

Chapter 12 - ENVIRONMENT

State Law reference— Soil and water conservation and animal waste management, Wis. Stats. § 92.02 et seq.; county authority with regard to environmental protection and land use, Wis. Stats. § 59.70; soil and water conservation standards, Wis. Stats. § 92.105; pollution discharge elimination, Wis. Stats. § 283.001 et seq.; air pollution, Wis. Stats. § 285.01 et seq.; metallic mining, Wis. Stats. § 293.01 et seq.; nonmetallic mining reclamation, Wis. Stats. § 295.11 et seq.

ARTICLE I. - IN GENERAL

Sec. 12-1. - Minimum housing standards.

Any building designated as a dwelling including mobile homes, shall meet the following minimal standards:

- (1) Be provided with an adequate, safe and potable well supply. Where plumbing exits, it shall be connected to either a public water supply or an approved private water supply so as to protect the health, safety, and welfare of the occupants and public.
- (2) Be provided with a safe method of disposing of human and household waste in accordance with state code and local ordinances. The plumbing and waste disposal systems shall be properly installed and maintained.
- (3) Be provided with an adequate and properly maintained heating system.
- (4) Contains doors and windows constructed and maintained in relation to the adjacent wall construction so as to exclude rain or snow. Windows/screens shall be maintained in a manner which prevents an infestation of flies and/or other disease carrying insects and allows for adequate air circulation.

(Compiled Ords. of 2009, § 8.12.010(A))

Secs. 12-2—12-20. - Reserved.

ARTICLE II. - FLOOD PREVENTION AND CONTROL

DIVISION 1. - GENERALLY

Sec. 12-21. - Definitions.

Unless specifically defined in this section, words and phrases in this article shall have their common law meaning and shall be applied in accordance with their common usage. Words used in the present tense include the future, the singular number includes the plural and the plural number includes the singular. The word "may" is permissive, "shall" is mandatory and is not discretionary.

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

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

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

Basement means any enclosed area of a building having its floor subgrade (i.e., below ground level) on all sides.

Building. See Structure.

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

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

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

Certificate of compliance means a certification that the construction and the use of land or a building, the elevation of fill or the lowest floor of a structure is in compliance with all of the provisions of this article.

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

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

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

Department means the state department of natural resources.

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

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

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

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

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

Federal emergency management agency (FEMA) means the federal agency that administers the National Flood Insurance Program.

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

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

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

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

Flood hazard boundary map means a map designating approximate flood hazard areas. Flood hazard areas are designated as unnumbered A zones and do not contain floodway lines or regional flood elevations. This map forms the basis for both the regulatory and insurance aspects of the National Flood Insurance Program (NFIP) until superseded by a flood insurance study and a flood insurance rate map.

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

Flood insurance study means a technical engineering examination, evaluation, and determination of the local flood hazard areas. It provides maps designating those areas affected

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by the regional flood and provides both flood insurance rate zones and base flood elevations and may provide floodway lines. The flood hazard areas are designated as numbered and unnumbered A zones. Flood insurance rate maps, that accompany the flood insurance study, form the basis for both the regulatory and the insurance aspects of the National Flood Insurance Program.

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

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

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

Floodplain means land which has been or may be covered by floodwater during the regional flood. It includes the floodway and the floodfringe, and may include other designated floodplain areas for regulatory purposes.

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

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

Floodproofing means any combination of structural provisions, changes or adjustments to properties and structures, water and sanitary facilities and contents of buildings subject to flooding, for the purpose of reducing or eliminating flood damage.

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

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

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

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

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

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Historic structure means any structure that is either:

- (1) Listed individually in the National Register of Historic Places or preliminarily determined by the Secretary of the Interior as meeting the requirements for individual listing on the National Register;
- (2) Certified or preliminarily determined by the Secretary of the Interior as contributing to the historical significance of a registered historic district or a district preliminarily determined by the secretary to qualify as a registered historic district;
- (3) Individually listed on a state inventory of historic places in states with historic preservation programs which have been approved by the Secretary of the Interior; or
- (4) Individually listed on a local inventory of historic places in communities with historic preservation programs that have been certified either by an approved state program, as determined by the Secretary of the Interior; or by the Secretary of the Interior in states without approved programs.

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

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

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

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

Municipality or municipal means the county, city or village governmental units enacting, administering and enforcing this article.

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

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

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or after December 31, 1974, whichever is later, and includes any subsequent improvements to such structures.

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

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

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

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

Official floodplain zoning map means that map, adopted and made part of this article, as described in section 12-26, which has been approved by the department and FEMA.

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

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

Person means an individual, or group of individuals, corporation, partnership, association, municipality or state agency.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(Compiled Ords. of 2009, ch. 18.04)

Sec. 12-22. - Statutory authorization.

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

(Compiled Ords. of 2009, § 18.08.010)

Sec. 12-23. - Finding of fact.

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

(Compiled Ords. of 2009, § 18.08.020)

Sec. 12-24. - Statement of purpose.

This article is intended to regulate floodplain development to:

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

(Compiled Ords. of 2009, § 18.08.030)

Sec. 12-25. - Areas to be regulated.

This article regulates all areas that would be covered by the regional flood or base flood.

(Compiled Ords. of 2009, § 18.08.050(A))

Note— Base flood elevations are derived from the flood profiles in the Flood Insurance Study. Regional flood elevations may be derived from other studies. Areas covered by the base flood are identified as A zones on the Flood Insurance Rate Map.

Sec. 12-26. - Official maps and revisions.

The boundaries of all floodplain districts are designated as floodplains or A zones on the maps listed below and the revisions in the Clark County Floodplain Appendix. Any change to the base flood elevations (BFE) in the Flood Insurance Study (FIS) or on the Flood Insurance Rate Map (FIRM) must be reviewed and approved by the DNR and FEMA before it is effective. No changes to regional flood elevations (RFE's) on nonFEMA maps shall be effective until approved by the DNR. These maps and revisions are on file in the office of the Clark County Planning and Zoning Department. If more than one map or revision is referenced, the most restrictive information shall apply.

- (1) Official maps (based on flood insurance study). Flood Insurance Rate Maps (FIRM), panel numbers:

55019C0025D,	55019C0050D,	55019C0069D,	55019C0125D,	55019C0150D,
55019C0175D,	55019C0185D,	55019C0200D,	55019C0206D,	55019C0207D,
55019C0208D,	55019C0209D,	55019C0217D,	55019C0219D,	55019C0225D,
55019C0233D,	55019C0235D,	55019C0241D,	55019C0245D,	55019C0250D,
55019C0275D,	55019C0300D,	55019C0325D,	55019C0341D,	55019C0342D,
55019C0343D,	55019C0350D,	55019C0355D,	55019C0357D,	55019C0359D,
55019C0360D,	55019C0361D,	55019C0362D,	55019C0365D,	55019C0370D,
55019C0376D,	55019C0378D,	55019C0380D,	55019C0385D,	55019C0386D,
55019C0387D,	55019C0388D,	55019C0389D,	55019C0393D,	55019C0395D,
55019C0419D,	55019C0420D,	55019C0425D,	55019C0450D,	55019C0475D,
55019C0500D,	55019C0507D,	55019C0509D,	55019C0510D,	55019C0517D,
55019C0519D,	55019C0520D,	55019C0525D,	55019C0526D,	55019C0530D,
55019C0538D,	55019C0540D,	55019C0550D,	55019C0575D,	55019C0576D,
55019C0577D,	55019C0578D,	55019C0579D,	55019C0587D,	55019C0590D,

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55019C0625D,	55019C0650D,	55019C0669D,	55019C0670D,	55019C0675D,
55019C0676D,	55019C0677D,	55019C0678D,	55019C0679D,	55019C0683D,
55019C0684D,	55019C0685D,	55019C0686D,	55019C0687D,	55019C0688D,
55019C0689D,	55019C0691D,	55019C0695D,	55019C0703D,	55019C0705D,
55019C0725D,	55019C0750D,	55019C0775D,	55019C0781D,	55019C0782D,
55019C0783D,	55019C0784D,	55019C0800D,	55019C0825D,	55019C0850D,
55019C0875D				

dated July 6, 2010, with corresponding profiles that are based on the flood insurance study dated July 6, 2010.

(Note—Approved by DNR and FEMA)

(2) Official maps (based on other studies).

- a. The Hydraulic Shadow Map, including corrected cross section evaluations found in the Snyder Dam—Dam Failure Analysis of February 1991, prepared by Ayres Associates. (Note—Approved by DNR)
- b. The Hydraulic Shadow Map, including Dam Break Flood Profile, found in the Rock Dam—Dam Failure Analysis of March 1994, prepared by Ayres Associates. (Note—Approved by DNR)
- c. The Cross Sections and Stage Diagrams Maps, found in appendix F, Dam Break Analysis, Mead Lake Dam Crystal Waters Subdivision Project, December, 2003, prepared by Northern Environmental. (Note—Approved by DNR)
- d. The Hydraulic Shadow Maps, including Dam Break Flood Profiles, found in the Sherwood Dam—Dam Hazard Assessment of October 1998 prepared by Ayres Associates.
- e. The Hydraulic Shadow Maps, including Dam Break Flood Profiles found in the Poplar River Structure No. 1 Sportsman Lake—Dam Failure Analysis, December 2006, prepared by the USDA, Natural Resource Conservation Service.
- f. The Hydraulic Shadow Map, included the corrected cross section evaluations found in the Mead Lake Dam Failure Analysis Report of December 2017, prepared by Oakridge Engineering. (Note- Approved by DNR)

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- g. The Hydraulic Shadow Map, including corrected cross section evaluations found in the Humbird Dam Failure Analysis Report of November 2017, prepared by Ayres Associates. (Note- Approved by DNR)

(Ord. 218-2-18, 03-20-2018)

Sec. 12-27. - Establishment of districts.

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

- (1) The Floodway District (FW) is the channel of a river or stream and those portions of the floodplain adjoining the channel required to carry the regional floodwaters.
- (2) The Flood Fringe District (FF) is that portion of the floodplain between the regional flood limits and the floodway.
- (3) The General Floodplain District (GFP) is those areas that have been or may be covered by floodwater during the regional flood.

(Compiled Ords. of 2009, § 18.08.050(C))

Sec. 12-28. - Locating floodplain boundaries.

Discrepancies between boundaries on the official floodplain zoning map and actual field conditions shall be resolved using the criteria in subsections (1) or (2) of this section. If a significant difference exists, the map shall be amended according to this chapter. The zoning administrator can rely on a boundary derived from a profile elevation to grant or deny a land use permit, whether or not a map amendment is required. The zoning administrator shall be responsible for documenting actual pre-development field conditions and the basis upon which the district boundary was determined and for initiating any map amendments required under this section. Disputes between the zoning administrator and an applicant over the district boundary line shall be settled according to section 12-189(3) and the criteria in subsections (1) and (2) of this section.

- (1) If flood profiles exist, the map scale and the profile elevations shall determine the district boundary. The regional or base flood elevations shall govern if there are any discrepancies.
- (2) Where flood profiles do not exist, the location of the boundary shall be determined by the map scale, visual on-site inspection and any information provided by the department.

(Compiled Ords. of 2009, § 18.08.050(D))

Note— Where the flood profiles are based on established base flood elevations from a FIRM, FEMA must also approve any map amendment pursuant to section 12-223(6).

Sec. 12-29. - Removal of lands from floodplain.

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

(Compiled Ords. of 2009, § 18.08.050(E))

Note— This procedure does not remove the requirements for the mandatory purchase of flood insurance. The property owner must contact FEMA to request a Letter of Map Change (LOMC).

Sec. 12-30. - Compliance.

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

(Compiled Ords. of 2009, § 18.08.050(F))

Sec. 12-31. - Municipalities and state agencies regulated.

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

(Compiled Ords. of 2009, § 18.08.050(G))

Sec. 12-32. - Abrogation and greater restrictions.

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

(Compiled Ords. of 2009, § 18.08.050(H))

Sec. 12-33. - Interpretation.

In their interpretation and application, the provisions of this article are the minimum requirements liberally construed in favor of the county board and are not a limitation on or repeal of any other powers granted by state law. If a provision of this article, required by Wis. Admin. Code ch. NR 116 is unclear, the provision shall be interpreted in light of the standards in effect

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on the date of the adoption of the ordinance from which this article is derived or in effect on the date of the most recent text amendment to this article.

(Compiled Ords. of 2009, § 18.08.050(I))

Sec. 12-34. - Warning and disclaimer of liability.

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

(Compiled Ords. of 2009, § 18.08.050(J))

Sec. 12-35. - Severability.

Should any portion of this article be declared unconstitutional or invalid by a court of competent jurisdiction, the remainder of this article shall not be affected.

(Compiled Ords. of 2009, § 18.08.050(K))

Sec. 12-36. - General development standards.

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

(Compiled Ords. of 2009, § 18.08.050(L))

Secs. 12-37—12-62. - Reserved.

DIVISION 2. - GENERAL STANDARDS APPLICATION TO ALL FLOODPLAIN DISTRICTS

Sec. 12-63. - Hydraulic and hydrologic analyses.

- (a) Except as allowed in subsection (c) of this section, no floodplain development shall:
 - (1) Obstruct flow, defined as development which blocks the conveyance of floodwaters by itself or with other development, increasing regional flood height; or
 - (2) Increase regional flood height due to floodplain storage area lost, which equals or exceeds 0.01 foot.
- (b) The zoning administrator shall deny permits if it is determined the proposed development will obstruct flow or increase regional flood heights 0.01 foot or more, based on the officially adopted FIRM or other adopted map, unless the provisions of subsection (c) of this section are met.
- (c) Obstructions or increases equal to or greater than 0.01 foot may only be permitted if amendments are made to this article, the official floodplain zoning maps, floodway lines and water surface profiles, in accordance with this article.

(Compiled Ords. of 2009, § 18.12.010)

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

Sec. 12-64. - Watercourse alterations.

- (a) No land use permit to alter or relocate a watercourse in a mapped floodplain shall be issued until the local official has notified in writing all adjacent municipalities, the department and FEMA regional offices and required the applicant to secure all necessary state and federal permits. The flood-carrying capacity of any altered or relocated watercourse shall be maintained.
- (b) As soon as is practicable, but not later than six months after the date of the watercourse alteration or relocation, the zoning administrator shall notify FEMA of the changes by submitting appropriate technical or scientific data in accordance with NFIP guidelines that shall be used to revise the FIRM, risk premium rates and floodplain management regulations as required.

(Compiled Ords. of 2009, § 18.12.020)

Sec. 12-65. - Wis. Stats. chs. 30 and 31, development permit.

Development which requires a permit from the department, under Wis. Stats. chs. 30 and 31 such as docks, piers, wharves, bridges, culverts, dams and navigational aids, may be allowed if the necessary permits are obtained and amendments to the floodway lines, water surface profiles,

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BFE's established in the FIS, or other data from the officially adopted FIRM, or other floodplain zoning maps or the floodplain zoning ordinance are made according to this article.

(Compiled Ords. of 2009, § 18.12.030)

Sec. 12-66. - Public or private campgrounds.

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

- (1) The campground is approved by the department of health and family services.
- (2) A land use permit for the campground is issued by the zoning administrator.
- (3) The character of the river system and the elevation of the campground is such that a 72-hour warning of an impending flood can be given to all campground occupants.
- (4) There is an adequate flood warning procedure for the campground that offers the minimum notice required under this section to all persons in the campground. This procedure shall include a written agreement between the campground owner, the municipal emergency government coordinator and the chief law enforcement official which specifies the flood elevation at which evacuation shall occur, personnel responsible for monitoring flood elevations, types of warning systems to be used and the procedures for notifying at-risk parties, and the methods and personnel responsible for conducting the evacuation.
- (5) This agreement shall be for no more than one calendar year, at which time the agreement shall be reviewed and updated by the officials identified in subsection (4) of this section, to remain in compliance with all applicable regulations, including those of the state department of health and family services and all other applicable regulations.
- (6) Only camping units are allowed.
- (7) 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.
- (8) All camping units that remain on site for more than 30 days shall be issued a limited authorization by the campground operator, a written copy of which is kept on file at the campground. Such authorization shall allow placement of a camping unit for a period not to exceed 180 days and shall ensure compliance with all the provisions of this section.
- (9) The municipality shall monitor the limited authorizations issued by the campground operator to ensure compliance with the terms of this section.

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- (10) All camping units that remain in place for more than 180 consecutive days must meet the applicable requirements in either this section or division 4 of this article for the floodplain district in which the structure is located.
- (11) The campground shall have signs clearly posted at all entrances warning of the flood hazard and the procedures for evacuation when a flood warning is issued.
- (12) All service facilities, including but not limited to refuse collection, electrical service, natural gas lines, propane tanks, sewage systems and wells shall be properly anchored and placed at or floodproofed to the flood protection elevation.

(Compiled Ords. of 2009, § 18.12.040)

Secs. 12-67—12-90. - Reserved.

DIVISION 3. - FLOODWAY DISTRICT

Sec. 12-91. - Applicability.

This section applies to all floodway areas on the floodplain zoning maps and those identified pursuant to section 12-140.

(Compiled Ords. of 2009, § 18.16.010)

Sec. 12-92. - Permitted uses.

The following open space uses are allowed in the floodway district and the floodway areas of the General Floodplain District, if they are not prohibited by any other ordinance; they meet the standards in sections 12-93 and 12-94, and all permits or certificates have been issued according to section 12-187:

- (1) Agricultural uses, such as farming, outdoor plant nurseries, horticulture, viticulture and wild crop harvesting.
- (2) Nonstructural industrial and commercial uses, such as loading areas, parking areas and airport landing strips.
- (3) Nonstructural recreational uses, such as golf courses, tennis courts, archery ranges, picnic grounds, boat ramps, swimming areas, parks, wildlife and nature preserves, game farms, fish hatcheries, shooting, trap and skeet activities, hunting and fishing areas and hiking and horseback riding trails, subject to the fill limitations of section 12-93(d).
- (4) Uses or structures accessory to open space uses, or classified as historic structures that comply with sections 12-93 and 12-94.
- (5) Extraction of sand, gravel or other materials that comply with section 12-93(d).
- (6) Functionally water-dependent uses, such as docks, piers or wharves, dams, flowage areas, culverts, navigational aids and river crossings of transmission lines, and pipelines that comply with Wis. Stats. chs. 30 and 31.

- (7) Public utilities, streets and bridges that comply with section 12-93(c).

(Compiled Ords. of 2009, § 18.16.020)

Sec. 12-93. - Standards for developments in floodway areas.

(a) Generally.

- (1) Any development in floodway areas shall comply with division 2 of this article and have a low flood damage potential.
- (2) Applicants shall provide the following data to determine the effects of the proposal according to section 12-63:
 - a. A cross-section elevation view of the proposal, perpendicular to the watercourse, showing if the proposed development will obstruct flow; or
 - b. An analysis calculating the effects of this proposal on regional flood height.
- (3) The zoning administrator shall deny the permit application if the project will increase flood elevations upstream or downstream 0.01 foot or more, based on the data submitted for subsection (a)(2) of this section.

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

- (1) The structure is not designed for human habitation and does not have a high flood damage potential;
- (2) It must be anchored to resist flotation, collapse, and lateral movement;
- (3) Mechanical and utility equipment must be elevated or flood proofed to, or above the flood protection elevation; and
- (4) It must not obstruct flow of floodwaters or cause any increase in flood levels during the occurrence of the regional flood.

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

- (1) Adequate floodproofing measures are provided to the flood protection elevation; and
- (2) Construction meets the development standards of section 12-63.

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

- (1) The requirements of section 12-63 are met;
- (2) No material is deposited in the navigable channel unless a permit is issued by the department pursuant to Wis. Stats. ch. 30 and a permit pursuant to section 404 of the Federal Water Pollution Control Act, Amendments of 1972, 33 USC 1344 has been issued, if applicable, and the other requirements of this section are met;

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- (3) The fill or other materials will be protected against erosion by riprap, vegetative cover, sheet piling or bulkheading; and
- (4) The fill is not classified as a solid or hazardous material.

(Compiled Ords. of 2009, § 18.16.030)

Sec. 12-94. - Prohibited uses.

All uses not listed as permitted uses in section 12-92 are prohibited, including the following uses:

- (1) Habitable structures, structures with high flood damage potential, or those not associated with permanent open space uses;
- (2) Storing materials that are buoyant, flammable, explosive, injurious to property, water quality, or human, animal, plant, fish or other aquatic life;
- (3) Uses not in harmony with or detrimental to uses permitted in the adjoining districts;
- (4) Any private or public sewage systems, except portable latrines that are removed prior to flooding and systems associated with recreational areas and department-approved campgrounds that meet the applicable provisions of local ordinances and Wis. Admin. Code ch. Comm 83;
- (5) Any public or private wells which are used to obtain potable water, except those for recreational areas that meet the requirements of local ordinances and Wis. Admin. Code chs. NR 811 and 812;
- (6) Any solid or hazardous waste disposal sites;
- (7) Any wastewater treatment ponds or facilities, except those permitted under Wis. Admin. Code § NR 110.15(3)(b);
- (8) Any sanitary sewer or water supply lines, except those to service existing or proposed development located outside the floodway which complies with the regulations for the floodplain area occupied.

(Compiled Ords. of 2009, § 18.16.040)

Secs. 12-95—12-116. - Reserved.

DIVISION 4. - FLOOD FRINGE DISTRICT

Sec. 12-117. - Applicability.

This section applies to all flood fringe areas shown on the floodplain zoning maps and those identified pursuant to section 12-140.

(Compiled Ords. of 2009, § 18.20.010)

Sec. 12-118. - Permitted uses.

Any structure, land use, or development is allowed in the flood fringe district if the standards in section 12-119 are met, the use is not prohibited by this or any other ordinance or regulation and all permits or certificates specified in section 12-187 have been issued.

(Compiled Ords. of 2009, § 18.20.020)

Sec. 12-119. - Standards for development in flood fringe areas.

Section 12-63 shall apply in addition to the following requirements according to the use requested:

- (1) Residential uses. Any habitable structure, including a manufactured home, which is to be erected, constructed, reconstructed, altered, or moved into the flood fringe area, shall meet or exceed the following standards:
 - a. The elevation of the lowest floor, excluding the basement or crawlway, shall be at or above the flood protection elevation on fill. The fill shall be one foot or more above the regional flood elevation extending at least 15 feet beyond the limits of the structure. The department may authorize other floodproofing measures if the elevations of existing streets or sewer lines makes compliance with the fill standards impractical;
 - b. The basement or crawlway floor may be placed at the regional flood elevation if it is floodproofed to the flood protection elevation. No basement or crawlway floor is allowed below the regional flood elevation;
 - c. Contiguous dryland access shall be provided from a structure to land outside of the floodplain, except as provided in subsection (1)d of this section.
 - d. In developments where existing street or sewer line elevations make compliance with subsection (1)c of this section impractical, the municipality may permit new development and substantial improvements where access roads are at or below the regional flood elevation, if:
 1. The municipality has written assurance from police, fire and emergency services that rescue and relief will be provided to the structure by wheeled vehicles during a regional flood event; or
 2. The municipality has a natural disaster plan approved by Wisconsin Emergency Management and the state department of natural resources.
- (2) Accessory structures or uses.

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- a. Except as provided in subsection (2)b of this section, an accessory structure which is not connected to a principal structure may be constructed with its lowest floor at or above the regional flood elevation.
 - b. An accessory structure which is not connected to the principal structure and which is less than 600 square feet in size and valued at less than \$10,000.00 may be constructed with its lowest floor no more than two feet below the regional flood elevation if it is subject to flood velocities of no more than two feet per second and it meets all of the provisions of section 12-93(b)(1) through (4) and subsection (5) of this section.
- (3) Commercial uses. Any commercial structure which is erected, altered or moved into the flood fringe area shall meet the requirements of subsection (1) of this section. Subject to the requirements of subsection (5) of this section, storage yards, surface parking lots and other such uses may be placed at lower elevations if an adequate warning system exists to protect life and property.
- (4) Manufacturing and industrial uses. Any manufacturing or industrial structure which is erected, altered or moved into the flood fringe area shall be protected to the flood protection elevation using fill, levees, floodwalls, or other floodproofing measures in section 12-191. Subject to the requirements of subsection (5) of this section, storage yards, surface parking lots and other such uses may be placed at lower elevations if an adequate warning system exists to protect life and property.
- (5) Storage of materials. Materials that are buoyant, flammable, explosive, or injurious to property, water quality or human, animal, plant, fish or aquatic life shall be stored at or above the flood protection elevation or floodproofed in compliance with section 12-191. Adequate measures shall be taken to ensure that such materials will not enter the water body during flooding.
- (6) Public utilities, streets and bridges. All utilities, streets and bridges shall be designed to be compatible with comprehensive floodplain development plans; and:
 - a. When failure of public utilities, streets and bridges would endanger public health or safety, or where such facilities are deemed essential, construction of and substantial improvements to such facilities may only be permitted if they are floodproofed in compliance with section 12-191 to the flood protection elevation;
 - b. Minor roads or nonessential utilities may be constructed at lower elevations if they are designed to withstand flood forces to the regional flood elevation.
- (7) Sewage systems. All on-site sewage disposal systems shall be floodproofed, pursuant to section 12-191, to the flood protection elevation and shall meet the provisions of all local ordinances and Wis. Admin. Code ch. Comm 83.
- (8) Wells. All wells shall be floodproofed, pursuant to section 12-191, to the flood protection elevation and shall meet the provisions of Wis. Admin. Code chs. NR 811 and 812.
- (9) Solid waste disposal sites. Disposal of solid or hazardous waste is prohibited in flood fringe areas.

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- (10) Deposition of materials. Any deposited material must meet all the provisions of this article.
- (11) Manufactured homes.
- a. Owners or operators of all manufactured home parks and subdivisions shall provide adequate surface drainage to minimize flood damage, and prepare, secure approval, and file an evacuation plan, indicating vehicular access and escape routes, with local emergency management authorities.
 - b. In existing manufactured home parks, all new homes, replacement homes on existing pads, and substantially improved homes shall:
 1. Have the lowest floor elevated to the flood protection elevation; and
 2. Be anchored so they do not float, collapse or move laterally during a flood.
 - c. Outside of existing manufactured home parks, including new manufactured home parks and all single units outside of existing parks, all new, replacement and substantially improved manufactured homes shall meet the residential development standards for the flood fringe in subsection (1) of this section.
- (12) Mobile recreational vehicles. All mobile recreational vehicles that are on site for 180 consecutive days or more or are not fully licensed and ready for highway use shall meet the elevation and anchoring requirements in subsections (11)a and (11)b.1 of this section. A mobile recreational vehicle is ready for highway use if it is on its wheels or jacking system, is attached to the site only by quick-disconnect utilities and security devices and has no permanently attached additions.

(Compiled Ords. of 2009, § 18.20.030)

Secs. 12-120—12-136. - Reserved.

DIVISION 5. - GENERAL FLOODPLAIN DISTRICT

Sec. 12-137. - Applicability.

The provisions for this district shall apply to all floodplains for which flood profiles are not available or where flood profiles are available but floodways have not been delineated. Floodway and flood fringe districts shall be delineated when adequate data is available.

(Compiled Ords. of 2009, § 18.24.010)

Sec. 12-138. - Permitted uses.

- (a) Pursuant to section 12-140, it shall be determined whether the proposed use is located within a floodway or flood fringe area.

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- (b) Those uses permitted in floodway (section 12-94) and flood fringe areas (section 12-118) are allowed within the General Floodplain District, according to the standards of section 12-139, provided that all permits or certificates required under section 12-187 have been issued.

(Compiled Ords. of 2009, § 18.24.020)

Sec. 12-139. - Standards for development.

Division III of this article applies to floodway areas, and division 4 of this article applies to flood fringe areas. The remaining provisions of this article refer to either district.

(Compiled Ords. of 2009, § 18.24.030)

Sec. 12-140. - 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;
- (2) Require the applicant to furnish any of the following information deemed necessary by the department to evaluate the effects of the proposal upon flood height and flood flows, regional flood elevation and to determine floodway boundaries:
 - a. A 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 historic high water information;
 - 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. Profile showing the slope of the bottom of the channel or flow line of the stream;
 - d. Specifications for building construction and materials, floodproofing, filling, dredging, channel improvement, storage, water supply and sanitary facilities.
- (3) Transmit one copy of the information described in subsections (1) and (2) of this section to the department regional office along with a written request for technical assistance to establish regional flood elevations and, where applicable, floodway data. Where the provisions of section 12-187(b)3 apply, the applicant shall provide all required information and computations to delineate floodway boundaries and the effects of the project on flood elevations.

Secs. 12-141—12-163. - Reserved.

DIVISION 6. - NONCONFORMING USES

Sec. 12-164. - Applicability; conditions for continued use.

- (a) If these standards conform with Wis. Stats. § 59.69(10), they shall apply to all modifications or additions to any nonconforming use or structure and to the use of any structure or premises which was lawful before the passage of the ordinance from which this article is derived or any amendment thereto.
- (b) Modifications or additions.
 - (1) No modifications or additions to a nonconforming use or structure shall be permitted unless they comply with this article. The words "modification" and "addition" include, but are not limited to, any alteration, addition, modification, structural repair, rebuilding or replacement of any such existing use, structure or accessory structure or use. Ordinary maintenance repairs are not considered an extension, modification or addition; these include painting, decorating, paneling and the replacement of doors, windows and other nonstructural components and the maintenance, repair or replacement of existing private sewage or water supply systems or connections to public utilities. Ordinary maintenance repairs do not include any costs associated with the repair of a damaged structure.
 - (2) 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.
- (c) If a nonconforming use or the use of a nonconforming structure is discontinued for 12 consecutive months, it is no longer permitted and any future use of the property, and any structure or building thereon, shall conform to the applicable requirements of this article.
- (d) The municipality shall keep a record which lists all nonconforming uses and nonconforming structures, their present equalized assessed value, the cost of all modifications or additions which have been permitted, and the percentage of the structure's total current value those modifications represent.
- (e) No modification or addition to any nonconforming structure or any structure with a nonconforming use, which over the life of the structure would exceed 50 percent of its present equalized assessed value, shall be allowed unless the entire structure is permanently changed to a conforming structure with a conforming use in compliance with the applicable requirements of this article. Contiguous dry land access must be provided for residential and commercial uses in compliance with section 12-63. The costs of elevating a nonconforming building or a building with a nonconforming use to the flood protection elevation are excluded from the 50 percent provisions of this subsection.
- (f) Buildings damaged or destroyed.

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- (1) Except as provided in subsection (5)b of this section, if any nonconforming structure or any structure with a nonconforming use is destroyed or is substantially damaged, it cannot be replaced, reconstructed or rebuilt unless the use and the structure meet the current ordinance requirements. A structure is considered substantially damaged if the total cost to restore the structure to its predamaged condition exceeds 50 percent of the structure's present equalized assessed value.
- (2) For nonconforming buildings that are damaged or destroyed by a nonflood disaster, the repair or reconstruction of any such nonconforming building may be permitted in order to restore it after the nonflood disaster, provided that the nonconforming building will meet all of the minimum requirements under applicable FEMA regulations (44 CFR 60), or the regulations promulgated thereunder.
- (g) A nonconforming historic structure may be altered if the alteration will not preclude the structures continued designation as a historic structure, the alteration will comply with section 12-93(a), flood resistant materials are used, and construction practices and floodproofing methods that comply with section 12-191 are used.

(Compiled Ords. of 2009, § 18.28.010)

Sec. 12-165. - Floodway areas.

- (a) No modification or addition shall be allowed to any nonconforming structure or any structure with a nonconforming use in a floodway area, unless such modification or addition:
 - (1) Has been granted a permit or variance which meets all ordinance requirements;
 - (2) Meets the requirements of section 12-164;
 - (3) Will not increase the obstruction to flood flows or regional flood height;
 - (4) Any addition to the existing structure shall be floodproofed, pursuant to section 12-191, by means other than the use of fill, to the flood protection elevation;
 - (5) If any part of the foundation below the flood protection elevation is enclosed, the following standards shall apply:
 - a. The enclosed area shall be designed by a registered architect or engineer to allow for the efficient entry and exit of flood waters without human intervention. A minimum of two openings must be provided with a minimum net area of at least one square inch for every one square foot of the enclosed area. The lowest part of the opening can be no more than 12 inches above the adjacent grade;
 - b. The parts of the foundation located below the flood protection elevation must be constructed of flood-resistant materials;
 - c. Mechanical and utility equipment must be elevated or floodproofed to or above the flood protection elevation; and
 - d. The use must be limited to parking or limited storage.

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- (b) No new onsite sewage disposal system, or addition to an existing onsite sewage disposal system, except where an addition has been ordered by a government agency to correct a hazard to public health, shall be allowed in a floodway area. Any replacement, repair or maintenance of an existing on-site sewage disposal system in a floodway area shall meet the applicable requirements of all municipal ordinances and Wis. Admin. Code ch. Comm 83.
- (c) 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 all municipal ordinances and Wis. Admin. Code chs. NR 811 and 812.

(Compiled Ords. of 2009, § 18.28.020)

Sec. 12-166. - Flood fringe areas.

- (a) No modification or addition shall be allowed to any nonconforming structure or any structure with a nonconforming use unless such modification or addition has been granted a permit or variance by the municipality, and 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 12-118, except where subsection (b) of this section is applicable.
- (b) Where compliance with the provisions of subsection (a) of this section would result in unnecessary hardship and only where the structure will not be used for human habitation or be associated with a high flood damage potential, the board of adjustment, using the procedures established in section 12-189, may grant a variance from those provisions of subsection (a) of this section for modifications or additions, using the criteria listed in subsections (1) through (6) of this section. Modifications or additions which are protected to elevations lower than the flood protection elevation may be permitted if:
 - (1) No floor is allowed below the regional flood elevation for residential or commercial structures;
 - (2) Human lives are not endangered;
 - (3) Public facilities, such as water or sewer, will not be installed;
 - (4) Flood depths will not exceed two feet;
 - (5) Flood velocities will not exceed two feet per second; and
 - (6) The structure will not be used for storage of materials as described in section 12-119(6).
- (c) If neither the provisions of subsection (a) nor (b) of this section can be met, one addition to an existing room in a nonconforming building or a building with a nonconforming use may be allowed in the flood fringe, if the addition:
 - (1) Meets all other regulations and will be granted by permit or variance;
 - (2) Does not exceed 60 square feet in area; and

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- (3) 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.
- (d) All new private sewage disposal systems, or addition to, replacement, repair or maintenance of a private sewage disposal system shall meet all the applicable provisions of all local ordinances and Wis. Admin. Code ch. Comm 83.
- (e) All new wells, or addition to, replacement, repair or maintenance of a well shall meet the applicable provisions of this article and Wis. Admin. Code chs. NR 811 and 812.

(Compiled Ords. of 2009, § 18.28.030)

Secs. 12-167—12-186. - Reserved.

DIVISION 7. - ADMINISTRATION

Sec. 12-187. - Zoning administrator.

- (a) Powers and duties. The zoning administrator is authorized to administer this article and shall have the following duties and powers:
 - (1) Advise applicants of the ordinance provisions, assist in preparing permit applications and appeals, and assure that the regional flood elevation for the proposed development is shown on all permit applications.
 - (2) Issue permits and inspect properties for compliance with provisions of this article, and issue certificates of compliance where appropriate.
 - (3) Inspect all damaged floodplain structures and perform a substantial damage assessment to determine if substantial damage to the structures has occurred.
 - (4) Keep records of all official actions such as:
 - a. All permits issued, inspections made, and work approved;
 - b. Documentation of certified lowest floor and regional flood elevations for floodplain development;
 - c. Records of water surface profiles, floodplain zoning maps and ordinances, nonconforming uses and structures including changes, appeals, variances and amendments;
 - d. All substantial damage assessment reports for floodplain structures.
 - (5) Submit copies of the following items to the department regional office:
 - a. Within ten days of the decision, a copy of any decisions on variances, appeals for map or text interpretations, and map or text amendments;

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- b. Copies of any case-by-case analyses, and any other information required by the department including an annual summary of the number and types of floodplain zoning actions taken;
 - c. Copies of substantial damage assessments performed and all related correspondence concerning the assessments.
- (6) Investigate, prepare reports, and report violations of this article to the municipal zoning agency and attorney for prosecution. Copies of the reports shall also be sent to the department regional office.
- (7) Submit copies of text and map amendments and biennial reports to the FEMA regional office.
- (b) Land use permit. A land use permit shall be obtained before any new development or any structural repair or change in the use of a building or structure, including sewer and water facilities, may be initiated. Application to the zoning administrator shall include:
- (1) General information.
 - a. Name and address of the applicant, property owner and contractor;
 - b. Legal description, proposed use, and whether it is new construction or a modification.
 - (2) Site development plan. A site plan drawn to scale shall be submitted with the permit application form and shall contain:
 - a. Location, dimensions, area and elevation of the lot;
 - b. Location of the ordinary high-water mark of any abutting navigable waterways;
 - c. Location of any structures with distances measured from the lot lines and street centerlines;
 - d. Location of any existing or proposed on-site sewage systems or private water supply systems;
 - e. Location and elevation of existing or future access roads;
 - f. Location of floodplain and floodway limits as determined from the official floodplain zoning maps;
 - g. The elevation of the lowest floor of proposed buildings and any fill using the vertical datum from the adopted study, either National Geodetic Vertical Datum (NGVD) or North American Vertical Datum (NAVD);
 - h. Data sufficient to determine the regional flood elevation in NGVD or NAVD at the location of the development and to determine whether or not the requirements of division 3 or division 4 of this article are met; and
 - i. Data to determine if the proposed development will cause an obstruction to flow or an increase in regional flood height or discharge according to section 12-63. This may include any of the information noted in section 12-93(a).
 - (3) Data requirements to analyze developments.

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- a. The applicant shall provide all survey data and computations required to show the effects of the project on flood heights, velocities and floodplain storage, for all subdivision proposals, as the term "subdivision" is defined in Wis. Stats. ch. 236 and other proposed developments exceeding five acres in area or where the estimated cost exceeds \$125,000.00. The applicant shall provide:
 1. An analysis of the effect of the development on the regional flood profile, velocity of flow and floodplain storage capacity;
 2. A map showing location and details of vehicular access to lands outside the floodplain; and
 3. A surface drainage plan showing how flood damage will be minimized.
 - b. The estimated cost of the proposal shall include all structural development, landscaping, access and road development, utilities, and other pertinent items, but need not include land costs.
- (4) Expiration. All permits issued under the authority of this article shall expire 365 days after issuance.
- (c) Certificate of compliance. No land shall be occupied or used, and no building which is hereafter constructed, altered, added to, modified, repaired, rebuilt or replaced shall be occupied until a certificate of compliance is issued by the zoning administrator, except where no permit is required, subject to the following provisions:
- (1) The certificate of compliance shall show that the building or premises or part thereof, and the proposed use, conform to the provisions of this article;
 - (2) Application for such certificate shall be concurrent with the application for a permit;
 - (3) If all article provisions are met, the certificate of compliance shall be issued within ten days after written notification that the permitted work is completed;
 - (4) The applicant shall submit a certification signed by a registered professional engineer, architect or land surveyor that the fill, lowest floor and floodproofing elevations are in compliance with the permit issued. Floodproofing measures also require certification by a registered professional engineer or architect that floodproofing measures meet the requirements of section 12-191.
- (d) Other permits. The applicant must secure all necessary permits from federal, state, and local agencies, including those required by the U.S. Army Corps of Engineers under section 404 of the Federal Water Pollution Control Act, Amendments of 1972, 33 USC 1344.

