

Chapter 22 - LAND USE

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

ARTICLE I. - IN GENERAL

Sec. 22-1. - Definitions.

(Compiled Ords. of 2009, § 17.04.030)

Sec. 22-2. - Applicability.

The relevant sanitary and subdivision regulation administrative provisions of this chapter shall apply throughout the unincorporated area of the county.

(Compiled Ords. of 2009, § 17.04.010)

Sec. 22-3. - Distance measurement.

All distances unless otherwise specified shall be measured horizontally.

(Compiled Ords. of 2009, § 17.04.020)

Sec. 22-4. - Fees.

The county board may, by resolution, adopt fees for the following:

- (1) Land use permits;
- (2) Building permits;
- (3) Certificates of compliance;
- (4) Subdivision reviews;
- (5) Public hearings;
- (6) Legal notice publications;
- (7) Special exception permits.

(Compiled Ords. of 2009, § 17.08.940)

Secs. 22-5—22-26. - Reserved.

ARTICLE II. - ADMINISTRATION AND ENFORCEMENT

DIVISION 1. - GENERALLY

Sec. 22-27. - Zoning administrator; powers and duties.

The zoning administrator may exercise the following duties and powers:

- (1) Advise applications as to the provisions of this chapter and chapter 20, pertaining to land development and assist them in preparing permit applications;
- (2) Issue permits and inspect properties for compliance with this chapter and chapter 20, pertaining to land development;
- (3) Keep records of all permits issued, inspections made, work approved and other official actions;
- (4) Prohibit the use of new private water supply or private sewage disposal systems not in compliance with the requirements of this chapter and chapter 20, pertaining to land development, until he has inspected and approved such system;
- (5) Inspect new and existing sewerage and water systems;
- (6) Have access to any structure or premises between 8:00 a.m. and 6:00 p.m. for the purpose of performing his duties;
- (7) Make on-site investigations required for subdivision administration;
- (8) Report violations of this chapter and chapter 20, pertaining to land development, and other applicable regulations, to the zoning committee and district attorney.

(Compiled Ords. of 2009, § 17.04.040)

Secs. 22-28—22-57. - Reserved.

DIVISION 2. - BOARD OF ADJUSTMENT

Sec. 22-58. - Appointment; composition.

The chairperson of the county board is directed to appoint a board of adjustment, according to Wis. Stats. § 59.694, consisting of five members. At least one of the original appointees shall be a member of the zoning committee which prepared the ordinance codified in this chapter and chapter 20, pertaining to land development, and who shall reside in the unincorporated area of the county. The county board shall adopt such rules for the conduct of the business of the board of adjustment as required by Wis. Stats. §§ 59.694(3), 59.99.

(Compiled Ords. of 2009, § 17.04.050)

State Law reference— County zoning board of adjustment, Wis. Stats. § 59.694.

Sec. 22-59. - Powers and duties.

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

(Compiled Ords. of 2009, § 17.08.910)

Sec. 22-60. - Appeals.

- (a) Filing. Appeals to the board of adjustment may be taken by any person aggrieved or by an officer, department, board or bureau of the county affected by any decision of the zoning administrator or other administrative officer. Such appeal shall be taken within a reasonable time, as provided by the rules of the board, by filing with the officer from whom the appeal is taken, and with the board of adjustment, a notice of appeal specifying the grounds thereof. The zoning administrator or other officer from whom the appeal is taken shall forthwith transmit to the board all the papers constituting the record upon which the action appeal from was taken.
- (b) Hearing.
 - (1) The board of adjustment shall fix a reasonable time for the hearing of the appeal. The board shall give public notice thereof by publishing a class 2 under Wis. Stats. ch. 985 specifying the date, time and place of hearing and the matters to come before the board, and shall mail notices to the parties in interest and the appropriate district office of the department of natural resources at least ten days prior to the public hearing.
 - (2) A decision regarding the appeal shall be made as soon as practical and a copy shall be submitted to the department of natural resources within ten days after the decision issued.
 - (3) The final disposition of an appeal or application to the board of adjustment shall be in the form of a written resolution or order signed by the chairman and secretary of the board. Such resolution shall state the specific facts which are the basis of the board's determination and shall either affirm, reverse, vary or modify the order, requirement, decision or determination appeal, in whole or in part, dismiss the appeal for lack of jurisdiction or prosecution or grant the application.
 - (4) At the public hearing, any party may appear in person or by agent or by attorney.

(Compiled Ords. of 2009, §§ 17.08.920, 17.08.930)

Secs. 22-61—22-78. - Reserved.

DIVISION 3. - PLANNING AND ZONING COMMITTEE

Sec. 22-79. - Appointment; rule adoption.

The chairman of the county board shall appoint, for two-year terms, a five-member planning and zoning committee under Wis. Stats. § 59.69. At least one member is not to be a county board member. The county board shall adopt such rules for the conduct of the business of the committee as required by Wis. Stats. § 59.69.

(Compiled Ords. of 2009, § 17.08.820)

Sec. 22-80. - Powers and duties.

The planning and zoning committee shall have the following powers and duties:

- (1) It shall hear and recommend a decision to the county board on proposed map and text amendments to this chapter.
- (2) It shall hear and decide applications for special exception permits.
- (3) It may authorize upon appeal, in specific cases, such variance from the dimensional standards of this chapter as shall not be contrary to the public interest, where owing to special conditions, a literal enforcement of this chapter will result in unnecessary hardship.
 - a. In the issuance of a variance, the spirit of this chapter shall be observed and substantial justice done. No variance shall have the effect of granting or increasing any use of property which is prohibited in that zoning district by this chapter.
 - b. For the purpose of this article, "unnecessary hardship" means any unique and extreme inability to conform to the requirements of this chapter due to a special condition affecting a particular property, which was not self-created and is not solely related to economic gain or loss.
- (4) It shall review, accept/object, and assist the county board in deciding on applications for shoreland area subdivisions.

(Compiled Ords. of 2009, § 17.08.830)

Secs. 22-81—22-103. - Reserved.

DIVISION 4. - VIOLATIONS

Sec. 22-104. - Unlawful erection, moving or use of structure.

Except as otherwise specifically provided in this chapter, any building or structure erected, moved or structurally altered after the effective date of the 1967 ordinance codified in this chapter or any use established after the effective date of the 1967 ordinance codified in this chapter, as amended, in violation of the provisions of this chapter, by any person, firm,

Chapter 22 – Land Use

association, corporation (including building contractors) or his or their agent, is an unlawful structure or use.

(Compiled Ords. of 2009, § 17.04.250)

Sec. 22-105. - Reporting; prosecution.

The zoning administrator shall report all violations of this chapter to the zoning committee. The zoning administrator may sign a complaint and report the violation to the district attorney. It shall be the duty of the district attorney to expeditiously prosecute all such violators.

(Compiled Ords. of 2009, § 17.04.260)

Sec. 22-106. - Penalties; each day a separate offense.

Unless otherwise provided in this chapter, a violator shall, upon conviction, forfeit to the county a penalty of not less than \$10.00, together with the taxable cost in such action and not more than \$200.00, and every day of violation shall constitute a separate offense. The penalties for violation of the subdivision regulation portions of this chapter shall be as contained in Wis. Stats. §§ 236.31, 236.32, and 236.335.

(Compiled Ords. of 2009, § 17.04.270)

Secs. 22-107—22-125. - Reserved.

DIVISION 5. - AMENDMENTS

Sec. 22-126. - Applicability.

Unless otherwise specifically provided, this division shall apply to all amendments of this chapter.

Sec. 22-127. - Alteration, supplementing and changing power of county board.

The board of supervisors may, from time to time, alter, supplement or change the boundaries of used districts and the regulations contained in this chapter in the manner provided by law.

(Compiled Ords. of 2009, § 17.04.210)

Sec. 22-128. - Petition of interested parties; state provisions.

Amendments to this chapter may be made on petition of any interested party in accordance with the provisions of Wis. Stats. §§ 59.69(3), (4) and 59.69(5)(e)1.

(Compiled Ords. of 2009, § 17.04.220)

Sec. 22-129. - Informing state of proposal and hearing.

Copies of any amendment proposed to the county board referred by that board to the zoning agency shall be forwarded by the zoning agency, together with the first notice of the public hearing, to the main office and appropriate regional office of the department of resource development.

(Compiled Ords. of 2009, § 17.04.230)

Sec. 22-130. - Informing state of action taken.

A copy of the action taken by the county board on all amendments shall be forwarded to the main office and appropriate regional office of the department of resource development.

(Compiled Ords. of 2009, § 17.04.240)

Secs. 22-131—22-158. - Reserved.

ARTICLE III. - PERMITS AND CERTIFICATES

DIVISION 1. - GENERALLY

Sec. 22-159. - Fee; permits; plat review.

The applicant, upon filing of his application, shall pay a fee to the zoning administrator in accordance with the county fee schedule.

(Compiled Ords. of 2009, § 17.04.070)

Sec. 22-160. - Zoning permits; when required.

Except where another section of this chapter specifically exempts certain types of development from this requirement, a zoning permit shall be obtained from the zoning administrator before any new development or any change in the use of an existing building or structure is initiated or before any land use is substantially altered including, but not limited to:

- (1) Before any building or other structure is erected, moved or structurally altered so as to change its use or increase its floor area;
- (2) Before any land use is substantially altered;
- (3) Before any private sewerage or water system is constructed or structurally altered.

(Compiled Ords. of 2009, § 17.08.750)

Sec. 22-161. - Zoning and sanitary permit applications; submittal; contents.

An application for a zoning or sanitary permit shall be made to the zoning administrator upon forms furnished and shall include, for the purpose of proper enforcement of these regulations, the following data:

- (1) Name and address of the applicant and property owner;
- (2) Legal description of the property and type of proposed use;
- (3) A sketch of the dimensions of the lot and location of buildings from the lot lines, centerline of abutting highways, and the high-water mark of any abutting watercourse and water mark at the day of the sketch;
- (4) Where a private water or sewerage system is to be installed:
 - a. Type of proposed installation;
 - b. Name of person in charge of installation and any state license held by him;
 - c. Type of occupancy, number of occupants or patrons and estimated water consumption;
 - d. Size and location of the proposed sewage disposal system;
 - e. A sketch showing:
 1. Location of wells, streams, lakes, buildings, privies and septic tank systems within 100 feet of the proposed sewage disposal site.
 2. The location of all percolation test holes and report of each test and soil boring as run by a sanitary technician.
 3. Depth to groundwater or bedrock if less than six feet.
 4. Slope in feet per 100 or contour lines at two-foot intervals in the area of the proposed absorption field or well.

(Compiled Ords. of 2009, § 17.04.090)

Sec. 22-162. - Land use permit; expiration.

A land use permit expires after two years from the date of issue if no substantial work has commenced.

(Compiled Ords. of 2009, § 17.08.770)

Secs. 22-163—22-192. - Reserved.

DIVISION 2. - SPECIAL EXCEPTION PERMITS

Sec. 22-193. - Required.

Except as otherwise specifically provided in this chapter, any use listed as a special exception in this chapter or in chapter 20, pertaining to land development shall be permitted only upon application to the zoning administrator and issuance of a special exception permit by the board of adjustment.

(Compiled Ords. of 2009, § 17.04.100)

Sec. 22-194. - Effects evaluated in consideration.

In passing upon a special exception permit, the board of adjustment shall evaluate the effect of the proposed use upon:

- (1) Safety and healthfulness. The maintenance of safe and healthful conditions;
- (2) Water pollution. The prevention and control of water pollution, including sedimentation;
- (3) Existing features and vegetation. Existing topographic and drainage features and vegetative cover on the site;
- (4) Floodways and floodplains. The location of the site with respect to floodplains and floodways of rivers or streams;
- (5) Erosion. The erosion potential of the site, based upon degree and direction of slope, soil type and vegetative cover;
- (6) Access. The location of the site with respect to existing or future access roads;
- (7) Shoreland location. The need of the proposed use for a shoreland location;
- (8) Compatibility. Its compatibility with uses on adjacent land;
- (9) Waste disposal. The amount of liquid wastes to be generated and the adequacy of the proposed disposal systems;
- (10) Domesticity and nonpolluting preference. Locational factors under which:
 - a. Domestic uses shall be generally preferred;
 - b. Uses not inherently a source of pollution within an area shall be preferred over uses that are or may be a pollution source;
 - c. Use locations within an area tending to minimize the possibility of pollution shall be preferred over use locations tending to increase that possibility.

(Compiled Ords. of 2009, § 17.04.110)

Sec. 22-195. - Conditions.

- (a) Upon consideration of the factors listed in section 22-194, the board of adjustment may attach such conditions, in addition to those required elsewhere in this chapter and chapter 20, pertaining to land development, that it deems necessary in furthering the purposes of this chapter and chapter 20, pertaining to land development. Violation of any of these conditions shall be deemed a violation of this chapter.
- (b) Such conditions may include specifications for, without limitation because of specific enumeration:
 - (1) Type of shore cover;
 - (2) Increased setbacks and yards;
 - (3) Specified sewage disposal and water supply facilities;
 - (4) Landscaping and planting screens;
 - (5) Period of operation;
 - (6) Operational control;
 - (7) Sureties;
 - (8) Deed restrictions;
 - (9) Locations of piers, docks, parking and signs;
 - (10) Type of construction; or
 - (11) Any other requirements necessary to fulfill the purpose and intent of this chapter.

(Compiled Ords. of 2009, § 17.04.120)

Sec. 22-196. - Additional information requirements.

In order to secure information upon which to base its determination, the board of adjustment may require the applicant to furnish, in addition to the information required for a zoning permit, the following information:

- (1) A plan of the area showing contours, soil types, high-water mark, groundwater conditions, bedrock, slope and vegetative cover;
- (2) Location of buildings, parking areas, traffic access, driveways, walkways, piers, open spaces and landscaping;
- (3) Plans of buildings, sewage disposal facilities and water supply systems, and arrangements of operations;
- (4) Specifications for areas of proposed filling, grading, lagooning or dredging;
- (5) Other pertinent information necessary to determine if the proposed use meets the requirements of this chapter and chapter 20, pertaining to land development

(Compiled Ords. of 2009, § 17.04.130)

Sec. 22-197. - Technical assistance in evaluation.

The board of adjustment, in evaluating each application, may request the soil and water conservation district to make available expert assistance from those state and federal agencies which are assisting the district under a memorandum of understanding and any other state or federal agency which can provide technical assistance.

(Compiled Ords. of 2009, § 17.04.140)

Sec. 22-198. - Public hearing before board of adjustment.

- (a) Before passing upon an application for a special exception permit, the board of adjustment shall hold a public hearing. Notice of such public hearing specifying the time, place, and matters to come before the board of adjustment shall be given.
- (b) The board of adjustment shall state in writing the grounds for refusing a special exception permit.

(Compiled Ords. of 2009, § 17.04.150)

Sec. 22-199. - Recording permits approved by the board of adjustment.

When a special exception permit is approved, an appropriate record shall be made of the land use and structures permitted, and such grant shall be applicable solely to the structures, use and property so described.

(Compiled Ords. of 2009, § 17.04.160)

Sec. 22-200. - Termination for violations.

Where a special exception does not continue in conformity with the conditions of the original approval, the special exception shall be terminated by action of the board of adjustment.

(Compiled Ords. of 2009, § 17.04.170)

Secs. 22-201—22-223. - Reserved.

DIVISION 3. - CERTIFICATES OF COMPLIANCE

Sec. 22-224. - Issuance.

No land shall be occupied or used, and no building hereafter erected, altered or moved shall be occupied, until a certificate of compliance is issued by the zoning administrator.

(Compiled Ords. of 2009, § 17.08.780)

Chapter 22 – Land Use

Sec. 22-225. - Contents.

- (a) The certificate of compliance shall show the building or premises or part thereof, and the proposed use thereof, and conform to the provisions of this chapter.
- (b) Application of such certificate shall be concurrent with the application for a zoning permit.
- (c) The certificate of compliance shall be issued within ten days after the completion of the work specified in the zoning permit, if the building or premises or proposed use thereof conforms to all the provisions of this chapter.

(Compiled Ords. of 2009, § 17.08.790)

Sec. 22-226. - Preexisting uses.

Upon written request from the owner, the zoning administrator shall issue a certificate of compliance for any building or premises existing at the time of the adoption of the ordinance from which this chapter is derived, certifying, after inspection, the extent and type of use made of the building or premises and whether or not such use conforms to the provisions of this chapter.

(Compiled Ords. of 2009, § 17.08.810)

Sec. 22-227. - Temporary certificate of compliance.

The zoning administrator may issue a temporary certificate of compliance for part of a building pursuant to rules and regulations established therefor by the county board.

(Compiled Ords. of 2009, § 17.08.800)

Secs. 22-228—22-247. - Reserved.

ARTICLE IV. - USE AND SALE OF COUNTY-OWNED LANDS

DIVISION 1. - GENERALLY

Sec. 22-248. - Applicability.

