- (3) The County shall review all permit applications to determine whether proposed building sites will be reasonably safe from flooding and assure that all necessary permits have been received from those governmental agencies whose approval is required by federal or state law.
 - (a) If a proposed building site is in a flood-prone area, all new construction and substantial improvements shall be designed and anchored to prevent flotation, collapse, or lateral movement of the structure resulting from hydrodynamic and hydrostatic loads; be constructed with flood-resistant materials; be constructed to minimize flood damages; and to ensure that utility and mechanical equipment is designed and/or located so as to prevent water from entering or accumulating within the equipment during conditions of flooding.
 - (b) If a subdivision or other proposed new development is in a flood-prone area shall assure that: such proposed subdivision or other proposed new development is consistent with the need to minimize flood damage within the flood-prone area; adequate drainage is provided to reduce exposure to flood hazards, and all public utilities and public purpose facilities, such as sewer, gas, electrical, and water systems, are located and constructed to minimize or eliminate flood damages.
 - (c) All subdivision proposals, including manufactured home parks, shall include regional flood

elevation and floodway data for any development that meets the subdivision definition of this chapter and shall satisfy all other requirements in § ~~275-21D~~**E**.

- (4) All hydraulic and hydrologic studies shall be completed under the direct supervision of a professional engineer registered in the State of Wisconsin who shall be responsible for the technical adequacy of the study. All studies shall be reviewed and approved by the Department. Further, the applicant shall provide within such proposals regional flood elevation data and the means to provide adequate surface drainage and to minimize flood damage. Additional information, such as valley cross-sections or survey data, may be required by the Department to determine the effects of the proposal. This information shall be obtained from the applicant or the applicant's agent by the County. The provisions of § ~~275-17E~~ shall apply hereto. The applicant shall provide all data and calculations for any development which would require an amendment to the district boundaries or regional flood profiles.

(a) Zone A floodplains.

- [1] Hydrology. Appropriate methods shall be based on the standards in Ch. NR 116.07(3), Wis. Adm. Code, Hydrologic Analysis: Determination of Regional Flood Discharge.
- [2] Hydraulic modeling. The regional flood elevation shall be based on the standards in Ch. NR 116.07(4), Wis. Adm. Code, Hydraulic Analysis: Determination of the Regional Flood Elevation, and the following:
 - [a] Determination of the required limits of the hydraulic model shall be based on detailed study information for downstream structures (dam, bridge, culvert) to determine adequate starting Water Surface Elevation (WSEL) for the study; and
 - [b] Channel sections must be surveyed; and
 - [c] Minimum four-foot contour data in the over banks shall be used for the development of cross-section overbank and floodplain mapping; and
 - [d] A maximum distance of 500 feet between cross sections is allowed in developed areas with additional intermediate cross sections required at transitions in channel bottom slope, including a survey of the channel at each location; and
 - [e] The most current version of Hydrologic Engineering Center's River Analysis System (HEC-RAS) shall be used; and
 - [f] A survey of bridge and culvert openings and the top of road is required at each structure; and
 - [g] Additional cross sections are required at the downstream and upstream limits of the proposed development and any necessary intermediate locations based on the length of the reach if greater than 500 feet; and
 - [h] Standard accepted engineering practices shall be used when assigning parameters for

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

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

- [3] Mapping. A work map of the reach studied shall be provided, showing all cross section locations, floodway/floodplain limits based on best available topographic data, geographic limits of the proposed development and whether the proposed development is located in the floodway.

- [a] If the proposed development is located outside of the floodway, then it is determined to have no impact on the regional flood elevation; and
- [b] If any part of the proposed development is in the floodway, it must be added to the base model to show the difference between existing and proposed conditions. The study must ensure that all coefficients remain the same as in the existing model, unless adequate justification based on standard accepted engineering practices is provided.

(b) Zone AE Floodplains.

- [1] Hydrology. If the proposed hydrology will change the existing study, the appropriate method to be used shall be based on Ch. NR 116.07 (3), Wis. Adm. Code, Hydrologic Analysis: Determination of Regional Flood Discharge.
- [2] Hydraulic model. The regional flood elevation shall be based on the standards in Ch. NR 116.07(4), Wis. Adm. Code, Hydraulic Analysis: Determination of the Regional Flood Elevation, and the following:
 - [a] Duplicate effective model. The effective model shall be reproduced to ensure correct transference of the model data and to allow integration of the revised data to provide a continuous FIS model upstream and downstream of the revised reach. If data from the effective model is available, models shall be generated that duplicate the FIS profiles and the elevations shown in the Floodway Data Table in the FIS report to within 0.1 foot; and
 - [b] Corrected effective model. The corrected effective model shall not include any man-made physical changes since the effective model date, but shall import the model into the most current version of HEC-RAS for Department review; and

- [c] Existing (preproject 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; and
 - [d] Revised (post-project conditions) model. The revised (post-project conditions) model shall incorporate the existing model and any proposed changes to the topography caused by the proposed development. This model shall reflect proposed conditions; and
 - [e] All changes to the duplicate effective model and subsequent models must be supported by certified topographic information, bridge plans, construction plans and survey notes; and
 - [f] Changes to the hydraulic models shall be limited to the stream reach for which the revision is being requested. Cross sections upstream and downstream of the revised reach shall be identical to those in the effective model and result in water surface elevations and top widths computed by the revised models matching those in the effective models upstream and downstream of the revised reach, as required. The effective model shall not be truncated.
- [3] Mapping. Maps and associated engineering data shall be submitted to the Department for review which meet the following conditions:
- [a] Consistency between the revised hydraulic models, the revised floodplain and floodway delineations, the revised flood profiles, topographic work map, annotated FIRMs and/or Flood Boundary Floodway Maps (FBFMs), construction plans, bridge plans; and
 - [b] Certified topographic map of suitable scale, contour interval, and a planimetric map showing the applicable items. If a digital version of the map is available, it may be submitted in order that the FIRM may be more easily revised; and
 - [c] Annotated FIRM panel showing the revised 1% and 0.2% annual-chance floodplains and floodway boundaries; and
 - [d] If an annotated FIRM and/or FBFM and digital mapping data geographic information systems (GIS) or computer aided design and drafting (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; and
 - [e] The revised floodplain boundaries shall tie into the effective floodplain boundaries; and

- [f] All cross sections from the effective model shall be labeled in accordance with the effective map and a cross-section lookup table shall be included to relate to the model input numbering scheme; and
 - [g] Both the current and proposed floodways shall be shown on the map; and
 - [h] The stream center line or profile baseline used to measure stream distances in the model shall be visible on the map.
- (5) Prior to any alteration or relocation of a watercourse, and prior to the issuance of any County permit which may be required for the alteration or relocation of a watercourse, the Planning and Parks Department shall notify adjacent municipalities, the appropriate regional office of the Department and the appropriate office of the Federal Emergency Management Agency, and shall require the applicant to secure all necessary state and federal permits. The standards of Subsection **D** must be met, and the flood-carrying capacity within the altered or relocated portion of any watercourse shall be maintained. As soon as is practical, but no later than six months after the date of the watercourse alteration or relocation, and pursuant to § **275-22**, 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 Department through the letter of map change (LOMC) process.
- (6) Development which requires a permit from the Department, pursuant to Wisconsin Statutes, such as docks, piers, wharves, bridges, culverts, dams, fences and navigational aids, may be allowed, provided the necessary County permits are obtained and necessary amendments to the chapter are made according to § **275-22** of this chapter.
- (7) Public or private campgrounds. Public or private campgrounds shall have a low flood damage potential and shall meet the following provisions:
- (a) The campground obtains the necessary approvals from the Department of Agriculture, Trade and Consumer Protection. **[Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. IV)]**
 - (b) The campground obtains a County land use permit.
 - (c) The character of the river system and the campground elevation are such that a seventy-two-hour warning of an impending flood can be given to all campground occupants.
 - (d) There is an adequate flood warning procedure for the campground that offers the minimum notice required under this section to all persons in the campground. This procedure shall include a written agreement between the campground owner, the County Emergency Management Coordinator and the Sheriff 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. Written agreements referred to herein shall be for a term of not more than one year and shall be reviewed and updated at

least annually in order to remain in compliance with all applicable regulations, including those of the Wisconsin Department of Agriculture, Trade and Consumer Protection and all other federal, state and local applicable regulations. **[Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. IV)]**