(Compiled Ords. of 2009, § 18.32.010)

Sec. 12-188. - Zoning agency.

- (a) The county planning, zoning, and farmland preservation committee shall:
 - (1) Oversee the functions of the office of the zoning administrator; and

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- (2) Review and advise the county board on all proposed amendments to this article, maps and text.
- (b) This zoning agency shall not:
 - (1) Grant variances to the terms of this article in place of action by the board of adjustment; or
 - (2) Amend the text or zoning maps in place of official action by the county board.

(Compiled Ords. of 2009, § 18.32.020)

Sec. 12-189. - Board of adjustment.

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

- (1) Powers and duties. The board of adjustment shall:
 - a. Appeals. Hear and decide appeals where it is alleged there is an error in any order, requirement, decision or determination made by an administrative official in the enforcement or administration of this article.
 - b. Boundary disputes. Hear and decide disputes concerning the district boundaries shown on the official floodplain zoning map.
 - c. Variances. Hear and decide, upon appeal, variances from the ordinance standards.
- (2) Appeals to the board.
 - a. Appeals to the board may be taken by any person aggrieved, or by any officer or department of the municipality affected by any decision of the zoning administrator or other administrative officer. Such appeal shall be taken within 30 days unless otherwise provided by the rules of the board, by filing with the official whose decision is in question, and with the board, a notice of appeal specifying the reasons for the appeal. The official whose decision is in question shall transmit to the board all records regarding the matter appealed.
 - b. Notice and hearing for appeals including variances.
 - 1. Notice. The board shall:
 - (i) Fix a reasonable time for the hearing;
 - (ii) Publish adequate notice pursuant to state law, specifying the date, time, place and subject of the hearing;
 - (iii) Ensure that notice shall be mailed to the parties in interest and the department regional office at least ten days in advance of the hearing.
 - 2. Hearing. Any party may appear in person or by agent. The board shall:
 - (i) Resolve boundary disputes according to subsection (3) of this section.

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- (ii) Decide variance applications according to subsection (4) of this section.
 - (iii) Decide appeals of permit denials according to section 12-190.
 - c. Decision. The final decision regarding the appeal or variance application shall:
 - 1. Be made within a reasonable time;
 - 2. Be sent to the department regional office within ten days of the decision;
 - 3. Be a written determination signed by the chairman or secretary of the board;
 - 4. State the specific facts which are the basis for the board's decision;
 - 5. Either affirm, reverse, vary or modify the order, requirement, decision or determination appealed, in whole or in part, dismiss the appeal for lack of jurisdiction or grant or deny the variance application;
 - 6. Include the reasons for granting an appeal, describing the hardship demonstrated by the applicant in the case of a variance, clearly stated in the recorded minutes of the board's proceedings.
- (3) Boundary disputes. The following procedure shall be used by the board in hearing disputes concerning floodplain district 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. In all cases, the person contesting the boundary location shall be given a reasonable opportunity to present arguments and technical evidence to the board.
 - c. If the boundary is incorrectly mapped, the board should inform the zoning committee or the person contesting the boundary location to petition the county board for a map amendment according to division 8 of this article.
- (4) Variance.
- a. The board may, upon appeal, grant a variance from the standards of this article if an applicant convincingly demonstrates that:
 - 1. Literal enforcement of the ordinance provisions will cause unnecessary hardship;
 - 2. The hardship is due to adoption of the floodplain ordinance and unique property conditions, not common to adjacent lots or premises. In such case the ordinance or map must be amended;
 - 3. The variance is not contrary to the public interest; and
 - 4. The variance is consistent with the purpose of this article in section 12-24.
 - b. In addition to the criteria in subsection (4)a of this section, to qualify for a variance under FEMA regulations, the following criteria must be met:
 - 1. The variance may not cause any increase in the regional flood elevation;

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2. Variances can only be granted for lots that are less than one-half acre and are contiguous to existing structures constructed below the RFE;
 3. Variances shall only be granted upon a showing of good and sufficient cause, shall be the minimum relief necessary, shall not cause increased risks to public safety or nuisances, shall not increase costs for rescue and relief efforts and shall not be contrary to the purpose of this article.
- c. A variance shall not:
1. Grant, extend or increase any use prohibited in the zoning district.
 2. Be granted for a hardship based solely on an economic gain or loss.
 3. Be granted for a hardship which is self-created.
 4. Damage the rights or property values of other persons in the area.
 5. Allow actions without the amendments to this article or maps required in section 12-223.
 6. Allow any alteration of an historic structure, including its use, which would preclude its continued designation as an historic structure.
- d. When a floodplain variance is granted, the board shall notify the applicant in writing that it may increase flood insurance premiums and risks to life and property. A copy shall be maintained with the variance record.

(Compiled Ords. of 2009, § 18.32.030)

Sec. 12-190. - To review appeals of permit denials.

- (a) The zoning agency (section 12-188) or board shall review all data related to the appeal. This may include:
- (1) Permit application data listed in section 12-187(b).
 - (2) Floodway/flood fringe determination data in section 12-140.
 - (3) Data listed in section 12-93(a)2, where the applicant has not submitted this information to the zoning administrator.
 - (4) Other data submitted with the application, or submitted to the board with the appeal.
- (b) For appeals of all denied permits, the board shall:
- (1) Follow the procedures of section 12-189;
 - (2) Consider zoning agency recommendations; and
 - (3) Either uphold the denial or grant the appeal.
- (c) For appeals concerning increases in regional flood elevation, the board shall:
- (1) Uphold the denial where the board agrees with the data showing an increase in flood elevation. Increases equal to or greater than 0.01 foot may only be allowed after

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amending the flood profile and map and all appropriate legal arrangements are made with all adversely affected property owners.

- (2) Grant the appeal where the board agrees that the data properly demonstrates that the project does not cause an increase equal to or greater than 0.01 foot, provided no other reasons for denial exist.

(Compiled Ords. of 2009, § 18.32.040)

Sec. 12-191. - Floodproofing.

- (a) No permit or variance shall be issued until the applicant submits a plan certified by a registered professional engineer or architect that the floodproofing measures will protect the structure or development to the flood protection elevation.
- (b) Floodproofing measures shall be designed to:
 - (1) Withstand flood pressures, depths, velocities, uplift and impact forces and other regional flood factors;
 - (2) Protect structures to the flood protection elevation;
 - (3) Anchor structures to foundations to resist flotation and lateral movement; and
 - (4) Ensure that structural walls and floors are watertight to the flood protection elevation, and the interior remains completely dry during flooding without human intervention.
- (c) Floodproofing measures could include:
 - (1) Reinforcing walls and floors to resist rupture or collapse caused by water pressure.
 - (2) Adding mass or weight to prevent flotation.
 - (3) Placing essential utilities above the flood protection elevation.
 - (4) Installing surface or subsurface drainage systems to relieve foundation wall and basement floor pressures.
 - (5) Constructing water supply wells and waste treatment systems to prevent the entry of floodwaters.
 - (6) Putting cutoff valves on sewer lines or eliminating gravity flow basement drains.

(Compiled Ords. of 2009, § 18.32.050)

Sec. 12-192. - Public information.

The following information shall be made available to the public:

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

Secs. 12-193—12-222. - Reserved.

DIVISION 8. - AMENDMENTS

Sec. 12-223. - Authorization; actions requiring amendment.

The county board may change or supplement the floodplain zoning district boundaries and this article in the manner provided by law. Actions which require an amendment include, but are not limited to, the following:

- (1) Any change to the official floodplain zoning map, including the floodway line or boundary of any floodplain area.
- (2) Correction of discrepancies between the water surface profiles and floodplain zoning maps.
- (3) Any fill in the floodplain which raises the elevation of the filled area to a height at or above the flood protection elevation and is contiguous to land lying outside the floodplain.
- (4) Any fill or floodplain encroachment that obstructs flow, increasing regional flood height 0.01 foot or more.
- (5) Any upgrade to a floodplain zoning ordinance text required by Wis. Admin. Code § NR 116.05 or otherwise required by law, or for changes by the municipality.
- (6) All channel relocations and changes to the maps to alter floodway lines or to remove an area from the floodway or the flood fringe that is based on a base flood elevation from a FIRM requires prior approval by FEMA.

Note: Consult the FEMA website - www.fema.gov - for the map change fee schedule.

Sec. 12-224. - Procedures.

Ordinance amendments may be made upon petition of any interested party according to the provisions of Wis. Stats. § 59.69. Such petitions shall include all necessary data required by sections 12-140 and 12-187(b).

- (1) The proposed amendment shall be referred to the zoning agency for a public hearing and recommendation to the county board. The amendment and notice of public hearing shall be submitted to the department regional office for review prior to the hearing. The amendment procedure shall comply with the provisions of Wis. Stats. § 59.69.
- (2) No amendments shall become effective until reviewed and approved by the department.
- (3) All persons petitioning for a map amendment that obstructs flow, increasing regional flood height 0.01 foot or more, shall obtain flooding easements or other appropriate

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legal arrangements from all adversely affected property owners and notify local units of government before the amendment can be approved by the governing body.

- (4) For amendments in areas with no water surface profiles, the zoning agency or board shall consider data submitted by the department, the zoning administrator's visual on-site inspections and other available information. (See section 12-28.)

(Compiled Ords. of 2009, § 18.36.020)

Secs. 12-225—12-241. - Reserved.

DIVISION 9. - ENFORCEMENT AND PENALTIES

Sec. 12-242. - Penalty.

Any violation of the provisions of this article by any person shall be unlawful and shall be referred to the municipal attorney who shall expeditiously prosecute all such violators. A violator shall, upon conviction, forfeit to the municipality a penalty of not less than \$10.00 and not more than \$200.00, together with a taxable cost of such action. Each day of continued violation shall constitute a separate offense. Every violation of this article is a public nuisance and the creation may be enjoined and the maintenance may be abated by action at suit of the municipality, the state, or any citizen thereof pursuant to Wis. Stats. § 87.30.

(Compiled Ords. of 2009, § 18.40.010)

Secs. 12-243—12-262. - Reserved.

ARTICLE III. - LANDSPREADING

Sec. 12-263. - Definitions.

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

Deed notation means the filing in the register of deeds office of notification of landspreading on the tract index.

Landspreading means the application of petroleum contaminated soil to agricultural land.

(Compiled Ords. of 2009, § 16.20.010)

Sec. 12-264. - Standards.

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The county adopts the standards of landspreading enacted in Wis. Admin. Code ch. NR 718 and any future amendments, modifications or changes.

(Compiled Ords. of 2009, § 16.20.020)

Sec. 12-265. - Prohibiting unlawful landspreading.

No person shall deposit or allow to be deposited on lands located in the county, soil which was removed from property located outside of this county which is contaminated with petroleum products, including but not limited to gasoline, diesel fuel, no. 1 or no. 2 fuel oil, kerosene, aviation gasoline or jet fuel. This restriction does not apply to landfills properly licensed for the disposal or remediation of petroleum contaminated soils.

(Compiled Ords. of 2009, § 16.20.030)

Sec. 12-266. - Permit requirements.

No person shall deposit, or allow to be deposited, any petroleum-contaminated soil originating in the county on lands located in the county until a land use permit has been issued by the county planning and zoning department. A site evaluation shall be required by the land conservation department prior to the issuance of a land use permit. Also, proof of deed notation must be submitted with a complete plan prior to permit issuance.

(Compiled Ords. of 2009, § 16.20.040)

Sec. 12-267. - Landspreading plan submittals.

Landspreading plans shall be prepared and approved by the county land conservation department for each site prior to the issuance of a land use permit and shall include the following information located within 1,200 feet of the site:

- (1) Waste characterization.
 - a. A detailed description and analysis of the petroleum contaminated soil proposed to be landspread.
 - b. The volume of soil, type of petroleum contamination, and the soil source.
- (2) Site characteristics.
 - a. Maps of the landspreading site including copies of plat maps, USGS topographic maps, wetland and floodplain maps, county soil survey maps with the proposed area delineated on each map.
 - b. The current land use of the landspreading site and adjacent properties.
 - c. The landspreading site slope, depth to water table and bedrock, and a detailed soils description.
 - d. The location of residences, private and public water supplies.

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- e. A copy of the closure report that is filed with the DNR pursuant to Wis. Admin. Code ch. NR 718.
- (3) Site operation.
- a. The proposed spreading dates and spreading thickness. Landspreading in the county will only be allowed between May 1 and September 30.
 - b. The proposed methods of spreading, incorporation, and follow-up tillage as appropriate.
 - c. The type of crop or vegetation to be planted on the landspreading site after spreading.
 - d. A signage to be required when determined appropriate as a stipulation of permit issuance.

(Compiled Ords. of 2009, § 16.20.010)

Sec. 12-268. - Violations and penalties.

Any person violating this article shall cease and remove any contaminated soil placed in violation of this article. Also, any person who violates, neglects, refuses to comply, or resists the enforcement of any of the provisions of this article, after the effective date, shall be subject to a forfeiture of not less than \$50.00 nor more than \$500.00 plus costs of prosecution and restitution which includes costs of reclamation and/or remediation if done by others, for each violation. A violation includes failure to comply with any standard of this article or with any condition or qualification attached to the permit. Each day a violation exists shall be a separate offense.

(Compiled Ords. of 2009, § 16.20.060)

Secs. 12-269—12-299. - Reserved.

ARTICLE IV. - ANIMAL MANURE MANAGEMENT

DIVISION 1. - GENERALLY

Sec. 12-300. - Definitions.

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

Adequate sod or self-sustaining vegetative cover means maintenance of sufficient vegetation types and densities such that the physical integrity of the streambank or lakeshore is preserved. Self-sustaining vegetative cover includes grasses, forbs, sedges and duff layers of fallen leaves and woody debris.

Agricultural land use means the use of land for agricultural practices.

Agricultural practice means beekeeping; commercial feedlots; dairying; egg production; floriculture; fish or fur farming; grazing; livestock raising; orchards; poultry raising; raising of

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grain, grass, mint or seed crops; raising of fruits, nuts or berries; sod farming; placing land, at least 35 acres of which is enrolled in the conservation reserve program under 16 USC 3831 to 3836; or vegetable raising.

Animal manure means livestock excreta. The term "animal manure" includes livestock bedding, water, soil, hair, feathers, and other debris that becomes intermingled with livestock excreta in normal waste handling operations.

Best management practices or BMPs means structural or nonstructural measures, practices, techniques or devices employed to avoid or minimize soil, sediment or pollutants carried in runoff to water of the state.

County land conservation committee means the committee created by a county board under Wis. Stats. § 92.06. The term "county land conservation committee" includes employees or agents of a County Land Conservation Committee who, with committee authorization, act on behalf of the committee.

DATCP means the department of agriculture, trade and consumer protection.

Direct runoff means a discharge of a significant amount of pollutants to waters of the state resulting from any of the following practices:

- (1) Runoff from a manure storage facility.
- (2) Runoff from an animal lot that can be predicted to reach surface waters of the state through a defined or channelized flow path or manmade conveyance.
- (3) Discharge of leachate from manure piles.
- (4) Seepage from a manure storage facility.
- (5) Construction of a manure storage facility in permeable soils or over fractured bedrock without a liner designed in accordance with Wis. Admin. Code § NR 154.04(3).

DNR means the state department of natural resources.

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

Idle storage facility means an animal waste storage facility where the operations cease or manure has not been added or removed for 24 months.

Landowner means any of the following:

- (1) A person who owns a parcel of land.
- (2) A person who rents, controls or uses a parcel of land for agricultural purposes.

Livestock means domestic animals such as cattle, horses, sheep, hogs, poultry, fish, etc., or exotic animals such as llamas, ostriches, etc.

Livestock operation means a feedlot or other facility or pasture where animals are fed, confined, maintained or stabled.

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Manure storage facility means an impoundment made by constructing an embankment or excavating a pit or dugout or by fabricating a structure to contain manure and other animal or agricultural wastes.

Navigable waters or navigable waterway means any body of water, which is navigable under the laws of the state.

NRCS means the Natural Resources Conservation Service of the U.S. Department of Agriculture.

Nutrient management plan means any of the following:

- (1) A plan required under Wis. Admin. Code § ATCP 50.04(3) or 50.62(5)(f).
- (2) A farm nutrient plan prepared or approved, for a landowner, by a qualified nutrient management planner.

Operator means a person responsible for the oversight or management of equipment, facilities or livestock at a livestock operation, or is responsible for land management in the production of crops.

Permit means the signed, written statement issued by the county land conservation department under this article authorizing the applicant to construct, install, reconstruct, enlarge, substantially alter or close an animal manure storage facility.

Permittee means any person to whom a permit is issued under this article.

Stored manure means manure that is kept in a manure storage facility or an unconfined manure pile.

Substantially altered means a change initiated by an owner or operator that results in a relocation of a structure or facility or significant changes to the size, depth or configuration of a structure or facility including:

- (1) Replacement of a liner in a manure storage structure.
- (2) An increase in the volumetric capacity or area of a structure or facility.
- (3) A change in a structure or facility related to a change in livestock management from one species of livestock to another such as cattle to poultry.

Technical guide means the current Wisconsin version of the United States Department of Agriculture Natural Resources Conservation Service Technical Guide as adopted by the County land conservation committee.

Technical standard means a document that specifies design, predicted performance and operation and maintenance specifications for a material, device or method.

Unconfined manure pile means a quantity of manure that is at least 175 feet³ in volume and which covers the ground surface to a depth of at least two inches and is not confined within a manure storage facility, livestock housing facility or barnyard runoff control facility or covered or contained in a manner that prevents stormwater access and direct runoff to surface water or leaching of pollutants to groundwater.

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Water pollution means contaminating or rendering unclean or impure the groundwaters or surface waters of the state, or making the same injurious to public health, harmful for commercial or recreational use, or deleterious to fish, bird, animal or plant life.

Water quality management area or WQMA means the area within 1,000 feet from the ordinary high-water mark of navigable waters that consists of a lake, pond or flowage, except that, for a navigable that is a glacial pothole lake, the term means the area within 1,000 feet from the high-water mark of the lake; the area within 300 feet from the ordinary high-water mark of navigable waters that consist of a river or stream; and a site that is susceptible to groundwater contamination, or that has the potential to be a direct conduit for contamination to reach groundwater.

Waters of the state means those portions of Lake Michigan and Lake Superior within the boundaries of Wisconsin, all lakes, bays, rivers, streams, springs, ponds, wells, impounding reservoirs, marshes, water courses, drainage systems and other surface water or groundwater, natural or artificial, public or private within the state or under its jurisdiction, except those waters which are entirely confined and retained completely upon the property of a person.

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

(Compiled Ords. of 2009, ch. 16.16, art. II)

Sec. 12-301. - Authority.

This section is adopted under authority granted by Wis. Stats. §§ 59.01, 59.02, 59.03, 59.04, 59.54, 59.69, 59.70, 66.0113, 92.07, 92.09, 92.11, 92.15, and 92.16.

(Compiled Ords. of 2009, § 16.16.010)

Sec. 12-302. - Findings and declaration of policy.

- (a) The county board of supervisors finds that manure generated by the livestock industry, when properly managed, is important for maintaining soil quality, reduces reliance on commercial fertilizer, and is of significant importance for the agricultural economy of the county. The county board of supervisors finds that storage of manure in facilities not meeting technical design and construction standards or livestock operations having any overflow of manure from storage facilities or any unconfined manure piles in a water quality management area may cause pollution of the surface waters and groundwaters of the county, and may result in actual or potential harm to the health of county residents and transients; and to livestock, aquatic life and other animals and plants.
- (b) The county board of supervisors also finds that improper land application of manure may cause pollution of the groundwater and surface water of the county.
- (c) The county board of supervisors further finds that the technical standards developed and maintained by the USDA-Natural Resources Conservation Service and adopted by the land conservation committee provide effective, practical and environmentally safe methods of

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storing and utilizing animal manure. The board further finds that where operations have ceased, the manure storage facility shall be closed according to USDA-NRCS standards.

(Compiled Ords. of 2009, § 16.16.030)

Sec. 12-303. - Purpose.

The purpose of this article is to regulate the design, construction, maintenance and proper closure of manure storage facilities and provide for proper utilization of manure. It is also intended to provide for the administration and enforcement of this article and to provide penalties for its violation.

(Compiled Ords. of 2009, § 16.16.040)

Sec. 12-304. - Applicability.

This article applies to the entire geographical area of the county, except as otherwise provided by law.

(Compiled Ords. of 2009, § 16.16.050)

Sec. 12-305. - Interpretation.

The interpretation and application of the provisions of this article shall be minimum requirements, be liberally construed in favor of the county, and not be deemed a limitation or repeal of any other power granted by state statutes.

(Compiled Ords. of 2009, § 16.16.060)

Sec. 12-306. - Variances.

- (a) The board of adjustment may, upon application, grant a variance from the dimensional standards of this title where an applicant convincingly demonstrates that:
 - (1) Literal enforcement of the provisions of the title will result in practical difficulty or unnecessary hardship on the applicant.
 - (2) The hardship is due to adoption of this article and special conditions unique to the property.
 - (3) Such variance is not contrary to the public interest.
- (b) A variance shall not:
 - (1) Grant, extend or increase any use of property prohibited in the zoning district.
 - (2) Be granted for a hardship based solely on an economic gain or loss.

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- (3) Be granted for a hardship which is self-created.
- (4) Damage the rights of property values of other persons in the area.
- (c) The department of natural resources may grant a variance to the manure management prohibitions, technical Standards or other nonstatutory requirements of this article in accordance with Wis. Admin. Code § NR 151.097.

(Compiled Ords. of 2009, § 16.16.730)

Secs. 12-307—12-330. - Reserved.

DIVISION 2. - ADMINISTRATION

Sec. 12-331. - Delegation of authority.

The county hereby designates the county land conservation department to administer and enforce the provisions of this article.

(Compiled Ords. of 2009, § 16.16.410)

Sec. 12-332. - Administrative duties.

The provisions of this article shall be administered by the county land conservation department under the oversight of the land conservation committee. The county land conservation department shall be primarily responsible for:

- (1) Keeping an accurate record of all permit applications, animal waste facility plans, permits issued, inspections made, and other official actions.
- (2) Reviewing permit applications and issue permits in accordance with this article.
- (3) Investigating complaints relating to compliance with this article.
- (4) Performing other duties as specified in this article.

(Compiled Ords. of 2009, § 16.16.420)

Sec. 12-333. - Entry and inspection authority.

The county land conservation department is authorized to enter upon any lands affected by this article to inspect the land to determine compliance with this article pursuant to the authority granted by Wis. Stats. § 92.07(14). If permission cannot be received from the applicant or permittee, entry by the county land conservation department shall be according to Wis. Stats. §§

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66.0119 and 66.0119(3). Refusal to grant permission to enter lands affected by this article for purposes of inspection shall be grounds for an order of noncompliance, permit denial or revocation.

(Compiled Ords. of 2009, § 16.16.430)

Sec. 12-334. - Enforcement authority.

- (a) The county land conservation department is authorized to issue an order to stop work upon land which has had a permit revoked or on land currently undergoing activity in violation of this article. The order shall specify that the activity must cease immediately and remain stopped until a plan to bring the project into compliance is approved by the county land conservation department.
- (b) Any permit revocation or order stopping work shall remain in effect unless retracted by the county land conservation department, or by a court of record; or until the activity is brought into compliance with this article. The county land conservation department is authorized to refer any violation of this article or of any order stopping work issued pursuant to this article to the district attorney or corporation counsel for commencement of further legal proceedings.
- (c) The county may institute other proceedings in any court of competent jurisdiction and pursue any remedy or relief afforded by law, including a civil forfeiture or injunction.

(Compiled Ords. of 2009, § 16.16.440)

Secs. 12-335—12-356. - Reserved.

DIVISION 3. - ACTIVITIES SUBJECT TO REGULATION

Sec. 12-357. - General requirement.

Any person who constructs, installs, substantially alters, or closes an animal waste storage facility, or possesses an idle storage facility; or who employs another person to do the same on land subject to this article shall be subject to the provisions of this article.

(Compiled Ords. of 2009, § 16.16.450)

Sec. 12-358. - Compliance with permit requirements.

A person is in compliance with this article if he follows the procedures of this article, receives a permit from the county land conservation department before beginning activities subject to regulation under this article, and complies with the requirements of the permit. Modification or closure of preexisting facilities requires a permit, subject to all terms of this article.

(Compiled Ords. of 2009, § 16.16.460)

Sec. 12-359. - Manure management prohibitions.

- (a) All livestock operations shall comply with the following:
 - (1) A livestock operation shall have no overflow of manure storage facilities.
 - (2) A livestock operation shall have no unconfined manure pile in a water quality management area.
 - (3) A livestock operation shall have no direct runoff from a feedlot or stored manure into the waters of the state.
 - (4) A livestock operation may not allow unlimited access by livestock to waters of the state in a location where high concentrations of animals prevent the maintenance of adequate sod or self-sustaining vegetative cover. This prohibition does not apply to properly designed, installed and maintained livestock or farm equipment crossings.
- (b) Cost-sharing requirement pursuant to Wis. Stats. § 281.16(3). A livestock operation that is in existence prior to October 1, 2002, shall not be required to comply with the manure management prohibitions unless cost-sharing is made available.
- (c) Noncompliance with the manure management prohibitions shall result in enforcement actions in accordance with Wis. Admin. Code § NR.151.095.

(Compiled Ords. of 2009, § 16.16.470)

Secs. 12-360—12-376. - Reserved.

DIVISION 4. - SETBACKS

Sec. 12-377. - Setbacks from roadways.

- (a) All state and federal highways, county trunks, town roads, and public streets are designated as roadways.
- (b) The setback from roadways shall be 110 feet from the centerline of the roadway or 50 feet from the right-of-way line, whichever is greater.
- (c) Visual clearance triangle. In each quadrant of every public road intersection, there shall be a visual clearance triangle bounded by the road centerlines and a line connecting points on them 300 feet from an intersection. Except for open fences, no part of any animal waste storage facility shall be more than three feet above the natural grade within the visual clearance triangle.

(Compiled Ords. of 2009, § 16.16.480)

Sec. 12-378. - Setbacks from water.

Animal waste storage facilities shall be located at least 300 feet from any navigable water and shall be designed, as specified in NRCS Field Office Technical Guide, to protect navigable waters and drainageways from accidental spills and runoff from loading areas.

(Compiled Ords. of 2009, § 16.16.490)

Sec. 12-379. - Floodplains and other water bodies.

- (a) No animal waste storage facility will be permitted to be built in the 100-year floodplain of a stream, lake or flowage.
- (b) No animal waste storage facility will be permitted to be built in a wetland, or within 100 feet of its outermost boundary.

(Compiled Ords. of 2009, § 16.16.500)

Sec. 12-380. - Lot lines.

Animal manure storage facilities shall be located at least 100 feet from a property line.

(Compiled Ords. of 2009, § 16.16.510)

Sec. 12-381. - Residences.

Animal manure storage facilities shall be located not less than 300 feet from any residential building other than that of the owner of the premises, or owned by the owner of the premises but occupied by his family, agent or employee.

(Compiled Ords. of 2009, § 16.16.520)

Secs. 12-382—12-405. - Reserved.

DIVISION 5. - STANDARDS

Sec. 12-406. - Animal manure storage facilities.

Standards and specifications for design, construction and management of animal manure storage facilities are those in Standard 313 (Waste Storage Facility), and Standard 634 (Waste Transfer) of the USDA Natural Resources Conservation Service Field Office Technical Guide. Construction specifications referenced within the above listed standards shall be included.

(Compiled Ords. of 2009, § 16.16.530)

Sec. 12-407. - Nutrient management.

The standards for nutrient management of land-applied animal wastes are those in Standard 590 of the USDA Natural Resources Conservation Service Field Office Technical Guide.

(Compiled Ords. of 2009, § 16.16.540)

Sec. 12-408. - Animal manure storage facility closure.

Standards for closure of an idle storage facility are those in Standard 360 of the USDA Natural Resources Conservation Service Field Office Technical Guide.

(Compiled Ords. of 2009, § 16.16.550)

Sec. 12-409. - Subsequent modification of standards.

The standards of the technical guide are adopted and by reference made a part of this article as if fully set forth herein. Any future amendment, revision or modification of the standards incorporated herein are made a part of this article, unless otherwise acted upon by the land conservation committee.

(Compiled Ords. of 2009, § 16.16.560)

Secs. 12-410—12-431. - Reserved.

DIVISION 6. - PERMITS

Sec. 12-432. - Required.

No person may undertake an activity subject to this article without obtaining a permit from the county land conservation department prior to beginning any of the following activities:

- (1) The construction of a manure storage facility.
- (2) The closure of a manure storage facility.
- (3) Substantially altering an existing facility involving the relocation of an existing structure or facility or significant changes to the size, depth or configuration of a structure or facility including:
 - a. Replacement of a liner in a manure storage facility.
 - b. An increase in volumetric capacity or area of a structure.
 - c. A change in a structure or facility related to a change in livestock management due to livestock species change.

(Compiled Ords. of 2009, § 16.16.570)

Sec. 12-433. - Exception to permit requirement.

Emergency repairs for broken pipes or equipment, leaking dikes or removal of obstructions may be performed without an animal manure storage facility permit. Emergency repairs shall not result in increased capacity to the animal manure storage facility. The responsible person (owner or operator) shall contact the county land conservation department on the first working day following emergency repairs for determination by the department on whether a permit will be required for any additional modification or repair to the facility.

(Compiled Ords. of 2009, § 16.16.580)

Sec. 12-434. - Fee.

- (a) All applicants, except those applying for an animal manure storage facility closure permit, shall be required to pay a nonrefundable fee of \$200.00 at the time of permit application.
- (b) If the application is submitted after the commencement of activities requiring a permit, then the fee will be doubled. All applicable federal, state, and local standards and ordinance provisions still apply.
- (c) Applications received after the commencement of activities requiring a permit do not preclude the land conservation department from taking enforcement action.

(Compiled Ords. of 2009, § 16.16.590)

Sec. 12-435. - Application.

- (a) An application for an animal manure storage facility permit or animal waste storage facility closure permit shall be filed with the land conservation department on forms supplied by the land conservation department. The land conservation department shall mail a copy of the approved permit application to the appropriate town board. In addition, the land conservation department may mail a copy of the approved permit to other agencies or units of government that may have jurisdiction over the proposed activity.
- (b) Each application for an animal manure storage facility permit under this article shall include an animal manure storage facility plan and a nutrient management plan.

(Compiled Ords. of 2009, § 16.16.600)

Sec. 12-436. - Manure storage facility plan required.

Each application for a permit under this section shall at a minimum include:

- (1) A management assessment that addresses the storage components, available resources, waste manure disposal schemes and waste characterization consistent with Standard 313 and Standard 634 of the USDA Natural Resources Conservation Service Field Office Technical Guide.
- (2) A site assessment that describes the physical characteristics that will influence the placement, construction, maintenance and environmental integrity of the proposed site consistent with Standard 313 of the USDA Natural Resources Conservation Service Field Office Technical Guide.
- (3) A facility design, construction plan preparation and operation and maintenance plan consistent with Standard 313 of the USDA Natural Resources Conservation Service Field Office Technical Guide, prepared by a professional engineer registered with the state examining board of architects, professional engineers, designers and land

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surveyors under Wis. Stats. ch. 443 or by an agricultural engineer practitioner certified under Wis. Admin. Code § ATCP 50.46.

(Compiled Ords. of 2009, § 16.16.610)

Sec. 12-437. - Nutrient management plan required.

A nutrient management plan that conforms to Standard 590 of the USDA Natural Resources Conservation Service Field Office Technical Guide shall be developed by individuals with qualifications described in Wis. Admin. Code § ATCP 50.04(3). The plan shall be updated and implemented on an annual basis. The nutrient management plan shall include:

- (1) All land on which the landowner mechanically applies manure.
- (2) Soil nutrient tests conducted at a laboratory certified under Wis. Admin. Code § ATCP 50.50.
- (3) Compliance with Standard 590 of the USDA Natural Resources Conservation Service Field Office Technical Guide.
- (4) Recommendations for nutrient management applications in the University of Wisconsin Extension Soil Test Recommendations for Field and Vegetable, and Fruit Crops, UWEX Publication A-2809 (1998), unless it is established that the circumstances of the particular land requires nutrients in excess of the recommended application.

(Compiled Ords. of 2009, § 16.16.620)

Sec. 12-438. - Facility closure plan required.

- (a) Closure of a manure storage facility shall occur when a facility ceases operations, or manure has not been added to or removed from the facility for a period of 24 consecutive months. Manure storage facilities shall be closed in a manner that will prevent contamination of groundwaters and surface waters.
- (b) The owner or operator may retain the facility for a longer period of time by demonstrating to the department that all of the following conditions are met:
 - (1) The facility is designed, constructed and maintained in accordance with NRCS Field Office Technical Guide Standard 313.
 - (2) The facility is designed to store manure for a period of time longer than 24 months.
 - (3) Retention of the facility is warranted based on anticipated future use.
- (c) To close a facility, a site-specific design and inspection plan will be developed. A closure plan will be consistent with NRCS Field Office Technical Guide Standard 360, prepared by a professional engineer registered with the state examining board of architects, professional engineers, designers and land surveyors under Wis. Stats. ch. 443 or by an agricultural engineer practitioner certified under Wis. Admin. Code § ATCP 50.46.
- (d) A facility closure plan shall be approved by the department prior to implementation.

(Compiled Ords. of 2009, § 16.16.630)

Sec. 12-439. - Review of application.

The department shall receive and review all permit applications and shall determine if the proposed facility meets required standards. Within 20 working days after receiving the completed application, the department shall inform the applicant in writing whether the permit application is approved or disapproved. If additional information is required, the department shall so notify the permit applicant. The department has ten working days from the receipt of the additional information in which to approve or disapprove the permit application. If the department fails to approve or disapprove the permit application or additional information, as appropriate, the application shall be deemed approved and the applicant may proceed as if a permit had been issued.

(Compiled Ords. of 2009, § 16.16.640)

Sec. 12-440. - Conditions and requirements for issuance.

- (a) All permits issued under this division shall be issued subject to the following conditions and requirements:
 - (1) Manure storage facilities design and construction shall be carried out in accordance with the manure storage facility plan and applicable standards of this article.
 - (2) The permittee shall give two working days' notice to the department before starting any construction activity authorized by the permit.
 - (3) Approval in writing must be obtained from the department prior to any modifications to the approved manure storage facility plan.
 - (4) Prior to use of the facility, a certificate of installation signed by a professional engineer registered with the state examining board of architects, professional engineers, designers and land surveyors under Wis. Stats. ch. 443 or by an agricultural engineer practitioner certified under Wis. Admin. Code § ATCP 50.46.
- (b) Activities authorized by permit must be completed within two years from the date of issuance, after which such permit shall be void.

(Compiled Ords. of 2009, § 16.16.650)

Sec. 12-441. - Revocation.

The department may revoke any permit issued under this division if the holder of the permit has misrepresented any material fact in the permit application or manure facility plan, or if the holder of the permit violates any of the conditions of the permit.

(Compiled Ords. of 2009, § 16.16.660)

Secs. 12-442—12-465. - Reserved.

DIVISION 7. - VIOLATIONS

Sec. 12-466. - Penalties.

Any person who violates, or fails, neglects, or refuses to comply with any of the provisions of the article shall, upon conviction thereof, forfeit up to \$200.00 and costs of prosecution for each violation. Each day a violation exists or continues to exist shall constitute a separate offense. An unlawful violation includes failure to comply with any standard of this article or with any condition or qualification attached to the permit, or any failure to comply with notice of a permit revocation or stop work order.

(Compiled Ords. of 2009, § 16.16.670)

Sec. 12-467. - Enforcement by injunction.

As a substitute for, or in addition to forfeiture actions, the county may seek enforcement of any part of this article by court actions seeking injunctions or restraining orders.

(Compiled Ords. of 2009, § 16.16.680)

Secs. 12-468—12-487. - Reserved.

DIVISION 8. - APPEALS

Sec. 12-488. - Authority.

Under the authority of Wis. Stats. ch. 68, the county land conservation committee, created under Wis. Stats. § 59.70 and acting as an appeal authority under Wis. Stats. § 68.09(2), is authorized to hear and decide appeals where it is alleged that there is error in any order, requirement, decision, or determination by the county land conservation department in administering this article.

(Compiled Ords. of 2009, § 16.16.690)

Sec. 12-489. - Who may appeal.

Appeals may be taken by any person having a substantial interest that is adversely affected by the order, requirement, decision, or determination made by the county land conservation department.

(Compiled Ords. of 2009, § 16.16.700)

Sec. 12-490. - Limitations of appeal.

Only one appeal on a particular concern can be made of an order, requirement, decision, or determination made by the county land conservation department.

(Compiled Ords. of 2009, § 16.16.710)

Sec. 12-491. - Procedure.

- (a) Any appeal shall be made by written request mailed or delivered to the county land conservation department. The request shall state the grounds upon which it is contended that the order, requirement, decision, or determination should be modified or reversed, and/or the grounds upon which a variance is sought. The request shall be filed within 30 calendar days of the date when the order, requirement, decision was received. The county land conservation committee shall schedule a hearing within 15 working days of the filing of the appeal. The hearing shall be conducted in accordance with Wis. Stats. ch. 68. A copy of the hearing notice shall be sent to the applicant and the appropriate town board.
- (b) The final decision on an appeal shall be made within 20 working days of completion of the hearing and shall be in the form of a written determination signed by the chair of the land conservation committee. The determination shall state the specific facts, which are the basis for the committee's decision, and shall affirm, reverse, vary, or modify the order, requirement, decision, or determination appealed, in whole or in part; deny the appeal for lack of justification; or grant or deny the application for a variance. The reasons or justifications for granting an appeal, which were demonstrated by the applicant in the case of a variance, shall be clearly stated in the recorded minutes of the committee meeting. If a final decision on an appeal is not made within 20 working days, the appeal shall be deemed approved and the applicant may proceed with activities that were requested in the appeal.

(Compiled Ords. of 2009, § 16.16.720)