- (a) This article is for the purposes of providing for the administration, development and sale of all lands owned by the county and acquired through tax deed, quitclaim deed, warranty deed, patent, bequest or in exchange for county-owned land lying outside of the boundaries of county forests as described by an ordinance entitled "Clark County Forestry Ordinance," enacted by the county board on April 26, 1934. County forests include land located in certain towns within the county, such land being described as follows:
 - (1) Sherwood: Township 23N, Range 1 East: Sections W ½ 15, 16, 17, 18, 19, 20, 21, W ½ 22, W ½ 27, 28, 29, 30, 31, 32, 33, W ½ 34;
 - (2) Washburn: Township 23N, Range 1 West: Sections 20 to 36 inclusive;

Chapter 22 – Land Use

- (3) Washburn: Township 23N, Range 1 West: Sections 20 to 36 inclusive;
 - (4) Levis: Township 23N, Range 2 West: All of Sections 20, 21, 28, 29, 31, 32, 33, 34, 35 and 36;
 - (5) Dewhurst: Township 23N, Range 3 West: Sections 2, 3, 4, 5, 6, 7, 8, 9, 10, 11, 15, 16, 17, 18, 19, 20, 21, 22, W $\frac{1}{2}$ 26, 27, 28, 29, 30, 31, 32, 33, 34 and W $\frac{1}{2}$ 35;
 - (6) Hewett: Township 24N, Range 3 West: All of the town of Hewett except Sections 1, 11, 12 and 13;
 - (7) Mentor: Township 24N, Range 4 West: Sections 1, 2, 3, 4, E $\frac{1}{2}$ 5, E $\frac{1}{2}$ 9, W $\frac{1}{4}$ 10, E $\frac{1}{2}$ -NE $\frac{1}{4}$ 10, all of 11 except W $\frac{1}{2}$ -SW $\frac{1}{4}$, 12, 13, all of Section 14 except W $\frac{1}{2}$ -NW $\frac{1}{3}$ and the NW $\frac{1}{4}$ -SW $\frac{1}{4}$ and the S $\frac{1}{2}$ -SW $\frac{1}{4}$, all of Section 23 except NW $\frac{1}{4}$, all of Sections 24, 25, 26, 34, 35 and 36;
 - (8) Seif: Township 25N, Range 3 West; Sections 5, S $\frac{1}{2}$ Section 6, all of 7, 8, W $\frac{1}{4}$ Section 13, all of Section 14, E $\frac{1}{4}$ Section 15, all of Sections 17, 18, 19, 20, 21, N $\frac{1}{2}$ Section 22, E $\frac{1}{2}$ -SE $\frac{1}{4}$ Section 22, all of Section 23, Section 24, S $\frac{1}{2}$ -NW $\frac{1}{4}$ Section 25, all of Section 26, SE $\frac{1}{4}$ Section 27, all of Sections 28, 29, 30, 31, 32, 33, 34, 35 and the W $\frac{1}{2}$ Section 36;
 - (9) South Foster: Township 25N, Range 4 West: All of the Town of South Foster except the SW $\frac{1}{4}$ of Section 29, the S $\frac{1}{2}$ of Section 30, all of Section 31 and the W $\frac{1}{2}$ of Section 32;
 - (10) North Foster: Township 26N, Range 4 West: All of the Town of North Foster, Sections 1 to 36 inclusive;
 - (11) Mead: Township 27N, Range 3 West: Sections 17, 18, 19, 20, 28, 29, 30, the N $\frac{1}{2}$ of Sections 31 and 32;
 - (12) Butler: Township 27N, Range 4 West: Sections 2, 3, 4, 5, 6, 7, 8, 9, N $\frac{1}{2}$ Section 10, Sections 16, 17, 18, 19, 20, 21, SW $\frac{1}{4}$ Section 25, S $\frac{1}{2}$ Section 26, S $\frac{1}{2}$ Section 27, all of Sections 28, 29 and 30, 31, 32, 33, 34 and 35, all of Section 36 except NE $\frac{1}{4}$.
- (b) All lands now owned or acquired by the county in the future in the list of towns set out in subsection (a) of this section and lying inside of the areas specified therein, and in the zoned area prescribed by an order entitled "Clark County Zoning Ordinance," enacted by the county board on November 14, 1934, shall be subject to the administrative procedure established in this article, excepting that this article shall not include any land owned by the county outside the forestry or zoned area.

(Compiled Ords. of 2009, § 17.16.010)

Secs. 22-249—22-274. - Reserved.

DIVISION 2. - JOINT COMMITTEE

Sec. 22-275. - Land sales and administrative duties.

The forestry and zoning committee and planning and lands committee of the county board are designated to administer this article. The forestry and zoning committee and planning and lands committee shall take all the preliminary steps hereinafter set forth and shall make all recommendations to a joint committee consisting of the foregoing committees, which joint committee shall pass upon the sale of such lands before any such sale is made.

(Compiled Ords. of 2009, § 17.16.020)

Sec. 22-276. - Powers and duties.

- (a) Fair value determination of land before sale. The joint committee shall have the power, and it shall be the duty of the joint committee, to determine the fair value of any land in the zoned area or forestry area of timber before it is sold by the county.
- (b) Lease, sale, easement and permit records. The joint committee shall have the power to maintain at all times an up-to-date card index record and map for all county-owned lands on which reports have been made and on which leases, stumpage sales, easements and special use permits have been issued, as well as any county-owned land on which leases, stumpage sales, easements, special use permits or sales can be made.
- (c) Timber sales in conformance with forest management practices. The joint committee shall have the power, and it shall be the duty of the joint committee, to sell the timber of land in the zoned area of forestry area without the land if, in the committee's judgment, this is in the best interest of the county, such operations to be carried on in accordance with acceptable forest management practices.
- (d) Appraisal of lands and timber before sale. The joint committee shall have the power, and it shall be the duty of the joint committee, to make a full and complete appraisal of lands and timber to be offered for sale by the county at the time the county is ready to sell the property or has obtained a bid on the property.
- (e) Survey line location. The joint committee shall have the power, and it shall be the duty of the joint committee, to locate, where necessary, survey lines of lands to be offered for sale or on which forest products are sold.
- (f) Special land use area development. The joint committee shall have the power, and it shall be the duty of the joint committee, to develop special land use areas, including game and forest improvement areas, flowage areas, blueberry fields, moss areas, quarries, gravel pits, recreation and such other uses as appear most adapted for such lands.
- (g) Land exchange recommendations. The joint committee shall have the power, and it shall be the duty of the joint committee, to recommend and submit to the county board for approval the exchange of land with public and private agencies, when such exchange will promote the usefulness or salability of land retained by the county.

Chapter 22 – Land Use

- (h) Annual report to county board. The joint committee shall have the power, and it shall be the duty of the joint committee, to file with the county board, at its annual meeting, a report on the activities of the committee, including a statement of expenses and receipts.
- (i) Appraisal values schedule establishment. The joint committee shall have the power, and it shall be the duty of the joint committee, to annually establish a schedule of land and timber appraisal values, entirely independent of any past tax equities, for the guidance of its employees or agents of the committee.
- (j) Expenditure power. The joint committee shall have the power, and it shall be the duty of the joint committee, to expend the money accruing in the fund contemplated in this in the administration of the work assigned to such committee, up to the total amount authorized for the committee by the annual budget.
- (k) Granting of leases and easements. The joint committee shall have the power to give leases or grant easements to individuals or corporations for land uses provided for in this chapter.

(Compiled Ords. of 2009, §§ 17.16.030—17.16.120, 17.16.340)

Sec. 22-277. - Meetings; notice.

The joint committee shall meet as often as is necessary to conduct its business. Meetings shall be arranged subject to the call of the chairman and may also be called upon the written petition of any two members. A petition for meeting shall be addressed to the chairman. Members shall be notified by mail at least three days in advance of any meeting.

(Compiled Ords. of 2009, § 17.16.130)

Sec. 22-278. - Administrative financing; land purchase forfeiture funds.

The administrative provisions of this chapter shall be financed by means of direct appropriation by the county board. In addition, at any time any default in the purchase of land is made, funds obtaining from such forfeiture obtained shall be credited to the fund maintain for financing account.

(Compiled Ords. of 2009, § 17.16.140)

Sec. 22-279. - Map and descriptions to be supplied to committee.

As soon as the county comes into possession of any land by any process, the county clerk shall furnish the joint committee a map and list of the descriptions of land which have so come into the ownership of the county.

(Compiled Ords. of 2009, § 17.16.150)

Sec. 22-280. - Retention of public land upon committee recommendation.

- (a) Whenever, in the opinion of the joint committee, the interests of the county can best be served by maintaining any lands in public ownership, such lands should be removed from any listing of public lands offered for sale by the county.
- (b) In addition, whenever, in the opinion of the joint committee, any land owned by the county should be retained or could best be developed for park purposes, the joint committee shall report to the county board, listing the description of land which should be so retained and developed.
- (c) It shall be the responsibility of the joint committee to develop and execute plans, whenever possible and practical, for the use or improvement of all lands retained pursuant to this section, whether for water conservation, watershed protection, game development, quarrying, special crop possibilities or any other purposes.

(Compiled Ords. of 2009, §§ 17.16.160—17.16.180)

Secs. 22-281—22-284. - Reserved.

DIVISION 3. - TIMBER CUTTING

Sec. 22-285. - Timber sales procedure.

- (a) Sealed bid requirement. The joint committee shall require sealed bids for the sale of timber in all cases on county-owned lands, unless otherwise provided by state law, where the estimated stumpage value of the timber is in excess of \$100.00.
- (b) Basis on scale, measure or count. All timber sales shall be made on the basis of the scale, measure or count of cut forest products as reported by a scaler acceptable to the joint committee.
- (c) Payment schedule. Before any person shall cut timber as contemplated by this section, he shall pay 50 percent of the estimated value of the timber to the treasurer. The balance due shall be paid to the treasurer before any of the cut products are removed.
- (d) Removal within set time limit or six months. All products shall be removed within the time set by the joint committee but in no event more than six months from the date of the contract for sale.
- (e) When county board approval required. Sales of over \$1,000.00 are to be referred to the county board for approval before the contract is executed.

(Compiled Ords. of 2009, §§ 17.16.190—17.16.230)

Sec. 22-286. - Trespass cutting.

- (a) Suit for damages. Whenever evidence of trespass cutting on lands on which the county holds a tax certificate or a tax deed is lodged with the district attorney, he shall bring suit to recover damages under Wis. Stats. § 74.44.
- (b) Criminal action. If the trespass cutting is, on reasonable evidence, willful, then criminal action under Wis. Stats. § 74.44 shall be brought by the district attorney.
- (c) Seizure and disposal of materials. Whenever farm or forest products are found, known to have been cut or removed in trespass from county lands, the sheriff shall, on satisfactory evidence, seize such materials and sell them for the account of the county or remove them for the use of any county institution, as the joint committee shall direct.
- (d) Duty to investigate. It shall be the duty of the joint committee to secure information and to get the cooperation of the county officials and town officers in securing information to be presented to the district attorney for action for trespass.

(Compiled Ords. of 2009, §§ 17.16.350—17.16.380)

Secs. 22-287—22-290. - Reserved.

DIVISION 4. - LAND SALES

Sec. 22-291. - Application for purchase; filing deadline.

All applications for the purchase of county tax deed lands within the forestry or zoned area shall be filed with the chairman of the joint committee at least 15 days prior to a meeting of that committee.

(Compiled Ords. of 2009, § 17.16.240)

Sec. 22-292. - Deposit required; disposition subject to sale completion or application approval.

A deposit of \$50.00 on each legal description of land shall accompany each application for purchase. This deposit is to be held in escrow by the county treasurer and applied on the purchase price if the sale is completed. The deposit shall be returned if the application is rejected by the committee. It is forfeited if the applicant fails to complete an approved sale.

(Compiled Ords. of 2009, § 17.16.250)

Sec. 22-293. - Presale reports.

- (a) When required; distribution. Upon receipt of a bid for purchase, the joint committee shall investigate and cruise, or have an investigation and cruise made, and make a report of their findings. The report shall be provided to the county board, by depositing a copy thereof with

Chapter 22 – Land Use

the county clerk, and to the town board of each town in which the lands are located. The committee shall retain a copy of the report in its own records.

- (b) Contents. The report shall include:
 - (1) A complete statement of the value of the land and the merchantable wood products, based on the schedule of current values annually adopted by the joint committee;
 - (2) Accessibility to roads and schools; and
 - (3) A statement regarding whether the proposed use of this land conforms to county zoning regulations and the established policies of the joint committee.
- (c) Request for review by and recommendation of town boards. Each report copy provided under this section to a town board shall be accompanied by a request that the town board furnish information and recommendations to the joint committee regarding whether the proposed sale would cause unwarranted increases in government expenditures, general welfare problems that may be associated with the contemplated sale, highway and any other reservations deemed desirable, and any other factors that should be considered by the joint committee.
- (d) Submission of town board recommendations to joint committee. Immediately after the town board meeting and recordation of the town board recommendations in the minutes of the town board meeting, the joint committee shall request the town clerk to return the report and the town board's recommendations to the committee not less than ten days prior to the committee meeting at which the contemplated sale will be reviewed.

(Compiled Ords. of 2009, §§ 17.16.260—17.16.280)

Sec. 22-294. - Grounds for rejection of bid.

The joint committee shall review each application for the purchase of county-owned lands within the forestry or zoned area and may reject any application based on the following considerations:

- (1) Low bid. The bid was less than the appraised value.
- (2) Excessive expenses and services. The sale would involve additional and unwarranted governmental services and expenses.
- (3) Zoning conflicts. The apparent future use conflicts with the objectives of the zoning ordinance.
- (4) Planned development conflicts. The sale would be contrary either to the long-time planned development of the forest or of other land uses.
- (5) Tax roll doubt. There is reasonable doubt that the prospective purchaser will maintain the land on the tax roll.

(Compiled Ords. of 2009, § 17.16.290)

Sec. 22-295. - Deed restriction recommendations.

The joint committee may recommend any one or more of the following restrictions in the deed granting title:

- (1) Retention of title to the designated area for the construction of new roads or the relocation, improvement, safety and beautification of present roads;
- (2) Retention of timber rights or conveyed lands for any predetermined number of years, subject to cancellation by mutual agreement between the committee and the owner and providing for restricted cutting by the owner under the supervision of the committee;
- (3) Retention of mineral, gravel and quarry rights; and
- (4) Retention of the right to public utility rights-of-way.

(Compiled Ords. of 2009, § 17.16.300)

Sec. 22-296. - Final authority of committee to grant or deny applications.

Except as otherwise specifically provided in this division, the final authority for the sale of land within the forestry or zoned areas rests with the joint committee. All sales must be approved by the joint committee before deeds are issued.

(Compiled Ords. of 2009, § 17.16.310(A))

Sec. 22-297. - County board approval prerequisite for sales for less than county owed.

If the joint committee receives a bid on any property for less money than is owed the county in taxes, interest, disbursements and other expenses, and if the joint committee desires to accept such bid, then and in that event the bid shall be accepted by the county board before the sale is completed.

(Compiled Ords. of 2009, § 17.16.330)

Sec. 22-298. - Deed issuance and execution.

Upon a finding by the joint committee that any application under this division fully complies with all parts of this article, then a deed shall be issued to the applicant. The deed shall be properly executed and acknowledged by the county clerk, the county treasurer and the chairman of the town board of the town in which such land is located.

(Compiled Ords. of 2009, § 17.16.310(B))

Sec. 22-299. - Lapse of authorization; earnest money expense; final payment.

- (a) A purchaser under this division shall have six months in which to complete the authorized sale. Thereafter, the joint committee's authorization for sale shall become void.

Chapter 22 – Land Use

- (b) Upon acceptance of a bid under this article by the county, the successful bidder under this division shall pay the sale amount in full or, in the alternative, may pay 20 percent of the sale price as an earnest money deposit pending full payment as provided in this section.
- (c) Upon acceptance of any bid by the county, the successful bidder shall be required to make full payment of the bid price within 30 days following acceptance by the county. Any earnest money deposit shall be applied toward the final purchase price if the total is timely paid pursuant to this subsection.
- (d) If the successful bidder fails to perform pursuant to his bid, the earnest money paid under this section, and the application deposit required by this article, shall be forfeited and paid into the county treasury.

(Compiled Ords. of 2009, §§ 17.16.320, 17.16.345)

Secs. 22-300—22-302. - Reserved.

ARTICLE V. - SHORELANDS AND WETLANDS

DIVISION 1. - GENERALLY

Sec. 22-303. - Definitions.

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

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

Access and Viewing Corridor means an area in which trees and shrubs may be removed within the vegetated buffer to create a visual view and allows safe pedestrian access to the shore through the vegetated buffer.

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

Board of Adjustment means pursuant to Wis. Stats. 59.694 (1)(2) and 59.692(4)(5) duties and responsibilities include, but are not limited to hear and decide administrative appeals and variance from the terms of a Zoning Ordinance, as will not be contrary to the public interests, public safety, or public welfare.

Building Envelope means the three dimensional space within which a structure is built.

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 Department of Natural Resources.

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

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

Dwelling means a structure which is used or intended to be used as living or sleeping place by human occupants.

Facility means any property or equipment of a public utility, as defined in Wis. Stat. 196.01 (5), or a cooperative association organized under Wis. Stat. 185 for the purpose of producing or furnishing heat, light, or power to its members only, that is used for the transmission, delivery, or furnishing of natural gas, heat, light, or power.

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

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

Generally Accepted Forestry Management Practices means forestry management practices that promote sound management of a forest. Generally accepted forestry management practices include those practices contained in the most recent version of the department publication known as Wisconsin Forest Management Guidelines.

Handicap access means any temporary deck extension, walkway, ramp, elevator, or any mechanical device used as a means of movement or access by a handicapped person, which is deemed medically necessary to provide reasonable accommodations as required by the Federal Americans with Disabilities Act, the Federal Fair Housing Act and the Wisconsin Fair Housing Act.

Impervious Surface means an area that releases as runoff all or a majority of the precipitation that falls on it. “Impervious surface” excludes frozen soil but includes rooftops, sidewalks, driveways, parking lots, and streets unless specifically designed, constructed, and maintained to be pervious. Roadways as defined in Wis. Admin. Code 340.01(54) or sidewalks as defined in Wis. Admin. Code 340.01(58), are not considered impervious surfaces.

Land Disturbing Activity means any man-made change of the land including removing vegetative cover, excavating, filling and grading but not including agricultural land uses such as planting, growing, cultivating and harvesting of crops; landscaping activities; silviculture.

Landscaping means the minor removal or alteration of topsoil only material.

Lot means a contiguous portion of a subdivision, CSM, or other parcel of land, that meets the minimum area requirement, intended for transfer of ownership or for building development and must have described boundaries that abut a public road or has access via an easement or area of common ownership to a public or private street or road.

Maintenance and Repair includes such activities including the replacement or enhancement of plumbing or electrical systems, insulation, windows, doors, siding, or roof within the existing building envelope.

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

Navigable waters means Lake Superior, Lake Michigan, all natural inland lakes within Wisconsin and all streams, ponds, sloughs, flowages, and other waters within the territorial limits of this state, including the Wisconsin portion of boundary waters, which are navigable under the laws of this state. Under Wis. Stat. 281.31(2m) notwithstanding any other provision of law or administrative rule promulgated thereunder, shoreland ordinances required under Wis. Stat. 59.692 and Wis. Admin. Code NR 115 do not apply to lands adjacent to farm drainage ditches if:

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

Nonconforming Structure means a structure, lawfully existing prior to the passage of a zoning ordinance or ordinance amendment, which fails to comply with current size, location or dimensional limit standards of the ordinance. Principal structures located at less than the setback due to setback averaging, illegally constructed structures and structures at less than the shoreland setback due to a variance are not nonconforming structures.

Chapter 22 – Land Use

Outlot means a parcel of land other than a lot or block, intended for transfer of ownership or private right-of-way. An outlot shall not be used for a principal building or dwelling site unless it is in compliance with this chapter, and all other applicable laws or ordinances.

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

Planning, Zoning, and Land Information Committee (County Zoning Agency) means the committee created or designated by the county board under Wis. Stat. 59.69(2)(a) to act in all matters pertaining to county planning and zoning.

Previously developed means a lot or parcel that was developed with a structure legally placed upon it at the time the structure was placed.

Principal Structure means a residential dwelling or commercial structure containing the principal use of the lot on which it is located.

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

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

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

Shoreland Protection Area also known as *Vegetated Buffer* means a vegetated strip of land 35 feet measured perpendicular from the ordinary high water mark.

Shoreland Setback Area means an area that is within an established distance from the ordinary high-water mark in which the construction or placement of structures has been limited or prohibited under an ordinance enacted under Wis. Stat. 59.692.

Special Exception also known as **Conditional Use** means a use which is permitted by this ordinance provided that certain conditions specified in the ordinance are met and that a permit is granted, where appropriate, by the zoning administrator, planning and zoning committee, board of adjustment, or county board.

Substandard Lot means a legally created lot or parcel that met minimum area and minimum average width requirements when created, but does not meet current minimum area and minimum average width requirements.

Structure means a principal structure or any accessory structure including, but not limited to, a garage, shed, boathouse, sidewalk, stairway, walkway, patio, deck, retaining wall, porch, or fire pit.

Structural Alterations means any changes in the supporting members of a structure such as foundations, bearing walls, columns, beams or girders, footings and piles or any substantial change in the roof support structure, or in the exterior walls.

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

Variance means an authorization granted by the Board of Adjustment to construct or alter a building or structure in a manner that deviates from the dimensional standards of this ordinance.

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

Sec. 22-304. - Interpretation of terms.

For the purpose of administering and enforcing this ordinance, the terms or words used herein shall be interpreted as follows: Words used in the present tense include the future; words in the singular number include the plural number; and words in the plural number include the singular number. The word "shall" is mandatory, not permissive. All distances, unless otherwise specified, shall be measured horizontally.

Sec. 22-305. - Statutory authorization.

This ordinance is adopted pursuant to the authorization in Wis. Stat. 59.692 to implement Wis. Stats. 59.692, and 281.31.

Sec. 22-306. - Findings of fact.

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

Sec. 22-307. – Title and Purpose.

This ordinance shall be titled the Shoreland Protection Ordinance for Clark County, Wisconsin.

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

- (1) Further the maintenance of safe and healthful conditions and prevent and control water pollution through:
 - a. Limiting structures to those areas where soil and geological conditions will provide a safe foundation;
 - b. Establishing minimum lot sizes to provide adequate area for private on-site waste treatment systems;
 - c. Controlling filling and grading to prevent serious soil erosion problems;
 - d. Limiting impervious surfaces to control runoff which carries pollutants.
- (2) Protect spawning grounds, fish and aquatic life through:
 - a. Preserving wetlands and other fish and aquatic habitat;
 - b. Regulating pollution sources;
 - c. Controlling shoreline alterations, dredging and lagooning;
- (3) Control building sites, placement of structures and land uses through:
 - a. Prohibiting certain uses detrimental to the shoreland area;
 - b. Setting minimum lot sizes and widths;
 - c. Regulating side yards and building setbacks from roadways and waterways;
 - d. Setting the maximum height of near shore structures.
- (4) Preserve and restore shore cover and natural beauty through:
 - a. Restricting the removal of natural shoreland cover;
 - b. Preventing shoreland encroachment by structures;
 - c. Controlling shoreland excavation and other earth-moving activities;
 - d. Regulating the use and placement of boathouses and other structures.

Sec. 22-308. - Regulated shoreland areas.

Areas regulated by ordinance chapter and chapter 20, pertaining to land development, shall include all the lands (referred to herein as shorelands) in the unincorporated areas of Clark County which are:

- (1) Within 1,000 feet of the OHWM of navigable lakes, ponds or flowages;
- (2) Within 300 feet of the OHWM of navigable rivers or streams, or to the landward side of the floodplain, whichever distance is greater;

Chapter 22 – Land Use

- (3) Flood hazard boundary maps, flood insurance rate maps, flood boundary-floodways maps, county soil survey maps, or other existing county floodplain zoning maps used to delineate floodplain areas which have been adopted by the county, shall be used to determine the extent of the floodplain of navigable rivers or streams in the county;
- (4) Determinations of navigability or OHWM shall initially be made by the zoning administrator. When questions arise, the zoning administrator shall contact the appropriate district office of the department for a final determination of navigability or OHWM. The county may work with surveyors with regard to Wis. Stat. 59.692(1h);
- (5) The most recent version of the Wisconsin Wetland Inventory as depicted on the Department of Natural Resources Surface Water Data Viewer is made part of this ordinance. The maps can be viewed at <http://dnrmaps.wi.gov/SL/Viewer.html?Viewer=SWDV&runWorkflow=Wetland>;
- (6) Under Wis. Stat. 281.31(2m), notwithstanding any other provision of law or administrative rule promulgated thereunder, this shoreland zoning ordinance does not apply to:
 - a. Lands adjacent to farm drainage ditches if:
 1. Such lands are not adjacent to a natural navigable stream or river;
 2. Those parts of such drainage ditches adjacent to such lands were not navigable streams before ditching;
 3. Lands adjacent to artificially constructed drainage ditches, ponds or stormwater retention basins that are not hydrologically connected to a natural navigable water body.

Sec. 22-309. - Compliance.

- (1) The use of any land or water, the size, shape and placement of lots, the use, size type and location of structures on lots, the installation and maintenance of water supply and waste disposal facilities, the filling, grading, lagooning, dredging of any lands, the cutting of shoreland vegetation, the subdivision of lots, shall be in full compliance with the terms of this ordinance and other applicable local, state, or federal regulations;
- (2) Buildings and other structures shall require a permit unless otherwise expressly excluded by a provision of this ordinance. Property owners, builders and contractors are responsible for building code and ordinance compliance and reasonable care in construction.

Sec. 22-310. - Municipalities and state agencies regulated.

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

Sec. 22-311. - Abrogation and greater restrictions.

The provisions of this ordinance supersede any provisions in a county zoning ordinance that solely relate to shorelands. In other words if a zoning standard only applies to lands that lie within the shoreland and applies because the lands are in shoreland, then this ordinance supersedes those provisions. However, where an ordinance adopted under a statute other than Wis. Stat. 59.692, does not solely relate to shorelands and is more restrictive than this ordinance, for example a floodplain ordinance, that ordinance shall continue in full force and effect to the extent of the greater restrictions.

- (1) This ordinance shall not require approval or be subject to disapproval by any town or town board;
- (2) If an existing town ordinance relating to shorelands is more restrictive than this ordinance or any amendments thereto, the town ordinance continues in all respects to the extent of the greater restrictions but not otherwise;
- (3) This ordinance is not intended to repeal, abrogate or impair any existing deed restrictions, covenants or easements. However, where this ordinance imposes greater restrictions, the provisions of this ordinance shall prevail;
- (4) This ordinance may establish standards to regulate matters that are not regulated in Wis. Admin. Code NR 115, but that further the purposes of shoreland zoning as described in section 22-307 of this ordinance;
- (5) Counties may not establish shoreland zoning standards in a shoreland zoning ordinance that requires any of the following:
 - a. Approval to install or maintain outdoor lighting in shorelands, impose any fee or mitigation requirement to install or maintain outdoor lighting in shorelands, or otherwise prohibits or regulates outdoor lighting in shorelands if the lighting is designed or intended for residential use;
 - b. Requires any inspection or upgrade of a structure before the sale or other transfer of the structure may be made.
- (6) The construction and maintenance of a facility is considered to satisfy the requirements of a shoreland zoning ordinance if the department has issued all required permits or approvals authorizing the construction or maintenance under Wis. Stats. 30, 31, 281, or 283.
- (7) The provisions of the Clark County Zoning Ordinance are hereby incorporated by reference. These provisions shall only apply to the shoreland area where they impose greater restrictions than this ordinance otherwise imposes.

Sec. 22-312. - Interpretation of provisions.

In their interpretation and application, the provisions of this ordinance shall be liberally construed in favor of the county and shall not be deemed a limitation or repeal of any other powers granted by Wisconsin Statutes. Where a provision of this ordinance is required by a statute and a standard in Wis. Admin. Code NR 115 and where the ordinance provision is unclear, the provision shall be interpreted in light of statute and the standards set forth in Wis. Admin. Code NR 115 in effect on the date of the adoption of the ordinance codified in this ordinance or in effect on the date of the most recent text amendment to this ordinance.

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

Sec. 22-313. - Violations.

- (1) Any development, any building or structure constructed, moved or structurally altered, or any use established after the effective date of the ordinance codified in this ordinance in violation of the provisions of this ordinance, by any person, firm, association, corporation (including building contractors or their agents) shall be deemed a violation;
- (2) Any violations which existed under previous ordinances in effect at that time shall continue as violations regardless of changes caused by any approved revision or repeal which takes place in this ordinance;
- (3) The zoning administrator shall report all violations of this ordinance to the zoning committee. The county may institute appropriate legal action for a violation of this ordinance. Unless otherwise specified in the applicable state statute, the penalty for each violation of this ordinance may not be less than a forfeiture of \$10.00 or more than \$200.00 plus applicable court costs. Every day of violation may constitute a separate offense;
- (4) Every violation of this ordinance is a public nuisance and the creation thereof may be enjoined and the maintenance thereof may be abated by action at suit of the county, the state, or any citizen thereof pursuant to Wis. Stat. 87.30(2).

State law reference — County and planning zoning authority, Wis. Stat. 59.69.

Sec. 22-314. - Nonconforming Uses and Structures.

Wis. Admin. Code NR115.05(1)(b)1m lists structures that are exempt from the shoreland setback. These structures are considered conforming structures and are not considered nonconforming structures. Structures that were granted variances or illegally constructed structures are not considered nonconforming structures

Wis. Stat. 59.692(1k)(a)1.b. and d. prohibits counties from requiring any approval or imposing any fee or mitigation requirement for the activities specified in ordinance section 22-

Chapter 22 – Land Use

316. Property owners may be required to obtain permits or approvals and counties may impose fees under ordinances adopted pursuant to other statutory requirements.

Sec. 22-315. – Discontinued Use of a Nonconforming Structure.

If a nonconforming use is discontinued for a period of 12 months, any future use of the building, structure or property shall conform to the ordinance.

Sec. 22-316. – Maintenance, Repair, Replacement or Vertical Expansion of Nonconforming Structures.

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

- (1) An existing structure that was lawfully placed when constructed but that does not comply with the required shoreland setback may be maintained, repaired, replaced, restored, rebuilt or remodeled if the activity does not expand the footprint of the nonconforming structure;
- (2) An existing structure that was lawfully placed when constructed but that does not comply with the required shoreland setback may be vertically expanded unless the vertical expansion would extend more than 35 feet above grade level;
- (3) Expansion of a structure beyond the existing footprint may be allowed if the expansion is necessary to comply with applicable state or federal requirements;

Sec. 22-317. – Lateral Expansion of Nonconforming Principal Structure.

An existing principal structure that was lawfully placed when constructed but that does not comply with the required building setback may be expanded laterally, provided that all of the following requirements are met:

- (1) The use of the structure has not been discontinued for a period of 12 months or more if a nonconforming use;
- (2) The existing principal structure is at least 35 feet from the OHWM;
- (3) Lateral expansions are limited to a maximum of 200 square feet over the life of the structure. No portion of the expansion may be any closer to the OHWM than the closest point of the existing principal structure;
- (4) The county shall issue a permit that requires a mitigation plan that shall be approved by the county and implemented by the property owner by the date specified in the permit. The mitigation plan shall meet the standards found in ordinance sections 22-389 and 22-390;

(5) All other provisions of the shoreland ordinance shall be met.

Sec. 22-318. – Expansion of Nonconforming Principal Structure Beyond Setback.

An existing principal structure that was lawfully placed when constructed but that does not comply with the required building setback under ordinance section 22-363 may be expanded horizontally, landward, or vertically provided that the expanded area meets the building setback requirements per ordinance section 22-363 and that all other provisions of the shoreland ordinance are met. A mitigation plan is not required solely for expansion under this paragraph, but may be required per other applicable sections.

Sec. 22-319. – Relocation of Nonconforming Principal Structure.

An existing principal structure that was lawfully placed when constructed but that does not comply with the required building setback may be relocated on the property provided all of the following requirements are met:

- (1) The use of the existing principal structure has not been discontinued for a period of 12 months or more if a nonconforming use;
- (2) The existing principal structure is at least 35 feet from the OHWM;
- (3) No portion of the relocated structure is located any closer to the OHWM than the closest point of the existing principal structure;
- (4) The county determines that no other location is available on the property to build a principal structure of a comparable size to the structure proposed for relocation that will result in compliance with the shoreland setback requirements;
- (5) The county shall issue a permit that requires a mitigation plan that shall be approved by the county and implemented by the property owner by the date specified in the permit. The mitigation plan shall meet the standards found in ordinance sections 22-389 and 22-390;
- (6) All other provisions of the shoreland ordinance shall be met.

Sec. 22-320. – Maintenance, Repair, Replacement or Vertical Expansion of Structures Authorized by Variance.

A structure of which any part has been authorized to be located within the shoreland setback area by a variance granted before July 13, 2015 may be maintained, repaired, replaced, restored, rebuilt or remodeled if the following conditions are met:

- (1) The activity does not expand the footprint of the authorized structure.

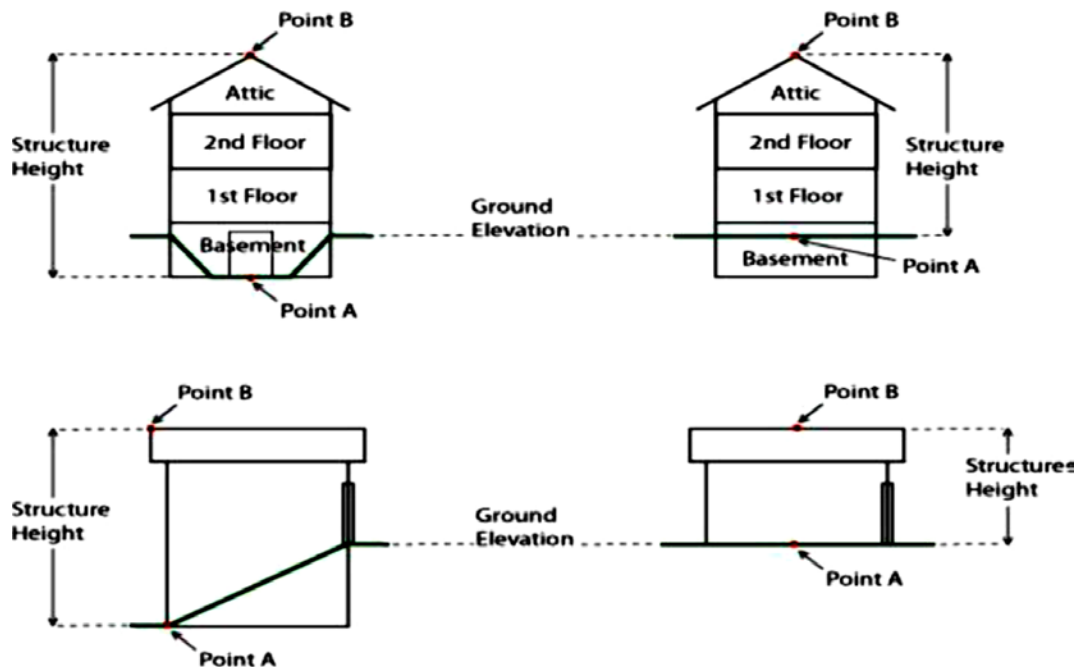
- (2) The authorized structure may be vertically expanded unless the vertical expansion would extend more than 35 feet above grade level.
- (3) Counties may allow expansion of an authorized structure beyond the existing footprint if the expansion is necessary to comply with applicable state or federal requirements.

Note: Wis. Stat. 59.692(1k)(a)2. prohibits counties from requiring any approval or imposing any fee or mitigation requirement for the activities specified in ordinance section 22-320. However, it is important to note that property owners may be required to obtain permits or approvals and counties may impose fees under ordinances adopted pursuant to other statutory requirements, such as floodplain zoning, general zoning, sanitary codes, building codes, or even stormwater erosion control.

Sec. 22-321. – Height.

To protect and preserve wildlife habitat and natural scenic beauty, on or after February 1, 2010, a county may not permit any construction that results in a structure taller than 35 feet within 75 feet of the OHWM of any navigable waters.

Structure height is the measurement of the vertical line segment starting at the lowest point of any exposed wall and it's intersect with the ground (Point A in the following diagram) to a line horizontal to the highest point of a structure (Point B in the following diagram), unless specified under other sections of this code.



Sec. 22-322. – Floodplain Structures.

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

Sec. 22-323. – Administrative Provisions.

With the adoption of the shorelands and wetlands ordinance, Clark County shall take the following action:

- (1) Appoint an administrator and such additional staff as the workload may require;
- (2) Create a zoning agency as authorized by Wis. Stat. 59.69a board of adjustment as authorized by s. 59.694, Stat., and a county planning agency as defined in Wis. Stat. 236.02(3), and required by Wis. Stat. 59.692(3);
- (3) Create and administer a system of permits for all new construction, development, reconstruction, structural alteration or moving of buildings and structures. A copy of applications shall be required to be filed in the office of the county zoning administrator, unless prohibited by Wis. Stat. 59.692(1k);
- (4) Conduct regular inspection of permitted work in progress to insure conformity of the finished structures with the terms of the ordinance;
- (5) Create and administer a variance procedure which authorizes the board of adjustment to grant such variance from the terms of the ordinance as will not be contrary to the public interest where, owing to special conditions and the adoption of the shoreland zoning ordinance, a literal enforcement of the provisions of the ordinance will result in unnecessary hardship as long as the granting of a variance does not have the effect of granting or increasing any use of property which is prohibited in that zoning district by the shoreland zoning ordinance;
- (6) Create and administer a special exception (conditional use) procedure for uses presenting special problems;
- (7) Maintain a complete record of all proceedings before the board of adjustment, zoning agency and planning agency;
- (8) Provide written notice to the appropriate office of the Department at least 10 days prior to any hearing on a proposed variance, special exception or conditional use permit, appeal for a map or text interpretation, map or text amendment, and copies of all proposed land divisions submitted to the county for review.
- (9) Submit to the appropriate office of the Department, within 10 days after grant or denial, copies of any decision on a variance, special exception or conditional use permit, or appeal for a map or text interpretation, and any decision to amend a map or text of an ordinance;

Chapter 22 – Land Use

- (10) Develop and maintain official maps of all mapped zoning district boundaries, amendments, and recordings;
- (11) Establish appropriate penalties for violations of various provisions of the ordinance, including forfeitures. Compliance with the ordinance shall be enforceable by the use of injunctions to prevent or abate a violation, as provided in Wis. Stat. 59.69 (11);
- (12) Pursue the prosecution of violations of the shoreland ordinance;
- (13) Facilitate shoreland wetland map amendments according to Wis. Admin. Code NR 115.04. Every petition for a shoreland-wetland map amendment filed with the county clerk shall be referred to the county zoning agency. A copy of each petition shall be provided to the appropriate office of the Department within 5 days of the filing of the petition with the county clerk. Written notice of the public hearing to be held on a proposed amendment shall be provided to the appropriate office of the Department at least 10 days prior to the hearing. A copy of the county board's decision on each proposed amendment shall be forwarded to the appropriate office of the Department within 10 days after the decision is issued.

Secs. 22-324—22-331. - Reserved.

DIVISION 2. - Minimum Lot Size.

Minimum lot size shall be established to afford protection against danger to health, safety and welfare, and protection against pollution of the adjacent body of water. Ordinance chapter 20 Land Development minimum lot size regulation shall apply throughout the unincorporated area of Clark County; including shoreland areas;

The width shall be calculated by averaging measurements at the following 3 locations:

- a. The OHWM;
- b. The OHWM mark building setback line;
- c. One other representative location on the lot within 300 feet of the OHWM.

Sec. 22-332. - Substandard lots.

The intent of this provision is to allow lots that were legally created, that met minimum area and minimum average width requirements when created, but currently do not meet the minimum lot width and area requirements, to be used as a dwelling structure site provided all other ordinance requirements can be met and if all of the following apply:

- (1) A substandard lot served by a public sanitary sewer which is at least 7,500 square feet in area and is at least 50 feet in width at the building setback line and at least 50 feet in width at the OHWM may be used as a building site for a single family dwelling upon issuance of a Land Use Permit by the zoning administrator;

Chapter 22 – Land Use

- (2) A substandard lot not served by public sanitary sewer which is at least 10,000 square feet in area and at least 65 feet in width at the building setback line and at least 65 feet in width at the OHWM may be used as a building site for a single-family dwelling upon issuance of a Land Use Permit by the zoning administrator;
- (3) Substandard lots that have been reconfigured by a certified survey map or consolidated into one legal description with the register of deeds, which results in a larger (closer to conforming) lot, may be allowed to be utilized as a building site;
- (4) Adjoining Substandard Lots (or an outlot adjoining a substandard lot), that are in the same ownership, that have existing structures over the lot lines, shall be combined with a legal description and recorded with a new deed prior to any new development being permitted;
- (5) A Land Use Permit for the improvement of a substandard lot having lesser dimensions than those stated in ordinance subsections (1) and (2) shall be issued only after granting of a variance by the Board of Adjustment.

Secs. 22-333. – Outlots.

- (1) An outlot shall not be used for a principal building site;
- (2) An outlot may be used for an accessory structure building site which is clearly incidental to, and customarily found in connection with, a principal structure, and which the outlot is located adjacent to that of the principal structure lot under same ownership;
- (3) An outlot may be combined by Certified Survey Map to an existing lot, substandard lot, or newly created lot.

Secs. 22-334. – Land Division Review.

The county shall review, pursuant to Wis. Stat. 236.45, all land divisions in shoreland areas which create 3 or more parcels or building sites of 5 acres each or less within a 5-year period. In such review all of the following factors shall be considered:

- (1) Hazards to the health, safety or welfare of future residents.
- (2) Proper relationship to adjoining areas.
- (3) Public access to navigable waters, as required by law.
- (4) Adequate stormwater drainage facilities.
- (5) Conformity to state law and administrative code provisions.

Secs. 22-335. – Sanitary Regulations.

The county shall adopt sanitary regulations for the protection of health and the preservation and enhancement of water quality.

- (1) Where public water supply systems are not available, private well construction shall be required to conform to Wis. Admin. Code NR 812.
- (2) Where a public sewage collection and treatment system is not available, design and construction of private on-site waste treatment system shall, prior to July 1, 1980, be required to comply with Wis. SPS Comm 383, and after June 30, 1980 be governed by a private sewage system ordinance adopted by the county under Wis. Stat. 59.70(5).

22-336 -- 22-358. - Reserved.

DIVISION 3. - SETBACKS

Permitted building setbacks shall be established to conform to health, safety and welfare requirements, preserve natural beauty, reduce flood hazards and avoid water pollution.

Sec. 22-359. - Sideyard setbacks.

All structures, except those listed as exemptions in ordinance section 22-360 which may require a lesser setback, shall be set back at least ten feet from the side property lines to create a sideyard. The minimum aggregate width of both side yards shall be 25 feet.

Sec. 22-360. – Exemptions to the side yard setbacks.

The following structures or objects are not subject to sideyard setbacks as set forth in ordinance section 22-359:

- (1) Agriculture Fence
 - a. Agriculture fences consisting of post and wire require no setback from the property line and can be constructed up to the OHWM;
 - b. Property must be actively used for agriculture pasturing of livestock on one side of the fence;
 - c. Maximum height of 4 feet from the adjacent grade within 75 feet from the OHWM.
- (2) Privacy, Security and Open fences
 - a. Fence requires a 3 foot setback from the property line for maintenance access;
 - b. Fence requires a 75 foot setback from the OHWM;
- (4) Private on-site wastewater treatment systems that comply with Wis. SPS Comm 383;
- (5) Facility or equipment of a public utility, as defined in Wis. Stat. 196.01 (5), that has no feasible alternative location outside of the minimum setback;

(6) Devices or systems used to treat runoff from impervious surfaces.

Sec. 22-361. - Highway setbacks.

For the purpose of determining the distance that structures shall be set back from streets and highways, the highways of the county are divided into the following classes:

(1) Class A highways.

- a. All state and federal highways are designated as class A highways;
- b. The setback from class A highways shall be 110 feet from the centerline of the highway or 50 feet from the right of way line, whichever is greater.

(2) Class B highways.

- a. All county trunks are hereby designated as class B highways. For the purpose of this ordinance, any road shall be considered a county trunk after it has been placed on the county trunk system by the county board and approved by the division of highways;
- b. The setback from class B highways shall be 75 feet from the centerline of such highway or 42 feet from the right-of-way lines, whichever is greater.

(3) Class C highways.

- a. All town roads, public streets and highways not otherwise classified are designated class C highways;
- b. The setback from class C highways shall be 63 feet from the centerline of such highway or 30 feet from the right-of-way line, whichever is greater.

Sec. 22-362. – Exemptions to the Highway setbacks.

Objects and structures permitted within highway setback lines, *but not permitted in the highway right-of-way by this chapter:*

- (1) Fences as described in ordinance section 22-360;
- (2) Telephone, telegraph and power transmission poles, lines, and portable equipment;
- (3) Field crops, shrubbery and trees, except that no trees, shrubbery or crops may be planted within a visual clearance triangle that would obstruct the view;
- (4) Private on-site wastewater treatment systems that comply with Wis. SPS Comm 383;
- (5) Devices or systems used to treat runoff from impervious surfaces.

Sec. 22-363. - Ordinary High Water Mark Setbacks.

All structures except those listed as exemptions in ordinance sections 22-364 and 22-365 which may require a lesser setback, shall be set back at least 75 feet and 2 vertical feet above the OHWM of navigable waters.

Sec. 22-364. - Reduced Principal Structure setbacks.

A setback less than the 75' required setback from the OHWM shall be permitted for a proposed principal structure and shall be determined as follows:

- (1) Where there are existing principal structures in both directions, the setback shall equal the average of the distances the two existing principal structures are set back from the OHWM provided all of the following are met:
 - a. Both of the existing principal structures are located on adjacent lot to the proposed principal structure;
 - b. Both of the existing principal structures are located within 250' of the proposed principal structure;
 - c. Both of the existing principal structures are located less than 75' from the OHWM;
 - d. The average setback shall not be reduced to less than 35' from the OHWM of any navigable water;

- (2) Where there is an existing principal structure in only one direction, the setback shall equal the distance the existing principal structure is set back from the OHWM and the required setback of 75' from the OHWM provided all of the following are met:
 - a. The existing principal structure is located on adjacent lot to the proposed principal structure;
 - b. The existing principal structure is located within 250' of the proposed principal structure;
 - c. The existing principal structure is located less than 75' from the OHWM;
 - d. The average setback shall not be reduced to less than 35' from the OHWM of any navigable water.

Sec. 22-365. – Exemptions to the Ordinary High Water Mark Setbacks.

The following structures are allowed with a Land Use Permit within the OHWM setback subject to the following:

- (1) Open sided and screened structures such as gazebos, decks, screen houses and patios that satisfy the requirements in Wis. Stat. 59.692(1v);
 - a. The part of the structure that is nearest to the water is located at least 35 feet landward from the OHWM;
 - b. The floor area of all the structures in the shoreland setback area will not exceed 200 square feet. In calculating this square footage, boathouses shall be excluded;

Chapter 22 – Land Use

- c. The structure that is the subject of the request has no sides or has open or screened sides;
 - d. The county must approve a plan that will be implemented by the owner of the property to preserve or establish a vegetative buffer zone that covers at least 70% of the half of the shoreland setback area that is nearest to the water. A mitigation plan must be submitted and approved that meets the standards found in ordinance sections 22-389 and 22-390.
- (2) Stairways, walkways and lifts that are necessary to provide pedestrian access to the shoreline because of steep slopes, rocky, wet or unstable soils when the following conditions are met:
- a. There are no other locations or facilities on the property which allow adequate access to the shoreline;
 - b. Only one stairway or one lift is allowed, not both, except where there is an existing stairway and the lift will be mounted;
 - c. Such structures shall be placed on the most visually inconspicuous route to the shoreline and shall avoid environmentally sensitive areas;
 - d. Vegetation which stabilizes slopes or screens structural development from view shall not be removed;
 - e. Structures shall be painted so as to blend into the natural features of the shoreline and screened by vegetation so as to be inconspicuous when viewed against the shoreline;
 - f. Canopies, roofs, and sides are prohibited. Open railings may be provided where required for safety;
 - g. A maximum width of 60 inches (outside dimensions) is allowed for stairways, walkways and lifts;
 - h. Landings are allowed where required for safety purposes and shall not exceed 30 square feet. Attached benches, seats, tables, etc. are prohibited;
 - i. Stairways, walkways and lifts shall be supported on piles or footings. Any filling, grading or excavation that is proposed must meet the requirements of section 7 of this ordinance.
- (3) Where strict interpretation of this ordinance would effectively deny disabled persons equal housing opportunity, and where the property does not meet the criteria for a variance, the zoning administrator may grant a Conditional Use Permit to provide reasonable accommodations as required by the Federal Americans with Disabilities Act, the Federal Fair Housing Act and the Wisconsin Fair Housing Act. The permit shall be subject to the following conditions:
- a. Only the minimum relaxation of dimensional, density or other standards needed to provide reasonable accommodation shall be approved;
 - b. No use, structure or other relaxation of standards shall be approved that would violate or undermine the stated purposes of this ordinance;
 - c. The Conditional Use Permit will expire once the property is no longer primarily used by a disabled person. Subsequent landowners shall be responsible for the removal of any nonconforming structures no longer required by a disabled resident.

Chapter 22 – Land Use

(4) Boathouses, where allowed, shall meet the following requirements:

- a. The construction of a boathouse below the OHWM of any navigable waters is prohibited;
- b. The construction of a boathouse within a floodplain is prohibited;
- c. The use of a boathouse for human habitation is prohibited;
- d. The maximum dimensions of a boathouse are: 12 feet in width by 30 feet in depth;
- e. The construction of a boathouse must be at least 10 feet horizontally and 2 feet vertically from the OHWM;
- f. Boathouses shall not exceed one story;
- g. Boathouse roofs shall be constructed with a roof pitch not less than 4:12 (rise to run) nor greater than 6:12 and eaves shall not exceed 24 inches past walls;
- h. Earth toned color shall be required for all exterior surfaces of a boathouse;
- i. Maximum of one overhead door is allowed, overhead door shall be installed on water side;
- j. Maximum of one service door not exceeding 38” is allowed;
- k. No windows, including door windows, are allowed to be installed on the water side of the boathouse;
- l. Patio doors, fireplaces and other features inconsistent with the use of the structure exclusively as a boathouse are not permitted;
- m. Boathouses shall not contain plumbing;
- n. Boathouses shall be constructed entirely within the viewing and access corridor;
- o. Only one boathouse is allowed per lot.

(5) Broadcast signal receivers, including satellite dishes or antennas that are one meter or less in diameter and satellite earth station antennas that are 2 meters or less in diameter;

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

(7) Devices or systems used to treat runoff from impervious surfaces;

(8) Agriculture fences listed in ordinance section 22-360(1);

(9) All uses or structures not listed are prohibited in the OHWM setback area.

Secs. 22-366—22-380. - Reserved.

DIVISION 4. - Vegetation and Impervious Surface

Sec. 22-381. - Cutting regulations; purpose.

To protect natural scenic beauty, fish and wildlife habitat, and water quality, a county shall regulate removal of vegetation in shoreland areas, consistent with the following: The county shall establish ordinance standards that consider sound forestry and soil conservation practices, as well as the effect of vegetation removal on water quality, including soil erosion, and the flow of effluents, sediments and nutrients.

Sec. 22-382. Vegetative Buffer Zone.

- (1) To protect water quality, fish and wildlife habitat and natural scenic beauty, and to promote preservation and restoration of native vegetation. Vegetative Buffer Zone is designate land that extends from the ordinary high water mark to a minimum of 35 feet inland as a vegetative buffer zone and prohibit removal of vegetation in the vegetative buffer zone except as follows :Removal of trees and shrubs in the vegetative buffer zone to create access and viewing corridors. Per Wis. Stat. 59.692(1f)(b), the viewing corridor may be at least 35 feet wide for every 100 feet of shoreline frontage. The viewing corridor may run contiguously for the for the entire maximum width or shoreline frontage owned;
- (2) Removal of trees and shrubs in the vegetative buffer zone on a parcel with 10 or more acres of forested land consistent with “generally accepted forestry management practices” as defined in Wis. Admin. Code NR 1.25 (2) (b), and described in Department publication “Wisconsin Forest Management Guidelines” (publication FR-226), provided that vegetation removal be consistent with these practices;
- (3) The county may allow routine maintenance of vegetation. Removal of vegetation within the vegetative buffer zone to manage exotic or invasive species, damaged vegetation, vegetation that must be removed to control disease, or vegetation creating an imminent safety hazard, provided that any vegetation removed be replaced by replanting in the same area as soon as practicable;
- (4) Removal of trees, shrubs, vegetation within the vegetative buffer zone consistent with the practices to manage or promote wildlife as recommended by a qualified professional. The permit issued under this section shall require that all management activities comply with detailed plans approved by the county;
- (5) The county may authorize, by permit, additional vegetation management activities in the vegetative buffer zone. The permit issued under this section shall require that all management activities comply with detailed plans approved by the county and designed to control erosion by limiting sedimentation into the waterbody, to improve the plant community by replanting in the same area, and to maintain and monitor the newly restored area. The permit also shall require an enforceable restriction to preserve the newly restored area.

Sec. 22-383. – Impervious Surface.

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

Sec. 22-384. – Calculation of Percentage of Impervious Surface.

Percentage of impervious surface shall be calculated by dividing the surface area of the existing and proposed impervious surfaces on the portion of a lot that is within 300 feet of the ordinary high-water mark by the total surface area of that lot, and multiplied by 100.

- (1) Treated Impervious surfaces described in ordinance section 22-387 shall be excluded from the calculation of impervious surface on the lot;
- (2) If an outlot lies between the ordinary high water mark and the developable lot, and both lots are in common ownership, the lot and the outlot shall be combined with a single legal description and recorded with a new deed prior to be considered one lot for the purposes of calculating the percentage of impervious surface.

Sec. 22-385. – General Impervious Surface Standard.

Up to 15% impervious surface is allowed on the portion of a lot that is within 300 feet of the OHWM.

Sec. 22-386. – Maximum Impervious Surface Standard.

A property may exceed the 15% impervious surface standard provided the following two standards are both met:

- (1) A property owner may have more than 15% impervious surface but not more than 30% impervious surface on the portion of a lot that is within 300 feet of the ordinary high-water mark;
- (2) A mitigation plan must be submitted and approved that meets the standards found in ordinance sections 22-389 and 22-390 prior to a Land Use Permit being issued.

Sec. 22-387. – Treated Impervious Surfaces.

Impervious surfaces that can be documented to demonstrate they meet either of the following standards shall be excluded from the impervious surface calculations under ordinance section 22-384:

Chapter 22 – Land Use

- (1) The impervious surface is treated by devices such as stormwater ponds, constructed wetlands, infiltration basins, rain gardens, bio-swales or other engineered systems.
- (2) The runoff from the impervious surface discharges to an internally drained pervious area that retains the runoff on or off the parcel and allows infiltration into the soil.
- (3) To qualify for the statutory exemption, property owners shall submit a complete permit application that shall be approved by the county. The application shall include the following:
 - a. The required runoff volume of the impervious surface (IS) must use a rainfall depth derived from the NOAA National Weather Service Precipitation Frequency Data Server (PFDS) 2 year 24 hour rainfall event;
 - b. A calculation showing how much runoff is coming from the impervious surface area. The calculation of the runoff volume to treat or infiltrate is the area of the impervious surface (IS) multiplied by the runoff depth (2.74 inch or 0.23 ft.);

Example: (1,000 sq. ft. IS) x (0.23 ft. runoff depth) = 230 cubic feet (total volume to infiltrate/treat).

- c. Documentation by a professional engineer that the runoff from the impervious surface is being treated by devices such as stormwater pond, rain gardens other engineered system to standards;

or

Documentation that the runoff from the impervious surface discharges to an internally drained pervious area that retains the runoff on or off the parcel and allows infiltration into the soil;

- d. Documentation that all applicable stormwater BMP technical standards are met;
- e. An implementation schedule and enforceable obligation on the property owner to establish and maintain the treatment system, treatment devices or internally drained area. The enforceable obligations shall be evidenced by an instrument recorded in the office of the Register of Deeds prior to the issuance of the permit.

Note: The provisions in this subsection are an exemption from the impervious surface standards and as such should be construed narrowly. As such, a property owner is entitled to this exemption only when the runoff from the impervious surface is being treated by a sufficient (appropriately sized) treatment system, treatment device or internally drained. Property owners that can demonstrate that the runoff from an impervious surface is being treated consistent with this subsection will be considered pervious for the purposes of implementing the impervious surface standards in this ordinance. If a property owner or subsequent property owner fails to

Chapter 22 – Land Use

maintain the treatment system, treatment device or internally drained area, the impervious surface is no longer exempt.

Sec. 22-388. – Existing Impervious Surfaces.

For existing impervious surfaces that were lawfully placed when constructed but that do not comply with the standards in ordinance sections 22-385 or 22-386 the property owner may do any of the following:

- (1) Maintain and repair the existing impervious surfaces;
- (2) Replace existing impervious surfaces with similar surfaces within the existing building envelope;
- (3) Relocate or modify an existing impervious surface with similar or different impervious surface, provided that the relocation or modification does not result in an increase in the percentage of impervious surface that existed on the effective date of the county shoreland ordinance, and the impervious surface meets the applicable setback requirements in Wis. Admin. Code NR115.05.

Note: The impervious surface standards in this ordinance shall not be construed to supersede other provisions in the county shoreland ordinance. All of the provisions of the county shoreland ordinance still apply to new or existing development.

Sec. 22-389. – Mitigation.

The county shall issue a permit that requires a mitigation plan that shall be approved by the county and implemented by the property owner for the following three activities:

- Sec. 22-317. – Lateral Expansion of Nonconforming Principal Structure
- Sec. 22-319. – Relocation of Nonconforming Principal Structure
- Sec. 22-365 (1). – Open sided and screened structures such as gazebos, decks, screen houses and patios that satisfy the requirements in Wis. Stat. 59.692(1v).

When the County issues a Land Use Permit requiring mitigation the property owner must submit a complete mitigation plan designed by a qualified professional that is reviewed and approved by the county. The application and plan shall include the following:

- (1) A site mitigation plan that describes the proposed mitigation practices to comply with ordinance section 22-390. The plan shall be designed and implemented to restore natural functions lost through development and human activities;

Chapter 22 – Land Use

- (2) The mitigation practices shall be proportional in scope to the impacts on water quality, near-shore aquatic habitat, upland wildlife habitat and natural scenic beauty;
- (3) An implementation schedule and enforceable obligation on the property owner to establish and maintain the mitigation practices. The enforceable obligations shall be evidenced by an instrument recorded in the office of the Register of Deeds.

Sec. 22-390. – Mitigation Practices.

- (1) The following mitigation practices are mandatory for all projects requiring mitigation:
 - a. The associated privately owned wastewater treatment system shall be evaluated and upgraded to comply with Wis. SPS Comm 383;
 - b. Standard erosion and storm water runoff control measures must be implemented and all mitigation activities shall comply with Division 5 of this ordinance chapter regarding land disturbing activities.
- (2) For projects requiring mitigation a property owner shall choose at least three (3) points from among the following mitigation practices:
 - a. Removal of existing impervious surfaces or structures within 0 to 35 feet landward from the OHWM: *One point per 200 sq. ft. removed;*
 - b. Removal of existing impervious surfaces or structures within 35 to 75 feet landward from OHWM: *One point per 200 sq. ft. removed;*
 - c. Maintain an existing or establish a new shoreland buffer which includes the establishment of all three vegetative layers, the ground cover, the shrub and the tree layer on 70% of the parcel area entirely located from 0 to 35 feet landward from the OHWM: *Three points;*
 - d. Maintain an existing or establish a new shoreland buffer which includes the establishment of all three vegetative layers, the ground cover, the shrub layer and the tree layer on 70% of the parcel area entirely located from 35 to 45 feet landward from the OHWM: *Two points;*
 - e. Maintain an existing or establish a new access and viewing corridor less than the allowable 30%: *One point per each 300 sq. ft. less than the allowable;*
 - f. Install a rain garden, or similar engineered structure or system, designed by a qualified professional to catch, retain, and infiltrate runoff from the property principal structure: *one point for principal structure to a rain garden;*
 - g. Implement other practices as agreed upon by the County.

Secs. 22-391—22-413. - Reserved.

DIVISION 5. - FILLING, GRADING, LAGOONING, DREDGING, DITCHING AND EXCAVATING

Sec. 22-414. - General standards.

Filling, grading, lagooning, dredging, ditching or excavating may be permitted with a Land Use Permit in the shoreland area, provided that:

- (1) Filling, grading, lagooning, dredging, ditching or excavating shall be in accordance with the provisions of Wis. Admin. Code NR 115.04, the requirements of Wis. Stat. 30, and other state and federal laws where applicable;
- (2) Filling, grading, lagooning, dredging, ditching or excavating shall be completed in a manner designed to minimize erosion, sedimentation and impairment of fish and wildlife habitat and natural scenic beauty;
- (3) All applicable federal, state and local authority is obtained in addition to a permit under this ordinance.
- (4) Any fill placed in the shoreland area is protected against erosion by the use of riprap, vegetative cover or a bulkhead.
- (5) Filling, grading, lagooning, dredging, ditching or excavating shall meet the requirements of ordinance sections 22-502(2) and (3).

Sec. 22-415. - Land use permit required.

A Land Use Permit is required for filling, grading, lagooning, dredging, ditching or excavating activities which are within 300 feet landward of the OHWM of a navigable waterbody under the following conditions:

- (1) Filling, grading, lagooning, dredging, ditching or excavating activities of any area, any size within 35 feet of the OHWM;
- (2) Filling, grading, lagooning, dredging, ditching or excavating activities of any area, any size, and which has surface drainage towards the water on slopes of more than 20%;
- (3) Filling, grading, lagooning, dredging, ditching or excavating activities of more than 1,000 sq. ft. and which has surface drainage towards the water on slopes of 12% to 20%;
- (4) Filling, grading, lagooning, dredging, ditching or excavating activities of more than 2,000 sq. ft. and which has surface drainage towards the water on slopes less than 12%;

Chapter 22 – Land Use

- (5) Cultivation of existing agricultural fields is not considered a filling, grading, lagooning, dredging, ditching or excavating activity, provided it is done in conformance with appropriate practices;
- (6) For ponds, lagoons, lakes or flowages connected to or located within 500 feet of a navigable body of water, a permit under Wis. Stat. 30.19(1g) must be obtained from the department;
- (7) For any construction or dredging commenced on any artificial waterway, canal, ditch, lagoon, pond, lake or similar waterway which is within 300 feet landward of the ordinary high water mark of a navigable body of water or where the purpose is the ultimate connection with a navigable body of water.

Sec. 22-416. - Permit conditions.

In granting a permit under ordinance section 22-415 the County shall attach the following conditions, where appropriate:

- (1) The smallest amount of bare ground shall be exposed for as short a time as feasible;
- (2) Temporary ground cover (such as mulch or jute netting) shall be used and permanent vegetative cover shall be established;
- (3) Diversion berms or bales, silting basins, terraces, filter fabric fencing, and other methods shall be used to prevent erosion;
- (4) Lagoons shall be constructed to avoid fish trap conditions;
- (5) Fill shall be stabilized according to accepted engineering standards;
- (6) Filling shall comply with any local floodplain zoning ordinance and shall not restrict a floodway or destroy the flood storage capacity of a floodplain;
- (7) Channels or artificial watercourses shall be constructed with side slopes of two (2) units horizontal distance to one (1) unit vertical or flatter which shall be promptly vegetated, unless bulkheads or riprap are provided.

Secs. 22-417—22-498. - Reserved.

DIVISION 6. - SHORELAND-WETLAND DISTRICT

Sec. 22-499. - Designation.

This district shall include all shorelands within Clark County that are subject to this ordinance which are designated as wetlands on the most recent version of the Wisconsin Wetland Inventory as depicted on the Department of Natural Resources Surface Water Data Viewer. That portion of a wetland, located in the shoreland area, that extends across the shoreland limits in the

Chapter 22 – Land Use

unincorporated area of the county, shall be included in this district if the total contiguous wetland area is designated.

Sec. 22-500. - Locating shoreland-wetland boundaries.

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

Sec. 22-501. - Purpose.

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

Sec. 22-502. - Permitted uses.

The following uses shall be allowed, subject to general shoreland zoning regulations contained in this ordinance, the provisions of Wis. Stats. 30, 31, and 281.36 and the provisions of other state and federal laws:

- (1) Activities and uses which do not require the issuance of a zoning permit but which must be carried out without any filling, flooding, draining, dredging, ditching, tiling or excavating:
 - a. Hiking, horseback riding, fishing, trapping, hunting, swimming, and boating;
 - b. The harvesting of wild crops, such as marsh hay, ferns, moss, wild rice, berries, tree fruits and tree seeds, in a manner that is not injurious to the natural reproduction of such crops;
 - c. The pasturing of livestock;
 - d. The cultivation of agricultural crops;
 - e. The practice of silviculture including the planting, thinning and harvesting of timber; and
 - f. The construction and maintenance of duck blinds.

- (2) Uses which do not require the issuance of a Land Use Permit and which may include limited filling, flooding, draining, dredging, ditching, tiling or excavating only to the extent specifically provided below:

Chapter 22 – Land Use

- a. Temporary water levels stabilization measures which are necessary to alleviate abnormally wet or dry conditions that would have an adverse impact on silvicultural activities if not corrected;
- b. Flooding, dike and dam construction and ditching necessary for the purpose of growing and harvesting cranberries;
- c. Ditching, tiling, dredging, excavating or filling done to maintain or repair existing agricultural drainage systems only to the extent necessary to maintain the level of drainage required to continue the existing agricultural use and only where permissible under Wis. Stat. 30.20. This includes the minimum filling necessary for disposal of dredged soil adjacent to the drainage system, provided that dredged soil is placed on existing soil banks where possible and such filling is permissible under Wis. Stat.30;
- d. Construction and maintenance of fences for the pasturing of livestock including limited excavating and filling necessary for such construction and maintenance;
- e. Construction and maintenance of piers and docks approved by the Department;
- f. Limited excavating and filling necessary for the maintenance, repair, replacement and reconstruction of existing town and county highways and bridges.

(3) Uses which are allowed upon the issuance of a Land Use Permit and which may include limited filling, flooding, draining, dredging, ditching, tiling or excavating only to the extent specifically provided below:

- a. The construction and maintenance of roads which are necessary to conduct silvicultural activities or are necessary for agricultural cultivation provided that:
 1. The road cannot, as a practical matter, be located outside the wetland;
 2. The road is designed and constructed to minimize the adverse impact upon the natural functions of the wetland;
 3. The road is designed and constructed with the minimum cross-sectional area practical to serve the intended use;
 4. Road construction activities are carried out in the immediate area of the roadbed only;
 5. Any filling, flooding, draining, dredging, ditching, tiling or excavating must be necessary for the construction or maintenance of the road;
- b. The construction and maintenance of nonresidential buildings, not intended for human habitation, provided that:
 1. The building is used solely in conjunction with a use permitted in the shoreland-wetland district or for the raising of waterfowl, minnows or other wetland or aquatic animals;
 2. The building cannot, as a practical matter, be located outside the wetland;
 3. Such building does not exceed 500 square feet in floor area;
 4. Only limited excavating and filling necessary to provide structural support for the building allowed.

Chapter 22 – Land Use

- c. The establishment and development of public and private parks and recreation areas, natural and outdoor education area, historic and scientific areas, wildlife refuges, fish hatcheries, game bird and animal farms, fur animal farms, shooting preserves, public boat launching ramps, access roads used in conjunction with a public boat launching ramp, and other similar uses provided that:
 - 1. Any private development is used exclusively for the permitted use and the applicant has received a permit or license under Wis. Stat.29 where applicable;
 - 2. Filling and excavating necessary for the construction and maintenance of public boat launching ramps and access roads is allowed only where such construction meets the criteria under ordinance subsection (3)a of this section;
 - 3. Ditching, excavating, dredging, or dike and dam construction in public and private parks and recreation areas, natural and outdoor education areas, historic and scientific areas, wildlife refuges, game bird and animal farms, fur animal farms, and fish hatcheries is allowed only for the purpose of improving wildlife habitat and to otherwise enhance wetland values.

- d. The construction and maintenance of electric, gas, telephone, water and sewer transmission and distribution lines, and related facilities, by public utilities and cooperative associations organized for the purpose of producing or furnishing heat, light, power or water to their members, provided that:
 - 1. The transmission and distribution lines or related facilities cannot, as a practical matter, be located outside the wetland;
 - 2. Such construction or maintenance is done in a manner designed to minimize the adverse impact upon the natural functions of the wetlands;
 - 3. Only limited filling or excavating necessary for such construction or maintenance is allowed.

- e. The construction and maintenance of railroad lines, provided that:
 - 1. The railroad lines cannot, as a practical matter, be located outside the wetland;
 - 2. Such construction or maintenance is done in a manner designed to minimize the adverse impact upon the natural functions of the wetland;
 - 3. Only limited filling, draining, dredging, ditching or excavating necessary for such construction and maintenance is allowed.

- f. The construction of agricultural drainage systems, provided that the ditching, tiling, dredging, excavating is only to the extent necessary to maintain the level of drainage required to continue the existing agricultural use and only where permissible under Wis. Stat. 30.20.

Sec. 22-503. - Prohibited uses.

Any use not listed in ordinance sections 22-502(1) through (3) is prohibited, unless the wetland or a portion of the wetland has been rezoned by amendment of this ordinance in

accordance with Wis. Stat. 59.69(5)(e), Wis. Admin. Code NR 115 and ordinance section 22-504.

Sec. 22-504. - Rezoning of lands in the shoreland-wetland zoning district.

- (1) For all proposed text and map amendments to the shoreland-wetland provisions of this ordinance, the appropriate office with the Department shall be provided with the following:
 - a. A copy of every petition for a text or map amendment to the shoreland-wetland provisions of this ordinance, within 5 days of the filing of such petition with the county clerk. Such petition shall include a copy of the Wisconsin Wetland Inventory map adopted as part of this ordinance describing any proposed rezoning of a shoreland-wetland;
 - b. Written notice of the public hearing to be held on a proposed amendment at least 10 days prior to such hearing;
 - c. A copy of the county zoning agency's findings and recommendations on each proposed amendment within 10 days after the submission of those findings and recommendations to the county board and;
 - d. Written notice of the county board's decision on the proposed amendment within 10 days after it is issued.

- (2) A wetland, or a portion thereof, in the shoreland-wetland district shall not be rezoned if the proposed rezoning may result in a significant adverse impact upon any of the following:
 - a. Storm and flood water storage capacity;
 - b. Maintenance of dry season stream flow, the discharge of groundwater to a wetland, the recharge of groundwater from a wetland to another area, or the flow of groundwater through a wetland;
 - c. Filtering or storage of sediments, nutrients, heavy metals or organic compounds that would otherwise drain into navigable waters;
 - d. Shoreline protection against soil erosion;
 - e. Fish spawning, breeding, nursery or feeding grounds;
 - f. Wildlife habitat;
 - g. Wetlands both within the boundary of designated areas of special natural resource interest and those wetlands which are in proximity to or have a direct hydrologic connection to such designated areas as defined in Wis. Admin. Code. NR 103.04, , which can be accessed at <http://www.legis.state.wi.us/rsb/code/nr/nr103.pdf>.

- (3) If the Department notifies the county zoning agency that a proposed text or map amendment to the shoreland-wetland provisions of this ordinance may have a significant adverse impact upon any of the criteria listed in this ordinance, that amendment, if approved by the county board, shall contain the following provision:

"This amendment shall not take effect until more than 30 days have elapsed after written notice of the county board's approval of this amendment is mailed to the Department of Natural Resources. During that 30-day period the Department may notify the county board that it will adopt a superseding shoreland ordinance for the county under Wis. Stat. 59.692(6). If the

Chapter 22 – Land Use

Department does so notify the county board, the effect of this amendment shall be stayed until the Wis. Stat. 59.692(6), adoption procedure is completed or otherwise terminated."

Secs. 22-505—22-637. - Reserved.

ARTICLE VI – Reserved

Sec. 22-683-22-765. - Reserved

ARTICLE VII. - FORESTS

DIVISION 1. - GENERALLY

Sec. 22-766. - Designation of county forests.

- (a) Determination is made that for the purpose of proper and complete identification, all county-owned lands now held or hereafter acquired for forestry purposes, established and designated as county forests shall be shown on an official county forest map to be maintained in the county forestry office in the courthouse in Neillsville, and according to the records in the office of the register of deeds.
- (b) It is the intent of the county board of supervisors to consolidate county forest holdings as lands are acquired by the county and that application to enter such lands are acquired by the county and that application to enter such lands as county forest lands pursuant to Wis. Stats. § 28.11 shall be filed.

(Compiled Ords. of 2009, § 17.12.10)

Sec. 22-767. - Legal action; violation; penalty.

- (a) Civil action. Whenever evidence of unlawful cutting on county lands shall come before the committee, the committee may recommend to the district attorney that he bring suit to recover damages as provided by Wis. Stats. § 26.09. Similarly, civil suit shall be recommended against parties responsible for forest fire damage under Wis. Stats. § 26.21.
- (b) Cooperation. It shall be the duty of the committee and its appointed administrative agent to secure information and to seek the cooperation of state, county and town officers in securing information required for legal action.
- (c) Penalties. Any person who violates any of the provisions of this article, or other rules and regulations made by the committee, shall be subject to a forfeiture of not less than \$25.00 or more than \$500.00, together with costs of prosecution, and in default of payment thereof, to imprisonment in the county jail until such forfeiture and costs are paid, but not to exceed 90 days. Each day a violation exists shall constitute a distinct any separate violation of this article and as such, forfeitures shall apply accordingly.

(Compiled Ords. of 2009, § 17.12.90)

Sec. 22-768. - Forest crop law administration.

After the forest crop law applications for entry have been prepared and approved by the forest and parks committee, the county clerk shall, after verifying county ownership of the listed lands, execute the applications and forward them to the department of natural resources with the date limits prescribed by the department of natural resources for each year's applications. Withdrawal of lands entered under the county forest law shall be in the manner prescribed by Wis. Stats. § 28.11(11). No deed to any description of forest crop land shall be issued prior to recording of an order of withdrawal with the register of deeds.

(Compiled Ords. of 2009, § 17.12.40)

Sec. 22-769. - Forest finances.

- (a) All allotments from the state department of natural resources to the county under Wis. Stats. § 28.14 for the purchase, development, preservation and maintenance of the county forest, shall be deposited in the state aid forestry fund. Income from the sale of lands or equipment purchased with state aid funds shall be restored to this fund. All unexpended funds shall be nonlapsing.
- (b) All moneys received from the sale of timber stumpage, cut forest products, fees and use permits, sale of building materials, sale of surplus materials, and equipment, or other revenue received by the committee, except income specified in subsection (a) of this section, shall be deposited in the county forestry fund and expended for the purposes covered by this article and designated by the committee.
- (c) All moneys appropriated for purposes under section 22-769 shall be deposited in the county forest and parks fund.

(Compiled Ords. of 2009, § 17.12.50)

Secs. 22-770—22-791. - Reserved.

DIVISION 2. - FORESTRY AND PARKS COMMITTEE

Sec. 22-792. - Appointment.

The county board of supervisors assigns administration of the county forestry office to the committee of this board, known as the forestry and parks committee, composed of five members, and hereinafter referred to as the committee.

(Compiled Ords. of 2009, § 17.12.20)

Sec. 22-793. - Powers and duties.

The powers and duties of the forestry and parks committee are as follows:

Chapter 22 – Land Use

- (1) Acquire lands within county forest areas by purchase, gift or bequest, or by exchange of county-owned lands outside such areas for the purpose of blocking the forest for better administration with such limits as may be prescribed by the county board and subject to approval of the county board;
- (2) Make application for entry under the county forest crop law as lands are acquired within the county forest areas;
- (3) Direct and supervise the county forestry office and designate a county forest administrator as its agent, and the committee is empowered to employ such other competent personnel as may be necessary to direct, perform and enforce the administrative and management functions of this article;
- (4) Establish and maintain in appropriate centers, a forest headquarters for office space and the housing of machinery, tools, equipment and supplies needed in conducting forest and parks operations;
- (5) Purchase, acquire, sell, trade or dispose of instruments, tools, equipment and supplies required for the operation of the forest and parks. All purchases shall be conducted pursuant to the applicable state law. The county board authorizes the committee to purchase up to \$15,000.00 of said items without the county board approval;
- (6) Cooperate with the department of natural resources in preparing budgets for county forest administration, capital and direct expenditures of forestry funds advanced by the department of natural resources and for the other revenues accruing to the county under this article for submission to the county board;
- (7) Do all things necessary for the protection of the forest whether from fire, insects, disease, trespass or from damage by animals or from other causes in cooperation with the department of natural resources in all such related matters;
- (8) Regulate the disposal of slash;
- (9) Locate survey lines and appropriately monument corners of county forest lands;
- (10) Construct, improve and maintain a system of forest roads, trails and fire breaks, and purchase or secure easements for accessways required to cross privately owned lands;
- (11) Gate or block roads or trails with gates, cables, rails, posts, earthen embankments or other material. Unauthorized motor vehicles are prohibited from travel on roads or trails so gated or posted;
- (12) Conduct forest improvement work including reforestation, release cuttings, thinnings, pruning and weeding by any method including spraying or dusting chemicals by airplane and other methods;
- (13) Dispose of salvaged materials;
- (14) Cooperate with the department of natural resources in the determination of the allowable annual cut by establishment of an intensive county forest management plan including an inventory of growing stock and increment, acreage control, establishment of cutting compartments and other necessary items for such plan;

Chapter 22 – Land Use

- (15) Sell timber stumpage in accordance with a county forest management plan in cooperation with the department of natural resources;
- (16) Establish, construct and maintain wherever desirable within the forest, picnic grounds, waysides, camps and campsites, public access roads and boat landings, scenic areas, nature trails and designate, mark and preserve places of natural and historic interest and significance;
- (17) Cooperate with the department of natural resources on all matters relating to game and fish management within the county forest on which a memorandum of understanding between the county board and the department of natural resources is in existence;
- (18) Authorize to enter into agreement with the Lake States Forest Experiment Station, the University of Wisconsin or other universities with the endorsement of or directly with the department of natural resources for the use of tracts of county forest lands, labor, materials and equipment for conducting forest research, pending county board approval;
- (19) Do special forest or recreation development work on other public lands not included in the county forests, including such lands as school forest, community forests, county parks, watersheds, reduction of hazards, public highways and similar projects under the county forestry fund as set up in section 22-769;
- (20) Prepare and present an annual report of its activities to the county board.

(Compiled Ords. of 2009, § 17.12.30)

Secs. 22-794—22-824. - Reserved.

DIVISION 3. - PERMITS

Sec. 22-825. - Regulating gathering rights.

Members of the Wisconsin bands of the Lake Superior Chippewa Indians may have the right to gather miscellaneous forest products on certain county lands pursuant to the following regulated procedures:

- (1) Permit required. Any treaty rights participant interested in gathering firewood, tree bark, maple sap, lodge poles, bows, marsh hay, or other miscellaneous forest products (except fruits, seeds, or berries not enumerated in county ordinances), from the county-owned land shall obtain a county gathering permit from the county forestry office prior to the exercise of said gathering rights.
- (2) Application and processing. The county forest administrator shall prepare an appropriate application requesting pertinent information from all treaty rights participants who seek to gather miscellaneous forest products on county forest land. Said application shall be available upon request. Those treaty rights participants who seek to gather miscellaneous forest products shall provide proper identification and present a valid tribal membership card upon submitting an application with the county. Upon receipt of an application, the county shall respond to the gathering permit request no later than 14 days after receipt of said application. Said response shall either grant or

Chapter 22 – Land Use

deny the request. Should the request be denied, the reasons for said denial shall be set forth in the response of the county, including the basis for said denial with specific reference to the limitations set forth in subsection (4) of this section. Any application which is incompletely or incorrectly prepared shall be returned within said 14 days to the applicant with specific directions as to which portion or portions of said applications are defective.

- (3) Conditions in permit. The gathering permit shall indicate the location of the material to be gathered, the volume of the material to be gathered, and any additional conditions on the gathering of the material necessary for conservation of timber or miscellaneous forest products on county land may not permit any person other than another treaty rights participant to tend or operate equipment involved in the gathering.
- (4) Denial of gathering permit. The county may not deny a request to gather miscellaneous forest products on county property under the terms of this article unless:
 - a. The gathering is inconsistent with the forest management plan for said property;
 - b. The gathering will conflict with pre-existing rights of a permittee or other person possessing an approval to conduct an activity on the property, including a contractor of the county; or
 - c. Is otherwise inconsistent with conservation or public health or safety.
- (5) Penalty. Any person gathering miscellaneous forest products without first obtaining a gathering permit shall be subject to all existing penalties provided for in county ordinances, including trespass and timber theft charges. Any person who possesses a gathering permit, and gathers beyond the authority granted in the permit, or who causes damage to the timber or miscellaneous forest products on county land, shall be assessed a forfeiture as set forth in the Clark County Uniform Citation Ordinance.
- (6) Conflicts. Any and all ordinances or resolutions of the county, or any portion of said ordinances or resolutions to the contrary or in derogation of the above sections, are hereby repealed only insofar as any conflict exists.

(Compiled Ords. of 2009, § 17.12.70)

Sec. 22-826. - Article incorporated into land use plan.

This article is incorporated in and made a part of the county forest ten-year comprehensive land use plan.

(Compiled Ords. of 2009, § 17.12.80)

Secs. 22-827—22-845. - Reserved.

DIVISION 4. - USE REGULATIONS

Sec. 22-846. - Recreational use.

Chapter 22 – Land Use

Recreational use regulations are as follows:

- (1) The committee may designate suitable areas for forest parks, campsites and picnic grounds, and boat access and is authorized to provide needed conveniences, including wells, and sanitary facilities. Such areas shall be for public use as prescribed by the committee.
- (2) No miscellaneous lot leases will be issued nor transferred and those now present will be terminated at the death of the owner (county board proceedings March 4, 1965).
- (3) Any cabin permit may be revoked at any time without reimbursement of fees when the permittee or any member of his family or guest shall have been convicted of violation of the state game laws or forest fire laws or of the regulations herein provided and rules of good conduct. All permits issued for the use of cabins shall contain clauses that the permittee shall remove any buildings erected by him by April 15 of the year following revocation or failure to renew any permit, and that whenever any buildings not so removed by April 15 shall become the property of the county and the committee may dispose of such buildings.
- (4) Overnight camping including tents, trailers, cars and trucks, portable hunting or fishing cabins may be permitted in the county forest. A registration fee set by the committee will be charged. Any camped or campers who violate the rules and regulations of this article or of good conduct, including cutting or defacing timber, carelessness with fire, violation of game and fishing laws of the state, or improper disposal of garbage and litter shall be subject to ejection from the county forest and subject to the penalties provided by county and state law.
- (5) The dumping of rubbish, debris, dirt, stone or any other materials shall be prohibited on all county forest lands. Visitors, including berry pickers, hunters, fishermen, tourists and all others who visit the county forests are forbidden to leave litter anywhere in the forests or in its lakes or streams.
- (6) It is unlawful for any person to construct, cause to be constructed, use, or occupy any permanent elevated scaffold or other permanent elevated device, commonly referred to as a tree stand, on any lands owned or under the control of the county. Portable/temporary tree stands may be used, provided that they are erected after September 1 and completely removed no later than January 7 of the following year, and provided that such portable tree stands are not in any manner bolted, nailed, or screwed to the tree, and provided that such portable tree stands cause no permanent damage to the trees in which they are placed. The use of nails, screws, spikes, or other devices to aid in climbing a tree is prohibited, except that one-piece, hat-treated and tapered commercially manufactured tree steps are permitted, provided that they are installed after September 1 and completely removed no later than January 7 of the following year. The cutting of shooting lanes is prohibited. Tree stands found in violation of this article may be removed and destroyed by any authorized person.
- (7) It is unlawful for any person to construct, cause to be constructed, use, or occupy any ground blind hunting stand which is in any manner bolted, nailed, or screwed to a tree. Ground blinds constructed of materials which are not natural to the landscape must be

Chapter 22 – Land Use

installed after September 1 and completely removed no later than January 7 of the following year. The cutting of living trees for use as building materials for hunting blinds and the cutting of shooting lands is prohibited. Hunting stands found in violation of this article may be removed and destroyed by any authorized person.

- (8) Provisions for the placement of approved hunting stands as described under subsections (6) and (7) of this section do not permit or warrant exclusive territorial hunting rights on county forest lands.
- (9) It is unlawful for any person to place or cause to be placed unauthorized signs on any county forest lands or other lands under the management, supervision and control of the committee
- (10) The more detailed county park ordinance shall be referred to for more specific regulations regarding the recreational aspects of the forest.

(Compiled Ords. of 2009, § 17.12.60(A))

Sec. 22-847. - Timber cutting.

Timber cutting regulations are as follows:

- (1) Cultural cuttings shall include thinnings, release cuttings, sanitation cuttings and improvement cuttings to remove trees of inferior species, form or condition for the purpose of stand improvement. All cultural cuttings on county forests shall be in accordance with plans made by or under the supervision of the forester office or given to other county agencies for their use, or sold, as the committee shall determine. When given to other public agencies, the latter shall pay the county a sum equal to the severance tax thereon.
- (2) Salvage cuttings shall include all cutting of timber damaged by fire, storm, insect or disease. Salvage cuttings shall be done under the procedure specified for cultural cutting or for commercial cutting, as the committee may decide.
- (3) Commercial cuttings shall include all cutting where stumpage is sold under contract in which the primary objective of the cutting is the marketing of the timber products, including logs, ties, poles, posts, pulpwood, piling, Christmas trees and boughs, or other forest products.
 - a. Proposed timber sales shall be submitted to the committee by the county forest administrator after all provisions relating to forestry practice have been endorsed by the forester of the department of natural resources.
 - b. Contract specifications for each cutting operation pertaining to payment and financial responsibility of the bidder shall be determined by the committee in consultation with the county forest administrator and the forester.
 - c. After approval of any sale by the committee, a notice of intention to cut shall be prepared as provided by Wis. Stats. § 28.11(6) as that section may be amended, revised or renumbered.

Chapter 22 – Land Use

- d. All timber sales shall conform with the provisions of Wis. Stats. § 28.11(6) as that section may be amended, revised or renumbered.
- e. Payment for forest products shall be made promptly after billing. Prepayment or other payment arrangements may be made with the approval of the committee.

(Compiled Ords. of 2009, § 17.12.60(B))

Secs. 22-848—22-872. - Reserved.

DIVISION 5. - CUTTING FOREST PRODUCTS

Sec. 22-873. - Notice; cutting forest products; penalty.

- (a) Before any person cuts, or causes to be cut any logs, piling, poles, posts, pulpwood, Christmas trees or other forest products, except fuel wood for personal home consumption, in, upon or adjoining any forest or wild land area, the person shall pay all delinquent taxes on the land and each year shall mail a notice in the English language giving his name and post office address, and listing all the lands upon which cutting is to be done, designating the lands upon which cutting is to be done by each 40-acre governmental subdivision or fraction of a 40-acre governmental subdivision with the proper section, town and range, by registered letter addressed to the county clerk. The county clerk shall mail a copy of the notice to the chairperson of each town in which lands upon which forest products are to be cut under this subsection are located, and to the county treasurer, who shall forthwith determine whether the county holds tax certificates or tax deeds to any of the land listed in the notice and if the county treasurer so finds, the county treasurer shall take action to collect the unpaid taxes represented by county-owned tax certificates or to prevent cutting on land to which the county holds a tax deed or tax certificate. This section shall not apply to cutting on public lands, or to cutting for the purpose of clearing the land for agricultural use or to a person who may cut up to five Christmas trees on the person's own property for his own use, provided that he can prove that his real estate taxes for the previous calendar year have been paid. "Public lands" as used in this section shall mean lands owned by the United States of America, the state of Wisconsin or any political subdivision of this state.
- (b) No purchaser of Indian reservation land or land to be placed upon the tax roll for the first time shall cut or cause to be cut any logs, piling, posts, poles, pulpwood, Christmas trees or other forest products, except fuel wood for personal home consumption, from such land without first recording the instrument by which title to such land was acquired in the county in which such land is located.
- (c) Penalty. Whoever violates this section shall forfeit not more than \$50.00.

(Compiled Ords. of 2009, § 17.32.010)

Sec. 22-874. - Prohibiting timber theft; penalty.

- (a) No person may cut, remove or transport raw forest products or direct the cutting, removal or transportation of raw forest products without the consent of the owner.

Chapter 22 – Land Use

- (b) As used in this section, the term "raw forest products" means forest products not altered by a manufacturing process off the land from which they are taken. This term includes logs, pilings, posts, poles, cord wood products, pulp wood, fuel wood and Christmas trees.
- (c) Penalty. Whoever violates this section is subject to a forfeiture of not less than \$100.00 nor more than \$10,000.00.

(Compiled Ords. of 2009, § 17.32.020)

Secs. 22-875—22-896. - Reserved.

ARTICLE VIII. - RESERVED

Editor's note—Res. No. 27-7-13, adopted July 25, 2013, repealed art. VIII, §§ 22-897—22-906, 22-931—22-935, 22-959—22-962, 22-983—22-992, 22-1013—22-1016, 22-1046, 22-1076—22-1093, 22-1112—22-1118, 22-1145—22-1154, 22-1188, 22-1189, which pertained to forest and recreation zoning and derived from compiled ordinances of 2009, ch. 17.24, art. II, §§ 17.24.005—17.24.900.

Secs. 22-897—22-1211. - Reserved.

ARTICLE IX. - NONMETALLIC MINE RECLAMATION

DIVISION 1. - GENERALLY

Sec. 22-1212. - Definitions.

All definitions for the purposes of this article are those contained in Wis. Admin. Code § NR 135.03. Additional terms include:

Borrow site means an area outside of a transportation project site from which stone, soil, sand or gravel is excavated for use at the project site, except the term does not include commercial sources.

Contemporaneous reclamation means the sequential or progressive reclamation of portions of the nonmetallic mining site affected by mining operations that is performed in advance of final site reclamation, but which may or may not be final reclamation, performed to minimize the area exposed to erosion, at any one time, by nonmetallic mining activities.

Department means the state department of natural resources.

Financial assurance means a commitment of funds or resources by an operator to a regulatory authority that satisfies the requirements in subdivision III of division 3 of this article and is sufficient to pay for reclamation activities required by this article.

Highwall means a vertical or nearly vertical face in solid rock or a slope of consolidated or unconsolidated material that exceeds 3:1.

Landowner means the person who has title to land in fee simple or who holds a land contract for the land. A landowner is not a person who owns nonmetallic mineral rights to land, if a different person possesses title to that land in fee simple or holds a land contract for that land.

Chapter 22 – Land Use

Licensed professional geologist means a person who is licensed as a professional geologist pursuant to Wis. Stats. ch. 470.

Nonmetallic mineral means a product, commodity or material consisting principally of naturally occurring, organic or inorganic, nonmetallic, nonrenewable material. Nonmetallic minerals include, but are not limited to, stone, sand, gravel, asbestos, beryl, diamond, clay, coal, feldspar, peat, talc and topsoil.

Nonmetallic mining or mining means all of following:

- (1) Operations or activities at a nonmetallic mining site for the extraction from the earth of mineral aggregates or nonmetallic minerals for sale or use by the operator. Nonmetallic mining includes use of mining equipment or techniques to remove materials from the in-place nonmetallic mineral deposit, including drilling and blasting, as well as associated activities such as excavation, grading and dredging. Nonmetallic mining does not include removal from the earth of products or commodities that contain only minor or incidental amounts of nonmetallic minerals, such as commercial sod, agricultural crops, ornamental or garden plants, forest products, Christmas trees or plant nursery stock.
- (2) Processes carried out at a nonmetallic mining site that are related to the preparation or processing of the mineral aggregates or nonmetallic minerals obtained from the nonmetallic mining site. These processes include, but are not limited to stockpiling of materials, blending mineral aggregates or nonmetallic minerals with other mineral aggregates or nonmetallic minerals, blasting, grading, crushing, screening, scalping and dewatering.

Nonmetallic mining reclamation or reclamation means the rehabilitation of a nonmetallic mining site to achieve a land use specified in a nonmetallic mining reclamation plan approved under this article, including removal or reuse of nonmetallic mining refuse, grading of the nonmetallic mining site, removal, storage and replacement of topsoil, stabilization of soil conditions, reestablishment of vegetative cover, control of surface water and groundwater, prevention of environmental pollution and, if practicable, the restoration of plant, fish and wildlife habitat.

Nonmetallic mining refuse means waste soil, rock and mineral, as well as other natural site material resulting from nonmetallic mining. Nonmetallic mining refuse does not include marketable by-products resulting directly from or displaced by the nonmetallic mining that are scheduled to be removed from the nonmetallic mining site within a reasonable period of time after extraction.

Nonmetallic mining site or site means all contiguous areas of present or proposed mining described in subsection (1) of this definition subject to the qualifications in subsection (2) of this definition.

- (1) The term "nonmetallic mining site" means the following:
 - a. The location where nonmetallic mining is proposed or conducted.
 - b. Storage and processing areas that are in or contiguous to areas excavated for nonmetallic mining.

Chapter 22 – Land Use

- c. Areas where nonmetallic mining refuse is deposited.
 - d. Areas affected by activities such as the construction or improvement of private roads or haulage ways for nonmetallic mining.
 - e. Areas where grading or re-grading is necessary.
 - f. Areas where nonmetallic mining reclamation activities are carried out or structures needed for nonmetallic mining reclamation, such as topsoil stockpile areas, renegotiation test plots, or channels for surface water diversion, are located.
- (2) The term "nonmetallic mining site" does not include any of the following areas:
- a. Those portions of sites listed in subsection (1) of this definition not used for nonmetallic mining or purposes related to nonmetallic mining after August 1, 2001.
 - b. Separate, previously mined areas that are not used for nonmetallic mineral extraction after August 1, 2001, and are not contiguous to mine sites, including separate areas that are connected to active mine sites by public or private roads.
 - c. Areas previously mined but used after August 1, 2001, for a non-mining activity, such as stockpiles of materials used for an industrial process unrelated to nonmetallic mining.

Operator means any person who is engaged in, or who has applied for a permit to engage in, nonmetallic mining, whether individually, jointly or through subsidiaries, agents, employees, contractors or subcontractors.

Person means an individual, owner, operator, corporation, limited liability company, partnership, association, county, municipality, interstate agency, state agency or federal agency.

Registered professional engineer means a person who is registered as a professional engineer pursuant to Wis. Stats. § 443.04.

Regulatory authority means one of the following:

- (1) The county in which the nonmetallic mining site is located, that has an applicable reclamation ordinance under Wis. Stats. § 295.13 except where a municipality has adopted an applicable reclamation ordinance pursuant to this subsection (1).
- (2) The municipality in which the nonmetallic mining site is located and which has adopted an applicable reclamation ordinance under Wis. Stats. § 295.14.
- (3) The department, in cases where a county mining reclamation program is no longer in effect under Wis. Stats. § 295.14 but only if there is no applicable reclamation ordinance enacted by the municipality in which the nonmetallic mining site is located.

Replacement of topsoil means the replacement or redistribution of topsoil or topsoil substitute material to all areas where topsoil was actually removed or affected by nonmetallic mining for the purposes of providing adequate vegetative cover and stabilization of soil conditions needed to achieve the approved post-mining land use and as required by the reclamation plan approved pursuant to this article.

Solid waste means any garbage, refuse, sludge from a waste treatment plant, water supply treatment plant or air pollution control facility and other discarded or salvageable materials,

Chapter 22 – Land Use

including solid, liquid, semisolid or contained gaseous materials resulting from industrial, commercial, mining and agricultural operations, and from community activities, but does not include solids or dissolved material in domestic sewage, or solid or dissolved materials in irrigation return flows or industrial discharges which are point sources subject to permits under Wis. Stats. ch. 283 or source material, special nuclear material or by-product material, as defined in Wis. Stats. § 254.31(1).

Topsoil means the surface layer of soil which is generally more fertile than the underlying soil layers, which is the natural medium for plant growth and which can provide the plant growth, soil stability and other attributes necessary to meet the success standards approved in the reclamation plan.

Topsoil substitute material means soil or other unconsolidated material either used alone or mixed with other beneficial materials and which can provide the plant growth, site stability and other attributes necessary to meet the success standards approved in the reclamation plan.

Unreclaimed acre or unreclaimed acres.

- (1) The term "unreclaimed acre" or "unreclaimed acres" means those unreclaimed areas in which nonmetallic mining has occurred after August 1, 2001, and areas where nonmetallic mining reclamation has been completed but is not yet certified as reclaimed under section 22-1372(c). However the term does not include any areas described in subsection (2)a of this definition.
- (2) The term "unreclaimed acre" or unreclaimed acres" does not include:
 - a. Those areas where reclamation has been completed and certified as reclaimed under section 22-1372(c).
 - b. Those areas previously affected by nonmetallic mining but which are not used for nonmetallic mining after August 1, 2001.
 - c. Those portions of nonmetallic mining sites which are included in an nonmetallic mining reclamation plan approved pursuant to this article but are not yet affected by nonmetallic mining.
 - d. Areas previously mined but used after August 1, 2001 for a non-mining activity, such as stockpiling of materials used for an industrial activity such as an asphalt plant, concrete batch plant, block and tile operation or other industry that uses products produced from nonmetallic mining.
 - e. For purposes of fees under section 22-1370, those areas within a nonmetallic mining site which the county has determined to have been successfully reclaimed on an interim basis in accordance with section 22-1372(c).

(Compiled Ords. of 2009, § 17.34.120)

Sec. 22-1213. - Purpose.

The purpose of this article is to establish a local program to ensure the effective reclamation of nonmetallic mining sites on which nonmetallic mining takes place in the county after the

Chapter 22 – Land Use

effective date of the article from which this section is derived, in compliance with Wis. Admin. Code ch. NR 135 and Wis. Stats. ch. 295, subch. I.

(Compiled Ords. of 2009, § 17.34.020)

Sec. 22-1214. - Statutory authority.

This article is adopted under authority of Wis. Stats. § 295.13(1), Wis. Admin. Code § NR 135.32 and Wis. Stats. § 59.51.

(Compiled Ords. of 2009, § 17.34.030)

Sec. 22-1215. - Restrictions adopted under other authority.

The purpose of this article is to adopt and implement the uniform statewide standards for nonmetallic mining required by Wis. Stats. § 295.12(1)(a) and contained in Wis. Admin. Code ch. NR 135. It is not intended that this article repeal, abrogate, annul, impair or interfere with any existing rules, regulation, ordinances or permits not concerning nonmetallic mining.

(Compiled Ords. of 2009, § 17.34.040)

Sec. 22-1216. - Interpretation.

The interpretation and application of the provisions of this article shall be the applicable requirements for nonmetallic mining reclamation. The provisions shall not be deemed a limitation or repeal of any other power granted by state law outside the reclamation requirements for nonmetallic mining sites required by Wis. Stats. ch. 295, subch. I (Wis. Stats. § 295.11 et seq.) and Wis. Admin. Code ch. NR 135. Where any terms or requirements of this article may be inconsistent or conflicting, the more restrictive requirements or interpretation shall apply. Where a provision of this article is required by state law or by a standard in Wis. Admin. Code ch. NR 135 and where the provision is unclear, the provision shall be interpreted to be consistent with state law and the provisions of Wis. Admin. Code ch. NR 135.

(Compiled Ords. of 2009, § 17.34.050)

Sec. 22-1217. - Overall applicability.

The requirements of this article apply to all operators of nonmetallic mining sites within the county except where exempted in section 22-1218 and except for nonmetallic mining sites located in a city, village or town within the county that has adopted an ordinance pursuant to Wis. Stats. § 295.14 and Wis. Admin. Code § NR 135.32(2). This article does not apply to nonmetallic mining sites where nonmetallic mining permanently ceased before August 1, 2001. This article applies to nonmetallic mining conducted by or on behalf of a county, municipality or for the benefit or use of the state or any state agency, board, commission or department, except for the waiver of financial assurance in subdivision III of division 3 of this article.

Sec. 22-1218. - Exemptions.

This article does not apply to the following exempt activities listed:

- (1) Nonmetallic mining at a site or that portion of a site that is subject to permit and reclamation requirements of the state department of natural resources under Wis. Stats. § 30.19, 30.195 or 30.20 and complies with Wis. Admin. Code ch. NR 340.
- (2) Excavations subject to the permit and reclamation requirements of Wis. Stats. § 30.30 or 30.31.
- (3) Excavations or grading by a person solely for domestic or farm use at that person's residence or farm.
- (4) Excavations or grading conducted for the construction, reconstruction, maintenance or repair of a highway, railroad, airport facility, or any other transportation facility where the excavation or grading is entirely within the property boundaries of the transportation facility.
- (5) Grading conducted for preparing a construction site or restoring land following a flood or natural disaster.
- (6) Excavations for building construction purposes conducted on the building site.
- (7) Nonmetallic mining at nonmetallic mining sites that affect less than one acre of total area over the life of the mine.
- (8) Any mining operation, the reclamation of which is required in a permit obtained under Wis. Stats. ch. 293.
- (9) Any activities required to prepare, operate or close a solid waste disposal facility under Wis. Stats. ch. 289 or a hazardous waste disposal facility under Wis. Stats. ch. 291 that are conducted on the property where the facility is located, but an applicable nonmetallic mining reclamation ordinance and the standards established in this article apply to activities related to solid waste or hazardous waste disposal that are conducted at a nonmetallic mining site that is not on the property where the solid waste or hazardous waste disposal facility is located, such as activities to obtain nonmetallic minerals to be used for lining, capping, covering or constructing berms, dikes or roads.
- (10) a. Nonmetallic mining conducted to obtain stone, soil, sand or gravel for construction, reconstruction, maintenance or repair of a highway, railroad, airport, or any other transportation facility or part thereof, if the nonmetallic mining is subject to the requirements of the state department of transportation concerning the restoration of the nonmetallic mining site.
b. This exemption only applies to a nonmetallic mining operation with limited purpose and duration where the state department of transportation actively imposes reclamation requirements and the operator reclaims the nonmetallic mining site in accordance with these requirements. The duration of the exemption shall be

Chapter 22 – Land Use

specific to the length of the Wisconsin Department of Transportation contract for construction of a specific transportation project.

- c. If a nonmetallic mining site covered under subsections (10)a and b of this section is used to concurrently supply materials for projects unrelated to the state department of transportation project, the exemption in this subsection still applies, provided that the site is fully reclaimed under state department of transportation contract and supervision.

(11) Dredging for navigational purposes, to construct or maintain farm drainage ditches and for the remediation of environmental contamination and the disposal of spoils from these activities.

(Compiled Ords. of 2009, § 17.34.090)

Sec. 22-1219. - Administration.

The county department of planning and zoning, and the county land conservation department shall administer the provisions of this article.

(Compiled Ords. of 2009, § 17.34.100)

Secs. 22-1220—22-1241. - Reserved.

DIVISION 2. - STANDARDS

Sec. 22-1242. - Conformance required.

All nonmetallic mining sites subject to this article shall be reclaimed in conformance with the standards set forth in this division.

(Compiled Ords. of 2009, § 17.34.130)

Sec. 22-1243. - General standards.

- (a) Refuse and other solid wastes. Nonmetallic mining refuse shall be reused in accordance with a reclamation plan. Other solid wastes shall be disposed in accordance with applicable rules of the state department of natural resources adopted pursuant to Wis. Stats. chs. 289 and 291.
- (b) Area disturbed and contemporaneous reclamation. Nonmetallic mining reclamation shall be conducted, to the extent practicable, to minimize the area disturbed by nonmetallic mining and to provide for nonmetallic mining reclamation of portions of the nonmetallic mining site while nonmetallic mining continues on other portions of the nonmetallic mining site.

Chapter 22 – Land Use

- (c) Public health, safety, and welfare. All nonmetallic mining sites shall be reclaimed in a manner so as to comply with federal, state and local regulations governing public health, safety and welfare.
- (d) Habitat restoration. When the land use required by the reclamation plan approved pursuant to this article requires plant, fish or wildlife habitat, it shall be restored, to the extent practicable, to a condition at least as suitable as that which existed before the lands were affected by nonmetallic mining operations.
- (e) Compliance with environmental regulations. Reclamation of nonmetallic mining sites shall comply with any other applicable federal, state and local laws including those related to environmental protection, zoning and land use control.

(Compiled Ords. of 2009, § 17.34.130(1))

Sec. 22-1244. - Surface water and wetlands protection.

Nonmetallic mining reclamation shall be conducted and completed in a manner that ensures compliance with the state department of natural resources' water quality standards for surface waters and wetlands contained in Wis. Admin. Code chs. NR 102 to 105. Before disturbing the surface of a nonmetallic mining site and removing topsoil, all necessary measures for diversion and drainage of runoff from the site to prevent pollution of waters of the state shall be installed in accordance with the reclamation plans approved pursuant to this article. Diverted or channeled runoff resulting from reclamation may not adversely affect neighboring properties.

(Compiled Ords. of 2009, § 17.34.130(2))

Sec. 22-1245. - Groundwater protection.

- (a) Groundwater quantity. A nonmetallic mining site shall be reclaimed in a manner that does not cause a permanent lowering of the water table that results in adverse effects on surface waters or a significant reduction in the quantity of groundwater reasonably available for future users of groundwater.
- (b) Groundwater quality. Nonmetallic mining reclamation shall be conducted in a manner that does not cause groundwater quality standards in Wis. Admin. Code ch. NR 140 to be exceeded at a point of standards application defined in that chapter.

(Compiled Ords. of 2009, § 17.34.130(3))

Sec. 22-1246. - Topsoil management.

- (a) Removal. Topsoil and topsoil substitute material shall be provided as specified in the reclamation plan approved pursuant to this article in order to achieve reclamation to the approved post-mining land use. Topsoil and topsoil substitute material removal shall be performed, as required by the reclamation plan, prior to any mining activity associated with any specific phase of the mining operation.

Chapter 22 – Land Use

- (b) Volume. The operator shall obtain the volume of soil required to perform final reclamation by removal of on-site topsoil or topsoil substitute material or by obtaining topsoil or substitute material as needed to make up the volume of topsoil as specified in the reclamation plan approved pursuant to this article.
- (c) Storage. Once removed, topsoil or topsoil substitute material shall, as required by the reclamation plan approved pursuant to this article, either be used in contemporaneous reclamation or stored in an environmentally acceptable manner. The location of stockpiled topsoil or topsoil substitute material shall be chosen to protect the material from erosion or further disturbance or contamination. Runoff water shall be diverted around all locations in which topsoil or topsoil substitute material is stockpiled.

(Compiled Ords. of 2009, § 17.34.130(4))

Sec. 22-1247. - Final grading and slopes.

- (a) All areas affected by mining shall be addressed in the approved reclamation plan pursuant to this article to provide that a stable and safe condition consistent with the post mining land use is achieved. The reclamation plan may designate highwalls or other un-mined and undisturbed natural solid bedrock as stable and safe and not in need of reclamation or designate other areas affected by mining including slopes comprised of unconsolidated materials that exceed a 3:1 slope, whether or not graded, as stable and safe. For slopes designated as stable under this subsection, the regulatory authority may require that either: a site-specific engineering analysis be performed by a registered professional engineer to demonstrate that an acceptable slope stability factor is attainable at a steeper slope, or the operator perform a field test plot demonstration to demonstrate that a stable and safe condition will be achieved and that the post-mining land use specified in the reclamation plan will not be adversely affected.
- (b) Final reclaimed slopes covered by topsoil or topsoil substitute material may not be steeper than a 3:1 horizontal to vertical incline, unless found acceptable through one or more of the following: alternative requirements are approved under section 22-1288, steeper slopes are shown to be stable through a field plot demonstration approved as part of an approved reclamation plan; or stable slopes can be demonstrated based on site-specific engineering analysis performed by a registered professional engineer. All areas in the nonmetallic mine site where topsoil or topsoil substitute material is to be reapplied shall be graded or otherwise prepared prior to topsoil or topsoil substitute material redistribution to provide the optimum adherence between the topsoil or topsoil substitute material and the underlying material. The engineering analysis shall show that a minimum acceptable slope stability factor is attainable at a steeper slope and that the post-mining land use specified in the reclamation plan is not adversely affected. When the slope occurs at the edge of a body of water, this approved slope shall extend vertically six feet below the lowest seasonal water level. A slope no steeper than 3:1 shall be created at a designated location or locations, depending on the size of the water body to allow for a safe exit.
- (c) When the approved post-mining land use includes a body of water, the approved final grade at the edge of the body of water shall extend vertically six feet below the lowest seasonal

Chapter 22 – Land Use

water level. A slope no steeper than 3:1 shall be created at designated location or locations, depending on the size of the water body to allow for a safe exit.

(Compiled Ords. of 2009, § 17.34.130(5))

Sec. 22-1248. - Topsoil redistribution for reclamation.

Topsoil or topsoil substitute material shall be redistributed in accordance with the reclamation plan approved pursuant to this article in a manner that minimizes compaction and prevents erosion. Topsoil or topsoil substitute material shall be uniformly redistributed except where uniform redistribution is undesirable or impractical. Topsoil or topsoil substitute material redistribution may not be performed during or immediately after a precipitation event until the soils have sufficiently dried.

(Compiled Ords. of 2009, § 17.34.130(6))

Sec. 22-1249. - Revegetation and site stabilization.

Except for permanent roads or similar surfaces identified in the reclamation plan approved pursuant to this article, all surfaces affected by nonmetallic mining shall be reclaimed and stabilized by revegetation or other means. Revegetation and site stabilization shall be in accordance with the approved reclamation plan and shall be performed as soon as practicable after mining activity has permanently ceased in any part of the mine site.

(Compiled Ords. of 2009, § 17.34.130(7))

Sec. 22-1250. - Assessing completion of successful reclamation.

- (a) The criteria for assessing when reclamation is complete and, therefore, when the financial assurance may be released shall be specified in the reclamation plan approved pursuant to this article. Criteria to evaluate reclamation success shall be quantifiable.
- (b) Compliance with the revegetation success standards in the approved reclamation plan shall be determined by:
 - (1) On-site inspections by the county or its agent;
 - (2) Reports presenting results obtained during reclamation evaluations including summarized data on revegetation, photo documentation or other evidence that the criteria approved in the reclamation plan to ascertain success have been met; or
 - (3) A combination of inspections and reports.
- (c) In those cases where the post mining land use specified in the reclamation plan requires a return of the mining site to a pre-mining condition, the operator shall obtain baseline data on the existing plant community for use in the evaluation of reclamation success pursuant to this section.
- (d) Revegetation success may be determined by:

Chapter 22 – Land Use

- (1) Comparison to an appropriate reference area; or
 - (2) Comparison to baseline data acquired at the mining site prior to its being affected by mining; or
 - (3) Comparison to an approved alternate technical standard.
- (e) Revegetation using a variety of plants indigenous to the area is favored.

(Compiled Ords. of 2009, § 17.34.130(8))

Sec. 22-1251. - Intermittent mining.

Intermittent mining may be conducted provided that the possibility of intermittent cessation of operations is addressed in an operator's reclamation permit, no environmental pollution or erosion of sediments is occurring, and financial assurance for reclamation pursuant to subdivision III of division 3 of this article is maintained covering all remaining portions of the site that have been affected by nonmetallic mining and that have not been reclaimed.

(Compiled Ords. of 2009, § 17.34.130(9))

Sec. 22-1252. - Maintenance.

During the period of the site reclamation, after the operator has stated that reclamation is complete but prior to release of financial assurance, the operator shall perform any maintenance necessary to prevent erosion, sedimentation or environmental pollution, comply with the standards of this article, or to meet the goals specified in the reclamation plan approved pursuant to this article.

(Compiled Ords. of 2009, § 17.34.130(10))

Secs. 22-1253—22-1277. - Reserved.

DIVISION 3. - PERMITTING

Subdivision I. - In General

Sec. 22-1278. - Nonmetallic mining reclamation permit application required; exemptions.

No person may engage in nonmetallic mining or in nonmetallic mining reclamation without possessing a nonmetallic mining reclamation permit issued pursuant to the applicable reclamation ordinance unless the activity is specifically exempted in section 22-1217, 22-1218 or subsection (2) of the definition of nonmetallic mining site in section 22-1212.

(Compiled Ords. of 2009, § 17.34.140)

Sec. 22-1279. - Required submittals.

All operators of nonmetallic mining sites shall apply for a reclamation permit from the county. All reclamation permit applications under this section shall be accompanied by the following information:

- (1) A brief description of the general location of the nonmetallic mine.
- (2) A legal description of the property on which the nonmetallic mine is located or proposed, including the parcel identification number.
- (3) The names, addresses, and telephone numbers of all persons or organizations who are owners or lessors of the property on which the nonmetallic mining site is located.
- (4) The name, address, and telephone number of the person or organization who is the operator.
- (5) A certification by the operator of his intent to comply with the statewide nonmetallic mining reclamation standards established by division 2 of this article, pertaining to standards.

(Compiled Ords. of 2009, § 17.34.150)

Sec. 22-1280. - Application contents.

The operator of any nonmetallic mine site shall submit an application that meets the requirements specified below to the county planning and zoning department prior to beginning operations.

- (1) The information required by section 22-1279.
- (2) The plan review and annual fee required by sections 22-1369 and 22-1370.
- (3) A reclamation plan conforming to subdivision II of this division.
- (4) A certification that the operator will provide, as a condition of the reclamation permit, financial assurance as required by subdivision III of this division upon granting of the reclamation permit but before mining begins.
- (5) To avoid duplication, the permit application and submittals required under this subsection may, by reference, incorporate existing plans or materials that meet the requirements of this article.

(Compiled Ords. of 2009, § 17.34.160)

Sec. 22-1281. - Public notice of application; hearing.

The county shall provide public notice and the opportunity for a public informational hearing as set forth below:

- (1) Public notice.

Chapter 22 – Land Use

- a. When the county receives an application to issue a reclamation permit, it shall publish a public notice of the application no later than 30 days after receipt of a complete application that satisfies section 22-1278.
 - b. The notice shall briefly describe the mining and reclamation planned at the nonmetallic mining site. The notice shall be published as a class 1 notice pursuant to Wis. Stats. § 985.07(1) in the official newspaper of the county. The notice shall mention the opportunity for public hearing pursuant to this section and shall give the locations at which the public may review the application and all supporting materials including the reclamation plan.
 - c. Copies of the notice shall be forwarded by the county to the applicable county or municipal zoning board, the county and applicable local planning organization, the county land conservation officer, and owners of land within 300 feet of the boundaries of the parcel or parcels of land on which the site is located.
- (2) Hearing. The county shall provide for an opportunity for a public informational hearing on an application or request to issue a nonmetallic mining reclamation permit as follows:
- a. If it conducts a zoning-related hearing on the nonmetallic mine site, the county shall provide the opportunity at this hearing to present testimony on reclamation-related matters. This opportunity shall fulfill the requirement for public hearing for a nonmetallic mining reclamation permit required by this section. The county shall consider the reclamation-related testimony in the zoning-related hearing in deciding on a permit application pursuant to this article.
 - b. If there is no opportunity for a zoning-related hearing on the nonmetallic mine site as described in subsection (2)a of this section, opportunity for public hearing required by this section shall be provided as follows:
 1. Any person residing within, owning property within, or whose principal place of business is within 300 feet of the boundary of the parcel or parcels of land in which the nonmetallic mining site is located or proposed may request a public informational hearing.
 2. The county shall hold a public hearing if requested by any of these persons within 30 days of the actual date of public notice under subsection (1) of this section.
 3. This public informational hearing shall be held no sooner than 30 days nor later than 60 days after being requested. The hearing shall be conducted as an informational hearing for the purpose of explaining and receiving comment from affected persons on the nature, feasibility and effects of the proposed reclamation.
 4. The subject matter and testimony at this informational hearing shall be limited to reclamation of the nonmetallic mine site.

(Compiled Ords. of 2009, § 17.34.300)

Chapter 22 – Land Use

Note— Informational hearings are limited to reclamation of the nonmetallic mining site. Regulatory authority staff conducting the hearings should make it clear that the hearings may not cover non-reclamation matters because they are beyond the scope of Wis. Admin. Code ch. NR 135 reclamation. Non-reclamation matters are those related to zoning or subject to other local authority. These matters may include but are not limited to: traffic, setbacks, blasting, dewatering, hours of operation, noise or dust control or the question of whether to use the land for mining.

Sec. 22-1282. - Local transportation-related mines.

No public notice or informational hearing is required for a nonmetallic mining reclamation permit issued to a local transportation-related mine pursuant to section 22-1284.

(Compiled Ords. of 2009, § 17.34.320)

Sec. 22-1283. - Permit required; exemptions; issuance.

Applications for reclamation permits for nonmetallic mining that satisfy section 22-1278 shall be issued a reclamation permit or otherwise acted on as provided below:

- (1) