

**OZAUKEE COUNTY CODE OF ORDINANCES
CHAPTER VII
SHORELAND AND FLOODPLAIN ZONING ORDINANCE**

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(10/5/16)

CHAPTER VII

SHORELAND AND FLOODPLAIN ZONING ORDINANCE

SECTION 7.0100 INTRODUCTION

7.0101 AUTHORITY

This ordinance is adopted pursuant to the authority granted by Sections 59.69, 59.692, 59.694, 281.31 and Section 236.45, and the requirements of Section 87.30, Wis. Stats.

7.0102 TITLE

This ordinance shall be known as, referred to, and cited as the OZAUKEE COUNTY SHORELAND AND FLOODPLAIN ZONING ORDINANCE, and hereinafter referred to as the "Ordinance."

7.0103 FINDINGS

Uncontrolled use of the shorelands, shoreland-wetlands, floodplains, and navigable waters of Ozaukee County would adversely affect the public health, safety, convenience, and general welfare and impair the tax base. The Wisconsin State Legislature has delegated to the counties responsibility within unincorporated areas to further the maintenance of safe and healthful conditions, prevent and control water pollution, protect aquatic life and habitat, and preserve shore cover and natural beauty. This responsibility is hereby accepted by Ozaukee County, Wisconsin.

7.0104 PURPOSE

For the purpose of promoting the public health, safety, convenience, and general welfare, this ordinance has been established to:

- A. Further the maintenance of safe and healthful conditions and prevent and control water pollution by establishing setbacks, maximum height of nearshore structures and minimum lot sizes and widths to provide adequate area for open space, privacy, and private onsite wastewater treatment systems; controlling filling and grading to prevent flooding and serious soil erosion problems, and limiting impervious surfaces to control runoff which carries pollutants.
- B. Protect fish and other aquatic life by preserving spawning grounds, wetlands, and other fish and aquatic habitat; regulating pollution sources; and controlling shoreline and channel alterations, dredging, and lagooning.
- C. Preserve natural beauty along shorelines by limiting the removal of natural shoreland cover, managing shoreline intrusion by boathouses and other structures, and regulating shoreline excavation and other earth-moving activities.
- D. Prevent flood damage to persons and property; protect life, health and property; minimize expenditures of public funds for costly flood control projects; minimize rescue and relief efforts; minimize business interruptions; minimize damage to public facilities within floodplains; minimize the occurrence of future flood blight areas within floodplains; discourage the victimization of unwary land and home buyers; and prevent increases in flood heights that could increase flood damage.
- E. Limit development in a floodplain unless there is no practicable alternative to locate the activity, use, or structure outside of the floodplain.

- F. Establish minimum lot sizes and widths, building setbacks from navigable waters, and shoreland buffer standards to limit cumulative impacts to aquatic life habitat and water quality.

7.0105 ABROGATION AND GREATER RESTRICTIONS

- A. This ordinance supersedes any provisions in a county zoning ordinance enacted under Section 59.692 that solely relate to shorelands. In other words if a zoning standard only applies to lands that lie within the shoreland and applies because the lands are in shoreland, then this ordinance supersedes those provisions.
- B. This ordinance supersedes any provision in a county zoning ordinance enacted under Sections 59, 69, 59.694, or 87.3, Wis. Stats., which relate to floodplains. A more restrictive ordinance shall continue in full force and effect to the extent of the greater restrictions, but not otherwise.
- C. It is not intended by this ordinance to repeal, abrogate, annul, impair, or interfere with any existing easements, deed restrictions, covenants, agreements, ordinances, rules, regulations, or permits previously adopted or issued pursuant to law. However, where this ordinance imposes greater restrictions, the provisions of this ordinance shall govern.
- D. Where a town, village, or city ordinance is more restrictive than this ordinance, that ordinance shall continue in full force and effect to the extent of the greater restrictions, but not otherwise.
- E. This ordinance shall not require approval or be subject to disapproval by any town or town board.
- F. This ordinance may establish standards to regulate matters that are not regulated in Chapter NR 115, but that further the purposes of shoreland zoning as described in Section 7.0104 of this ordinance.
- G. Counties may not establish shoreland zoning standards in a shoreland zoning ordinance that requires any of the following:
 - 1. Approval to install or maintain outdoor lighting in shorelands, impose any fee or mitigation requirement to install or maintain outdoor lighting in shorelands, or otherwise prohibits or regulates outdoor lighting in shorelands if the lighting is designed or intended for residential use.
 - 2. Requires any inspection or upgrade of a structure before the sale or other transfer of the structure may be made.
- H. The construction and maintenance of a facility is considered to satisfy the requirements of this ordinance if:
 - 1. The DNR has issued all required permits or approvals authorizing the construction or maintenance under Chapters 30, 31, 281, or 283, Wis. Stats. A “facility” means any property or equipment of a public utility, as defined in Section 196.01(5), Wis. Stats., or a cooperative association organized under Chapter 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.
 - 2. The facility is not located or proposed to be located in a floodplain.

7.0106 INTERPRETATION

The interpretation and application of this ordinance shall be held to be the minimum requirements and shall be liberally construed in favor of the county and shall not be construed to be a limitation or repeal of any other power granted by Wisconsin Statutes, as may be amended from time to time, or now possessed by Ozaukee County. Where a provision of this ordinance is

required by statute and under Chapters NR 115 or NR 116, Wisconsin Administrative Code, and where a provision of this ordinance is unclear, the provision shall be interpreted in light of the requirements of the statute and Chapters NR 115 and NR 116 in effect on the date this ordinance was adopted or the date of the most recent text amendment to this ordinance.

7.0107 SEVERABILITY

- A. If any portion of this ordinance is adjudged unconstitutional or invalid by a court of competent jurisdiction, the remainder of this ordinance shall not be affected thereby.
- B. If any application of this ordinance to a particular structure, land, water, or air is adjudged unconstitutional or invalid by a court of competent jurisdiction, such judgment shall not be applicable to any other structure, land, water, or air not specifically included in said judgment.

7.0108 WARNING AND DISCLAIMER OF LIABILITY

The flood protection and bluff and ravine erosion standards in this ordinance are based on engineering experience and scientific research. Larger floods may occur or the flood height may be increased by human-made or natural causes, such as ice jams or bridge openings restricted by debris. Erosion rates may be increased by human-made or natural causes such as major storms or high lake levels. These regulations do not guarantee nor warrant that development in compliance with ordinance terms will be free from flood or erosion damage. Nor does this ordinance create liability on the part of, or a cause of action against, Ozaukee County or any officer or employee thereof for any flood or erosion damage that may result from reliance on this ordinance.

7.0109 EFFECTIVE DATE

This ordinance and amendments shall be effective after a public hearing, adoption by the Ozaukee County Board of Supervisors, and publication as required by law.

SECTION 7.0200 GENERAL PROVISIONS

7.0201 AREAS TO BE REGULATED

- A. The provisions of this ordinance shall apply to all shoreland areas within the unincorporated areas of Ozaukee County, Wisconsin, and to those annexed shoreland areas described in Section 7.0202. The shoreland includes all lands within the following distances from the ordinary high water mark of navigable waters:
 - 1. One thousand (1000) feet from a lake, pond or flowage. If the navigable water is a glacial pothole lake, this distance shall be measured from the high water mark of the lake.
 - 2. Three hundred (300) feet from a river or stream, or to the landward side of the floodplain, whichever distance is greater.
- B. The provisions of this ordinance shall further apply to all unincorporated areas of Ozaukee County that would be covered by the regional flood or base flood, including floodplain islands where emergency rescue and relief routes would be inundated by the regional flood.
- C. Determinations of navigability and ordinary high water mark shall initially be made by the administrator. When questions arise, the administrator shall contact the appropriate regional office of the Wisconsin Department of Natural Resources (DNR). The county may work with surveyors with regard to Section 59.692(1h), Wis. Stats.

- D. Farm drainage ditches:
1. In accordance with Section 281.31(2m), Wis. Stats., this ordinance shall not apply to lands adjacent to farm drainage ditches if:
 - (a) Such lands are not adjacent to a natural navigable stream or river.
 - (b) Those parts of the drainage ditches adjacent to such lands were not navigable before ditching.
 - (c) Such lands adjacent to artificially constructed drainage ditches, ponds, or storm water retention ponds or basins that are not hydrologically connected to a navigable waterbody.
 2. If any of the conditions set forth in paragraph 1 above cease to apply, then this exception shall expire and the provisions and the jurisdiction of this ordinance shall apply.
- E. Zoning maps: The maps designated below are hereby adopted and made part of this ordinance. They are on file in the Ozaukee County Land and Water Management Department.
1. Zoning base maps: Map sheets 1 through 56 inclusive of the Southeastern Wisconsin Regional Planning Commission (SEWRPC) Zoning District Maps of Ozaukee County, at a scale of one inch equals 400 feet, are designated the zoning base maps for Ozaukee County.
 2. SEWRPC-Department of Natural Resources 2010 Regional Wetland Inventory Publication dated 2011-2012, and as subsequently amended by field determinations.
 3. The most recent version of the Wisconsin Wetlands Inventory as depicted on the DNR Surface Water Data Viewer is made part of this ordinance.
 4. The boundary of the floodplain districts, including floodway, flood fringe, and other floodplain districts designated as floodplains or A-Zones on the Flood Insurance Rate Maps (FIRMS) for Ozaukee County (Community Number 550310) prepared by the Federal Emergency Management Agency (FEMA), with a map revised date of December 4, 2007, shall be located on the following panels:
 5. The boundary of the floodplain districts as indicated on LOMR 08-05-1362P.

| | | | | |
|-------------|-------------|-------------|-------------|-------------|
| 55089C0017F | 55089C0018F | 55089C0019F | 55089C0036F | 55089C0037F |
| 55089C0038F | 55089C0039F | 55089C0041F | 55089C0042F | 55089C0043F |
| 55089C0044F | 55089C0061F | 55089C0062F | 55089C0063F | 55089C0064F |
| 55089C0070F | 55089C0081F | 55089C0082F | 55089C0083F | 55089C0084F |
| 55089C0091F | 55089C0092F | 55089C0093F | 55089C0094F | 55089C0101F |
| 55089C0102F | 55089C0103F | 55089C0104F | 55089C0106F | 55089C0107F |
| 55089C0108F | 55089C0109F | 55089C0111F | 55089C0112F | 55089C0113F |
| 55089C0114F | 55089C0116F | 55089C0117F | 55089C0118F | 55089C0119F |
| 55089C0126F | 55089C0127F | 55089C0128F | 55089C0129F | 55089C0131F |
| 55089C0133F | 55089C0136F | 55089C0137F | 55089C0138F | 55089C0154F |
| 55089C0156F | 55089C0157F | 55089C0158F | 55089C0159F | 55089C0165F |
| 55089C0166F | 55089C0167F | 55089C0168F | 55089C0169F | 55089C0176F |
| 55089C0177F | 55089C0178F | 55089C0179F | 55089C0181F | 55089C0182F |
| 55089C0183F | 55089C0184F | 55089C0186F | 55089C0187F | 55089C0188F |
| 55089C0189F | 55089C0191F | 55089C0192F | 55089C0193F | 55089C0194F |

| | | | | |
|-------------|-------------|-------------|-------------|-------------|
| 55089C0205F | 55089C0230F | 55089C0231F | 55089C0232F | 55089C0233F |
| 55089C0234F | 55089C0251F | 55089C0252F | 55089C0253F | 55089C0254F |
| 55089C0256F | 55089C0257F | 55089C0259F | | |

7.0202 ANNEXED AREAS

Whenever any area which has been subject to the Ozaukee County Shoreland and Floodplain Zoning Ordinance petitions to become part of a village or city, the requirements of this ordinance shall remain in effect and shall be enforced by the city or village in the annexed areas until the city or village adopts and enforces shoreland zoning regulations in accordance with Sections 62.233 or 61.353, Wis. Stats., respectively, and adopts and enforces an ordinance which meets requirements of Chapter NR 116, Wisconsin Administrative Code, and 44CFR 59-72, National Flood Insurance Program. Annexed lands subject to county shoreland and floodplain zoning regulations are described on the city or village zoning map. All maps of annexation shall show the regional flood elevation and the floodway location.

7.0203 COMPLIANCE

The use 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 and waste disposal facilities; the filling, grading, lagooning, or dredging of any lands; the cutting of shoreland vegetation; and the division of land; shall be in full compliance with the terms of this ordinance and other applicable local, state, or federal regulations. Buildings and other structures shall require a permit unless otherwise expressly excluded by a provision of this ordinance. Landowners, builders, and contractors are responsible for compliance with the terms of this ordinance.

7.0204 GENERAL DEVELOPMENT STANDARDS

The zoning administrator shall review all permit applications to determine whether proposed building sites will be located within the 100-year floodplain. If a proposed building site is located within the 100-year floodplain, all new construction and substantial improvements shall be designed or modified and adequately anchored to prevent flotation, collapse, or lateral movement of the structure resulting from hydrodynamic and hydrostatic loads; be constructed with materials resistant to flood damage; be constructed by methods and practices that minimize flood damages; and be constructed with electrical, heating, ventilation, plumbing, and air conditioning equipment and other service facilities designed and/or located so as to prevent water from entering or accumulating within the components during conditions of flooding. Subdivisions shall be reviewed for compliance with the above standards. All subdivision proposals, including manufactured home subdivisions, shall include regional flood elevation and floodway data for any development that meets the definition of a subdivision as defined in Section 7.1500.

7.0205 CONCURRENT DISTRICTS

Areas which are located within the shoreland-wetland district and a floodplain district shall be regulated by the requirements of each applicable district, and where any applicable requirements are inconsistent, the more restrictive shall apply.

7.0206 MUNICIPAL, COUNTY, AND STATE AGENCIES REGULATED

Unless specifically exempted by law, all cities, villages, towns, and counties are required to comply with this ordinance and obtain all necessary permits. State agencies are required to

comply when Section 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 Sections 30.12 (4) and 30.2022(1), Wis. Stats., apply.

7.0207 COMPLIANCE WITH THE AMERICANS WITH DISABILITIES ACT

Where strict interpretation of this ordinance would effectively deny a person with a disability equal housing opportunity, the zoning administrator may grant a shoreland permit as provided under Section 7.1105 to provide reasonable accommodation as required by the Americans with Disabilities Act. The permit shall be subject to the following conditions, in addition to any others imposed by the zoning administrator:

- A. Only the minimum relaxation of dimensional or other standards needed to provide reasonable accommodation shall be approved.
- B. No use, structure, or other relaxation of standards shall be approved that would violate or undermine the purposes of this ordinance as set forth in Section 7.0104.
- C. Accommodating accessory structures and accommodating access ramps shall be removed once the property is no longer primarily used by a disabled person. The landowner who receives the permit shall be responsible for the removal of any accommodating structures no longer required by a disabled resident. Structural modifications made to a principal structure to accommodate a disabled person are exempt from this requirement.
- D. The shoreland permit will not become effective until the property owner records a deed restriction with the Ozaukee County Register of Deeds setting forth the condition that the structure authorized by the permit shall be removed not more than 30 days after the person with a disability vacates the property or the structure ceases to be a public accommodation.

7.0208 SANITARY/PRIVATE WELL REGULATIONS

- A. No private onsite wastewater treatment system (POWTS) or parts thereof shall be located, installed, moved, reconstructed, extended, enlarged, converted, or substantially altered or their use changed without a sanitary permit and without full compliance with Chapter IX-Sanitation and Health of the Ozaukee County Code of Ordinances.
- B. No shoreland permit shall be issued until a valid sanitary permit is issued authorizing the installation of a POWTS.
- C. Private onsite wastewater treatment systems (POWTS) shall meet the following criteria:
 - 1. POWTS shall be located not less than 50 feet from the ordinary high water mark of navigable waters.
 - 2. POWTS located within a floodplain shall meet the requirements of Chapter SPS 383.45(6).
- D. Private well construction shall conform to the requirements of Chapter NR 812, Wisconsin Administrative Code.

7.0209 ESSENTIAL SERVICES

Structures associated with services provided by public and private utilities do not require a permit under this Ordinance provided the structures will not be located in a floodplain or shoreland-wetland zoning district or do not require a shoreland permit under Section 7.0502. Utility structures include underground, surface, or overhead gas, electrical, steam, water, sanitary sewerage, storm water management, and communication systems and accessories thereto, such as poles, towers, wires, mains, drains, vaults, culverts, laterals, sewers, pipes, catch basins, water storage tanks, conduits, cables, traffic signals, pumps, lift stations, and hydrants, but do not include buildings.

Utility structures in floodplain or shoreland-wetland zoning districts may be allowed in accordance with the requirements of Sections 7.0600 and 7.0700, respectively, of this Ordinance.

SECTION 7.0300 LOT, SITE, SETBACK, AND HEIGHT REQUIREMENTS

7.0301 NO FILLING IN FLOODPLAIN AREAS

For lots created after April 13, 2006, no filling shall be permitted within the floodplain to accommodate those uses listed in Section 7.0809.D unless a variance is granted by the Ozaukee County Board of Adjustment in accordance with Section 7.1206.

7.0302 LOTS NOT SERVED BY PUBLIC SANITARY SEWER

The minimum lot area shall be 20,000 square feet and the minimum average lot width shall be 100 feet, with at least 100 feet of frontage at the ordinary high water mark.

7.0303 LOTS 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, with at least 65 feet of frontage at the ordinary high water mark.

7.0304 EXISTING SUBSTANDARD LOTS

- A. A legally created lot or parcel that met minimum area and minimum average width requirements when created, but does not meet current lot size requirements, may be used as a building site if all of the following apply:
 - 1. The substandard lot or parcel was never configured or combined with another lot or parcel by plat, survey, or consolidation by the owner into one property tax parcel.
 - 2. The substandard lot or parcel has never been developed with one or more of its structures placed partly upon an adjacent lot or parcel.
 - 3. The substandard lot or parcel is developed to comply with all other ordinance requirements.
- B. Other substandard lots: Except for lots which meet the requirements of Subsection 7.0304 A. or B., a shoreland permit for the improvement of a lot having lesser dimensions than those stated in Sections 7.0302 and 7.0303 shall be issued only if a variance is granted by the board of adjustment.

7.0305 BOATHOUSE REGULATIONS

- A. Boathouses shall be designed solely for the storage of boats and related equipment and shall not be used for human habitation.
- B. The construction or placing of a boathouse waterward beyond the ordinary high water mark of any navigable water is prohibited.
- C. Boathouses shall not exceed 400 square feet in floor area.
- D. Boathouses shall be set back a minimum of 10 feet from the ordinary high water mark and shall be constructed in conformity with the floodplain requirements set forth in Section 7.0800.

7.0306 SETBACK FROM NAVIGABLE WATERS

- A. Setback for buildings and structures: Unless exempt under 7.0306 B., or reduced under Section 7.0306 D., all buildings and other structures shall be set back at least 75 feet from the ordinary high water mark of navigable waters.
- B. Exempt structures [per Chapter NR 115.05(1)(b)(1m)]: All of the following structures are exempt from the shoreland setback standards in Section 7.0306 A.
 - 1. Boathouses are exempt from the 75-foot setback requirement under Chapter NR 115.05(3)(b)3, Wisconsin Administrative Code. A shoreland permit is required for such structures. The zoning permit application shall include a copy of any required DNR permits.
 - 2. Stairways, walkways and lifts may be located within the 75-foot setback if necessary to provide pedestrian access to navigable waters or a water-dependent use, provided a shoreland permit is granted by the zoning administrator and all other applicable requirements of this ordinance are met, including those related to vegetation removal; filling, grading, and excavating; and structures in floodplain areas. Stairways, walkways, and lifts, shall be located so as to minimize earth disturbing activities and shoreland vegetation removal during construction and to be visually inconspicuous and screened by vegetation as viewed from adjacent navigable waters and public thoroughfares. Stairways, walkways and lifts shall be no more than five feet wide, unless a greater width is required to meet the requirements of the Americans with Disabilities Act or the guidelines of the American Association of State Highway and Transportation Officials. Stairway landings shall be no more than 50 square feet in area.
 - 3. Transportation and utility facilities, including but not limited to streets, bridges, and transmission lines, poles, towers, water towers, pumping stations, well pumphouse covers, private on-site wastewater treatment systems that comply with Chapter SPS 383, Wisconsin Administrative Code, and other utility structures that have no feasible alternative location outside the minimum setback and that employs best management practices to infiltrate or otherwise control storm water runoff from the structure may be located within the 75-foot setback area if it is not feasible to locate the facility outside the setback and a shoreland permit allowing a lesser setback is granted by the zoning administrator in accordance with Section 7.1105.
 - 4. Open-sided and screened structures such as gazebos, patios decks, and screened houses are exempt from the shoreland setback requirement provided the following requirements are met:
 - (a) The open-sided and screened structures shall be located so as to minimize earth disturbing activities and shoreland vegetation removal during construction.
 - (b) The open-sided and screened structures shall be visually inconspicuous and screened by vegetation as viewed from adjacent navigable waters and public thoroughfares.
 - (c) The part of the open-sided and screened structure that is nearest to the water shall be located at least 35 feet landward from the ordinary high water mark.
 - (d) The total floor area of all structures in the shoreland setback area of the lot, including the open-sided and screened structures, shall not exceed 200 square feet. Boathouses shall be excluded from this calculation.
 - (e) The patio or deck shall have no sides or shall have open or screened sides.

- (f) The landowner shall submit a plan to the zoning administrator to preserve or establish a vegetative buffer area that covers at least 70 percent of the half of the shoreland setback area that is nearest to the water.
 - (g) The top surface of the floor of the patio or deck shall not exceed a height of six inches above the lowest adjacent grade.
 - (h) A shoreland permit and approval of the vegetative buffer plan required under paragraph (f) above is required prior to construction.
5. Broadcast signal receivers, including satellite dishes or antennas that are one meter or less in diameter and satellite earth station antennas that are 2 meters or less in diameter.
 6. Devices or systems used to treat runoff from impervious surfaces.
- C. Existing exempt structures. Existing exempt structures may be maintained, repaired, replaced, restored, rebuilt and remodeled provided the activity does not expand the footprint and does not go beyond the three-dimensional building envelope of the existing structure. The county may allow expansion of a structure beyond the existing footprint if the expansion is necessary to comply with applicable state or federal requirements.
- D. Reduced principal building setbacks/setback averaging. A setback less than the 75-foot required setback from the ordinary high water mark shall be permitted for a proposed principal structure and shall be determined as follows:
1. Where there are existing principal structures in both directions, the setback shall equal the average of the distances the two existing principal structures are set back from the ordinary high water mark provided all of the following are met:
 - (a) Both of the existing principal structures are located on adjacent lot to the proposed principal structure.
 - (b) Both of the existing principal structures are located within 250 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 ordinary high water mark.
 - (d) The average setback shall not be reduced to less than 35 feet from the ordinary high water mark of any navigable water.
 2. Where there is an existing principal structure in only one direction, the setback shall equal the distance the existing principal structure is set back from the ordinary high water mark and the required setback of 75 feet from the ordinary high water mark provided all of the following are met:
 - (a) The existing principal structure is located on adjacent lot 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 ordinary high water mark.
 - (d) The average setback shall not be reduced to less than 35 feet from the ordinary high water mark of any navigable water.

7.0307 HEIGHT

To protect and preserve wildlife habitat and natural scenic beauty, construction shall not be permitted which results in a structure taller than 35 feet within 75 feet of the ordinary high water mark of any navigable waters. Structure height will be measured as follows: The measurement of

the vertical line segment starting at the lowest point of any exposed wall and its intersect with the ground to a line horizontal to the highest point of a structure.

7.0308 STRUCTURES IN THE FLOODPLAIN

Buildings and structures to be constructed or placed in a floodplain shall be required to comply with any applicable floodplain district requirements.

7.0309 PROTECTIVE AREAS ADJACENT TO STREAMS, LAKES, AND WETLANDS

Projects that require a storm water management plan under Chapter NR 151, Wisconsin Administrative Code, shall comply with the standards set forth in Chapter NR 151.12(5)(d) of that code, which specify “protective areas” to be provided adjacent to streams, lakes, and wetlands.

7.0310 EROSION HAZARD SETBACK FROM BLUFFS

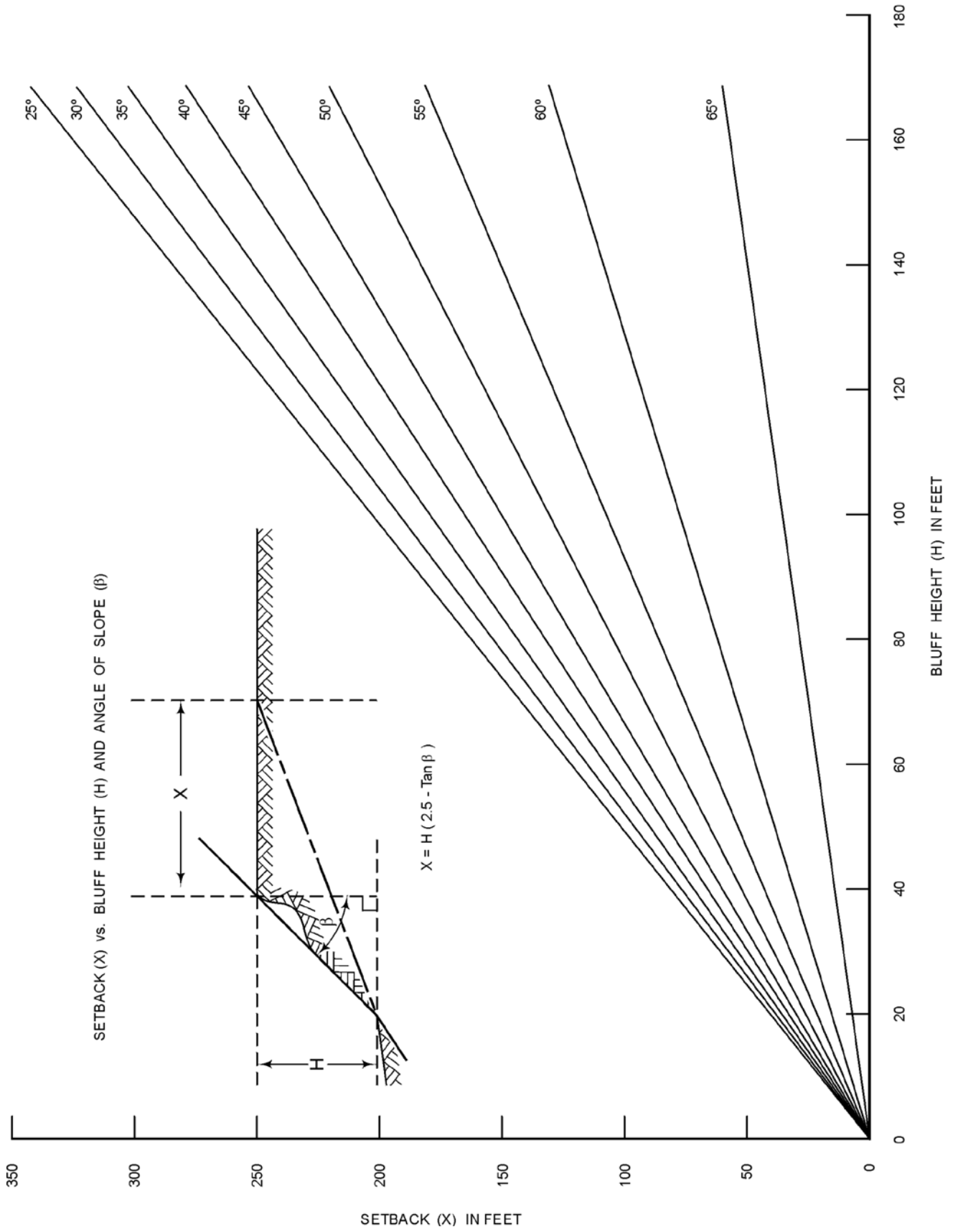
- A. All buildings and structures in the Lake Michigan bluff area shall be set back the greater of the following distances:
 - 1. A distance equal to a slope ratio of 2.5 feet horizontal distance to every one foot vertical distance, measured horizontally from the toe of the bluff, calculated using the most severe angle of slope as determined by a registered professional engineer or a surveyor and approved by the zoning administrator, and based on the following graph (see Figure 1). The setback (X) is measured from the top edge of bluff. Measurement of the stable slope angle setback shall be made from the toe of the bluff perpendicular to the shoreline. There shall be two such measurements for every 100 feet of shoreline at points not less than 50 feet apart. The setback shall be a line connecting these two points, or such line extended.
 - 2. A minimum setback of 75 feet from the edge of any bluff.
- B. Private Onsite Wastewater Treatment Systems (POWTS) in the Lake Michigan bluff area shall be set back a minimum of 75 feet from the edge of any bluff.

7.0311 EROSION HAZARD SETBACK FROM RAVINES

- A. Except as set forth in Subsection B., all buildings, structures, and POWTS, shall be set back the greater of the following distances in the Lake Michigan ravine area:
 - 1. A distance equal to a slope ratio of 2.5 feet horizontal distance to every one foot vertical distance measured horizontally from the toe of the ravine, calculated using the most severe angle of slope, as determined by a registered professional engineer or a surveyor and approved by the zoning administrator, and based on the following graph (see Figure 1). The setback (X) is measured from the top edge of ravine.
 - 2. A minimum setback of 75 feet from the edge of any ravine.
 - 3. When a detailed subsurface investigation report by a Wisconsin registered geotechnical engineer indicates that a ravine is a stable formation, the setback shall be as recommended in the report, subject to a minimum setback of 40 feet from the edge of that particular ravine.
- B. Setback from shallow ravines: In the case of shallow ravines in the Lake Michigan ravine area, all buildings, structures, and POWTS, shall be set back a minimum of 40 feet from the edge of the ravine.

Figure 1

ANGLE OF SLOPE (β)



SECTION 7.0400 REMOVAL OF SHORE COVER

7.0401 PURPOSE

The purpose of vegetation removal limitations in the shoreland area is to protect natural beauty, fish and wildlife habitat, control erosion, and reduce the flow of effluents, sedimentation, and nutrients from the shoreland to adjacent waters.

7.0402 ACTIVITIES ALLOWED WITHIN A VEGETATIVE BUFER ZONE

- A. In the strip of land 35 feet inland from the ordinary high water mark, (buffer zone) the removal of trees and shrubs shall be limited as follows:
1. The county may allow routine maintenance of vegetation.
 2. The county may allow removal of trees and shrubs in the vegetative buffer zone to create access and viewing corridors. Per Section 59.692(1f)(b), Wis. Stats, the viewing corridor may be at least 35 feet wide for every 100 feet of shoreline frontage. The viewing corridor may run contiguously for the entire maximum width of shoreline frontage owned.
 3. The county may allow removal of trees and shrubs in the vegetative buffer zone on a parcel with 10 or more acres of forested land consistent with “generally accepted forestry management practices” as defined in Chapter NR 1.25(2)(b), Wisconsin Administrative Code, and described in department publication *Wisconsin Forest Management Guidelines* (publication FR-226), provided that vegetation removal be consistent with these practices.
 4. The county may allow removal of vegetation within the vegetative buffer zone to manage exotic or invasive species, damaged vegetation, vegetation that must be removed to control disease, or vegetation creating an imminent safety hazard, provided that any vegetation removed be replaced by replanting in the same area as soon as practicable.
 5. The county may authorize by permit additional vegetation management activities in the vegetative buffer zone. The permit issued under this subd. par. shall require that all management activities comply with detailed plans approved by the county and designed to control erosion by limiting sedimentation into the waterbody, to improve the plant community by replanting in the same area, and to maintain and monitor the newly restored area. The permit also shall require an enforceable restriction to preserve the newly restored area.
- B. Note: Section 59.692(1f)(a), Wis. Stats, prohibits counties from requiring a property owner to establish a vegetative buffer zone on previously developed land or expand an existing vegetative buffer zone. However, as part of a county shoreland mitigation standards, the establishment or expansion of the vegetative buffer may remain an option (see Section 7.1000)
- C. In shoreland areas more than 35 feet inland from the ordinary high water mark, cutting of trees and shrubs shall be allowed when accomplished using accepted forest management and soil conservation practices which protect water quality.

7.0403 STREETS AND PATHS

Streets and paths within 35 feet of the ordinary high water mark shall be constructed and surfaced in a manner that controls runoff, erosion, and sedimentation.

7.0404 EXCEPTIONS

The vegetation removal restriction specified in Section 7.0402 shall not apply to the removal of noxious weeds and dead, diseased, or non-native invasive vegetation, which may be removed at any time without a permit at the discretion of the landowner; to silvicultural thinning conducted based on the written recommendation of a forester; or to routine maintenance such as lawn mowing and trimming of shrubs. A list of invasive species is maintained by the DNR, and may be obtained from the DNR website or the zoning administrator.

**SECTION 7.0500 FILLING, GRADING, LAGOONING, DREDGING, DITCHING,
AND EXCAVATING**

7.0501 GENERAL STANDARDS

Filling, grading, lagooning, dredging, ditching or excavating which does not require a permit under Section 7.0502 may be permitted in the shoreland area provided that:

- A. It is not done within the vegetative buffer zone unless necessary for establishing or expanding the vegetative buffer.
- B. It is done in a manner designed to minimize erosion, sedimentation and impairment of fish and wildlife habitat.
- C. Filling, grading, lagooning, dredging, ditching or excavating in a shoreland-wetland district meets the requirements of Section 7.0703 of this ordinance.
- D. All applicable federal, state and local authority is obtained in addition to a permit under this ordinance.
- E. Any fill placed in the shoreland area is protected against erosion by the use of riprap, vegetative cover or a bulkhead.
- F. Any Activity shall comply with all floodplain zoning requirements set forth in this ordinance and shall not restrict a floodway or reduce the flood storage capacity of a floodplain.
- G. Filling, grading, lagooning, dredging, ditching, and excavating, may be permitted only in accordance with the provisions of Chapter NR 115.04, the requirements of Chapter 30, Wis. Stats, and other state and federal laws where applicable, and only if done in a manner designed to minimize erosion, sedimentation and impairment of fish and wildlife habitat and natural scenic beauty.

7.0502 ACTIVITIES REQUIRING A SHORELAND PERMIT

Except as provided in Section 7.0505, the following activities may be authorized under a shoreland permit provided the activity complies with the requirements of all other applicable local, state, and federal laws, including Chapter 30, Wis. Stats.:

- A. Filling, grading, or excavation of any area which is within 300 feet landward of the ordinary high water mark of a navigable water on which there is:
 - 1. Filling, grading, or excavation of more than 1,000 square feet on slopes of 12-20 percent or more.
 - 2. Filling, grading, or excavation of more than 2,000 square feet on slopes less than 12 percent.
 - 3. Any filling or grading on slopes of more than 20%.
- B. Changing, enlarging, or removing materials from navigable waters.
- C. For any construction or dredging on any artificial waterway, canal, ditch, lagoon, pond, lake, or similar waterway which is within 300 feet landward of the ordinary high water

mark of navigable waters or where the purpose is the ultimate connection with navigable waters.

- D. Initial placement of rip-rap along the banks of navigable waters to reduce erosion.
- E. Stream bank stabilization projects, including but not limited to bio-engineering.
- F. Agricultural pollution control projects.
- G. Grading or excavating in the floodplain, provided no fill is placed in the floodplain.

7.0503 PERMIT APPLICATION

An application for a shoreland permit for activities listed in Section 7.0502 shall contain the following information:

- A. Existing site map: A map of existing site conditions at a scale of no less than one inch equals 100 feet showing the following:
 - 1. Site boundaries that accurately identify the site location.
 - 2. Location of lakes, streams, wetlands, channels, ditches, and other waterbodies or watercourses on and within 25 feet of the site.
 - 3. The limits and elevations of the floodplain, and, where known, floodway and flood fringe boundaries.
 - 4. Location and identification of predominant soil types.
 - 5. Existing vegetative cover.
 - 6. Location and dimensions of existing storm water drainage ditches and natural drainage patterns on and within 25 feet of the site.
 - 7. Location and dimensions of existing utilities, structures, streets, and pavement.
 - 8. Site topography with a maximum contour interval of two feet.
- A. Plan of final site conditions: A plan of final site conditions at the same scale as the existing site map shall be prepared which shows the proposed changes in the site.
- B. Site construction plan: A site construction plan at the same scale as the existing site map shall be prepared which shows the following:
 - 1. Locations and dimensions of all proposed land disturbing activities.
 - 2. Locations and dimensions of all temporary material stockpiles.
 - 3. Location and dimensions of proposed erosion control measures.
 - 4. A schedule of anticipated starting and completion dates of each land disturbing activity, including the dates of installation of erosion control measures.
 - 5. Provisions for maintenance of the erosion control measures during construction.
- C. For projects involving work in navigable waters, a copy of an approved Chapter 30 permit issued by the DNR, or a letter or e-mail from the DNR stating that a Chapter 30 permit is not required, shall also be submitted with the application for a shoreland permit.

7.0504 GENERAL STANDARDS FOR ACTIVITIES REQUIRING A SHORELAND PERMIT

- A. Any filling, grading, lagooning, dredging, ditching, or excavating shall be done in a manner designed to minimize erosion, sedimentation, and impairment of fish and wildlife habitat, and impacts on natural scenic beauty.
- B. All applicable federal, state, and local approvals and permits must be obtained.
- C. Any activity shall comply with all floodplain zoning requirements set forth in this ordinance and shall not restrict a floodway or destroy the flood storage capacity of a floodplain.
- D. Lagoons shall be constructed to avoid fish trap conditions.
- E. Fill shall be stabilized according to accepted engineering standards.

- F. Maintenance of control measures: All sediment basins and other erosion control measures necessary to meet the requirements of this section shall be maintained by the applicant or subsequent landowner during the period of land disturbance and land development of the site in a satisfactory manner to ensure adequate performance and to prevent nuisance conditions.
- G. Waste and material disposal: All waste and unused building materials, including garbage, debris, cleaning wastes, wastewater, toxic materials, or hazardous materials, shall be properly disposed of in a timely manner, and not allowed to be carried by runoff into a receiving channel or storm sewer system.
- H. Site erosion control: Erosion control measures shall meet the design criteria, standards, and specifications based on any of the following:
 1. The smallest amount of bare ground shall be exposed for as short 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. Channels or artificial watercourses shall be constructed with side slopes of two (2) units horizontal distance to one (1) unit vertical or flatter which shall be promptly vegetated, unless bulkheads or riprap are provided.

7.0505 EXEMPTIONS FROM A SHORELAND PERMIT

- A. Soil conservation practices: Soil conservation practices such as tiled terraces, runoff diversions, and grassed waterways used for erosion control shall not require a permit under Section 7.0502 when designed and constructed to U. S. Natural Resources Conservation Service technical standards.
- B. Agricultural drainage maintenance and repair: The maintenance 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 shall not require a permit under Section 7.0502, provided the maintenance work is conducted outside a shoreland-wetland or floodplain. Filling shall be the minimum necessary for the disposal of dredged spoils adjacent to the drainage system, and dredged spoil shall be placed on existing spoil banks to the extent possible.
- C. A shoreland 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 6 inches and on less than 12 percent slope outside a shoreland wetland or floodplain.. This does not apply to projects that change or increase the drainage in the project area or adjacent properties.
- D. A shoreland permit will not be required for placing gravel, pavers, bricks, asphalt or concrete over existing gravel roads or driveways outside the floodplain if it does not cause a change in grade of more than 6 inches or affect drainage on adjacent properties and does not require a county permit under Section 7.0502.
- E. Where a town, village, or city ordinance is more restrictive than this ordinance, that ordinance shall continue in full force and effect to the extent of the greater restrictions, but not otherwise. This provision includes the administration of general zoning ordinances adopted and enforced by each town in Ozaukee County. Each town general zoning ordinance includes a process for conditional use permits and other general zoning permits, and applies in addition to the shoreland permit process for uses in the shoreland required by Section 7.1104 of this ordinance.

SECTION 7.0600 IMPERVIOUS SURFACE STANDARDS

7.0601 PURPOSE

Establish impervious surface standards to protect water quality and fish and wildlife habitat and to protect against pollution of navigable waters. The following impervious surface standards shall apply to the construction, reconstruction, expansion, replacement or relocation of any impervious surface on a riparian lot or parcel and any non-riparian lot or parcel that is located entirely within 300 feet of the ordinary high-water mark of any navigable waterway.

7.0602 CALCULATION OF PERCENTAGE OF IMPERVIOUS SURFACE

Percentage of impervious surface shall be calculated by dividing the surface area of the existing and proposed impervious surfaces on the portion of a lot or parcel that is within 300 feet of the ordinary high-water mark by the total surface area of the lot or parcel, and multiplied by 100. Impervious surfaces described in Section 7.0605 shall be excluded from the calculation of impervious surface on the lot or parcel. If an outlot lies between the ordinary high water mark and the developable lot or parcel and both are in common ownership, the lot or parcel and the outlot shall be considered one lot or parcel for the purposes of calculating the percentage of impervious surface.

For properties within a condominium, the impervious surface calculations apply to the entire condominium property.

7.0603 GENERAL IMPERVIOUS SURFACE STANDARD

Except as otherwise allowed in Sections 7.0604 through 7.0605 the county shall allow up to 15 percent impervious surface on the portion of a lot or parcel that is within 300 feet of the ordinary high-water mark.

7.0604 MAXIMUM IMPERVIOUS SURFACE STANDARD

A property may exceed the impervious surface standard under 7.0603 provided the following standards are met:

- A. For properties where the general impervious surface standard applies under Section 7.0603 a property owner may have more than 15 percent impervious surface but not more than 30 percent impervious surface on the portion of a lot or parcel that is within 300 feet of the ordinary high-water mark.
- B. For properties that exceed the standard under Section 7.0603 but do not exceed the maximum standard under Section 7.0604(A) a permit can be issued for development with a mitigation plan that meets the standards found in Section 7.1000.

7.0605 TREATED IMPERVIOUS SURFACES

Impervious surfaces that can be documented to demonstrate they meet either of the following standards shall be excluded from the impervious surface calculations under Section 7.0602

- A. The impervious surface is treated by devices such as storm water ponds, constructed wetlands, infiltration basins, rain gardens, bio-swales or other engineered systems.
- B. The runoff from the impervious surface discharges to an internally drained pervious area that retains the runoff on or off the parcel and allows infiltration into the soil.

7.0606 EXISTING IMPERVIOUS SURFACES

For existing impervious surfaces that were lawfully placed when constructed but that do not comply with the impervious surface standard in Section 7.0603 or the maximum impervious surface standard in Section 7.0604 the property owner may do any of the following:

- A. Maintain and repair the existing impervious surfaces;
- B. Replace existing impervious surfaces with similar surfaces within the existing building envelope; or
- C. Relocate or modify an existing impervious surface with a similar or different impervious surface, provided that the relocation or modification does not result in an increase in the percentage of impervious surface that existed on the effective date of the county shoreland ordinance, and the impervious surface meets the applicable setback requirements in Sections 7.0306(A) or 7.0306(D).

Note: All ordinance provisions still apply to new or existing development and impervious surface provisions do not supersede other shoreland provisions.

SECTION 7.0700 SHORELAND-WETLAND DISTRICT

7.0701 PURPOSE

This district is created to maintain safe and healthful conditions; to prevent and control water pollution by filtering or storing sediments, nutrients, heavy metals or organic compounds that would otherwise drain into navigable waters; to maintain storm and flood water storage capacity; to protect fish spawning grounds and wildlife habitat; to preserve shore cover and natural beauty; to control building sites and the placement of structures and land uses; to prohibit certain uses detrimental to the shoreland-wetland area; and to minimize adverse impacts upon wetlands when development is permitted in wetlands.

7.0702 DESIGNATION OF SHORELAND-WETLANDS

This district shall include all shorelands within the jurisdiction of this ordinance which are designated as wetlands on the most recent version of the Wisconsin Wetlands Inventory as depicted on the DNR Surface Water Data Viewer. Boundaries of the shoreland-wetland zoning district are shown on the Ozaukee County Shoreland and Floodplain Zoning maps labeled with the letter “C” and are based on the Wisconsin Wetlands Inventory maps for Ozaukee County, air photo interpretations, and field delineations. All wetlands located in whole or in part within the shoreland area described in Section 7.0201 have been placed in the Shoreland-Wetland District.

Locating shoreland-wetland boundaries: Where an apparent discrepancy exists between the shoreland-wetland district boundary shown on the Wisconsin Wetlands Inventory and actual field conditions, the county shall contact the DNR to determine if the map is in error. If the DNR determines that a particular area was incorrectly mapped as wetland or meets the wetland definition but was not shown as wetland on the map, the county shall have the authority to immediately grant or deny a shoreland permit in accordance with the applicable regulations based on the DNR determination as to whether the area is wetland. In order to correct wetland mapping errors on the official zoning map, an official zoning map amendment must be initiated within a reasonable period of time.

7.0703 PRINCIPAL USES

The following uses shall be allowed, subject to the floodplain requirements in Section 7.0800 and all other requirements of this ordinance, the provisions of Chapters 30, 31, and Section 281.36, Wis. Stats., and the provisions of other applicable local, state, and federal laws:

- A. Activities and uses which do not require a shoreland permit, but which must be carried out without any filling, flooding, draining, dredging, ditching, tiling, or excavating:
 - 1. Hiking, fishing, trapping, hunting, swimming, and boating.
 - 2. Harvesting wild crops, including but not limited to marsh hay, ferns, moss, wild rice, berries, tree fruits, and tree seeds, in a manner that is not injurious to the natural reproduction of such crops.
 - 3. Pasturing livestock.
 - 4. Cultivating agricultural crops.
 - 5. Practicing silviculture, including planting, thinning, and harvesting timber.
 - 6. Constructing or maintaining duck blinds.
- B. Uses which do not require a shoreland permit, but which may include limited filling, flooding, draining, dredging, ditching, tiling, or excavating, but only to the extent specifically provided below:
 - 1. Temporary water level stabilization measures necessary to alleviate abnormally wet or dry conditions that would have an adverse impact on silvicultural activities if not corrected.
 - 2. Cultivating cranberries, including flooding, dike and dam construction, or ditching necessary for growing and harvesting cranberries.
 - 3. Maintaining and repairing existing agricultural drainage systems, including ditching and tiling, necessary to maintain the level of drainage required to continue the existing agricultural use. This includes the minimum filling necessary for disposal of dredged spoil adjacent to the drainage system, provided that the dredged spoil is placed on existing spoil banks where possible.
 - 4. Constructing or maintaining fences for pasturing livestock, including limited excavating and filling necessary for such construction or maintenance.
 - 5. Constructing or maintaining piers, docks, wharfs, or walkways built on pilings, including limited excavating and filling necessary for such construction and maintenance.
 - 6. Maintaining, repairing, replacing, or reconstructing existing streets, highways, and bridges, including limited excavating and filling necessary for such maintenance, repair, replacement, or reconstruction.
- C. Uses which require a shoreland permit under Section 7.1104, and which may include limited filling, flooding, draining, dredging, ditching, tiling, or excavating, but only to the extent specifically provided below:
 - 1. Constructing and maintaining roads which are necessary to conduct silvicultural activities or agricultural cultivation, provided that:
 - (a) The road cannot as a practical matter be located outside the wetland.
 - (b) The road is designed and constructed to minimize adverse impact upon the natural functions of the wetland enumerated in Subsection 7.1305 B.
 - (c) The road is designed and constructed with the minimum cross-section practical to serve the intended use.
 - (d) Road construction activities are carried out in the immediate area of the roadbed only.
 - 2. Constructing or maintaining nonresidential buildings, provided that:

- (a) The building is used solely in conjunction with raising waterfowl, minnows, or other wetland or aquatic animals; or another use permitted in the shoreland-wetland district.
 - (b) The building cannot, as a practical matter, be located outside the wetland.
 - (c) The building is not designed for human habitation and does not exceed 500 square feet in floor area.
 - (d) Only limited filling or excavating necessary to provide structural support for the building is authorized.
3. Establishing public and private parks and recreation areas, natural and outdoor education areas, historic and scientific areas, wildlife refuges, bird and animal farms, fur animal farms, fish hatcheries, private wildlife habitat areas, and public boat launching ramps and attendant access drives, provided that:
- (a) Any private development is used exclusively for the permitted use and the applicant has received a permit or license under Chapter 29, Wis. Stats., where applicable.
 - (b) Filling or excavating necessary for constructing or maintaining public boat launching ramps or attendant access streets is allowed only where such construction or maintenance meets the criteria in Section 7.0703C.1.(a) through (d) above.
 - (c) Ditching, excavating, dredging, or dike and dam construction in public and private parks and recreation areas, natural and outdoor education areas, historic and scientific areas, wildlife refuges, game preserves, and private wildlife habitat areas shall be allowed only for the purpose of improving wildlife habitat or to otherwise enhance wetland values.
4. Constructing or maintaining electric, gas, telephone, water, and sewer transmission and distribution facilities, by public utilities and cooperative associations organized for the purpose of producing or furnishing heat, light, power, or water to their members, and constructing or maintaining railroad lines provided that:
- (a) The transmission and distribution facilities and railroad lines cannot, as a practical matter, be located outside the wetland.
 - (b) Such construction or maintenance is done in a manner designed to minimize flooding and other adverse impacts upon the natural functions of the wetland enumerated in Subsection 7.1305 B.

7.0704 PROHIBITED USES

Any use not listed in Section 7.0703 is prohibited, unless the wetland or portion of the wetland has been rezoned in accordance with Section 7.1300 of this ordinance and Section 59.69(5)(e), Wis. Stats.

7.0705 REZONING LANDS IN THE SHORELAND-WETLAND DISTRICT

All proposed rezoning of lands in the Shoreland-Wetland District shall comply with the requirements of Section 7.1300.

SECTION 7.0800 FLOODPLAIN DISTRICTS

7.0801 FLOODPLAIN AREAS TO BE REGULATED

Areas regulated by this section include all areas within the jurisdiction of this ordinance as set forth in Section 7.0201 that would be covered by the regional flood or base flood and all floodplain islands where emergency and relief routes would be inundated by the regional flood.

7.0802 DETERMINATION OF FLOODPLAIN BOUNDARIES

Discrepancies between boundaries on the official floodplain zoning map and actual field conditions shall be resolved by the zoning administrator using the criteria in Subsections A. or B. below. The zoning administrator can rely on a boundary derived from a profile elevation to grant or deny a shoreland permit, whether or not a map amendment is required. The zoning administrator shall be responsible for documenting actual pre-development field conditions and the basis upon which the floodplain district boundary was determined and for initiating any map amendments required under this section. Where the zoning administrator finds that there is a significant difference between the map and the actual field conditions, the map shall be amended using the procedures established in Section 7.1300. Disputes between the zoning administrator and an applicant over the floodplain district boundary shall be settled according to Section 7.1205 B. and the following criteria:

- A. Where flood profiles exist, the location of the district boundary shall be determined by the zoning administrator using the scale appearing on the map and the elevations shown on the water surface profile of the regional flood. The regional or base flood elevations shall govern if there are any discrepancies
- B. Where flood profiles do not exist, the location of the district boundary shall be determined by the zoning administrator using the scale appearing on the map, visual onsite inspection, and any available information provided by the Southeastern Wisconsin Regional Planning Commission or the DNR.

7.0803 REMOVAL OF LANDS FROM THE FLOODPLAIN

Compliance with the provisions of this ordinance shall not be grounds for removing land from the floodplain, unless they are removed by filling to at least the flood protection elevation, the fill is contiguous to land lying outside the floodplain, and the map is amended pursuant to Section 7.1300. To remove flood insurance requirements, the property owner must contact FEMA to request a Letter of Map Change (LOMC).

7.0804 WATERCOURSE ALTERATIONS

Prior to any alteration or relocation of a navigable watercourse that would result in a change to the base flood elevation or location, and prior to the issuance of any shoreland permit for such project, the zoning administrator shall notify in writing the municipality within which the proposal is located, the DNR, and FEMA, and require the applicant to apply for all necessary state and federal permits. The flood carrying capacity of any altered or relocated watercourse shall be maintained. As soon as practicable, but not later than six months after the date of the watercourse alteration or relocation that would result in a change to the base flood elevation or location, the zoning administrator shall notify FEMA of the changes by submitting appropriate technical or scientific data in accordance with NFIP guidelines that may be used to revise the FIRM, risk premium rates, and/or floodplain management regulations.

7.0805 DEVELOPMENT REQUIRING A CHAPTER 30 OR CHAPTER 31 PERMIT

Development which requires a permit from the DNR in accordance with Chapter 30 or 31, Wis. Stats., such as piers, wharfs, bridges, culverts, dams, and navigational aids, may be allowed if the necessary permits are obtained and amendments to the floodway lines, water surface profiles, base flood elevations established in the FIS or other data from the officially adopted FIRM, and Ozaukee County Shoreland and Floodplain Zoning maps are approved according to Section 7.1300.

7.0806 HYDRAULIC AND HYDROLOGIC ANALYSIS

- A. No floodplain development, except as provided in Subsection C. below, shall:
 - 1. Obstruct flow, defined as development which blocks the conveyance of floodwaters by itself or with other development, increasing the height of the regional flood.
 - 2. Cause any increase in the regional flood height due to floodplain storage area lost.
- B. The zoning administrator shall deny permits where it is determined the proposed development will obstruct flow or cause any increase in the regional flood height, except as provided in Subsection C. below. To assist in this determination, applicants shall provide a cross-section elevation view, perpendicular to the watercourse, showing if the proposed development will obstruct flow, or an analysis calculating the effects of the proposal on the regional flood height.
- C. Obstructions or increases in the regional flood height may only be permitted if amendments are made to the Ozaukee County Shoreland and Floodplain Zoning maps, including floodway lines and water surface profiles, in accordance with Section 7.1300.
- D. This section refers to obstructions or increases in base flood elevations as shown on the officially adopted FIRM and the Ozaukee County Shoreland and Floodplain Zoning maps.

7.0807 ESTABLISHMENT OF DISTRICTS

The regional floodplain is hereby divided into the following three districts:

- A. The floodway district consists of the channel of a river or stream and those portions of the floodplain adjoining the channel required to carry the regional floodwaters.
- B. The flood fringe district consists of that portion of the floodplain between the regional flood limits and the floodway.
- C. The general floodplain district consists of all areas that have been or may be hereafter covered by floodwaters during the regional flood, where no detailed studies have been conducted to differentiate the floodway and flood fringe portions of the floodplain.

7.0808 FLOODWAY DISTRICT

- A. Applicability: The requirements of this section apply to all areas mapped as floodway on the Ozaukee County Shoreland and Floodplain Zoning maps as approved by FEMA and to those portions of the General Floodplain District determined to be floodway in accordance with Section 7.0810. The FIRM maps shall be used to determine the location of the floodway until such time as the shoreland and floodplain zoning maps are approved by FEMA.
- B. Standards for development: Any development in the floodway district shall comply with Sections 7.0804, 7.0805, and 7.0806 and have low flood damage potential. When considering a shoreland permit application for a use within a floodway, the following additional requirements shall apply: No fill or structures shall be permitted in the floodway other than those specifically allowed under Section 7.0808.

- C. Principal uses: The following open space uses are allowed without a shoreland permit provided the provisions of all other applicable local, state, and federal laws are met, including local zoning ordinances:
1. Agricultural uses, such as farming, outdoor plant nurseries, horticulture, viticulture, and wild crop harvesting.
 2. Drainage, including movement of flood water.
 3. Navigation.
 4. Non-structural industrial and commercial uses, such as parking and loading areas.
 5. Non-structural public and private recreational uses, such as golf courses, tennis courts, archery ranges, picnic grounds, swimming beaches, parks, wildlife and nature preserves, game farms, fish hatcheries, shooting, trap and skeet activities, hunting and fishing areas, and hiking and horseback riding trails.
- D. Uses requiring a shoreland permit:
1. An accessory structure associated with a permitted open space use or functionally dependent on a waterfront location, or a historic structure, subject to the following conditions:
 - (a) The structure is not designed for human habitation.
 - (b) The structure does not have a high flood damage potential.
 - (c) The structure is properly anchored to resist flotation, collapse, and lateral movement.
 - (d) Any portion of the structure located below the regional flood elevation must be constructed of flood resistant materials.
 - (e) The structure must be designed to allow for the automatic entry of flood waters.
 - (f) All mechanical and utility equipment must be elevated or flood proofed to or above the regional flood elevation.
 - (g) The structure shall not obstruct the flow of flood waters or cause any increase in flood levels during the occurrence of the regional flood.
 - (h) The use of the structure shall be limited to parking and/or limited storage.
 2. Functionally water-dependent uses that comply with Chapters 30 and 31, Wis. Stats., including piers, wharfs, dams, flowage areas, culverts, navigational aids, and river crossings of transmission lines and pipelines, provided the necessary permits are obtained from the DNR and the water surface profiles and the Ozaukee County Shoreland and Floodplain Zoning maps are amended to reflect any resulting increases in the regional flood elevation.
 3. Public utilities, streets, and bridges, provided that:
 - (a) Adequate floodproofing measures are provided to at least the flood protection elevation.
 - (b) Construction does not increase the regional flood height, unless the water surface profiles and the Ozaukee County Shoreland and Floodplain Zoning maps are amended to reflect such changes.
 4. Extraction of sand, gravel or other materials, or fill or deposition of materials, provided that:
 - (a) No material is deposited in the navigable channel unless a permit has been issued in accordance with Chapter 30, Wis. Stats.
 - (b) Required federal permits have been granted.

- (c) Fill or deposited materials shall be protected against erosion by riprap, vegetative cover, sheet piling, or bulkheading.
 - (d) The fill is not classified as a solid or hazardous waste material.
5. Public or private campgrounds provided the campground has a low flood damage potential and meets the following requirements:
- (a) The campground has been approved by the Wisconsin Department of Health Services.
 - (b) The character of the river system and the elevation of the campground are such that a 72-hour warning of an impending flood can be given to all campground occupants.
 - (c) 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 Ozaukee County emergency government coordinator and the chief law enforcement official which specifies the flood elevation at which evacuation shall occur, personnel responsible for monitoring flood elevations, types of warning systems to be used and the procedures for notifying at-risk parties, and the methods and personnel responsible for conducting the evacuation. The agreement shall be for no more than one calendar year, at which time the agreement shall be reviewed and updated to remain in compliance with all applicable regulations, including those of the Wisconsin Department of Health Services.
 - (d) Only camping units that are fully licensed, if required, and ready for highway use are allowed.
 - (e) The camping units may 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.
 - (f) All camping units that remain on site for more than 30 days shall be issued a limited authorization by the campground operator, a written copy of which is kept on file at the campground. Such authorization shall allow placement of a camping unit for a period not to exceed 180 days and shall ensure compliance with all the provisions of this section.
 - (g) The county shall monitor the limited authorizations issued by the campground operator to assure compliance with the terms of this section.
 - (h) 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.
 - (i) 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.
 - (j) The campground is approved by the local government concerned.
6. Portable latrines that are removed prior to flooding, and public or private sewage systems and facilities associated with recreational uses and campgrounds that meet the applicable provisions of county ordinances and Chapter SPS 383, Wisconsin Administrative Code.
7. Wastewater treatment ponds and facilities permitted under Chapter NR 110.15(3)(b), Wisconsin Administrative Code.

8. Public or private wells associated with recreational uses, provided the wells meet the requirements of county ordinances and Chapters NR 811 and NR 812, Wisconsin Administrative Code.
- E. Prohibited uses:
1. Uses not listed in Sections 7.0808.C. or 7.0808.D.
 2. Structures designed for human habitation and structures with high flood damage potential.
 3. Storage of any materials which are buoyant, flammable, explosive, or injurious to property, water quality, or human, animal, plant, fish, or other aquatic life.
 4. Public or private onsite sewage systems and facilities, other than those listed in Section 7.0808.D.
 5. Wastewater treatment ponds and facilities, other than those listed in Section 7.0808.D.
 6. Public or private wells used to obtain water for ultimate human consumption, other than those listed in Section 7.0808.C.
 7. Public or private solid or hazardous waste disposal sites.
 8. Any sanitary sewer or water supply lines, except those to serve existing or proposed development located outside the floodway which comply with the regulations for the floodplain area occupied.
 9. Any use which is not in harmony with, or which may be detrimental to, the uses permitted in adjoining zoning districts.

7.0809 FLOOD FRINGE DISTRICT

- A. Applicability: The requirements of this section apply to all areas mapped as flood fringe on the Ozaukee County Shoreland and Floodplain Zoning maps, and to those portions of the General Floodplain District determined to be flood fringe in accordance with Section 7.0810.
- B. Standards for development: Any development in the flood fringe district shall comply with Sections 7.0804, 7.0805, and 7.0806 and have a low flood damage potential.
- C. Principal uses: Use is not prohibited by this or any other ordinance or regulation, and all permits or certificates specified in Section 7.1104 have been issued.
- D. Standards for development in the flood fringe. Section 7.0806 shall apply in addition to the following requirements. Any existing structure in the flood fringe must meet the requirements of Section 7.0902.
 1. New residential, structures subject to the following requirements:
 - (a) The elevation of the lowest floor shall be placed on fill at or above the flood protection elevation, unless the requirements of Section 7.0809 D.1.b. can be met. The fill shall be one foot above the regional flood elevation extending at least 15 feet beyond the limits of the structure
 - (b) The basement or crawlspace floor may be placed at the regional flood elevation if it is dry flood proofed to a point at or above the flood protection elevation. No basement or crawlspace floor shall be located below the regional flood elevation.
 - (c) Contiguous dryland access meeting the requirements of Section 7.0812 shall be provided from the structure to land located outside the floodplain, except that in developments where existing street or sewer line elevations make compliance with this requirement impractical, the land and water management department may permit new development and substantial improvements

where streets are below the regional flood elevation, provided that the county receives written assurance from police, fire, and emergency services that rescue and relief will be provided to the structure by wheeled vehicles, considering the anticipated depth, duration, and velocity of the regional flood event; or the county or municipality concerned has an emergency evacuation plan approved by the DNR.

2. Commercial structures and uses shall meet the requirements of Section 7.0809 D.1. subject to the requirements of Section 7.0809 D.5., storage yards, surface parking lots, and similar uses may be placed at lower elevations if adequate warning systems exist to protect life and property.
3. Industrial structures provided the structure shall have the lowest floor elevated to or above the flood protection elevation or meets the floodproofing requirements of Section 7.0811. Subject to the requirements of Section 7.0809 D.5, storage yards, parking lots, and similar uses may be placed at lower elevations if adequate warning systems exist to protect life and property.
4. Accessory structures provided they are constructed on fill with the lowest floor at or above the regional flood elevation.
5. 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 accordance with Section 7.0811. Adequate measures shall be taken to assure that such materials will not enter the river or stream during flooding.
6. Public utilities, streets, and bridges, provided that where failure of public utilities, streets, or bridges would endanger public health or safety, or where such facilities are deemed essential, construction of and substantial improvements to such facilities may only be permitted if they are floodproofed to a point at or above the flood protection elevation. Public land access streets and nonessential utilities may be constructed at lower elevations if they withstand flood forces to the regional flood elevation.
7. Private onsite wastewater treatment systems, provided such systems are floodproofed in accordance with Section 7.0811 to a point at or above the flood protection elevation and meet the requirements of county ordinances and Chapter SPS 383, Wisconsin Administrative Code.
8. Public and private wells, provided such wells are floodproofed in accordance with Section 7.0811 to a point at or above the flood protection elevation and meet the requirements of county ordinances and Chapters NR 811 and NR 812, Wisconsin Administrative Code.
9. Public or private campgrounds, provided the campground has a low flood damage potential and meets the requirements set forth in Subsection 7.0808 D. 5.
10. Camping in a camping unit outside a campground subject to the following conditions:
 - (a) Camping is approved by the local government concerned.
 - (b) The camping unit consists of an easily movable tent or recreational vehicle.
 - (c) The camping unit shall not occupy the site for more than 180 days, or the time period imposed by the local government if the local government imposes a shorter time period.

11. Mobile homes, manufactured homes, and recreational vehicles that remain on a site more than 180 days, subject to the following:
 - (a) The use is approved by the local government concerned.
 - (b) Owners or operators of all mobile or manufactured home parks and subdivisions shall provide adequate surface drainage to minimize flood damage, and prepare, secure approval of, and file an evacuation plan, indicating vehicular access and escape routes, with the appropriate local emergency management authorities.
 - (c) In existing mobile home parks, all new homes, replacement homes on existing pads, substantially improved homes, and recreational vehicles that remain onsite more than 180 days or are unlicensed or not ready for highway use and which are placed or improved on a site located in the floodplain, shall have the elevation of the lowest floor located at or above the flood protection elevation, and the home shall be anchored so it does not float, collapse, or move laterally during a flood.
 - (d) Outside existing mobile home parks, including new mobile home parks and all mobile homes outside existing parks, all new, replacement, or substantially improved mobile and manufactured homes and recreational vehicles that remain onsite more than 180 days or are unlicensed or not ready for highway use, shall meet the requirements for residential structures set forth in Section 7.0809.D.1.
 - (e) A recreational vehicle shall be considered 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.
- E. Prohibited uses: The disposal of solid or hazardous waste is prohibited in flood fringe areas. Any deposited material must meet the requirements of this ordinance.

7.0810 GENERAL FLOODPLAIN DISTRICT

- A. Applicability: The requirements of this section shall apply to all floodplains for which regional flood data are not available, or to floodplains where regional flood data are available, but floodways have not been delineated. As adequate data becomes available, appropriate floodway and flood fringe districts shall be delineated.
- B. Principal uses: The uses permitted under Sections 7.0808.C and 7.0808.D shall apply within areas determined to be located in the floodway, and the uses permitted under Sections 7.0809.C and 7.0809.D shall apply within areas determined to be located in the flood fringe, provided that all permits required under Section 7.1104 have been issued. The determination of floodway or flood fringe shall be made in accordance with Subsection 7.0810 C. In addition:
 1. In AO/AH zones, the lowest floor of the structure must meet the highest of the following elevations:
 - (a) At or above the flood protection elevation.
 - (b) Two feet above the highest adjacent grade around the structure.
 - (c) The depth as shown on the FIRM.
 2. In AO/AH zones, the applicant shall submit plans showing adequate drainage paths to guide floodwaters around structures.

- C. Determining floodway and flood fringe limits: Upon receiving an application for development within the General Floodplain District, the zoning administrator shall:
1. Require the applicant to submit two copies of an aerial photograph or a plan which shows the proposed development with respect to the General Floodplain District limits, stream channel, and existing floodplain developments, along with a legal description of the property, fill limits and elevations, building floor elevations and floodproofing 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 DNR to evaluate the effects of the proposal upon flood height and flood flows, the regional flood elevation, and to determine floodway boundaries:
 - (a) A hydrologic and hydraulic study as specified in Section 7.0810.D, and any additional information required by the DNR.
 - (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, and water supply and sanitary facilities.
- D. Hydraulic and hydrologic studies to analyze development. All hydraulic and hydrologic studies shall be completed under the direct supervision of a professional engineer registered in the state. The study contractor shall be responsible for the technical adequacy of the study. All studies shall be reviewed and approved by the DNR.
1. Zone A floodplains:
 - (a) Hydrology: The appropriate method shall be based on the standards in Chapter NR 116.07(3), Wisconsin Administrative Code, *Hydrologic Analysis: Determination of Regional Flood Discharge*.
 - (b) Hydraulic modeling: The regional flood elevation shall be based on the standards in Chapter NR 116.07(4), Wisconsin Administrative Code, *Hydraulic Analysis: Determination of Regional Flood Elevation* and the following:
 - i. Determination of the required limits of the hydraulic model shall be based on detailed study information for downstream structures (dam, bridge, culvert) to determine adequate starting WSEL for the study.
 - ii. Channel sections must be surveyed.
 - iii. Minimum four foot contour data in the overbanks shall be used for the development of cross section overbank and floodplain mapping.
 - iv. A maximum distance of 500 feet between cross sections is allowed in developed areas with additional intermediate cross sections required at transitions in channel bottom slope, including a survey of the channel at each location.
 - v. The most current version of HEC-RAS shall be used.
 - vi. A survey of bridge and culvert openings and the top of road are required at each structure.
 - vii. Additional cross sections are required at the downstream and upstream limits of the proposed development and any necessary intermediate locations based on the length of the reach if greater than 500 feet.
 - viii. Standard accepted engineering practices shall be used when assigning

- parameters for the base model such as flow, Manning's N values, expansion and contraction coefficients or effective flow limits. The base model shall be calibrated to past flooding data such as high water marks to determine the reasonableness of the model results. If no historical data is available, adequate justification shall be provided for any parameters outside standard accepted engineering practices.
- ix. The model must extend past the upstream limit of the difference in the existing and proposed flood profiles in order to provide a tie-in to existing studies. The height difference between the proposed flood profile and the existing study profiles shall be no more than 0.00 feet.
- (c) Mapping: A work map of the reach studied shall be provided, showing all cross section locations, floodway/floodplain limits based on best available topographic data, geographic limits of the proposed development and whether the proposed development is located in the floodway.
 - i. If the proposed development is located outside of the floodway, then it is determined to have no impact on the regional flood elevation.
 - ii. If any part of the proposed development is in the floodway, it must be added to the base model to show the difference between existing and proposed conditions. The study must ensure that all coefficients remain the same as in the existing model, unless adequate justification based on standard accepted engineering practices is provided.
2. Zone AE Floodplains
- (a) Hydrology: If the proposed hydrology will change the existing study, the appropriate method to be used shall be based on Chapter NR 116.07(3), Wisconsin Administrative Code, *Hydrologic Analysis: Determination of Regional Flood Discharge*.
 - (b) Hydraulic model: The regional flood elevation shall be based on the standards in Chapter NR 116.07(4), Wisconsin Administrative Code, *Hydraulic Analysis: Determination of Regional Flood Elevation* and the following:
 - i. Duplicate effective model: The effective model shall be reproduced to ensure correct transference of the model data and to allow integration of the revised data to provide a continuous FIS model upstream and downstream of the revised reach. If data from the effective model is available, models shall be generated that duplicate the FIS profiles and the elevations shown in the Floodway Data Table in the FIS report to within 0.1 foot.
 - ii. Corrected effective model: The corrected effective model shall not include any man-made physical changes since the effective model date, but shall import the model into the most current version of HEC-RAS for department review.
 - iii. Existing (pre-project conditions) model: The existing model shall be required to support conclusions about the actual impacts of the project associated with the revised (post-project) model or to establish more up-to-date models on which to base the revised (post-project) model.
 - iv. Revised (post-project conditions) model: The revised (post-project conditions) model shall incorporate the existing model and any proposed changes to the topography caused by the proposed development. This model shall reflect proposed conditions.

- v. All changes to the duplicate effective model and subsequent models must be supported by certified topographic information, bridge plans, construction plans, and survey notes.
 - vi. Changes to the hydraulic models shall be limited to the stream reach for which the revision is being requested. Cross-sections upstream and downstream of the revised reach shall be identical to those in the effective model and result in water surface elevations and 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.
- (c) Mapping: Maps and associated engineering data shall be submitted to the DNR for review which meet the following conditions:
- i. Consistency between the revised hydraulic models, the revised floodplain and floodway delineations, the revised flood profiles, topographic work map, annotated FIRMs and/or Flood Boundary Floodway Maps (FBFMs), construction plans, and bridge plans.
 - ii. Certified topographic map of suitable scale, contour interval, and a planimetric map showing the applicable items. If a digital version of the map is available, it may be submitted in order that the FIRM may be more easily revised.
 - iii. Annotated FIRM panel showing the revised 1% and 0.2% annual chance floodplains and floodway boundaries.
 - iv. If an annotated FIRM and/or FBFM and digital mapping data (GIS or CADD) are used then all supporting documentation or metadata must be included with the data submission along with the Universal Transverse Mercator (UTM) projection and State Plane Coordinate System in accordance with FEMA mapping specifications.
 - v. The revised floodplain boundaries shall tie into the effective floodplain boundaries.
 - vi. All cross sections from the effective model shall be labeled in accordance with the effective map and a cross section lookup table shall be included to relate to the model input numbering scheme.
 - vii. Both the current and proposed floodways shall be shown on the map.
 - viii. The stream centerline, or profile baseline used to measure stream distances in the model shall be visible on the map.

7.0811 FLOODPROOFING REQUIREMENTS

Where floodproofing by means other than filling is permitted, floodproofing measures shall be in accordance with the following:

- A. No permit or variance shall be issued for a non-residential structure designed to be water tight below the regional flood elevation until the applicant submits a plan certified by a registered professional engineer or architect certifying that the floodproofing measures are adequately designed to protect the structure or development to a point at or above the flood protection elevation and a FEMA floodproofing certificate. Minimize or eliminate infiltration of flood waters.
- 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.

2. Meeting or exceeding 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.
 - (c) Openings may be equipped with screens, louvers, valves, or other coverings or devices provided they permit the automatic entry and exit of floodwaters.
- C. Floodproofing measures shall be designed, as appropriate, to:
 1. Withstand the flood pressure depths, velocities, uplift and impact forces, and other factors associated with the regional flood.
 2. Assure protection to the flood elevation.
 3. Anchor structures to foundations to resist floatation and lateral movement.

7.0812 DRYLAND ACCESS REQUIREMENTS

Where dryland access from a structure to land located outside a floodplain is required, the applicant shall install an accessway with its surface at or above the regional flood elevation which is wide enough to accommodate wheeled rescue and relief vehicles. The accessway shall be kept clear of vegetation, other than turf grass. The zoning administrator may require the accessway to be surfaced with a durable surface and may require the installation of culverts and other improvements necessary to provide access for emergency vehicles.

SECTION 7.0900 NONCONFORMING USES AND STRUCTURES

7.0901 REQUIREMENTS FOR NONCONFORMING USES AND STRUCTURES LOCATED WITHIN THE SHORELAND ZONE

- A. Discontinuance: If a nonconforming use or the use of a nonconforming structure is discontinued for 12 consecutive months, any future use of the property or structure shall conform to this ordinance.
- B. Nuisances: Uses which are nuisances shall not be permitted to continue as nonconforming uses.
- C. Maintenance, repair, replacement, or vertical expansion of nonconforming structures: An existing structure that was lawfully placed when constructed but that does not comply with the required shoreland setback may be maintained, repaired, replaced, restored, rebuilt, or remodeled if the activity does not expand the footprint of the nonconforming structure. Further, an existing structure that was lawfully placed when constructed but that does not comply with the required shoreland setback may be vertically expanded unless the vertical expansion would extend more than 35 feet above grade level. The county may allow expansion of a structure beyond the existing footprint if the expansion is necessary to comply with applicable state or federal requirements. No approvals or fees are required, per the statute change in Section 59.692(1k)(a)2,4 and (b)
- D. Lateral expansion of nonconforming principal structures within the setback: An existing principal structure that was lawfully placed when constructed but that does not comply with the required building setback per Section 7.0306 may be expanded laterally, provided that all of the following requirements are met:
 1. The use of the structure has not been discontinued for a period of 12 months or more if a nonconforming use.
 2. The existing principal structure is at least 35 feet from the ordinary high-water mark.
 3. Lateral expansions are limited to a maximum of 200 square feet over the life of the

- structure. No portion of the expansion may be any closer to the ordinary high-water mark than the closest point of the existing principal structure.
4. The county may issue a permit that requires a mitigation plan that shall be approved by the county and implemented by the property owner by the date specified in the permit. The mitigation plan shall meet the standards found in Section 7.1010.
 5. All other provisions of this ordinance shall be met.
- E. Expansion of a nonconforming principal structure beyond setback: An existing principal structure that was lawfully placed when constructed but that does not comply with the required building setback under Section 7.0306 may be expanded horizontally, landward, or vertically provided that the expanded area meets the building setback requirements per Section 7.0306 and that all other provisions of the shoreland ordinance are met. A mitigation plan is not required solely for expansion under this paragraph, but may be required per Section 7.0600.
- F. Relocation of nonconforming principal structures: An existing principal structure that was lawfully placed when constructed but that does not comply with the required building setback per Section 7.0306 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 Section 7.0306.
 5. The county may issue a permit that requires a mitigation plan that shall be approved by the county and implemented by the property owner by the date specified in the permit. The mitigation plan shall meet the standards found in Section 7.1000 and include enforceable obligations of the property owner to establish or maintain measures that the county determines are adequate to offset the impacts of the permitted expansion on water quality, near-shore aquatic habitat, upland wildlife habitat and natural scenic beauty. The mitigation measures shall be proportional to the amount and impacts of the replaced or relocated structure being permitted. The obligations of the property owner under the mitigation plan shall be evidenced by an instrument recorded with the register of deeds.
 6. All other provisions of this ordinance shall be met.
- G. Maintenance, repair, replacement or vertical expansion of structures that were authorized by variance: A structure of which any part has been authorized to be located within the shoreland setback area by a variance granted before July 13, 2015, may be maintained, repaired, replaced, restored, rebuilt or remodeled if the activity does not expand the footprint of the authorized structure. Additionally, the structure may be vertically expanded unless the vertical expansion would extend more than 35 feet above grade level. The county may allow expansion of a structure beyond the existing footprint if the expansion is necessary to comply with applicable state or federal requirements. No approvals or fees are required for maintenance, repair, replacement or vertical expansion of structures that were authorized by variance. Property owners may be required to obtain other permits or approvals and pay fees per other ordinance provisions.

- H. Nonconforming uses outside the floodplain may be expanded or enlarged: Such expansions and enlargements shall conform to the structural setback requirements set forth in this ordinance, and shall not intrude further upon the required shoreland setback unless a variance is granted by the board of adjustment in accordance with Section 7.1206.
- I. Nonconforming uses and structures in the floodplain: Nonconforming uses and structures located in the floodplain shall comply with the requirements of Section 7.0902.

7.0902 REQUIREMENTS FOR NONCONFORMING USES AND STRUCTURES LOCATED WITHIN THE FLOODPLAIN

- A. Applicability: The following requirements shall apply to all modifications or additions to any nonconforming use or structure within the floodplain and to the use of any structure or premises in the floodplain that was lawful before the adoption of this ordinance or any amendments thereto.
- B. Requirements applicable to nonconforming uses and structures located in a floodplain:
 1. The existing lawful use of a structure or its accessory use which is not in conformity with the provision of this ordinance may continue subject to the following conditions.
 2. No modifications or additions to a nonconforming use or structure shall be permitted unless they comply with this ordinance. The words “modification” and “addition” include, but are not limited to, any alteration, addition, modification, structural repair, rebuilding, or replacement of any such existing use or structure other than ordinary maintenance. Maintenance is not a modification. Ordinary maintenance includes painting, decorating, paneling, and other nonstructural components and the maintenance, repair, or replacement of existing private sewage or water supply systems or connections to public utilities. Any costs associated with repair of a damaged structure are not considered maintenance. The construction of a deck that does not exceed 200 square feet, and that is adjacent to the exterior wall of a principal structure, is not an extension, modification, or addition. The roof of the structure may extend over a portion of the deck in order to provide safe ingress and egress to the principal structure.
 3. No modification, addition, or maintenance to any nonconforming structure or any structure with a nonconforming use, which over the life of the structure would equal or exceed 50 percent of its present equalized assessed value, shall be allowed unless the entire structure is permanently changed to a conforming structure with a conforming use in accordance with the requirements of this ordinance. Contiguous dryland access shall be provided for residential and commercial uses in compliance with Section 7.0809.D.1(c). The costs of elevating the lowest floor of a nonconforming structure or a structure with a nonconforming use to the flood protection elevation are excluded from the 50 percent limitation.
 4. If on a per event basis the total value of the work being done under Paragraph B.3 equals or exceeds 50 percent of the present equalized assessed value the work shall not be permitted unless the entire structure is permanently changed to a conforming structure with a conforming use in compliance with the applicable requirements of this ordinance. Contiguous dry land access must be provided for residential and commercial uses in compliance with Section 7.0809. D.1(c).
 5. As requests are received for modifications or additions to nonconforming uses or nonconforming structures, a record shall be kept by the zoning administrator which lists the nonconforming uses and nonconforming structures, their present equalized

assessed value, and the cost and cumulative percent over the life of the building of those additions or modifications which have been permitted. This information shall be recorded by the zoning administrator with the register of deeds, with the cost of recording to be paid by the applicant.

6. If a nonconforming use or the use of a nonconforming structure is discontinued for 12 consecutive months, any future use of the property or structure shall conform to this ordinance.
 7. Uses which are nuisances shall not be permitted to continue as nonconforming uses.
 8. The maintenance and repair of nonconforming boathouses that extend waterward beyond the ordinary high water mark of any navigable water shall comply with the requirements of Section 30.121, Wis. Stats., in addition to all other requirements of Section 7.0902B.
 9. Any expansion or enlargement of nonconforming structures in the floodplain allowed under this section shall conform to the structural setback requirements set forth in this ordinance, and shall not intrude further upon the required shoreland setback unless a variance is granted by the board of adjustment in accordance with Section 7.1206.
 10. If a 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 requirements of this ordinance, or unless Subsection 7.0902 E. applies. A structure is considered substantially damaged if the total cost to restore the structure to its pre-damaged condition exceeds 50 percent of the present equalized assessed value of the structure.
 11. A nonconforming historic structure may be substantially improved provided the alteration will not preclude the continued designation as a historic structure and is the minimum necessary to preserve the historic character and design of the structure. Repair or rehabilitation of historic structures shall be exempt from the development standards of Section 7.0811.
- C. Nonconforming uses and structures in the floodway or general floodplain:
1. No modification or addition shall be allowed to any nonconforming structure or any structure with a nonconforming use in a floodway or a general floodplain area, unless such modification or addition:
 - (a) Has been granted a permit or variance in accordance with this ordinance.
 - (b) Meets the requirements of Subsection 7.0902 B.
 - (c) Shall not increase the obstruction to flood flows or the height of the regional flood.
 - (d) Any addition to the existing structure shall be floodproofed pursuant to Section 7.0811 by means other than the use of fill to a point at or above the flood protection elevation and, if any part of the foundation below the flood protection elevation is enclosed the following shall apply:
 - i. The enclosed area shall be designed by a registered architect or professional 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.
 - ii. The parts of the foundation located below the flood protection elevation must be constructed of flood-resistant materials.

- iii. Mechanical and utility equipment must be elevated or floodproofed to or above the flood protection elevation.
 - iv. The use must be limited to parking, building access, or limited storage.
 - 2. No new POWTS, or addition to an existing POWTS shall be allowed in a floodway area, except where an addition has been ordered by a governmental agency to correct a hazard to public health. Any replacement, repair, or maintenance of an existing sewage system in a floodway area shall meet the applicable requirements of this ordinance, the county private sewage system ordinance, and Chapter SPS 383, Wisconsin Administrative Code.
 - 3. No new well or modification to an existing well used to obtain potable water shall be allowed in a floodway area. Any replacement, repair, or maintenance of an existing well in a floodway area shall meet the applicable requirements of this ordinance, the county private sewage system ordinance, and Chapters NR 811 and NR 812, Wisconsin Administrative Code.
- D. Nonconforming uses and structures in the flood fringe:
 - 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. In addition, the modification or addition shall be placed on fill or floodproofed to the flood protection elevation in compliance with the standards for that particular use in Section 7.0809, except where paragraph 2 below applies.
 - 2. Where compliance with the provisions of paragraph 1 above would result in unnecessary hardship and only where the structure will not be used for human habitation and is not associated with a high flood damage potential, the board of adjustment may grant a variance, if a variance is needed, from those provisions of paragraph 1, or the zoning administrator may issue a shoreland permit, in cases where a variance is not required, for modifications or additions to a nonconforming structure, using the criteria listed below. Modifications or additions which are protected to elevations lower than the flood protection elevation may be permitted if:
 - (a) No floor is allowed below the regional flood elevation for residential, commercial, and institutional buildings.
 - (b) Human lives are not endangered.
 - (c) Public facilities, such as water or sewer, will not be installed.
 - (d) Flood depths will not exceed two feet.
 - (e) Flood velocities will not exceed two feet per second.
 - (f) The structure will not be used for the storage of materials that are buoyant, flammable, explosive, or injurious to property, water quality, or human, animal, plant, fish, or other aquatic life.
 - 3. If the requirements of paragraphs 1 or 2 above cannot be met, one addition to an existing room in a nonconforming building or a building with a nonconforming use may be allowed in the floodfringe if the addition:
 - (a) Meets all other regulations and will be granted by permit or variance.
 - (b) Does not exceed 60 square feet in area.
 - (c) In combination with other previous modifications or additions to the building, does not exceed 50 percent of the present equalized assessed value of the building.

4. All new POWTS, or an addition, replacement, repair, or maintenance of a POWTS shall meet the applicable provisions of this ordinance, the Ozaukee County Sanitation and Health ordinance, and Chapter SPS 383, Wisconsin Administrative Code.
 5. All new wells, or an addition, replacement, repair, or maintenance of an existing well, shall meet the applicable provisions of this ordinance, the county private sewage system ordinance, and Chapters NR 811 and NR 812, Wisconsin Administrative Code.
- E. Nonconforming structures in a floodplain damaged by certain natural disasters:
1. As provided by Section 87.30 (1d), Wis. Stats., the repair or reconstruction of a nonconforming building that is damaged or destroyed by a non-flood disaster may be allowed, subject to approval of a shoreland permit, provided the repaired or reconstructed nonconforming building will meet all of the minimum requirements of the National Flood Insurance Act of 1968 (42 USC 4001 to 4129) and the regulations promulgated thereunder.
 2. Repairs, improvements, and reconstruction are authorized only to the extent that they are necessary to repair the specific damage caused by the non-flood disaster. To the extent practical, repairs, improvements, and reconstruction shall result in a lesser degree of nonconformity than the conditions that existed prior to the disaster (for example, re-orienting a building so that its long axis is parallel to the direction of flood flow). Repairs, improvements, and reconstruction shall not increase the degree of nonconformity that existed prior to the disaster.

7.0903 CHANGES AND SUBSTITUTIONS

Once a nonconforming use or structure has been changed to conform, it shall not revert back to a nonconforming use or structure. Once the board of adjustment has permitted the substitution of a more conforming use for an existing nonconforming use, the substituted use shall lose its status as a legal nonconforming use and become subject to all the conditions required by the board of adjustment.

SECTION 7.1000 MITIGATION

7.1001 MITIGATION PLAN REQUIREMENTS

When a shoreland permit is issued requiring mitigation under sections 7.0604, 7.0901 and 7.1001 the property owner must submit a complete permit application to be reviewed and approved by the county. The application shall include a plan that describes the proposed mitigation measures and meets the following criteria:

| | |
|---|---|
| A. Mitigation Measures: | |
| Mitigation points are required for developing property under the following conditions: | Opportunities to earn mitigation points include: |
| <p>Impervious surface coverage is greater than 15% but less than 20%: 2 points</p> <p>Impervious surface coverage is from 20% to 30%: 3 points</p> <p>Lateral expansion of nonconforming principal structure within the shoreland setback (Section 7.0901 D): 3 points</p> <p>Relocation of nonconforming principal structure within the shoreland setback (Section 7.0901 E): 1 point</p> | <p>Removal of legally existing non-conforming structure within the shoreland setback area: up to 3 points</p> <p>Installation of rain garden: up to 3 points</p> <p>Installation of a storm water infiltration system: 3 points</p> <p>Active restoration (accelerated recovery) of compliant shoreland buffer: 2 points</p> <p>Passive restoration (natural recovery) of compliant shoreland buffer: 1 point</p> <p>Increasing depth of an existing compliant shoreland buffer: 2 points for every 15 feet of depth</p> <p>Reducing width of allowable view and access corridor(s): 1 point for every 15-foot reduction (maximum 2 points)</p> <p>Increasing shoreland setback: 1 point for every 15-foot increase beyond required (maximum 2 points)</p> <p>Replacement of substandard septic system: 3 points</p> <p>Conservation easement: points based on proposal</p> <p>Other method as approved by the land and water management department: points based on proposal</p> <p>Shoreline stabilization: up to 2 points</p> <p>Perpetual invasive species removal: 1 point</p> |

- B. The mitigation plan shall be designed and implemented to restore natural functions lost through development and human activities.
- C. Mitigation measures shall be proportional in scope to the impacts on water quality, near-shore aquatic habitat, upland wildlife habitat and natural scenic beauty.
- D. The mitigation plan application shall include an implementation schedule.

7.1002 MITIGATION PLAN IMPLEMENTATION

- A. Approval of the mitigation plan by the county shall include enforceable obligations on the property owner to establish and maintain mitigation measures.
- B. The enforceable obligations shall be evidenced by an instrument recorded with the register of deeds.
- C. All shoreland mitigation measures must begin within one (1) year of the recording date of the mitigation affidavit, or in accordance with a timeline that is written into the mitigation plan, and must be completed in accordance with the timeline, or within two (2) years of the recording date if a timeline has not been established.

SECTION 7.1100 ADMINISTRATION

7.1101 NATURAL RESOURCES COMMITTEE

The Ozaukee County Natural Resources Committee is hereby declared to be the agent of the county board for all matters pertaining to zoning under this ordinance, except for such powers as are specifically reserved for the county board, the board of adjustment, and the zoning administrator. The natural resources committee shall have the following duties and powers:

- A. To oversee the functions of the office of the zoning administrator.
- B. To review all proposed amendments to the shoreland and floodplain zoning ordinance map and text and recommend action to the county board.
- C. To review all proposed land divisions within the shoreland area and recommend action to the county board.
- D. To maintain a complete record of its proceedings.

7.1102 PUBLIC INFORMATION

To the fullest extent possible, the natural resources committee and its staff shall make available to the public all reports and documents concerning the Ozaukee County Shoreland and Floodplain Zoning Ordinance. In addition:

- A. All available information in the form of reports, bulletins, maps, and engineering data shall be readily available.
- B. Where useful, marks on bridges or buildings or other markers may be set to show the depth of inundation during the 100-year recurrence interval floodplain at appropriate locations within the floodplain.
- C. Information regarding the location of floodplains and wetlands shall be provided to landowners, realtors, lenders, and the general public. All legal descriptions of property containing floodplains or wetlands should include information designating the floodplains or wetland areas when property is transferred.
- D. The natural resources committee may set fees necessary to recover the costs of providing information to the public.

7.1103 ZONING ADMINISTRATOR

The county zoning administrator or designees in the land and water management department is hereby designated as the administrative and enforcement officer for the provisions of this ordinance. The zoning administrator shall have the following duties and powers:

- A. Advise applicants as to the provisions of this ordinance, 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, where applicable.
- B. Issue permits and certificates of compliance and inspect properties for compliance with this ordinance.
- C. Have access to premises and structures during reasonable hours to make those inspections deemed necessary to ensure compliance with this ordinance. If refused entry after presenting identification, the zoning administrator or designee may procure a special inspection warrant in accordance with Section 66.0119, Wis. Stats.
- D. Prohibit the use of private water supply or private onsite wastewater treatment systems not in compliance with the requirements of this ordinance or the sanitation and health ordinance.
- E. Keep the official records of all water surface profiles, certified lowest floor and regional flood elevations, zoning maps and zoning map amendments, land division plats, nonconforming uses and structures and changes thereto, permit applications and permits issued, inspections made, work approved, appeals, variances, amendments to this ordinance, and other official actions.
- F. Investigate and report violations of this ordinance to the natural resources committee and the Ozaukee County Corporation Counsel. Copies of the violation reports shall also be sent to the appropriate office of the DNR, where applicable.
- G. Submit the following to the appropriate office of the DNR:
 - 1. Written notice at least 10 days in advance of any hearing on a proposed variance, appeal for map or text interpretation, or a map or text amendment.
 - 2. Copies of variances, decisions on appeals for map or text interpretations, and map or text amendments within 10 days of the decision
 - 3. Copies of any case-by-case analyses and an annual summary of the number and types of floodplain zoning actions taken.
 - 4. Copies of substantial damage assessments performed and related correspondence.
- H. Submit copies of text and map amendments and biennial reports to the FEMA regional office, on request.
- I. Inspect all damaged floodplain structures and perform a substantial damage assessment to determine if substantial damage has occurred.

7.1104 SHORELAND PERMIT

- A. When required, except where another section of this ordinance specifically exempts development from this requirement, a shoreland permit shall be obtained from the zoning administrator:
- B. An application for a shoreland permit shall be made to the zoning administrator on forms furnished by the county and shall include the following information:
 - 1. Name and address of the applicant, owner of the site, architect, professional engineer, and contractor.
 - 2. Legal description of the property.
 - 3. The proposed use, and whether it is new construction or a modification.

4. A site plan, drawn to scale, containing the information listed below. A certified survey map shall be submitted for new construction or major improvements if required by the zoning administrator.
 - (a) Location, dimensions, and area of the lot.
 - (b) Location of the ordinary high water mark of any abutting navigable water.
 - (c) The location and dimensions of existing and proposed structures and impervious areas; existing and proposed easements, rights-of-way, off-street parking, loading areas, and driveways; and existing highway access restrictions.
 - (d) The distance between any existing and proposed structures from all lot lines, and the ordinary high water mark of any abutting navigable water.
 - (e) Areas of proposed filling, grading, lagooning, or dredging and the amount of material involved.
 - (f) The proposed sewage disposal plan, if connection is not to be made to a municipal sewerage system, which shall comply with all county ordinances, Chapter SPS 383, Wisconsin Administrative Code, and other applicable laws and regulations.
 - (g) The proposed water supply plan, if connection is not to be made to a municipal water supply system, which shall comply with all county ordinances, Chapter NR 812, Wisconsin Administrative Code, and other applicable laws and regulations.
 - (h) The location of wetlands and slopes of 12 percent or greater; and primary environmental corridors, natural areas, and critical species habitat sites identified on SEWRPC inventories. The boundaries of wetlands, natural areas, and primary environmental corridors shall be determined on the basis of a field survey made to identify, delineate, and map those boundaries, and the name of the person, agency, or firm identifying, delineating, and mapping the boundaries shall be provided together with the date of the field survey. The applicant shall submit an electronic copy of the field delineations in ArcShape file format. CAD format will also be accepted, provided an adequate number of GIS points are provided to allow the delineations to be mapped on the county GIS.
5. If the application includes any property located within or adjacent to a floodplain, the following additional information shall be provided:
 - (a) The location of the floodplain and floodway limits as determined from the official floodplain zoning maps.
 - (b) An aerial photograph or a plan which shows the proposed development with respect to the floodway and flood fringe limits, the stream channel, existing development within the floodplain, proposed fill limits and elevations, building floor elevations, and floodproofing measures.
 - (c) A typical valley cross-section showing the stream channel, the floodplain adjoining each side of the channel, the cross-sectional area to be occupied by the proposed development, and all historical high water information.
 - (d) Plan 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 requested by the zoning administrator.

- (e) A profile showing the slope of the bottom of the channel or flow line of the stream.
- (f) Specifications for building construction and materials, flood proofing, filling, dredging, channel improvement, storage of materials, water supply, and sanitary facilities.
- (g) If floodproofing is required, the applicant must submit certification by a registered professional engineer or registered architect that the floodproofing measures meet the requirements of Section 7.0811.
- (h) The elevation of the lowest floor of proposed buildings and the elevation and dimensions of any proposed fill, based on National Geodetic and Vertical Datum (NGVD).
- (i) Data sufficient to determine the regional flood elevation in NGVD at the location of the development and to determine whether or not the requirements of Section 7.0800 are met.
- (j) Data sufficient to determine if the proposed development will cause either an obstruction to flow or an increase in regional flood height or discharge according to Section 7.0806.
- (k) Proposed floodproofing measures.
 - i. The required permit fee.
 - ii. Any additional information required by the zoning administrator.
 - iii. A shoreland permit shall be granted or denied in writing by the zoning administrator within 30 days after a complete application is accepted by the zoning administrator. Any permit issued in conflict with the provisions of this ordinance shall be null and void.
 - iv. The shoreland permit shall expire 12 months from the date issued unless substantial work has commenced. A one-year extension may be granted by the zoning administrator upon request.
 - v. The shoreland permit shall be recorded by the zoning administrator with the register of deeds, if recording is deemed necessary, with the recording fee to be paid by the applicant.

7.1105 CERTIFICATE OF COMPLIANCE

- A. A certificate of compliance will be issued by the zoning administrator upon the written request of a land owner, subject to the following:
 - 1. The certificate of compliance shall show that the structure or premises or part thereof, and the proposed use, conform to the provisions of this ordinance.
 - 2. Application for such a certificate shall be concurrent with the application for a zoning permit.
 - 3. The certificate of compliance shall be issued within 10 days after notification of the completion of the work specified in the shoreland permit, if the building or premises or proposed use thereof conforms to all the provisions of this ordinance.
- B. For development located within a floodplain, no land shall be occupied or used, and no structure hereafter constructed, altered, added to, modified, rebuilt, or replaced shall be occupied until a certificate of compliance has been issued by the zoning administrator. The zoning administrator shall issue a certificate of compliance only after the applicant has submitted a certification signed by a registered professional engineer or registered land surveyor that the fill and lowest floor elevation were placed in compliance with the requirements of this ordinance. If floodproofing is required, the zoning administrator shall

issue a certificate of compliance only after the applicant has submitted certification by a registered professional engineer or registered architect that the structure meets the requirements of Section 7.0811.

- C. The zoning administrator may issue a temporary certificate of compliance for part of a structure, pursuant to rules and regulations established by the county board.
- D. Upon request from the owner, the zoning administrator shall issue a certificate of compliance for any structure or premises existing at the time of the adoption of this ordinance, certifying after inspection the extent and type of use made of the structure or premises and whether or not such use conforms to the provisions of this ordinance.

7.1106 OTHER PERMITS

It is the responsibility of the permit applicant to secure all other necessary permits required by any local, state, federal, or county agency. This includes, but is not limited to, a water use permit pursuant to Chapter 30, Wis. Stats., or a wetland fill permit from the U. S. Army Corps of Engineers or the DNR.

7.1107 PERMIT FEES

- A. All persons, firms, or corporations performing work which by this ordinance requires the issuance of a permit, variance, or other specified review shall pay a fee to the zoning administrator to help defray the cost of administration, investigation, advertising, and processing. A fee shall be required for a shoreland permit, written floodplain determination, shoreland development fee, zoning text or map amendment, a zoning appeal or variance, and plat review. The fees shall be set forth in the county fee schedule, as may be amended from time to time. Fees are nonrefundable, unless a written request is submitted within two business days of the date an application is filed. Section 59.692(1k)(a)2, 4, and (b), Wis. Stats., prohibits counties from requiring any approval or imposing any fee or mitigation requirements for the activities specified in Section 7.0901 C. and G. of this ordinance.
- B. Fees paid for applications for variances are applicable for one hearing only. Fees are not refundable if the applicant cancels the hearing or if the request is denied. If the hearing is rescheduled at the request of the applicant, additional fees up to the full fee will be charged for actual costs incurred.

7.1108 DOUBLE FEE

A double fee shall be charged by the zoning administrator if work is started before a permit is applied for and issued. Such double fee shall not release the applicant from full compliance with this ordinance nor from prosecution for violation of this ordinance.

7.1109 REMEDIAL ACTION

Whenever an order of the zoning administrator has not been complied with within 30 days after written notice has been received by the owner, agent, or occupant of the premises by certified mail, the county board, the zoning administrator, or the corporation counsel may institute appropriate legal action or proceedings to prohibit such owner, agent, or occupant from using such structure, land, or water.

7.1110 ENFORCEMENT AND PENALTIES

- A. Any development, building, or structure constructed, moved, or structurally altered, or any use established after the effective date of this ordinance or predecessor ordinance in violation of the provisions of this ordinance or predecessor ordinance, by any person, firm, association, corporation, including building contractors or their agents, shall be deemed a violation. The zoning administrator or the natural resources committee shall refer violations to the corporation counsel, who shall expeditiously prosecute violations. Any person, firm, association, or corporation who violates or refuses to comply with any of the provisions of this ordinance shall be subject to a fine of not more than \$50.00 for each offense (Section 87.30(2), Wis. Stats.) Each day that the violation exists shall constitute a separate offense. Every violation of this ordinance is a public nuisance, and the creation thereof may be enjoined and the maintenance thereof may be abated pursuant to Section 59.69 (11), Wis. Stats.
- B. Statute of limitations:
 - 1. As provided by Section 59.692(1t), Wis. Stats., where a building or structure outside the floodplain violates the dimensional or use standards of this ordinance, and the violating building or structure has been in place more than 10 years before an enforcement action is initiated, such building or structure shall be treated as a legal nonconforming structure. All provisions of Section 7.0900 of this ordinance shall apply to such nonconforming buildings or structures.
 - 2. Any landowner asserting as a defense to a charge of violating this ordinance that the alleged violation has been in place more than 10 years before enforcement action was initiated has the burden of proving that:
 - (a) The building or structure that is in violation has been in place more than 10 years before enforcement action was initiated.
 - (b) That the building or structure, and its use, if the use is nonconforming, has remained essentially unchanged for at least 10 years.
 - (c) That the use of the building or structure has been active and continual for 10 years or more. If a use was discontinued for more than 12 months, that use shall not be considered active and continual.

SECTION 7.1200 BOARD OF ADJUSTMENT

7.1201 ESTABLISHMENT

A board of adjustment shall be established pursuant to Section 59.694, Wis. Stats.

7.1202 MEMBERSHIP

- A. The chairperson of the county board shall appoint no less than three and no more than five members to the board of adjustment, any number of which may be members of the county board. The appointments shall be subject to approval by the county board.
- B. All members shall reside in the unincorporated areas of the county and no two members shall reside in the same town.
- C. Terms shall be for staggered three-year periods beginning on July 1.
- D. The chairperson shall be chosen by the members of the board of adjustment.
- E. Two alternate members shall be appointed by the county board chairperson pursuant to Section 59.694 (2)(am), Wis. Stats.

- F. Vacancies shall be filled by the county board chairperson for the unexpired term of any member whose term becomes vacant. The appointments shall be subject to approval by the county board.

7.1203 ORGANIZATION

- A. The board of adjustment shall organize and adopt rules of procedure for its own governance in accordance with the provisions of this ordinance and Section 59.694, Wis. Stats.
- B. Meetings shall be held at the call of the chairperson and at such other times as the board of adjustment may determine. Meetings shall be open to the public.
- C. Minutes of the proceedings and a record of all actions shall be kept by the board of adjustment, showing the vote of each member on each question, the reasons for the determination of the board, and its finding of facts. These records shall be immediately filed in the office of the board and shall be a public record.
- D. Quorum requirements: If a quorum is present, the board of adjustment may take action by a majority vote of the members present.

7.1204 POWERS AND DUTIES

- A. The board of adjustment may exercise all of the powers conferred on such boards by Section 59.694, Wis. Stats.
- B. Appeals: The board of adjustment shall hear and decide appeals where it is alleged there is an error in any order, requirement, decision, interpretation, or determination made by the zoning administrator or other administrative official in the enforcement or administration of this ordinance, following a public hearing held in accordance with Section 7.1207.
- C. Variances: The board of adjustment may grant a variance from the dimensional standards of this ordinance pursuant to Section 7.1206, following a public hearing held in accordance with Section 7.1207.
- D. Substitutions: The board of adjustment shall hear and decide applications for substitution of less nonconforming uses for existing nonconforming uses, following a public hearing held in accordance with Section 7.1207. Whenever the board of adjustment permits such a substitution, the use may not thereafter be changed without application and approval.
- E. Assistance: The board of adjustment may request assistance from other county officers, departments, commissions, and boards.

7.1205 APPEALS TO THE BOARD

- A. Appeals to the board of adjustment may be made by any person aggrieved or by an officer, department, or board of the county affected by any decision of the zoning administrator or other administrative officer in regard to the administration and enforcement of this ordinance. Such appeal shall be filed in the office of the zoning administrator within 30 days of receipt of the written decision being appealed. The zoning administrator or other officer whose decision is in question shall promptly transmit to the board all of the documents constituting the record concerning the matter appealed.
- B. Shoreland, wetland, and floodplain boundary disputes
 - 1. Shoreland disputes: Whenever the board of adjustment is asked to interpret the location of a shoreland boundary, the zoning administrator shall contact the appropriate office of the DNR for a final determination of navigability or ordinary high water mark location.

2. Floodplain disputes: The following procedure shall be used by the board of adjustment in hearing disputes concerning floodplain boundaries:
 - (a) If a floodplain district boundary is established by approximate or detailed floodplain studies, the flood elevations or profiles shall prevail in locating the boundary. If none exist, other evidence may be examined.
 - (b) The person contesting the location of the district boundary shall be given the opportunity to present his or her own technical evidence.
 - (c) Where it is determined that the floodplain is incorrectly mapped, the board of adjustment shall direct the zoning administrator to initiate appropriate action to rezone the property within a reasonable amount of time.
- C. Review appeals of permit denials
 1. The board of adjustment shall review all data related to the appeal. This may include:
 - (a) The information submitted with the permit application.
 - (b) The recommendations of the zoning administrator.
 - (c) The floodway or flood fringe determination data submitted in accordance with Section 7.0802.
 - (d) The flood elevation data submitted in accordance with Section 7.0806.
 - (e) Other data submitted to the board with the appeal.
 Following its review, the board shall either uphold the denial of the permit or grant the approval.
 2. For appeals involving increases in the regional flood elevation the board of adjustment shall:
 - (a) Uphold the denial where the board agrees with the data showing an increase in flood elevation. Increases may only be allowed after the flood profile and map have been amended and all appropriate legal arrangements have been made with all adversely affected property owners in accordance with Section 7.1304.
 - (b) Grant the appeal where the board agrees that the data properly demonstrates that the project does not cause an increase, provided no other reasons for denial exist.
- D. Conditions: Conditions may be attached to any shoreland permit ordered or authorized by the board of adjustment to assure compliance with the purposes and requirements of this ordinance.

7.1206 VARIANCES

- A. The board of adjustment may grant, upon appeal, a variance from the dimensional standards of this ordinance provided an application for a variance is filed with the zoning administrator.
- B. An applicant for a variance has the burden of convincingly demonstrating that:
 1. The literal enforcement of the provisions of this ordinance will result in unnecessary hardship to the applicant.
 2. The hardship is due to unique property conditions not common to nearby lots or properties.
 3. The variance is not contrary to the public interest.
 4. The variance is consistent with the purposes of this ordinance set forth in Section 7.0104.

- C. Findings: No variance to the provisions of this ordinance shall be granted by the board of adjustment unless it finds that all the following facts and conditions exist and so indicates in the minutes of its proceedings:
 - 1. Preservation of intent: The variance is consistent with the purposes of this ordinance as set forth in Section 7.0104.
 - 2. Unnecessary hardship: A literal enforcement of the ordinance will result in unnecessary hardship.
 - 3. Use variance prohibited: The variance will not grant, extend, or increase any use prohibited by this ordinance, or allow actions which would require an amendment to this ordinance or the zoning maps in accordance with Section 7.1300.
 - 4. Exceptional circumstances: There are unique conditions associated with the property that not common to nearby lots or properties.
 - 5. Financial hardship and self-created hardship not grounds for variance: The variance is not being granted on the basis of financial hardship, to increase the economic value of the property, or because of conditions that are self-created.
 - 6. Absence of detriment: The variance will not damage the rights or property values of others or be contrary to the public interest, or harm those natural resources that this ordinance is intended to protect.
 - 7. Minimum necessary: The variance granted is the minimum necessary to allow a reasonable use of the property.
 - 8. Adequate flood protection: The variance shall not cause any increase in the regional flood elevation.
- D. When a variance within a floodplain is granted, the board of adjustment shall notify the applicant in writing that it may increase flood insurance premiums and risks to life and property. A copy of the notification shall be maintained with the variance record.
- E. Conditions: The board of adjustment may attach conditions that relate to this ordinance to any variance granted to assure that the public interest and neighboring properties are protected, and to mitigate adverse environmental impacts associated with the proposal.
- F. Recording: When a variance is granted, an appropriate record shall be made of the land use and structures permitted and the shoreland permit shall be applicable solely to the structures, use, and property so described. The variance shall be recorded by the zoning administrator with the register of deeds, with the recording fee to be paid by the applicant.
- G. Notice to DNR: A copy of any decision on a variance shall be provided to the appropriate office of the DNR within 10 days after it is granted or denied, if applicable.

7.1207 HEARINGS

- A. The board of adjustment shall fix a reasonable time for a hearing on an appeal or application. The board shall give public notice thereof by publishing a Class 2 notice under Chapter 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 parties-in-interest. Written notice shall be given to the appropriate office of the DNR at least 10 days prior to hearings on proposed variances, , and appeals for map or text interpretations.
- B. A decision regarding the appeal or application shall be made as soon as practical. Copies of all decisions on variances, and appeals for map or text interpretations shall be submitted to the appropriate office of the DNR within 10 days after they are granted or denied.
- C. Majority rule: A majority vote of the board of adjustment shall be necessary to reverse any order, requirement, decision, or determination of the zoning administrator, to grant a

variance, or to decide in favor of an applicant on any other matter upon which the board is required to approve under this ordinance.

- D. The final disposition of an appeal or application to the board of adjustment shall be in the form of a written resolution or order signed by the chairperson of the board. Such resolution shall state the specific facts which are the basis of the determination of the board, and shall 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 prosecution; or grant or deny the application.
- E. At the public hearing, any party may appear in person or by agent or by attorney.
- F. **Withdrawal:** Requests for a withdrawal of an application for a variance, permit, or substitute nonconforming use made before the date the notice of public hearing is submitted for publication and notice to the parties-in-interest is mailed may be re-submitted at any time. Requests for a withdrawal made after the notice of public hearing has been submitted or notice to the parties-in-interest has been mailed shall not be re-submitted for a period of one year following the withdrawal.
- G. **Postponement:** The board of adjustment may postpone a public hearing if it determines that it needs additional information.
- H. **Resubmission:** No appeal or application which has been denied shall again be considered unless the applicant can show a material change in circumstances, as determined by the zoning administrator.
- I. **Rehearing:** No rehearing of any issue shall take place except upon the affirmative vote of a majority of the members of the board of adjustment upon finding that substantial new material or new evidence is submitted which could not have been reasonably presented at the previous hearing. Requests for rehearing shall be in writing and shall state the reasons for the request and be accompanied by necessary data. A rehearing shall be subject to the same notice requirements and fees as the original hearing.

7.1208 DECISION

- A. The board of adjustment shall decide all appeals and applications within 30 days after the final hearing and shall transmit a signed copy of the decision of the board to the appellant or applicant, zoning administrator, and the DNR.
- B. Any variance or permit granted by the board of adjustment shall expire within 180 days after issuance unless substantial work has commenced pursuant to such grant. The permit may be extended for a maximum of 180 additional days for good and sufficient cause. Variances and permits granted by the board shall run with the life of the structure or use, provided the construction authorized by the board is completed while the variance or permit is still valid.
- C. A one-year extension of a variance or permit may be granted by the zoning administrator prior to its expiration. The zoning administrator or applicant may request that the board of adjustment review the request for extension.

7.1209 REVIEW BY COURT OF RECORD

Any person or persons aggrieved by any decision of the board of adjustment may, within 30 days after the filing of the decision in the office of the board of adjustment, seek court review of the decision as provided in Section 59.694(10), Wis. Stats.

SECTION 7.1300 CHANGES AND AMENDMENTS

7.1301 AUTHORITY

Pursuant to Section 59.69(5)(e) and Section 59.692 (2), Wis. Stats., the county board may amend the regulations of this ordinance or the shoreland and floodplain zoning maps.

7.1302 PROCEDURE

- A. Petition: A petition to amend this ordinance may be made by any landowner in the area to be affected by the amendment; by the governing body of any town, village, or city where this ordinance is in effect; or by any member of the county board or natural resources committee.
- B. Filing a petition: One original of the proposed amendment shall be submitted directly to the zoning administrator. One copy of the petition and the notice of public hearing shall be provided to the county supervisor of any affected district. One copy of the petition and the notice of public hearing shall be forwarded to the appropriate office of the DNR not less than 10 days prior to the hearing. When the amendment involves an area within the floodplain, said notice and petition shall also be sent to the Federal Emergency Management Agency (FEMA), and the additional requirements set forth in Section 7.1304 shall be followed. When the petition involves a change in shoreland wetlands, the additional requirements set forth in Section 7.1305 shall be followed.
- C. Information required: In addition to the information required on the petition form, the petitioner shall supply the following:
 1. A map, accurately drawn to a scale of not less than one inch equals 100 feet, showing the location, dimensions, and area of the property to be rezoned, the location and existing use of all buildings on such property, and the principal use of all properties within 300 feet of the area proposed to be rezoned.
 2. The names and complete mailing addresses, including zip codes, of the owners of all properties within 300 feet of any part of the land included in the proposed change.
 3. The location of wetlands and slopes of 12 percent or greater; and primary environmental corridors, natural areas, and critical species habitat sites identified by SEWRPC inventories on the property to be rezoned. The boundaries of wetlands, natural areas, and primary environmental corridors shall be determined on the basis of a field survey made to identify, delineate, and map those boundaries, and the name of the person, agency, or firm identifying, delineating, and mapping the boundaries shall be provided together with the date of the field survey.
 4. For amendments to a floodplain district boundary, the information set forth in Section 7.0810.C.
 5. Any further information which may be required by the zoning administrator to facilitate the making of a comprehensive report to the natural resources committee, including a detailed description of the intended new use.
- D. Public hearing and required notice: As soon as practical after receipt, the natural resources committee shall call a public hearing on the petition. The committee shall give public notice thereof by publishing a Class 2 notice under Chapter 985, Wis. Stats., specifying the date, time, and place of the hearing and the matters to come before the committee. Written notice shall be given to the parties-in-interest and to the clerk of any town, village, or city affected by the proposed amendment at least 10 days prior to the hearing.

- E. Natural resources committee action and report: As soon as possible after the public hearing, the natural resources committee shall act on such petition either approving, modifying and approving, or disapproving of the same. If its action is favorable to granting the requested change, or any modification thereof, it shall cause an ordinance to be drafted effectuating its determination and shall submit such proposed ordinance directly to the county board with its recommendations. If the natural resources committee, after its public hearing, shall recommend denial of the petition, it shall report its recommendation directly to the county board with its reasons for such action. Proof of publication of the notice of the public hearing held by the natural resources committee and proof of the giving of notice to the clerk of any affected town, village, or city of such hearing shall be attached to either such report. A copy of the land and water management department findings and recommendations on each proposed amendment shall be provided to the DNR within 10 days after the submission of those findings and recommendations to the county board.
- F. County board action: Upon receipt of the report of the natural resources committee, the county board may adopt the ordinance as drafted by the natural resources committee or with amendments, or it may deny the petition for amendment, or it may refuse to deny the petition for amendment as recommended by the natural resources committee, in which case it shall refer the petition back to the natural resources committee, with direction to draft an ordinance to effectuate the petition, and report the same back to the county board, which may then adopt or reject such ordinance. Written notice of the county board decision on the proposed amendment shall be provided to the DNR within 10 days after it is issued.
- G. Protest: If a protest against a proposed amendment is filed with the county clerk at least 24 hours prior to the date of the meeting of the county board at which the report of the natural resources committee is to be considered, duly signed and acknowledged by the owners of 50 percent or more of the area proposed to be altered, or by abutting owners of over 50 percent of the total perimeter of the area to be altered included within 300 feet of the area proposed to be changed, such changes or amendments shall not be adopted except by the affirmative vote of three-fourths of the members of the county board present and voting. Each signer of such protest shall include a description of the lands owned by the signer.
- H. Effective date: Any amendatory ordinance adopted by the county board shall become effective after adoption by the county board and publication pursuant to Section 59.69(5)(e), Wis. Stats., except as may be modified by Subsection 7.1305 C. In the case of floodplain amendments, the amendment shall not become effective until it is reviewed and approved by the DNR and FEMA. Upon receipt of the foregoing approvals, the county clerk shall record in the office of the county clerk the date on which the ordinance takes effect and shall so notify the clerk of the town, village, or city affected by such ordinance.

7.1303 ZONING AMENDMENTS IN ANNEXED AREAS

When any lands previously under the jurisdiction of this ordinance shall have been annexed to a village or city, and after the regulations imposed by this ordinance have ceased to be effective as provided by Sections 62.233 and 61.353, Wis. Stats., the county board may, on the recommendation of the natural resources committee, adopt such amendatory ordinances as shall remove or delete such annexed lands from the shoreland and floodplain zoning maps or written descriptions without following the procedures provided in Section 59.69(5)(e)1 through 6, Wis. Stats., and such amendatory ordinances shall become effective upon passage and publication. A copy of such ordinance shall be forwarded by the county clerk to the clerk of each town in which

the lands affected were previously located, and to the affected city or village. Nothing in this paragraph shall be construed to nullify or supersede the provisions of Section 66.1031, Wis. Stats.

7.1304 FLOODPLAIN DISTRICT AMENDMENTS

- A. The county board may change or supplement the floodplain zoning district boundaries and the regulations contained in this ordinance in the manner provided in this section and in Section 7.1302. Actions which require an amendment include, but are not limited to, the following:
 - 1. Any change to a floodplain boundary shown on a shoreland and floodplain zoning map, including the floodway line or the boundary of any floodplain area, or changes to the floodplain boundaries or watercourse alterations on the FIRM.
 - 2. Correction of discrepancies between the water surface profiles and the floodplain boundary shown on the shoreland and floodplain zoning maps.
 - 3. Any fill in the floodplain that raises the elevation of the filled area to or above the flood protection elevation, provided the filled area is contiguous to land lying outside the floodplain.
 - 4. Any fill or floodway encroachment that obstructs flow causing any increase in the regional flood height.
 - 5. Any change to the text of this ordinance.
- B. Obstructions to flow or increases in regional flood height may only be permitted if amendments are made to this ordinance, the official floodplain zoning maps, floodway lines, and water surface profiles, in accordance with the procedures in this section and Section 7.1302.
 - 1. In AE Zones with a mapped floodway on the FIRM map, no obstructions or increases shall be permitted unless the applicant receives a Conditional Letter of Map Revision from FEMA and amendments are made to this Ordinance, the official floodplain zoning maps, floodway lines and water surface profiles. Any such alterations must be reviewed and approved by FEMA and the DNR.
 - 2. In A-Zones on the FIRM map, increases equal to or greater than 1.0 foot may only be permitted if the applicant receives a Conditional Letter of Map Revision from FEMA and amendments are made to this ordinance, the official floodplain maps, floodway lines, and water surface profiles.
- C. Any person petitioning for a map amendment that would result in an obstruction to flow that would increase the regional flood height shall obtain flooding easements or make other appropriate legal arrangements with all adversely affected landowners, and shall notify affected towns, villages, and cities before the amendment can be approved by the county board. Proof of such notification by the petitioner shall be submitted with the information required by Section 7.1302.C.
- D. For amendments in areas with no water surface profiles, the natural resources committee and the county board shall consider data submitted by the DNR, the visual onsite inspections of the zoning administrator, and other available information.
- E. Prior FEMA approval: All channel relocations and changes to the maps to alter floodway lines or to remove an area from the floodway or flood fringe that is based on a base flood elevation from a Flood Insurance Rate Map requires prior approval by FEMA. No shoreland permit shall be issued until a Letter of Map Revision is issued by FEMA for the proposed change.

- F. Notice to DNR and FEMA: Notice of action taken for amendments or rezoning in the floodway, flood fringe, or general floodplain districts shall be transmitted to DNR and FEMA regional offices within 10 days of the decision. No amendments shall become effective until approved by the DNR and until a Letter of Map Change, if required, is issued by FEMA.

7.1305 SHORELAND-WETLAND DISTRICT AMENDMENTS

- A. For all proposed text and map amendments to the shoreland-wetland provisions of this ordinance, the appropriate office of the DNR shall be provided with the following:
 - 1. A copy of every petition for a text or map amendment shall be provided within five days of the filing of such petition with the zoning administrator. Such petition shall include a copy of the map adopted as part of this ordinance outlining the area proposed to be removed from the shoreland-wetland district.
 - 2. A copy of the natural resources committee findings and recommendations on each proposed amendment within 10 days after the submission of those findings and recommendations to the county board.
 - 3. Written notice of the county board decision on the proposed amendment within 10 days of the decision.
- B. A wetland, or a portion thereof, in the shoreland-wetland district shall not be rezoned if the proposed rezoning may result in a significant adverse impact upon any of the following:
 - 1. Storm and flood water storage capacity.
 - 2. Preservation of dry season stream flow, the discharge of groundwater to a wetland, the recharge of groundwater from a wetland to another area, or the flow of groundwater through a wetland.
 - 3. Filtering or storage of sediments, nutrients, heavy metals, or organic compounds that would otherwise drain into navigable waters.
 - 4. Shoreline protection against soil erosion.
 - 5. Fish spawning, breeding, nursery or feeding grounds.
 - 6. Wildlife habitat.
 - 7. Areas of special recreational, scenic, or scientific interest, including scarce wetland types.
- C. If the DNR notifies the natural resources committee or county board that a proposed text or map amendment to the shoreland-wetland provisions of this ordinance may have a significant adverse impact upon any of the criteria listed in Subsection B. above, that amendment, if approved by the county board, shall contain the following provision:

“This amendment shall not take effect until more than 30 days have elapsed after written notice of the county board approval of this amendment is mailed to the DNR. During that 30-day period the department may notify the county board that it will adopt a superseding shoreland ordinance for the county under Section 59.692 (6), Wis. Stats. If the department does so notify the county board, the effect of this amendment shall be stayed until the Section 59.692 (6) adoption procedure is completed or otherwise terminated.”

SECTION 7.1400 LAND DIVISION REQUIREMENTS

7.1401 DEFINITIONS AND GENERAL PROVISIONS

- A. Any division of land which results in a land division as defined in Section 7.1500 shall comply with the requirements of this section and Chapter 236, Wis. Stats.
- B. Preliminary and final plats shall be submitted to the Ozaukee County Planning & Parks Department for review and approval by the natural resources committee for any land division that meets the definition of a “subdivision” set forth in Section 7.1500.
- C. A certified survey map shall be submitted to the planning and parks department for review and approval by the natural resources committee for any land division that meets the definition of a “minor land division” set forth in Section 7.1500.
- D. When a re-plat of a recorded subdivision or part thereof is proposed, the subdivision shall be vacated or altered according to the provisions of Sections 236.36 through 236.445, Wis. Stats.
- E. Exclusions: In no instance shall the provisions of this section apply to:
 - 1. Transfers of interest in land by will or pursuant to court order.
 - 2. Leases for a term not to exceed 10 years, mortgages or easements.
 - 3. The sale or exchange of parcels of land between owners of adjoining property if additional lots are not thereby created and the lots resulting are not reduced below the minimum sizes required by this ordinance or other applicable laws or ordinances.

7.1402 LAND SUITABILITY

No land shall be divided which is held unsuitable for the proposed use by the natural resources committee for reason of flooding, inadequate drainage, soil and rock formations with severe limitations for development, severe erosion potential, unfavorable topography, inadequate water supply or sewage disposal capabilities, or any other feature likely to be harmful to the health, safety, or welfare of the future residents of the proposed land division or of the county. The natural resources committee, in applying the provisions of this section, shall in writing recite the particular facts upon which it bases its conclusion that the land is not suitable for the proposed use and afford the subdivider an opportunity to present evidence regarding such suitability at a meeting of the committee. Thereafter, the natural resources committee may affirm, modify, or withdraw its determination of unsuitability.

7.1403 DEDICATION OF LANDS

- A. All land division layouts shall be developed in proper relation to existing and proposed streets, the topography, surface water, vegetative cover, other natural features, and the most advantageous development of adjoining areas. The natural resources committee may require that suitable sites, not to exceed 2.5 percent of the total area of the land division, be dedicated for future public use such as parks, playgrounds, public access, and open spaces as needed by the land division, subject to acceptance thereof by the county or town. Any part of a street, drainageway or other public way which is indicated on a comprehensive plan or official map shall conform to the arrangement, width, and location indicated, and shall be offered for dedication to the county or the town in which the land division is located.
- B. Subdivisions abutting a navigable lake or stream shall, according to the provisions of Section 236.16 (3), Wis. Stats., provide access at least 60 feet wide to the low water mark so that there will be public access, which is connected to existing public streets, at least at

one-half mile intervals, as measured along the lake or stream shore, except where greater intervals and wider access is agreed upon by the natural resources committee, the DNR, and the director of plat review services of the Wisconsin Department of Administration and excluding shore areas where public parks, publicly owned open space, or streets are provided on either side of a stream. The natural resources committee may require dedications of access points of greater width or at more frequent intervals at points designated by the committee.

- C. Lands lying between the meander line established in accordance with Section 236.20(2)(g), Wis. Stats., and the water's edge, and any otherwise unplattable lands which lie between a proposed land division and the water's edge shall be included as part of lots, out-lots, or public dedications in any plat abutting a lake or stream. This requirement applies not only to lands proposed to be divided, but also to all lands under option to the subdivider or in which he or she holds any interest and which are contiguous to the lands proposed to be divided and which abut a lake or stream, as provided in Section 236.16 (4), Wis. Stats.
- D. Lands to be dedicated shall be shown on the final plat or certified survey map.
- E. All proposed dedications to Ozaukee County must be reviewed and accepted by the county board. The county board has complete discretion to accept or reject proposed dedications.

7.1404 IMPROVEMENTS

- A. Before final approval of any plat by the chairperson of the natural resources committee or approval of any certified survey map (CSM) for a minor land division by the natural resources committee, the subdivider may install required street and utility improvements, or, if such improvements are not installed at the time that the final plat or CSM is submitted for approval, the subdivider shall, before recording the plat or CSM, enter into a contract with the county agreeing to install the required improvements and shall file with said contract a surety bond meeting the approval of the corporation counsel as a guarantee that such improvements will be completed by the subdivider or his or her subcontractors not later than one year from the date of recording of the plat or CSM, or later if specified. One week prior to the time each improvement is to be installed and upon its completion, the subdivider must notify the planning and parks department so that adequate inspections can be made.
- B. Public streets
 - 1. A subdivider may be required to dedicate land for the improvement of public streets. Public streets shall be designed and located to take into account:
 - (a) Existing and planned streets.
 - (b) Topographic conditions, including the bearing, capacity, and erosion potential of the soil.
 - (c) Public convenience and safety, including facilitating fire protection, snowplowing, and pedestrian traffic.
 - (d) The proposed uses of land to be served.
 - (e) Anticipated traffic volumes.
 - (f) Further resubdivision possibilities.
 - 2. Public streets to be dedicated to Ozaukee County shall be of the right-of-way, roadway, and surface width specified by the Ozaukee County Highway Commissioner and approved by the county board. Other public streets shall comply with the requirements of Section 236.16 (2), Wis. Stats.

3. Construction of public streets shall comply with local street standards and specifications. Where there are no local street standards, the minimum standards of the Ozaukee County Highway Department shall apply.
 4. No person shall sell any parcel of land of five acres or less in size, located outside the corporate limits of a municipality, if it abuts on a street which has not been accepted as a public street, unless the seller informs the purchaser in writing of the fact that the street is not a public street and is not required to be maintained by the town or county.
- C. Water supply and public sewerage facilities: Where there is an existing public water supply system or public sewerage system in or near the proposed land division, the natural resources committee shall consult with the affected local governments to determine the feasibility of providing water and/or sewer service to the land division and the requirements to be followed by the subdivider in connecting to the system. If it is not feasible to extend water and/or sewer service to the land division or the committee determines that such connection is not necessary, individual water supply and sewage treatment systems may be permitted by the committee in accordance with the minimum standards and regulations of Ozaukee County and the DNR.
- D. Survey monuments: The subdivider shall install survey monuments in accordance with the requirements of Section 236.15, Wis. Stats.
- E. Storm water management. Storm water management facilities, where needed, shall be designed to permit the unimpeded flow of natural watercourses; ensure the drainage of all points along the street line and provide positive drainage away from onsite sewage disposal facilities. In designing storm water management facilities, special consideration shall be given to protection against shoreland erosion and siltation of surface waters and preventing excess runoff on adjacent property. The natural resources committee may require that easements or drainage ways of widths sufficient to accommodate anticipated storm water runoff be provided.
- F. Sanitary sewerage
1. In areas that have a public sanitary sewerage system in or near the proposed land division, the local municipality furnishing such service and the natural resources committee shall determine the feasibility of providing service to the land division and, if feasible to join, the procedures to be followed by the subdivider in joining the system.
 2. The natural resources committee may prohibit the installation of sewage disposal facilities requiring soil absorption systems, where such systems would impair water quality, and the committee may, with approval of the Wisconsin Departments of Safety and Professional Services and Natural Resources, allow alternative methods of waste treatment and disposal, including, but not limited to, package treatment plants or incinerator or chemical toilets.
 3. In areas that are not to be served by public sewerage systems, onsite sewage disposal systems utilizing soil absorption fields will be permitted only where soil tests indicate the systems will function adequately. Disposal systems shall be constructed to meet the requirements of Chapters SPS 382 and SPS 383, Wisconsin Administrative Code, and other applicable state, county, and local ordinances.
 4. Lot area, width, and area free of limiting conditions based on percolation characteristics shall meet the requirements of Chapter SPS 383, Wisconsin Administrative Code.

7.1405 PRE-APPLICATION CONFERENCE

- A. Prior to filing an application for the approval of a preliminary plat, the subdivider shall consult with the planning and parks department to present his or her proposed plat for informal review. As a part of this consultation the subdivider shall submit a sketch of sufficient scale and reasonable accuracy indicating the following information.
 - 1. The boundaries of the property being considered for division.
 - 2. Uses of land adjacent to the proposed land division, proposed roads, easements, public access to navigable water, dedications, community facilities, and utilities.
 - 3. General lot layout showing proposed lot widths and depths.
 - 4. General soil conditions, seasonally wet areas, rock outcrops, areas with slopes over 12 percent, and areas within a primary environmental corridor.
 - 5. Proposed areas of filling, grading, lagooning, and dredging.
 - 6. Preliminary location of wetlands, floodplains, waterbodies and streams, navigable waters, and the ordinary high water mark of navigable waters.
 - 7. A description of all property owned or controlled by the subdivider contiguous to the proposed plat even though only a part of the area is proposed for immediate development.
- B. At the pre-application conference, or within 30 days thereafter, county staff will inform the subdivider of any additions, changes, or corrections to the proposed plat necessary to expedite the review and approval of the preliminary and final plats.

7.1406 PRELIMINARY PLAT

- A. The subdividers shall submit two copies of the preliminary plat to the planning and parks department.
- B. The preliminary plat, based upon an exterior boundary survey by a registered land surveyor, shall include:
 - 1. Lot width and depths.
 - 2. Existing and proposed streets, parks, public access, community facilities, utilities, and easements.
 - 3. The location of wetlands, floodplain and floodway limits, the regional flood elevation, waterbodies and streams, navigable waters, the ordinary high water mark of navigable waters, slopes of 12 percent or greater, primary environmental corridors, natural areas, and critical species habitat sites. The boundaries of wetlands, natural areas, and primary environmental corridors shall be determined on the basis of a field survey made to identify, delineate, and map those boundaries, and the name of the person, agency, or firm identifying, delineating, and mapping the boundaries shall be provided together with the date of the field survey.
 - 4. An erosion control plan that complies with Chapter XIV of the Ozaukee County Code of Ordinances if the preliminary plat lies within an area subject to that ordinance. If the preliminary plat lies outside the area subject to Chapter XIV, the erosion control plan shall include the following:
 - (a) A two-foot interval contour map showing land characteristics such as seasonally wet areas and bedrock and proposed areas of filling, grading, lagooning, and dredging.
 - (b) Street information, including grades, cross-sections, and profiles of ditches; areas that require special attention due to soils; and proposed culvert sizes.
 - (c) Drainage patterns; the location and effects of water entering and leaving the proposed land division; the size of the watershed for each drainage area

included in whole or in part within the proposed land division; the design discharge, in cubic feet per second, for streets and drainage ditches; and the location of existing subsurface tiles and plans to reroute or destroy them.

- (d) Erosion control measures, including proposals for temporary seeding or cover, including proposed plant species, dates, rates, netting, topsoil replacement; planned erosion control structures and silt traps; and plans to protect existing natural vegetation. The standards and specifications set forth in Section 7.0504 shall be used as a guide in preparing an erosion control plan.
- C. The proposed layout shall be shown on a map at a scale of one inch equals 100 feet and shall identify the improvements, grading, paving, installation of facilities including, if applicable, preplanned sites for waste disposal facilities and dedications of land which the subdivider proposes to make and shall indicate when the improvements will be provided. Any proposed restrictive covenants for the land involved shall be stated.
- D. The natural resources committee shall approve, approve conditionally, or reject the preliminary plat within 90 days, as provided by Section 236.11, Wis. Stats., unless a longer period of time is agreed upon by the committee and the subdivider. Failure of the natural resources committee to act within 90 days shall constitute an approval of the preliminary plat, unless the review period is extended by mutual agreement.
- E. Notice of the meeting at which the natural resources committee is scheduled to review the preliminary plat shall be mailed at least 10 days prior to the meeting to the clerk of the local government concerned and to the owners of all adjacent lots. For purposes of this section, adjacent lots are those that share all or part of a common lot line with the proposed plat, including lots that are abutting solely at corner points, and lots separated from the proposed plat by a street.

7.1407 FINAL PLAT

- A. The subdivider shall submit two copies of the final plat to the planning and parks department. The final plat shall be submitted within 36 months of the date of preliminary plat approval, unless the time period is extended by the natural resources committee.
- B. The final plat shall conform to the preliminary plat as approved and to the requirements of all applicable ordinances and state laws. The final plat shall be accompanied by detailed construction plans of all improvements to be provided by the subdivider.
- C. Final plats shall be submitted for review and approval by the chairperson of the natural resources committee. Failure of the chairperson to act within 60 days of submittal shall constitute an approval of the final plat, unless the review period is extended by mutual agreement.
- D. A digital file of the final plat shall be provided to Ozaukee County in ArcShape file format. CAD format will also be accepted, provided an adequate number of GIS points are provided to allow the delineations to be mapped on the county GIS.
- E. Approved final plats shall be recorded in accordance with the requirements of Section 236.25, Wis. Stats., before any lots are sold.

7.1408 CERTIFIED SURVEY MAP

- A. For a proposed minor land division, the subdivider shall submit 10 copies of a certified survey map to the planning and parks department for review by county staff and the natural resources committee.
- B. A pre-application staff conference similar to the consultation required for plats by Section 7.1405 is recommended.

- C. The map shall include the information required for preliminary plats by Subsection 7.1406 B. 1, 2, 3, and 4 and Subsection 7.1406 C.
- D. The planning and parks department shall review the map for conformance to this ordinance and all other ordinances, rules, regulations, and comprehensive plans and components thereof as may be applicable.
- E. The natural resources committee shall approve, approve conditionally and thereby require resubmission of a corrected map, or reject such map within 90 days from the date of filing of the map unless the time is extended by agreement with the subdivider. If the map is rejected, the reason shall be stated in the minutes of the meeting and a written statement forwarded to the subdivider. If the map is approved, the committee chairperson shall so certify on the face of the original map.
- F. A digital file of the approved CSM shall be provided to Ozaukee County in ArcShape file format. CAD format will also be accepted, provided an adequate number of GIS points are provided to allow the delineations to be mapped on the county GIS.
- G. Recordation: After the certified survey map has been approved by the committee; the county clerk shall cause the certification inscribed upon the map attesting to such approval to be duly executed and the map returned to the subdivider for recording with the register of deeds. The register of deeds shall not record the map unless it is offered for recording within 12 months after the date of the last approval and within 36 months after the first approval.

7.1409 REVIEW CRITERIA

In accordance with Chapter NR 115.05(4), Wisconsin Administrative Code, the natural resources committee shall consider the following factors in its review of proposed land divisions:

- A. Hazards to the health, safety, or welfare of future residents of the land division.
- B. Proper relationship to adjoining areas.
- C. Public access to navigable waters in accordance with Section 236.16(3), Wis. Stats.
- D. Adequate storm water management facilities.
- E. Conformity to federal, state, and local laws and ordinances.

7.1410 REPLATS

When it is proposed to replat a recorded subdivision, or part thereof, so as to change the boundaries of a recorded subdivision, or part thereof, the subdivider or person wishing to replat shall vacate or alter the recorded plat as provided in Sections 236.36 through 236.445 of the Wis. Stats. The subdivider or person wishing to replat, shall then proceed as specified in Sections 7.1405, 7.1406, and 7.1407.

7.1411 APPEALS

Any person aggrieved by an objection to a plat or a failure to approve a plat may appeal such objection or failure to approve, as provided in Sections 236.13 (5) and 62.23 (7)(e), Wis. Stats., within 30 days of notification of the rejection of the plat. Where failure to approve is based on an unsatisfied objection, the agency making the objection shall be made a party to the action. The court shall direct that the plat be approved if it finds that the action of the approving or objecting agency is arbitrary, unreasonable, or discriminatory.

SECTION 7.1500 DEFINITIONS

7.1501 GENERAL DEFINITIONS

For the purpose of this ordinance, the definitions listed in this section shall be used unless otherwise specified. Words used in the present tense include the future; the singular number includes the plural number; and the plural number includes the singular number. The word “shall” is mandatory. Words not defined in shall be construed according to any applicable definition set forth in either the state statutes, administrative code, or county ordinances or in lieu thereof, shall be construed according to accepted land use, scientific, or architectural definition or in lieu thereof, according to their customary dictionary definition.

7.1502 SPECIFIC WORDS AND PHRASES

Access. A means of approaching or entering a property.

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

Accessory use or structure. A use or detached structure that is subordinate in purpose to the principal use of a structure, land, or water; contributes to the comfort, convenience, or necessity of the principal use; and is located on the same lot as the principal use or structure

Accessway. Any driveway, street, or other means of providing for the movement of vehicles to or from the public street system.

Agricultural practice. Beekeeping, commercial feedlots, dairying, egg production, floriculture, fish or fur farming, grazing, livestock raising, orchards, poultry raising, raising grain, grass, mint and seed crops, raising fruits, nuts, and berries, sod farming, vegetable raising, placing land in federal programs in return for payments in kind, or owning land at least 35 acres of which is enrolled in the Conservation Reserve Program under 16 USC 3831 to 3836.

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

Approving authorities. Each governmental body having authority to approve or reject a preliminary or final plat. Approving authorities are set forth in Section 236.10, Wis. Stats.

A-zones. Those areas shown on FEMA Flood Hazard Boundary Maps which would be inundated by the regional flood. Because detailed hydraulic analyses are not performed for such areas, no base flood elevations or depths are shown within this zone.

Base flood. A flood having a one percent chance of being equaled or exceeded in any given year, as published by the Federal Emergency Management Agency (FEMA) as part of a Flood Insurance Study (FIS) and depicted on a Flood Insurance Rate Map (FIRM). (See also “Regional Flood”).

Base flood elevation. An elevation equal to that which reflects the height of the base flood.

Basement. Any enclosed area of a building that has its floor below ground level on all sides.

Bluff. A landform whose upper elevation is at least 20 vertical feet above the toe of the slope and which has a slope equal to or exceeding 34 degrees.

Bluff recession rate. The rate at which a bluff recedes because of erosion by the waters of Lake Michigan and because of unstable slope conditions.

Boathouse. A permanent structure designed solely for the purpose of protecting or storing boats and related equipment for non-commercial purposes.

Building. See structure.

Building envelope. The three-dimensional space within which a structure is built.

Bulkhead line. A geographic line along a reach of navigable water that has been adopted by a county or municipal ordinance and approved by the DNR pursuant to Section 30.11, Wis. Stats. Limited filling and development may be permitted only between the bulkhead line and the original ordinary high water mark. Such filling may, however, be prohibited by the floodway provisions of this ordinance.

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

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

Certificate of compliance. A certification issued by the zoning administrator stating that the construction and the use of land or a building, the elevation of fill, or the lowest floor of a structure, is in compliance with all of the provisions of this ordinance.

Certified survey map. A map prepared in accordance with Section 236.34, Wis. Stats., and this ordinance for the purpose of creating a minor land division, or used to document for recording purposes survey and/or dedication data relating to single parcels.

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

Comprehensive plan. The extensively developed plan, also called a county development plan, adopted by the county board pursuant to Section 66.1001, Wis. Stats. Devices for the implementation of such plans include zoning, official mapping, and land division ordinances.

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

Dam. Any artificial barrier, together with appurtenant works, built across a waterway and which has the primary purpose of impounding or diverting water.

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

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

DNR. The Wisconsin Department of Natural Resources.

Dock. The space between two piers or wharves.

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.

Dryland access. A vehicular access route which is above the regional flood elevation and which connects land located in the floodplain to land outside the floodplain.

Dwelling. A building designed or used exclusively as a residence or sleeping place, except for boarding houses, motels, hotels, tents, cabins, and mobile homes.

Dwelling, single-family. A detached building containing one dwelling unit, designed for or occupied exclusively by one family.

Elevation, crawlspace. The elevation of the top of the floor serving the crawlspace. The floor surface may be finished or unfinished.

Elevation, flood protection. An elevation of two feet of freeboard above the water surface profile elevation designated for the regional flood.

Elevation, floor. The elevation of the top surface of the lowest level of floor serving the indicated story level in the structure.

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

Erosion. The detachment and movement of soil, sediment, or rock fragments by water, wind, ice, gravity, or wave action.

Existing manufactured home park or subdivision. A parcel of land, divided into two or more manufactured home lots for rent or sale, on which the construction of facilities for servicing the lots is completed before the effective date of this ordinance. At a minimum, this would include

the installation of utilities, the construction of streets and either final site grading or the pouring of concrete pads.

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

Federal Emergency Management Agency (FEMA). The federal agency that administers the National Flood Insurance Program. FEMA was previously known as the Federal Insurance Administration (FIA).

Fence. A structure for enclosure or screening.

Fence, Open. A structure of rails, planks, stakes, strung wire, or similar material erected as an enclosure, barrier, or boundary. Open fences are those with more than 50 percent of their surface area open for the free passage of light and air. Examples of such fences include barbed wire, chain link, picket, and rail fences.

Final Plat. A map prepared in accordance with the requirements of Chapter 236, Wis. Stats., and this ordinance for the purpose of creating a subdivision.

FIRM. See Flood Insurance Rate Map.

Flood or flooding. A general and temporary condition of partial or complete inundation of normally dry land areas caused by the overflow or rise of inland waters; the rapid accumulation or runoff of surface waters from any source; the inundation caused by waves or currents of water exceeding anticipated cyclical levels along the shore of Lake Michigan; or the sudden increase caused by an unusually high water level in a natural body of water, accompanied by a severe storm, or by an unanticipated force of nature, such as a seiche, or by some similarly unusual event.

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

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

Flood hazard boundary map. A map prepared by FEMA designating approximate flood hazard areas. Flood hazard areas are designated as unnumbered A-zones and do not contain floodway lines or regional flood elevations. Flood hazard boundary maps form 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 special flood hazard areas (the floodplain) and the risk premium zones applicable to the community. This map can be amended only by the Federal Emergency Management Agency.

Flood Insurance Study. A technical engineering examination, evaluation, and determination of local 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 and may provide floodway lines. The flood hazard areas are designated as numbered and unnumbered A-Zones. Flood insurance study maps form the basis for both the regulatory and the insurance aspects of the National Flood Insurance Program. A Flood Insurance Study for Ozaukee County was published by the Federal Emergency Management Agency on December 4, 2007.

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

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

Floodplain management. Policy and procedures intended 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 land surface elevations and cultural features along a stream or river.

Floodproofing. Any combination of measures, including structural changes or adjustments, to properties and structures, water and sanitary facilities, and the contents of buildings subject to flooding for the purpose of reducing or eliminating flood damage. Floodproofing measures include sealing, anchoring, elevating, and filling.

Flood protection elevation. See “Elevation, flood protection.”

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

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

Floor area. The sum of the horizontal areas of each floor of a building, measured from the interior faces of the exterior walls or from the centerline of walls separating two buildings. The floor area measurement excludes the area within basements, utility rooms, garages, porches, breezeways, and unfinished attics.

Footprint. 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. Note: 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 and would need to comply with Chapter NR 115.05 (1)(g)5, Wisconsin Administrative Code.

Freeboard. A flood protection elevation requirement designed as a safety factor, which is usually expressed in terms of a specified number of feet above a calculated flood level. Freeboard compensates for the effects of many factors that contribute to flood heights greater than those calculated, such as ice jams, debris accumulation, wave action, obstruction of bridge openings and floodways, the effects of urbanization on the hydrology of the watershed, loss of flood storage areas due to development, and aggradation of the river or stream bed.

Frontage, water. The smallest dimension of a lot abutting a waterbody or watercourse, measured along the ordinary high water mark.

Habitable building. Any building, or portion thereof, used for human habitation.

Hearing notice. Publication or posting meeting the requirements of Chapter 985, Wis. Stats. For appeals, a Class 1 notice, published once at least one week (7 days) before the hearing, is required. For all zoning ordinance amendments, a Class 2 notice, published twice, once each week consecutively, the last at least one week (7 days) before the hearing.

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

Historic structure. Any structure that is: 1) Listed individually in the National Register of Historic Places or preliminarily determined by the U. S. Secretary of the Interior as meeting the requirements for individual listing on the national register; 2) Certified or preliminarily determined by the U. S. Secretary of the Interior as contributing to the historical significance of a registered historic district or a district preliminarily determined by the Secretary to qualify as a registered historic district; 3) Individually listed on a state inventory of historic places in states with historic preservation programs which have been approved by the U. S. Secretary of the Interior; or 4) Individually listed on a local inventory of historic places in communities with historic preservation programs that have been certified by the State of Wisconsin.

Impervious surface. An area that releases as runoff all or majority of the precipitation that falls on it. "Impervious surface" excludes frozen soil, but includes rooftops, decks, bricks, sidewalks, driveways, and parking lots, unless specifically designed, constructed, and maintained to be pervious. Roadways and sidewalks as defined in Section 340.01, Wisconsin Administrative Code, are not considered impervious surfaces. Any artificial or natural surface which does not allow the passage or entrance of water or sediment into the ground surface. Impervious surfaces include, but are not limited to, buildings, structures, concrete or asphalt surfaces, gravel or traffic bond surfaces, decks, and bricks.

Increase in regional flood height. A calculated upward rise in the regional flood elevation, greater than 0.00 foot, based on a comparison of existing conditions and proposed conditions which are 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.

Lagoon. An artificial enlargement of a waterway.

Lake Michigan ravine area. All ravines that open directly onto a bluff located along the Lake Michigan shoreline.

Land disturbing activity. Any human-made alteration of the land surface resulting in a change in topography, existing vegetation, or non-vegetative soil cover. Land disturbing activity includes filling and grading activities, the clearing and grubbing of vegetation, building foundation demolition, excavating, and pit trench dewatering.

Land division. A division of a lot, parcel, or tract of land by the owner thereof, or the agent of the owner, for the purpose of transfer of ownership or building development, where the act of division creates three or more parcels or building sites, inclusive of the original remnant parcel, any one of which is five acres or less by division or successive division within a five-year period.

Land use. Any nonstructural use made of unimproved or improved real estate.

Letter of Map Change (LOMC). An official notification from the Federal Emergency Management Agency that a flood hazard boundary map or flood insurance rate map has been changed. A LOMC in a general term that includes a Letter of Map Amendment (LOMA), a Letter of Map Revision (LOMR), and a Letter of Map Amendment Based on Fill (LOMR-F).

Local unit of government. A town, village, or city.

Lot. A parcel of land having frontage on a public street or other officially approved means of access, occupied or intended to be occupied by a principal structure or use and sufficient in size to meet lot width, lot frontage, lot area, setback, yard, parking, and other requirements of this ordinance and any applicable town, village, or city ordinances.

Lot area. The area of a horizontal plane bounded by the front, side, and rear lot lines, excluding any street rights-of-way.

Lot width, average. The average of the following two measurements: 1) the width of a lot measured at the minimum setback from the street required by the applicable municipal zoning ordinance and 2) the width of a lot measured at the ordinary high water mark of a navigable waterbody or stream.

Lowest adjacent grade. Elevation of the lowest ground surface that touches any of the exterior wall of a building.

Lowest floor. The lowest floor of the lowest enclosed area (including basement). An unfinished or flood resistant enclosure, usable solely for parking of vehicles, building access or storage in

an area other than a basement area is not considered the lowest floor of a building, provided that such enclosure is not built so as to render the structure in violation of the applicable non-elevation design requirements of 44 CFR 60.3.

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

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

Minor land division. A minor land division is any division of land that creates three or more parcels or building sites, inclusive of the original remnant parcel, any one of which is five acres or less by division or successive division within a five-year period, and the division does not result in a subdivision as hereinafter defined.

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

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

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

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

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

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

Municipality or municipal. A city, town, or village.

Natural Resources Committee. The committee created and designated by the county board under Section 59.69, Wis. Stats., to act in all matters pertaining to county planning and zoning.

Navigable waters. Lake Michigan, all natural inland lakes within Ozaukee County, and all rivers, streams, ponds, sloughs, flowages, and other waters within the jurisdictional limits of Ozaukee County which are navigable under the laws of the State of Wisconsin. The Wisconsin Supreme Court has declared navigable all bodies of water with a bed differentiated from adjacent uplands and with levels of flow sufficient to support navigation by a recreational craft of the shallowest draft on an annually recurring basis. The DNR is responsible for determining if a waterbody or watercourse is navigable.

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 Ozaukee 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 (National Geodetic Vertical Datum). Elevations referenced to mean sea level datum, 1929 adjustment.

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

Nonconforming use. Any use of land, or land and buildings in combination, lawfully existing at the time of adoption of this ordinance, which does not comply with the use regulations set forth in the ordinance. (For example, an existing residential structure in the floodway is a nonconforming use).

Nonflood disaster. A fire or an ice storm, tornado, windstorm, mudslide, or other destructive act of nature, other than a flood.

Nuisance. An unreasonable activity or use of property that interferes substantially with the comfortable enjoyment of life, health, or safety of others.

Objecting agency. An agency empowered to object to a subdivision plat pursuant to Chapter 236, Wis. Stats. The county may not approve any plat upon which an objection has been made until the objection has been satisfied. The objecting agencies include the Wisconsin Department of Administration, the Wisconsin Department of Safety and Professional Services, the Wisconsin Department of Transportation and, for subdivisions located in the shoreland area, the Wisconsin Department of Natural Resources.

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

Official floodplain zoning map. The maps adopted and made part of this ordinance, as described in Section 7.0201, which have been approved by the DNR and FEMA.

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.

Outlot. A parcel of land, other than a buildable lot or block, so designated on a plat, which is used to convey or reserve areas of land. Outlots may be created to restrict a lot which is unbuildable due to high groundwater, steep slopes, or other physical constraints, or to create common open space. Outlots may also be parcels of land intended to be re-divided into lots or combined with lots or outlots in adjacent land divisions in the future for the purpose of creating buildable lots. An outlot may also be created if a lot fails to meet requirements for a private onsite wastewater treatment system, but which may be buildable if public sewer is extended to the lot or land division.

Section 236.13 (6), Wis. Stats., prohibits using an outlot as a building site unless it complies with all the requirements imposed for buildable lots. The county will generally require that any restrictions related to an outlot be included on the face of the plat.

Parcel. For purposes of this ordinance, the term “parcel” is synonymous with the term “lot.”

Parties-in-interest. All abutting property owners and all property owners within 300 feet of a parcel that is to be considered for a rezoning or is subject to an appeal, variance, , or substitute nonconforming use to be considered by the board of adjustment. The application of the 300-foot rule is not affected by town, village, or city corporate limit lines.

Permitted use. A use allowed in a zoning district upon satisfaction of the standards and requirements of this ordinance and the zoning ordinance of the town, village, or city within which a property is located.

Person. An individual, or group of individuals, corporation, partnership, association, state agency, town, village, or city.

Pier. Any structure extending into navigable waters from the shore with water on both sides, built or maintained for the purpose of providing a berth for watercraft or for loading or unloading cargo or passengers onto or from watercraft. Such a structure may include a boat shelter which is removed seasonally. Such a structure may include a boat hoist or boat lift, and the hoist or lift may be permanent or may be removed seasonally.

Plat. A map prepared for the purpose of recording a subdivision.

Preliminary plat. A map showing the salient features of a proposed subdivision submitted to an approving authority for purposes of preliminary consideration. A preliminary plat precisely describes the location and exterior boundaries of the land proposed to be divided, and shows the approximate location of lots and other improvements.

Previously developed. A lot or parcel that was developed with a structure legally placed upon it.

Primary environmental corridor. A concentration of significant natural resources at least 400 acres in area, at least two miles in length, and at least 200 feet in width, as delineated and mapped by the Southeastern Wisconsin Regional Planning Commission.

Principal structure. A structure in which is conducted the principal use of the lot on which it is located.

Principal use. The primary or predominant use to which a lot is devoted.

Private Onsite Wastewater Treatment System. See private sewage system.

Private sewage system. A sewage treatment and disposal system serving a single structure with a septic tank and soil absorption field located on the same parcel as the structure. This term also means an alternative sewage system approved by the Wisconsin 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. A private sewage system may be owned by the landowner or by a special purpose district.

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

Ravine. A small, steep sided valley, worn by running water.

Ravine, shallow. A small steep sided valley, worn by running water, that does not exceed 20 feet in depth when measured from the bottom of the ravine to the horizontal level of the land adjacent to the ravine.

Reasonably safe from flooding. A situation where regional flood waters will not inundate the land or damage structures to be removed from a flood hazard area, and where subsurface waters related to the regional flood will not damage existing or proposed buildings.

Recreational vehicle. A vehicle used for transient living quarters which can be towed, hauled, or driven and is designed for recreational, camping, or travel use which includes, but is not limited to, travel trailers, camper trailers, motor homes, pickup campers, water craft, all-terrain vehicles, and snowmobiles. Recreational vehicles that remain onsite more than 180 days shall be considered mobile homes for the purposes of this ordinance.

Regional flood. A flood determined to be representative of large floods known to have occurred in Wisconsin. A regional flood is a flood with a one percent chance of being equaled or exceeded in any given year.

Replat. The process of changing, or the plat or map which changes, the boundaries of a recorded subdivision plat, certified survey map, or a part thereof, including the combination of two or more lots or parcels within a plat or certified survey map. The division of a large block, lot, or outlot within a recorded subdivision plat without changing the exterior boundaries of said block, lot, or outlot is not a replat, but may need to be reviewed as a land division under this ordinance.

Setback. The minimum horizontal distance by which a building or structure must be separated from a lot line, street centerline, ordinary high water mark, or a wetland.

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

Shoreland permit. A permit issued by the zoning administrator for construction, moving, alteration, or addition to any use, structure, or structure and use in combination upon compliance with the provisions of this ordinance or an authorized variance therefrom.

Shoreline. The intersection of the land surface abutting navigable waters with the ordinary high water mark.

Stable slope distance. The horizontal distance that the top of a bluff would need to be receded or regraded to form a stable bluff slope that would not likely be affected by major bluff recession processes such as slumping or sliding.

Start of construction. The date a zoning permit is issued, provided the actual start of construction, repair, reconstruction, rehabilitation, addition, placement, or other improvement is within 180 days of the permit date. The actual start means either the first placement of permanent construction on a site, such as the pouring of a 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 principal 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.

Story. That portion of a building included between the surface of any floor and the surface of the floor next above it, or if there is no floor above it, then the space between the floor and the ceiling next above it and including those basements used for the principal use.

Street. Any public or private thoroughfare abutting a lot that is an existing state, county, or town roadway; is shown upon a subdivision plat or certified survey map approved pursuant to law; or is approved by other official action. The street includes all land within the right-of-way, whether improved or unimproved.

Structural alterations. Any change in the supporting members of a structure, such as foundations, bearing walls, columns, beams, or girders.

Structure. Includes both principal and accessory structures such as a garage, shed, boathouse, sidewalk, walkway, patio, deck, retaining wall, porch, or fire pit.

Subdivider. Any person, firm, or corporation, or any agent thereof, dividing or proposing to divide land resulting in a land division or replat, or any person who creates a condominium under Chapter 703, Wis. Stats.

Subdivision. A division of land for which approval of a plat is required under Chapter 236, Wis. Stats.

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

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

Unnecessary hardship. That circumstance where special conditions affecting a particular property, which were not self-created, make strict conformity with the restrictions governing dimensional standards, such as lot area, lot width, or setbacks, unnecessarily burdensome or unreasonable in light of the purpose of this ordinance.

Utilities. Public and private facilities such as water wells, water and sewage pumping stations, water storage tanks, power and communication transmission lines, electrical power substations, static transformer stations, telephone and telegraph exchanges, microwave radio relays, and gas regulation stations, but not including sewage disposal plants, municipal incinerators, warehouses, wireless communication facilities, shops, and storage yards.

Variance. An authorization granted by the board of adjustment for the construction, maintenance, or alteration of a structure in a manner that deviates from the dimensional standards of this ordinance. A variance may not permit the use of a property that is otherwise prohibited by this ordinance.

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

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

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

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

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

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.

Wharf. A structure in navigable waters extending along the shore and generally connected with the uplands throughout its length, built or maintained for the purpose of providing a berth for watercraft or for loading or unloading cargo or passengers onto or from watercraft. Such a structure may include a boat hoist or boat lift, and the hoist or lift may be permanent or may be removed seasonally.

Yard. An open space on the same lot with a structure, unoccupied and unobstructed from the ground upward except for vegetation. The street, shoreyard, and rear yards extend across the full width or depth of the lot.

Yard, shore. A yard extending across the full width or depth of a lot, the depth of which shall be the minimum horizontal distance between a line intersecting both side lot lines at the same angle and containing the point of the ordinary high water mark of a navigable water nearest the principal structure and a line parallel thereto containing the point of the principal structure nearest the ordinary high water mark.

Zoning administrator. The officer appointed by the county board to administer this ordinance and to issue shoreland permits and, following a determination by the board of adjustment, variances.