- (e) Only camping units or mobile recreational vehicles, as defined in § 275-2, that are fully licensed, if required, and ready for highway use as defined in this chapter are allowed.
- (f) 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.
- (g) All camping units remaining 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 shall be for a period not to exceed 180 days and shall ensure compliance with all the provisions of this section.
- (h) The County shall monitor the limited authorizations issued by the campground operator to assure compliance with the terms of this section.
- (i) All camping units that remain in place for more than 180 consecutive days must meet the applicable requirements in either § 275-15, or 275-16, or 275-17, or 275-18 for the floodplain district in which the structure is located.
- (j) 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.
- (k) All service facilities, including but not limited to refuse collection, electrical service, natural gas lines, propane tanks, sewage systems and wells, shall be properly anchored and placed at or floodproofed to the flood protection elevation.

§ 275-15 Floodway District (FW)

- A. Applicability. This section applies to all floodway areas on the floodplain zoning maps and those identified pursuant to §275-17E.
- B. 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 §275-15C and 15D; and all permits or certificates have been issued according to §275-21.
 - (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 **§275-15C(4)**.
- (4) Uses or structures accessory to open space uses or classified as historic structures that comply with **§275-15C and 15D**.
- (5) Extraction of sand, gravel or other materials that comply with s. **§275-15C(4)**.
- (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 chs. 30 and 31, Stats.
- (7) Public utilities, streets and bridges that comply with **§275-15C(3)**.
- (8) 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 ch. SPS 383, Wis. Adm. Code.
- (9) Public or private wells used to obtain potable water for recreational areas that meet the requirements of local ordinances and chs. NR 811 and NR 812, Wis. Adm. Code.
- (10) Wastewater treatment ponds or facilities permitted under s. NR 110.15(3)(b), Wis. Adm. Code.
- (11) Sanitary sewer or water supply lines to service existing or proposed development located outside the floodway that complies with the regulations for the floodplain area occupied.

C Standards for Development in the Floodway

(1) General

- (a) Any development in the floodway shall comply with **§275-14D** and have a low flood damage potential.
- (b) Applicants shall provide an analysis calculating the effects of this proposal on the regional flood height to determine the effects of the proposal according to **§275-14D(1)** and **§275-14D(4)**. The analysis must be completed by a registered professional engineer in the state of Wisconsin.
- (c) Any encroachment in the regulatory floodway is prohibited unless the data submitted for **§275-15C(1)(b)** above demonstrates that the encroachment will cause no increase in flood elevations in flood events up to the base flood at any location or removes the encroached area from the

regulatory floodway as provided in §275-14C(5).

- (2) Structures. Structures accessory to permanent open space uses, including utility and sanitary facilities, or functionally dependent on a waterfront location may be allowed by permit if the structures comply with the following criteria:
 - (a) Not designed for human habitation, does not have a high flood damage potential and is constructed to minimize flood damage;
 - (b) Shall either have the lowest floor elevated to or above the flood protection elevation or shall meet all the following standards:
 - [1] Have the lowest floor elevated to or above the regional flood elevation and be dry floodproofed so that the structure is watertight with walls substantially impermeable to the passage of water and completely dry to the flood protection elevation without human intervention during flooding;
 - [2] Have structural components capable of meeting all provisions of §275-15C(2)(g) and;
 - [3] Be certified by a registered professional engineer or architect, through the use of a Federal Emergency Management Agency Floodproofing Certificate, that the design and methods of construction are in accordance with §275-15C(2)(g).
 - (c) Must be anchored to resist flotation, collapse, and lateral movement;
 - (d) Mechanical and utility equipment must be elevated to or above the flood protection elevation; and
 - (e) Must not obstruct flow of flood waters or cause any increase in flood levels during the occurrence of the regional flood.
 - (f) For a structure designed to allow the automatic entry of floodwaters below the Regional Flood Elevation, the applicant shall submit a plan that meets §275-15C(2)(a) through §275-15C(2)(e) and meets or exceeds the following standards:
 - [1] The lowest floor must be elevated to or above the regional flood elevation;
 - [2] 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;
 - [3] The bottom of all openings shall be no higher than one foot above the lowest adjacent grade; openings may be equipped with screens, louvers, valves, or other coverings or devices provided that they permit the automatic entry and exit of floodwaters, otherwise

must remain open.

[4] The use must be limited to parking, building access or limited storage.

(g) Certification. Whenever floodproofing measures are required, a registered professional engineer or architect shall certify that the following floodproofing measures will be utilized, where appropriate, and are adequate to withstand the flood depths, pressures, velocities, impact and uplift forces and other factors associated with the regional flood:

[1] Reinforcement of floors and walls to resist rupture, collapse, or lateral movement caused by water pressures or debris buildup;

[2] Construction of wells, water supply systems and waste treatment systems so as to prevent the entrance of flood waters in such systems and must be in accordance with provisions in **§275-15D(4)** and **§275-15D(5)**;

[3] Subsurface drainage systems to relieve external pressures on foundation walls and basement floors;

[4] Cutoff valves on sewer lines or the elimination of gravity flow basement drains; and

[5] Placement of utilities to or above the flood protection elevation.

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

(a) Adequate floodproofing measures are provided to the flood protection elevation; and

(b) Construction meets the development standards of **§275-14D(4)**.

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

(a) The requirements of **§275-14D(1)** are met;

(b) No material is deposited in navigable waters unless a permit is issued by the Department pursuant to ch. 30, Stats., and a permit pursuant to s. 404 of the Federal Water Pollution Control Act, Amendments of 1972, 33 U.S.C. 1344 has been issued, if applicable, and all other requirements have been met;

(c) The fill or other materials will be protected against erosion by riprap, vegetative cover, sheet piling or bulkheading; and

(d) The fill is not classified as a solid or hazardous material.

D Prohibited uses. All uses not listed as permitted uses in **§275-15B** 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 ch. SPS 383, Wis. Adm. Code;
- (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 chs. NR 811 and NR 812, Wis. Adm. Code;
- (6) Any solid or hazardous waste disposal sites;
- (7) Any wastewater treatment ponds or facilities, except those permitted under s. NR 110.15(3)(b), Wis. Adm. Code; and
- (8) Any sanitary sewer or water supply lines, except those to service existing or proposed development located outside the floodway which complies with the regulations for the floodplain area occupied.

§ 275-16 Floodfringe District (FF)

- A Applicability. This section applies to all floodfringe areas shown on the floodplain zoning maps and those identified pursuant to **§275-17E**.
- B Permitted uses. Any structure, land use, or development is allowed in the Floodfringe District if the standards in **§275-16C** are met, the use is not prohibited by this or any other ordinance or regulation and all permits or certificates specified in **§275-21** have been issued.
- C Standards for development in the floodfringe. Section **275-14D** shall apply in addition to the following requirements according to the use requested. Any existing structure in the floodfringe must meet the requirements of **§275-19 Nonconforming Uses**;
 - (1) Residential uses. Any structure, including a manufactured home, which is to be newly constructed or moved into the floodfringe, shall meet or exceed the following standards. Any existing structure in the floodfringe must meet the requirements of **§275-19 Nonconforming Uses**;
 - (a) All new construction, including placement of manufactured homes, and substantial improvement of residential structures, shall have the lowest floor elevated to or above the flood protection elevation on fill. The fill around the structure shall be one foot or more above the regional flood elevation extending at least 15 feet beyond the limits of the structure. No area may be removed from the floodfringe district unless it can be shown to meet **§275-14C(5)**.
 - (b) Notwithstanding **§275-16C(1)(a)**, a basement or crawlspace floor may be placed at the regional flood elevation if the basement or crawlspace is designed to make all portions of the structure

below the flood protection elevation watertight with walls substantially impermeable to the passage of water and with structural components having the capability of resisting hydrostatic and hydrodynamic loads and effects of buoyancy. No floor of any kind 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 subd. (d).
- (d) In developments where existing street or sewer line elevations make compliance with subd. (c) impractical, the municipality may permit new development and substantial improvements where 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 structure(s) by wheeled vehicles during a regional flood event; or
 - [2] The municipality has a DNR-approved emergency evacuation plan that follows acceptable hazard mitigation planning guidelines.
- (2) Accessory structures or uses. In addition to **§275-14D**, new construction and substantial improvements of Accessory structures shall be constructed on fill with the lowest floor at or above the regional flood elevation.
- (3) Commercial uses. In addition to **§275-14D**, any commercial structure which is erected, altered or moved into the floodfringe shall meet the requirements of **§275-16C(1)**. Subject to the requirements of **§275-16C(5)**, 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. In addition to **§275-14D**, 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 **§275-20**. Subject to the requirements of **§275-16C(5)**, 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 **§275-20**. 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 of such facilities shall only be

permitted if they are designed to comply with **§275-20**.

- (b) Minor roads or non-essential utilities may be constructed at lower elevations if they are designed to withstand flood forces to the regional flood elevation.
- (7) Sewage systems. All sewage disposal systems shall be designed to minimize or eliminate infiltration of flood water into the system, pursuant to **§275-20C**, to the flood protection elevation and meet the provisions of all local ordinances and ch. SPS 383, Wis. Adm. Code.
- (8) Wells. All wells shall be designed to minimize or eliminate infiltration of flood waters into the system, pursuant to **§275-20C**, to the flood protection elevation and shall meet the provisions of chs. NR 811 and NR 812, Wis. Adm. Code.
- (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 ordinance.
- (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 **§275-16C(1)(b) and (c)**.
- (12) Mobile recreational vehicles. All mobile recreational vehicles must be on site for less than 180 consecutive days and be either:
 - (a) Fully licensed and ready for highway use; or
 - (b) Shall meet the elevation and anchoring requirements in **§275-16C(11)(b) and (c)**. 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.
- (13) Boathouses may be reconstructed if the footprint is not increased. The boathouse shall be located to

the outer boundary of the floodway as far as possible. No storage of hazardous materials is allowed even if placed above the regional flood elevation. Boathouses shall comply with all other conditions of Subsection C(1) through (5). (6)

§ 275-17 GENERAL FLOODPLAIN DISTRICT

- A Applicability. The provisions for the General Floodplain District shall apply to development in all floodplains mapped as A, AO, AH, and in AE zones within which a floodway is not delineated on the Flood Insurance Rate Maps identified in **§275-14C(1)**.
- B Floodway boundaries. For proposed development in zone A, or in zone AE within which a floodway is not delineated on the Flood Insurance Rate Map identified in **§275-14C(1)**, the boundaries of the regulatory floodway shall be determined pursuant to **§275-17E**. If the development is proposed to encroach upon the regulatory floodway, the development is subject to the standards of **§275-15**. If the development is located entirely within the floodfringe, the development is subject to the standards of **§275-16**.
- C Permitted uses. Pursuant to **§275-17E** it shall be determined whether the proposed use is located within the floodway or floodfringe. Those uses permitted in the Floodway (**§275-15B**) and Floodfringe (**§275-16B**) Districts are allowed within the General Floodplain District, according to the standards of **§275-17D** provided that all permits or certificates required under **§275-21** have been issued.
- D Standards for development in the general floodplain district. Section **275-15** applies to floodway areas, determined to pursuant to **§275-17E**; Section **275-16** applies to floodfringe areas, determined to pursuant to **§275-17E**.
 - (1) New construction and substantial improvement of structures in zone AO shall have the lowest floor, including basement, elevated:
 - (a) To or above the depth, in feet, as shown on the FIRM above the highest adjacent natural grade; or
 - (b) If the depth is not specified on the FIRM, to or above two (2) feet above the highest adjacent natural grade.
 - (2) New Construction and substantial improvement of structures in zone AH shall have the lowest floor, including basement, elevated to or above the flood protection elevation.
 - (3) In AO/AH zones, provide adequate drainage paths to guide floodwaters around structures.
 - (4) All development in zones AO and zone AH shall meet the requirements of **§275-16** applicable to flood fringe areas.
- E Determining floodway and floodfringe limits. Upon receiving an application for development within zone A, or within zone AE where a floodway has not been delineated on the Flood Insurance Rate Maps, 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 flood zone as 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 **§275-14D(4)**.
 - (b) Plan (surface view) showing elevations or contours of the ground; pertinent structure, fill or storage elevations; size, location and layout of all proposed and existing structures on the site; location and elevations of streets, water supply, and sanitary facilities; soil types and other pertinent information;
 - (c) Specifications for building construction and materials, floodproofing, filling, dredging, channel improvement, storage, water supply and sanitary facilities.

§ 275-18 Flood Storage District.

- A. Applicability. The provisions of this section apply to all areas within the Flood Storage District as defined in **§ 275-2** and shown on the Official Floodplain Zoning Maps.
- B. Purpose. The Flood Storage District protects flood storage areas and requires that any development in the storage area will not decrease the effective flood storage capacity which would cause higher flood elevation.
- C. Permitted uses. Permitted uses or developments in the Floodfringe District are permitted in the Flood Storage District; provided, however, that the standards of Subsection **D** are also met.
- D. Standards for development in Flood Storage Districts.
 - (1) Development in a Flood Storage District shall not cause an increase equal to or greater than 0.00 foot in the height of the regional flood.
 - (2) No use or development shall be allowed which decreases or eliminates flood storage volume unless an equal volume of storage is provided in the immediate area of the proposed use or development to compensate for the volume lost. Excavation below the groundwater table shall not be allowed to provide replacement storage required herein.
 - (3) If compensatory storage cannot be provided, the area may not be used or developed unless the entire area is rezoned to a floodfringe district, including revisions to the floodplain study and a map amendment.
 - (4) No use or development shall occur in the Flood Storage District unless the area has been filled to

the flood protection elevation and is contiguous to lands lying outside of the floodplain.

§ 275-19 Nonconforming uses and structures; floodplain.

- A. General provisions. The lawful use of a structure or property which existed at the time this chapter was adopted, or an applicable amendment to this chapter, took effect and which is not in conformity with the provisions of this chapter, including the routine maintenance of such a structure, may be continued, subject to the below conditions. A party asserting existence of a lawfully established nonconforming use or structure has the burden of proving that the use or structure was compliant with the floodplain zoning ordinance in effect at the time the use or structure was created. **[Amended by Ord. No. 2016-38]**
- (1) No modifications or additions to a nonconforming use or structure shall be permitted unless it is brought into compliance with this chapter. Modifications or additions include but are not limited to any alteration, addition, modification, structural repair, rebuilding or replacement of any such existing use, structure or ancillary 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 damaged structures are not considered maintenance.
 - (2) If a nonconforming use or structure, permanent or temporary, is discontinued for 12 consecutive months, it is no longer permitted, and any future use of the property, and any structure thereon, shall be made to conform to the applicable requirements of this chapter. Conformance may include moving the structure.
 - (3) The maintenance and repair of boathouses that extend waterward beyond the OHWM of any navigable waters shall comply with the requirements of § 30.121, Wis. Stats., and the provisions of this chapter.
 - (4) The construction of a deck that does not exceed 200 square feet and that is adjacent to the exterior wall of a principal structure is not an extension, modification or addition. The roof of a structure may extend over a portion of the deck in order to provide safe ingress or egress to the principal structure.
 - (5) As requests are received for modifications or additions to nonconforming uses or nonconforming structures, a record shall be kept which lists the nonconforming uses and nonconforming structures, the present equalized assessed value, the cost of those additions or modifications which have been permitted and the percentage of the structure's total current value represented by modifications.
 - (6) Design review and impervious areas standards of § **275-11** apply to all structures and/or development addressed in this section.
 - (7) 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% of its present equalized assessed value, shall be allowed unless the entire structure is permanently changed to a conforming structure with a conforming use in compliance with the applicable requirements of this chapter.

Contiguous dry-land access must be provided for residential and commercial uses in compliance with § 275-16C. 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% provisions of this subsection.

- (8) No maintenance to any nonconforming structure or any structure with a nonconforming use, the cost of which would equal or exceed 50% of its present equalized assessed value, shall be allowed unless the entire structure is permanently changed to a conforming structure with a conforming use in compliance with the applicable requirements of this chapter. Contiguous dry-land access must be provided for residential and commercial uses in compliance with § 275-16C. Maintenance to any nonconforming structure, which does not exceed 50% of its present equalized assessed value on a per event basis, does not count against the cumulative calculations over the life of the structure for substantial improvement calculations.
- (9) If, on a per-event basis, the total value of the work being done under Subsection A(6) and (7) equals or exceeds 50% of the present equalized assessed value, the work shall not be permitted unless the entire structure is permanently changed to a conforming structure with a conforming use in compliance with the applicable requirements of this chapter. Contiguous dry-land access must be provided for residential and commercial uses in compliance with § 275-16C.
- (10) Except as provided in Subsection A(11), if any nonconforming structure or any structure with a nonconforming use is destroyed or is substantially damaged, it cannot be replaced, reconstructed or rebuilt unless the use and the structure meet the current ordinance requirements. A structure is considered substantially damaged if the total cost to restore the structure to its pre-damaged condition equals or exceeds 50% of the structure's present equalized assessed value. **[Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. IV)]**
- (11) For nonconforming building 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.

(a) Residential structures.

- [1] Shall have the lowest floor, including basement, elevated to or above the base flood elevation using fill, pilings, columns, posts or perimeter walls. Perimeter walls must meet the requirements of § 275-20C.
- [2] Shall be anchored to prevent flotation, collapse, or lateral movement of the structure resulting from hydrodynamic and hydrostatic loads, including the effects of buoyancy, and shall be constructed with methods and materials resistant to flood damage.
- [3] Shall be constructed with electrical, heating, ventilation, plumbing and air-conditioning equipment and other service facilities that are designed and/or elevated so as to prevent water from entering or accumulating within the components during conditions of

flooding.

- [4] In A Zones, obtain, review and utilize any flood data available from a federal, state or other source.
- [5] In AO Zones with no elevations specified, shall have the lowest floor, including basement, meet the standards in § **275-16C**.
- [6] In AO Zones, shall have adequate drainage paths around structures on slopes to guide floodwaters around and away from the structure.

(b) Nonresidential structures.

- [1] Shall meet the requirements of § **275-19A(11)(a)[1]**, [2], [5] and [6].
- [2] Shall either have the lowest floor, including basement, elevated to or above the regional flood elevation; or together with attendant utility and sanitary facilities, shall meet the standards in § **275-20A** and **B**.
- [3] In AO Zones with no elevations specified, shall have the lowest floor, including basement, meet the standards in § **275-16C**.

(12) Historic structures. A nonconforming historic structure may be altered if the alteration will not preclude the structure's continued designation as an historic structure, the alteration will comply with § **275-15C**, flood-resistant materials are used, and construction practices and floodproofing methods that comply with § **275-20** are used. Repair or rehabilitation of historic structures shall be exempt from the development standards of § **275-20A(11)(a)** if it is determined that the proposed repair or rehabilitation will not preclude the structure's continued designation as an historic structure and is the minimum necessary to preserve the historic character and design of the structure.

(13) Notwithstanding anything in this chapter to the contrary, modifications, additions, maintenance, and repairs to a nonconforming building shall not be prohibited based on cost and the building's nonconforming use shall be permitted to continue if:

- (a) Any living quarters in the nonconforming building are elevated to be at or above the flood protection elevation;
- (b) The lowest floor of the nonconforming building, including the basement, is elevated to or above the regional flood elevation;
- (c) The nonconforming building is permanently changed to conform to the applicable requirements of § **275-14D**; and
- (d) If the nonconforming building is in the floodway, the building is permanently changed to conform to the applicable requirements of § **275-15C(1)**, § **275-15C(2)(b) through (e)**, § **275-15C(3)**, § **275-15C(4)** and § **275-19B**; or

- (e) If the nonconforming building is in the floodfringe, the building is permanently changed to conform to the applicable requirements of § **275-16C** and § **275-19C**.
- (f) New construction and substantial improvements of residential buildings in zones A1-30, AE, and AH must have the lowest floor (including basement) elevated to or above the base flood elevation.
- (g) New construction and substantial improvements of non-residential buildings in zones A1-30, AE, and AH must have the lowest floor (including basement) elevated to or above the base flood elevation, or (together with attendant utility and sanitary facilities) be designed so that below the base flood elevation the building is watertight with walls substantially impermeable to the passage of water and with structural components capable of resisting hydrostatic and hydrodynamic loads and effects of buoyancy.
 - [1] Where a non-residential structure is intended to be made watertight below the base flood elevation, a registered professional engineer or architect must develop and/or review structural design, specifications, and plans for the construction, and must certify that the design and methods of construction are in accordance with accepted standards of practice for meeting the provisions of § **275-19A(13)(g)** above.
 - [2] The community must maintain a record of such certification including the specific elevation to which each such structure is floodproofed.
- (h) Fully enclosed areas below the lowest floor of new construction and substantial improvements in zones A1-30, AE, and AH that are usable solely for parking of vehicles, building access, or storage, must be designed to adequately equalize hydrostatic forces on exterior walls by allowing for the entry and exit of floodwaters. Designs for meeting this requirement must either be certified by a registered professional engineer or architect, or meet the following criteria:
 - [1] A minimum of two openings into each enclosed area must be located below the base flood elevation and provide a total net area of not less than one square inch for every square foot of enclosed area;
 - [2] The bottom of all openings must be no higher than one foot above the adjacent grade;
 - [3] Openings may be equipped with screens, louvers, valves, or other coverings if they permit the automatic entry and exit of floodwaters.
- (i) Manufactured homes that are placed or substantially improved within zones A1-30, AE, and AH outside of a manufactured home park or subdivision, in a new manufactured home park or subdivision, in an expansion to an existing manufactured home park or subdivision, or in an existing manufactured home park or subdivision on which a manufactured home has incurred substantial damage as a result of flood, must be elevated on a permanent foundation such that the lowest floor of the manufactured home is at or above the base flood elevation, and be securely anchored to an adequately anchored foundation system to resist flotation, collapse,

and lateral movement.

- (j) Manufactured homes that are placed or substantially improved within zones A1-30, AE, and AH on existing sites in an existing manufactured home park that is not undergoing expansion and on which a manufactured home has not incurred substantial damage as a result of flood must be elevated so that either the lowest floor of the manufactured home is at or above the base flood elevation, or the manufactured home chassis is supported by reinforced piers or other foundation elements of at least equivalent strength that are no less than 36 inches in height above grade, and be securely anchored to an adequately anchored foundation system to resist flotation, collapse, and lateral movement.
- (k) Recreational vehicles placed on sites within zones A1-30, AH, and AE must either
 - [1] Be on site for fewer than 180 consecutive days; or
 - [2] Be fully licensed and ready for highway use (a 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 type utilities and security devices, and has no permanently attached additions); or
 - [3] Meet the elevation and anchoring requirements for manufactured homes in § **275-19A(13)(i)** above.
- (l) In a regulatory floodway that has been delineated on the FIRM in zone A1-30 or AE, encroachments, including new construction, substantial improvement, or other development (including fill) must be prohibited unless it has been demonstrated through hydrologic and hydraulic analyses performed in accordance with standard engineering practice that the proposed encroachment will not result in any increase in flood levels within the community during the occurrence of the base flood discharge.
- (m) In zone A, the community must obtain, review, and reasonably utilize any base flood elevation and floodway data available from a federal, state, or other source as criteria for requiring new construction, substantial improvement, and other development to meet § **275-19A(13)(f)** through **(l)** (inclusive) above. If floodway data are available, the community must select and adopt a regulatory floodway based on the principle that the area chosen for the regulatory floodway must be designed to carry the waters of the base flood without increasing the water surface elevation of that flood more than one foot at any point.
- (n) In zones A1-30 or AE where a regulatory floodway has not been delineated on the FIRM, no new construction, substantial improvement, or other development (including fill) may be permitted unless it is demonstrated that the cumulative effect of the proposed development, when combined with all other existing and anticipated development, will not increase the water surface elevation of the base flood more than one foot at any point within the community.
- (o) Notwithstanding the requirements of § **275-19A(13)(l)** and **(n)** above, the community may permit certain development in zones A1-30 and AE where a floodway has not been delineated,

which will increase the water surface elevation of the base flood by more than one foot, or in a regulatory floodway, which will result in an increase in base flood elevations, if the community first obtains a Conditional Letter of Map Revision (CLOMR) from FEMA and fulfills the requirements of Section 65.12 of Title 44, Code of Federal Regulations.

- (p) In zone AO, new construction and substantial improvements of residential structures must have the lowest floor (including basement) elevated above the highest adjacent grade at least as high as the depth number specified in feet on the FIRM (at least two feet if no depth number is specified).
 - (q). In zone AO, new construction and substantial improvements of nonresidential structures must have the lowest floor (including basement) elevated above the highest adjacent grade at least as high as the depth number specified in feet on the FIRM (at least two feet if no depth number is specified), or (together with attendant utility and sanitary facilities) be structurally dry-floodproofed to that level according to the standard specified in § **275-19A(13)(g)** above.
- (12) Uses or structures which are deemed nuisances by a court of competent jurisdiction shall not be allowed to continue as nonconforming uses.

B. Floodway District.

- (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 ordinance requirements;
 - (b) Meets the requirements of § **275-19A**;
 - (c) Shall not increase the obstruction to flood flows or regional flood height;
- (2) Any addition to the existing structure shall be floodproofed, pursuant to § **275-20**, by means other than the use of fill, to the flood protection elevation.
- (3) 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; and
 - (c) Mechanical and utility equipment must be elevated or floodproofed to or above the flood protection elevation; and

(d) The use must be limited to parking, building access or limited storage.

- (4) No new on-site sewage disposal system, or addition to an existing on-site sewage disposal system, except where an addition has been ordered by a government agency to correct a hazard to public health, shall be allowed in the Floodway District. Any replacement, repair or maintenance of an existing on-site sewage disposal system in a floodway area shall meet the applicable requirements of Chapter 190, Private On-site Wastewater Treatment Systems~~Sewers and Sewage Disposal~~, of the Code of Washington County and Ch. SPS 383, Wis. Adm. Code.
- (5) No new well or modification to an existing well used to obtain potable water shall be allowed in the Floodway District. Any replacement, repair or maintenance of an existing well in the Floodway District shall meet the applicable requirements of Chs. NR 811 and NR 812, Wis. Adm. Code.

C. Floodfringe District. **[Amended by Ord. No. 2016-38]**

- (1) No modification or addition shall be allowed to any nonconforming structure or any structure with a nonconforming use unless such modification or addition has been granted a permit or variance by the municipality and meets the requirements of § 275-16, except where § 275-19C(2) is applicable.
- (2) Where compliance with the provisions of Subsection C(1) would result in unnecessary hardship and only where the structure will not be used for human habitation or be associated with a high flood damage potential, the Board of Adjustment, using the procedures established in § 275-21F, may grant a variance from those provisions of Subsection C(1) for modifications or additions using criteria listed below. Modifications or additions which are protected to elevations lower than the flood protection elevation may be permitted if:
- (a) No floor is allowed below the regional flood elevation for residential or commercial structures;
 - (b) Human lives are not endangered;
 - (c) Public facilities, such as water or sewer, shall not be installed;
 - (d) Flood depths shall not exceed two feet;
 - (e) Flood velocities shall not exceed two feet per second; and
 - (f) The structure shall not be used for storage of materials as described in § 275-16C(5).
- (3) All new private sewage disposal systems, or addition to, replacement, repair or maintenance of a private sewage disposal system shall meet all the applicable provisions of all local ordinances, § 275-20C and Ch. SPS 383, Wis. Adm. Code.
- (4) All new wells, or addition to replacement, repair or maintenance of a well, shall meet the applicable provisions of this chapter, § 275-20C and Chs. NR 811 and NR 812, Wis. Adm. Code.

E. Flood storage district. No modifications or additions shall be allowed to any nonconforming structures

or use in a Flood Storage District unless the standards set forth in § **275-18D** are met.

§ 275-20 **Floodproofing standards for nonconforming structures or uses.**

- A. No permit or variance shall be issued for a nonresidential 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 floodwaters; and
 - (5) Minimize or eliminate discharges into floodwaters.
 - (6) Placement of essential utilities to or above the flood protection elevation; and
 - (7) If any part of the foundation below the flood protection elevation is enclosed, the following standards shall apply:
 - (a) The enclosed area shall be designed by a registered architect or engineer to allow for the efficient entry and exit of flood waters without human intervention. A minimum of two openings must be provided with a minimum net area of at least one square inch for every one square foot of the enclosed area. The lowest part of the opening can be no more than 12 inches above the adjacent grade;

- (b) The parts of the foundation located below the flood protection elevation must be constructed of flood-resistant materials;
- (c) Mechanical and utility equipment must be elevated or floodproofed to or above the flood protection elevation; and
- (d) The use must be limited to parking, building access or limited storage.

Article V General Administrative Provisions

§ 275-21 **Administrative provisions.**

This section provides for the appointment of appropriate boards and staff; where a zoning administrator, planning and zoning agency or a board of adjustment has already been appointed to administer a zoning ordinance adopted under ss. 59.69, and 59.692, Stats., these officials shall develop necessary policies and procedures to administer this chapter, in accordance with this section.

- A. County Land Use and Planning Committee. The County Land Use and Planning Committee, created pursuant to Chapter **179**, Planning and Parks, of the Code of Washington County, is hereby declared to be the agent of the County Board for all matters pertaining to zoning under this Chapter **275**, except for such powers as are specifically reserved to the County Board, the County Board of Adjustment or the Administrative Officer.
 - (1) In addition to those powers and duties conferred in Chapter **179**, the County Land Use and Planning Committee shall hear and decide applications for conditional use permits pursuant to this chapter.
 - (2) In granting a conditional use permit, the Committee may not impose conditions which are more restrictive than any of the specific standards in the chapter. Where the chapter is silent as to the extent of restriction, the Committee may impose any reasonable County permit conditions to effect the purpose of this chapter.
 - (3) The Committee may recommend any changes or amendments to the County Board that it may deem necessary or desirable concerning the chapter, after the public hearing.
 - (4) The Committee oversees the functions of the office of the administrator.
 - (5) The Committee reviews and acts upon all proposed amendments to the shoreland, wetland and floodplain zoning ordinance map and/or text and recommends action to the County Board.
 - (6) Maintain a complete public record of all its proceedings.
 - (7) Request for conditional use permit, receive applications for, hold public hearings for and act upon conditional use permits.

- (a) Conditional use permit grant procedures. The Land Use and Planning Committee, after notifying adjacent property owners, the town involved and publication of a Class 2 legal notice, may grant a conditional use permit for the conditional uses enumerated in this chapter. In considering any application for conditional uses, the Land Use and Planning Committee shall consider the purpose and intended use for the district, the potential conflicts and compatibility of the proposed use with the existing land involved, the need for the proposed use to be located in the area and the availability of alternate, feasible locations, the effect of the proposed use on water, air, soil and other irreplaceable natural resources, and such other related considerations as the Committee deems relevant to judging a request for a specific type of conditional use permit.
 - (b) The Land Use and Planning Committee may attach conditions to any such conditional use permit which the Committee deems necessary to fulfill the purpose and intent of this chapter. Violation of these conditions shall constitute a violation of this chapter and shall constitute sufficient grounds for the Committee, after public hearing, to revoke the County permit.
- B. Administrator. The administrator, or designees with the Planning and Parks Department staff, is hereby authorized to administer the provisions of this chapter. The administrator shall have the following duties and powers:
- (1) Advise applicants as to the provisions of this chapter, assist them in preparing permit applications and appeal forms, and ensure that the regional flood elevation for the proposed development is shown on all permit applications if applicable.
 - (2) Issue permits and inspect properties for compliance with the provisions of this chapter and issues certificates of compliance, where appropriate.
 - (3) Keep the official records of all water surface profiles, shoreland, wetland and floodplain zoning maps, shoreland, wetland and floodplain ordinances, legal nonconforming uses and legal nonconforming structures and changes thereto, records of all permit applications, permits issued, inspections made, appeals, variances and ordinance amendments related to this chapter, work approved, floodproofing certificates (certificate of compliance) and other official actions.
 - (4) Submit copies of variances, conditional uses and decisions, map or text interpretations and map or text amendments, case-by-case analysis, and any other required information within 10 days after issuance to the appropriate regional office of the Department.
 - (5) Investigate and report violations of this chapter to the Land Use and Planning Committee or County Attorney.
 - (6) Submit copies of amendments and annual reports to Federal Emergency Management Agency, on request. Submit an annual summary of the number and types of floodplain zoning actions taken to the DNR.
 - (7) Maintain on file a list of all documentation of certified elevations and substantial damage assessment reports for floodplain structures.

- (8) Inspect and assess all damaged floodplain structures to determine if substantial damage to the structures has occurred. Submit a copy of assessments performed and all related correspondence concerning the assessments to the DNR.

C. Zoning and administrative permits. [Amended by Ord. No. 2016-38]

- (1) When required. Except where another section of this chapter specifically exempts certain types of development from this requirement, a zoning or administrative permit shall be obtained from the administrator before any new development, as defined in § 275-2 and § 275-10 of this chapter, or any change in the use of an existing structure is initiated. ~~Applications for administrative permits or conditional use permits shall be made to the administrator.~~
- (2) Application. An application for a zoning or administrative permit shall be made to the administrator upon forms furnished by the County and shall include, for the purpose of proper enforcement of these regulations, the following data:
 - (a) The name and address of applicant, property owner, contractor or builder, and phone numbers.
 - (b) A legal description of the property, type of proposed use, description of project and an indication as to whether new construction or a modification to an existing structure is involved.
 - (c) A scaled drawing of the dimensions of the lot and location of structures relative to the lot lines, center line of abutting roads and the OHWM of any abutting watercourses and water level on a date specified. If the drawing is not scaled, the dimensions of all buildings, impervious areas and lot shall be shown.
 - (d) If the application involves property adjacent to or within the floodplain, the elevation of the lowest floor using National Geodetic and Vertical Datum.
 - (e) A site development plan drawn to scale or with dimensions which accurately delineates the proposal with respect to the zoning district boundary showing the dimensions of the lot and locations of all existing and proposed structures from lot lines, center lines of all abutting roads and the OHWM of any abutting or nearby watercourses. In addition, all existing and proposed impervious areas must be shown.
 - (f) Information concerning all private water supply systems and private on-site wastewater systems to be installed, the location of all existing wells, structures and private on-site wastewater treatment systems, and the OHWM of all streams and lakes within 100 feet of a proposed sewage disposal site.
 - (g) If the application involves property adjacent to or within the floodplain, data provided from a hydraulic and hydrologic study shall be submitted that is sufficient to determine the regional flood elevation at the location of the development and to determine whether or not the requirements of § 275-14D are met. This may include any of the information noted in § 275-17.

- (h) Any other data required on the forms supplied by the Planning and Parks Department or requested by the Department necessary to issue the County permit or review the appeal.

~~(3) Expiration of County permit. Floodplain zoning permits shall expire 180 days from date of issue, or as otherwise specified by law. Shoreland and wetland permits expire after 18 months. Floodplain permits may be extended at the discretion of the administrator for up to 180 days for good and sufficient cause.~~

~~(4) Other permits. It is the responsibility of the applicant to secure all other necessary permits from all appropriate federal, state and local agencies and notify the United States Army Corps of Engineers of the project application pursuant to Federal Water Pollution Control Act, Section 404, as amended.~~

~~(5) Federal and state floodplain permits. Upon securing federal (FEMA) approval or state (DNR) approval of a floodplain study and associated permits, the County may, at its discretion, rely on said approvals and permits and issue related County permits based on the same or similar regulations.~~

D. Certificates of compliance. Floodplain District. 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 ~~Director~~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 ordinance;
- (2) Application for such certificate shall be concurrent with the application for a permit;
- (3) If all ordinance provisions are met, the certificate of compliance shall be issued within 10 days after written notification that the permitted work is completed;
- (4) The applicant shall submit a certification signed by a registered professional engineer, architect or land surveyor that the fill, lowest floor and floodproofing elevations are in compliance with the permit issued. Floodproofing measures also require certification by a registered professional engineer or architect that the requirements of § **275-20** are met
- (5) Where applicable pursuant to § **275-17D**, the applicant must submit a certification by a registered professional engineer or surveyor of the elevation of the bottom of the lowest horizontal structural member supporting the lowest floor (excluding pilings or columns), and an indication of whether the structure contains a basement.
- (6) Where applicable pursuant to § **275-17D**, the applicant must submit certifications by a registered professional engineer or architect that the structural design and methods of construction meet accepted standards of practice as required by § **275-17D**.

E. Conditional use permits.

- (1) Application for a conditional use permit. Any use listed as a conditional use in this chapter shall be permitted only after an application has been submitted to the administrator, as defined in § 275-2 and § 275-10 of this chapter, and a conditional use permit has been granted by the Land Use and Planning Committee.
- (2) Standards applicable to all conditional uses. In passing upon a conditional use permit, the Land Use and Planning 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 this chapter 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.
- (3) Conditions attached to conditional uses. Upon consideration of the factors listed above, the Land Use and Planning Committee shall attach such conditions, in addition to those required elsewhere in this chapter, as are necessary to further the purposes of this chapter. Violations of any of these conditions shall be deemed a violation of this chapter. 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 Land Use and Planning Committee may require the applicant to furnish, in addition to the information required for a zoning permit, the following information:

- (a) A plan of the area showing surface contours, soil types, OHWM, groundwater conditions, subsurface geology and vegetative cover.
 - (b) Location of structures, parking areas, traffic access, driveways, walkways, piers, open space and landscaping and other impervious areas.
 - (c) Plans of structures, sewage disposal facilities, water supply systems and arrangement of operations.
 - (d) Specifications for areas of proposed excavating, filling, grading, lagooning or dredging.
 - (e) Other pertinent information necessary to determine if the proposed use meets the requirements of this chapter.
 - (f) Rare or unique resources in the area.
- (4) Notice, public hearing and decision. Before passing upon an application for a conditional use permit, the Land Use and Planning 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 Ch. 985, Wis. Stats. Such notice shall be provided to the appropriate regional office of the Department at least 10 days prior to the hearing. The Committee shall state, in writing, the grounds for granting or denying a conditional use permit.
 - (5) Recording. When a conditional use permit is approved, an appropriate record shall be made of the land use and structures permitted, and such permit shall be applicable solely to the structures, use and property so described. A copy of any decision on a conditional use permit shall be provided to the appropriate regional office of the Department within 10 days after it is granted or denied.
 - (6) Revocation. Where the conditions of a conditional use permit are violated, the conditional use permit shall be revoked.

F. County Board of Adjustment. The County Board Chairperson shall appoint a County Board of Adjustment consisting of five members under § 59.694, Wis. Stats. The County Board of Adjustment shall elect its own Chairperson, Vice Chairperson and Secretary. The County Board of Adjustment Chairperson shall designate a minimum of three members of the County Board of Adjustment to attend scheduled meetings and hearings. Two members shall represent a simple majority or quorum for business before the Board. The Zoning Administrator shall not be the Secretary of the Board. The County Board shall adopt such rules for the conduct of the business of the County Board of Adjustment as required by § 59.694(3), Wis. Stats. **[Amended by Ord. No. 2016-38]**

- (1) Powers and duties.
 - (a) The County Board of Adjustment shall adopt such additional rules as it deems necessary and may exercise all of the powers conferred on such Boards by § 59.694, Wis. Stats.
 - (b) It shall hear and decide appeals where it is alleged there is error in any order, requirements, decision or determination made by an administrative official in the enforcement or

administration of this chapter.

- (c) It may grant a variance from the dimensional standards of this chapter pursuant to Subsection F of this section.
 - (d) In granting a variance, the Board may not impose conditions which are more restrictive than any of the specific standards in the chapter. Where the chapter is silent as to the extent of restriction, the Board may impose any reasonable permit conditions to effect the purpose of this chapter.
- (2) Appeals to the Board. Appeals to the County Board of Adjustment may be made by any person aggrieved or by an officer, department, board or bureau of the County affected by any decision of the administrator or other administrative officer. Such appeal shall be made within 30 days, as provided by the rules of the Board, by filing with the officer whose decision is in question, and with the County Board of Adjustment, a notice of appeal specifying whether an interpretation of the chapter text or map or a variance is sought and the grounds thereof, including any other reasons for the appeal. The administrator or other officer whose decision is in question shall promptly transmit to the Board all the papers constituting the record concerning the matter appealed.
- (3) Hearing appeals and applications for variances.
- (a) The County Board of Adjustment shall fix a reasonable time for a hearing on the appeal or application. The Board shall give public notice thereof by publishing a Class 2 notice under Ch. 985, Wis. Stats., specifying the date, time and place of the hearing and the matters to come before the Board. Notice shall be mailed to the adjacent landowners and the Town Board. Written notice shall be given to the appropriate regional office of the Department at least 10 days prior to hearings on proposed shoreland, wetland or floodplain variances and appeals for map or text interpretations.
 - (b) The County Board of Adjustment shall review all data submitted in the application, including the floodway/floodfringe determination data, in the case of a floodplain appeal.
 - (c) A decision regarding the appeal or application shall be made as soon as practical and within a reasonable time. Copies of all decisions on shoreland, wetland or floodplain variances and appeals for map or text interpretations shall be submitted to the appropriate regional office of the Department within 10 days after they are granted or denied.
 - (d) The final disposition of an appeal or application to the County Board of Adjustment shall be in the form of a written decision and order signed by the Chairperson and Secretary of the Board. Such resolution shall state the specific facts which are the basis of the Board's determination and shall either affirm, reverse, vary or modify the order, requirement, decision or determination appealed, in whole or in part, dismiss the appeal for lack of jurisdiction or grant or deny the application. The reasons or justifications for granting an appeal, including a description of the hardship or practical difficulty which was demonstrated by the applicant in the case of a variance, shall be clearly stated in the recorded minutes of the County Board of Adjustment proceedings.

- (4) Boundary disputes. The following procedure shall be used by the County Board of Adjustment in hearing disputes concerning the district boundaries shown on the Official Floodplain Zoning Map:
- (a) Where a Floodplain District boundary is established by approximate or detailed floodplain studies, pursuant to § **275-14D**, the regional flood elevations or profiles for the point in question shall be the governing factor in locating the district boundary. If no regional flood elevations or profiles are available to the Board, other available evidence may be examined.
 - (b) The person contesting the location of the district boundary shall be given a reasonable opportunity to present arguments and technical evidence to the County Board of Adjustment. Where it is determined that the district boundary is incorrectly mapped, the Board should either inform the Land Use and Planning Committee to proceed to petition the County Board of Supervisors or inform the person contesting the location of the boundary to petition the County Board for a map amendment pursuant to § **275-22D**.
- (5) Variance. Any deviation from the standards of this chapter, for which a County permit has been denied by the administrator, may be allowed only upon written request for a variance submitted to the administrator, after a public hearing and the issuance of a variance by the County Board of Adjustment. The Board may authorize in specific cases such variance from the terms of the chapter as will not be contrary to the public interest where, owing to special conditions affecting a particular property, a literal enforcement of the provisions of this chapter would result in unnecessary hardship as defined in § **275-2**. A variance shall:
- (a) Be consistent with the spirit and purpose of this chapter as stated in § **275-1C**.
 - (b) Not permit a lower degree of flood protection in the floodway area than the flood protection elevation, as defined in § **275-2**. In the floodfringe area, a lower degree of flood protection than the flood protection elevation may only be allowed pursuant to § **275-19C(2)**.
 - (c) Not be granted because of conditions that are common to a group of adjacent lots or premises. (In such a case, the zoning ordinance would have to be amended following proper procedures.)
 - (d) Not be granted unless it is shown that the variance will not be contrary to the public interest and will not be damaging to the right of other persons or property values in the area.
 - (e) Not be granted for actions which require an amendment to this chapter or the map(s) described in § **275-14D**.
 - (f) Not have the effect of granting or increasing a use of property which is prohibited in a particular zoning district.
 - (g) Not be granted solely on the basis of economic gain or loss.
 - (h) Not be granted for a self-created hardship.
 - (i) Be consistent with soil and water conservation practices when no reasonable alternative exists.

An example would be an animal waste control project where existing structures are already nonconforming.

- (j) Not allow any alteration of an historic structure, including its use, which would preclude its continued designation as an historic structure.
 - (k) The variance shall not cause any increase in the regional flood elevation.
 - (l) Variances shall only be granted for lots that are less than one-half acre and are contiguous to existing structures constructed below the regional flood elevation.
 - (m) 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, create a public nuisance, shall not increase costs for rescue and relief efforts and shall not be contrary to the purpose of this chapter.
 - (n) 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 be impacted. A copy shall be maintained with the variance record.
- (6) Reapplication. If a variance request is denied, no reapplication can be made until the later of the following occurrence:
- (a) A substantial change in circumstances relating to the property occurs; or
 - (b) Twelve months has elapsed since the date of the decision denying the variance and all appeals, administrative and judicial, have been exhausted.

G. Fees. As authorized by Chapter **179**, Planning and Parks, of the Washington County Code, the Land Use and Planning Committee may adopt fees for the following:

- (1) Shoreland, wetland and floodplain.
 - (a) Zoning permits.
 - (b) Certificates of compliance.
 - (c) Planned unit development and condominium reviews.
 - (d) Public hearings.
 - (e) Legal notice publications.
 - (f) Conditional use permits.
 - (g) Land division reviews.
 - (h) Failure to obtain a County permit.

- (i) Appeals.
- (j) Administrative permits.
- (k) Accessory, sign, agricultural.
- (l) Commercial, industrial.
- (m) Residential, other.
- (n) County Board of Adjustment.
- (o) Zoning amendment.
- (p) Floodplain letter.
- (q) Field determination.
- (r) Other related permits or services.

H. Public information.

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

I. Expiration of County permit. Floodplain permits shall expire 180 days from date of issue, or as otherwise specified by law. Floodplain permits may be extended at the discretion of the administrator for up to 180 days for good and sufficient cause. Shoreland and wetland permits expire after 18 months. Shoreland and wetland permits may be extended in 12-month time periods from the administrator for good and sufficient cause provided progress towards permit compliance is being achieved and appropriate fee is submitted prior to expiration.

J. Other permits. It is the responsibility of the applicant to secure all other necessary permits from all appropriate federal, state and local agencies and notify the United States Army Corps of Engineers of the project application pursuant to Federal Water Pollution Control Act, Section 404, as amended.

K. Federal and state floodplain permits. Upon securing federal (FEMA) approval or state (DNR) approval of a floodplain study and associated permits, the County may, at its discretion, rely on said approvals and permits and issue related County permits based on the same or similar regulations.

§ 275-22 **Changes and amendments.**

The County Board may from time to time alter, supplement or change the boundaries of use districts and the regulations contained in the shoreland, wetland or floodplain section of this chapter in accordance with the requirements of § 59.69, Wis. Stats., Chs. NR 115 and 116, Wis. Adm. Code and § **275-12E** of this chapter,

where applicable.

- A. Amendments to this chapter may be made on petition of any interested party as provided in § 59.69, Wis. Stats.
- B. Every petition for a text or map amendment filed with the administrator shall be referred to the Land Use and Planning Committee. A copy of each petition shall be mailed to the appropriate regional office of the Department within five days of the filing of the petition with the administrator. Written notice of the public hearing to be held on a proposed amendment shall be provided to the appropriate regional office of the Department at least 10 days prior to the hearing.
- C. A copy of the County Board's decision on each proposed amendment shall be forwarded to the appropriate regional office of the Department within 10 days after the decision is issued.
 - (1) No amendment to the maps or text of this chapter shall become effective until reviewed and approved by the Department.
 - (2) No permit shall be issued until the map or text amendment is approved by the department and FEMA, if applicable.
 - (3) All persons petitioning for a map amendment that obstructs flow, causing any increase in the height of the regional flood, shall obtain flooding easements, or other appropriate legal arrangements, from all affected local units of government and property owners prior to the County's approval of an amendment which would result in such an increase to the regional flood elevation.
- D. Floodplain amendments. Amendments to this chapter shall be made as provided by law. Obstructions to the floodplain or increases to the regional flood elevation may only be permitted if amendments to the official floodway lines, water surface profiles, floodplain zoning maps or text are made in accordance with Subsection **D(1)** through **(7)**. In AE Zones with a mapped floodway, no obstructions to the floodplain or increases to the regional flood elevation shall be permitted unless the applicant receives a conditional letter of map revision from FEMA and amendments are made to this chapter, the Official Floodplain Zoning Maps, floodway lines and water surface profiles, in accordance with Subsection **D(1)** through **(7)**. Any such alterations must be reviewed and approved by FEMA and the Department. 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 chapter, the official floodplain maps, floodway lines, and water surface profiles, in accordance with Subsection **D(1)** through **(7)**. Actions which require an amendment to this chapter and/or submittal of a letter of map change (LOMC) include, but are not limited to, the following:
 - (1) Any fill or floodway encroachment that obstructs flow, causing any increase in the regional flood height.
 - (2) Any change to the floodplain boundaries 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 upgrading of this chapter required by the Wisconsin Administrative Code, or otherwise required by law.
- (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 § 275-14C.

§ 275-23 Violations and penalties.

- A. The Washington County Planning and Parks Department shall enforce the provisions of this chapter and all other laws and ordinances relating to any development by means of the withholding or revoking of County permits, collection of forfeitures pursuant to Chapter 1, General Provisions, Article III, General Penalty, of the Code of Washington County and injunctive action, all in accordance with §§ 59.07, 59.69 and 87.30, Wis. Stats.
- B. Any development, any building or structure constructed, moved or structurally altered, or any use established after the effective date of this chapter in violation of the provisions of this chapter by any person, firm, association, or corporation (including building contractors or their agents) shall be deemed a violation. The zoning administrator or the County zoning agency shall refer violations to the corporation counsel, who shall expeditiously prosecute violations.
 - (1) Penalty. Any person, firm, association or corporation, including those doing work for others, who violates or refuses to comply with any of the provisions of this chapter shall be subject to a forfeiture of not less than \$50 nor more than \$500 for each violation, except for violations specific to Article IV, Floodplain Zoning the forfeiture shall not be more than \$50 per offence; together with the taxable costs of action. Each day which the violation exists shall constitute a separate offense. Every violation of this chapter is a public nuisance and the creation thereof may be enjoined and the maintenance thereof may be abated pursuant to § 59.69(11), Wis. Stats., or by action at suit of the municipality, the state, or any citizen thereof pursuant to § 87.30, Wis. Stats.
 - (2) Injunction. Any use or action which violates the provisions of this chapter 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 chapter. Any person, firm or corporation causing a violation or refusing to comply with any provision of this chapter will be notified, in writing, of such violation by the administrator or his designated deputy. Each day a violation exists shall constitute a distinct and separate violation of this chapter and, as such, forfeitures shall apply accordingly. Every violation of this chapter is a public nuisance, and the creation thereof may be enjoined and the maintenance thereof may be abated pursuant to § 59.69(11), Wis. Stats.
 - (4) Failure to obtain a County Permit. It shall be unlawful to commence development prior to

obtaining a County permit. A double fee shall be assessed in addition to any penalties assessed.

- (5) Suspension of permit. Whenever the administrator, or designee, determines there are reasonable grounds for believing there is a violation of any provision of this chapter, the Administrator, or designee, 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 thirty-day period, an extension may be granted if reason of hardship prevails and can be verified. Such notice or copy thereof has been sent by registered mail to the 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 administrator, or designee, or apply to the County Board of Adjustment for a variance from the strict rule of this chapter within 30 days of receipt of notice or order.
- (6) Emergency conditions. Whenever the 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, or 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 Land Use and Planning Committee within 24 hours of such situations. Notwithstanding any other provisions of this chapter, 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.

C. The Planning and Parks Department may revoke any County permit, certificate of compliance or approval issued under the regulations of this chapter and may stop development for any of the following reasons:

- (1) Whenever there is a violation of any regulation of this chapter or lawful orders or Wisconsin Statutes relating to the same subject matter.
- (2) Whenever the continuance of any development or use becomes dangerous to life or property.
- (3) Whenever there is any violation of any condition or provision of the application for County permit, or of the County permit.
- (4) Whenever any false statement or misrepresentation has been made in the application for County permit, plans, drawings, data specifications, or certified lot or plot plan on which the issuance of the County permit or approval was based.

D. A stop-work placard shall be posted upon the premises in question by the Planning and Parks Department, and the owner of the premises or agent shall be notified, in writing, within 10 days.

E. After notice is served upon the persons and posted, it shall be unlawful for any person to proceed

thereafter with any development or use whatsoever on the premises. Work may again proceed only after obtaining written permission from the Planning and Parks Department.

- F. Uniform citation method adopted. Violations of this chapter may be enforced by the issuance of a citation pursuant to Chapter **172**, Peace and Good Order, § **172-22**, of the Code of Washington County and the imposition of forfeitures pursuant to Chapter **1**, General Provisions, Article **III**, General Penalty, of the Code of Washington County.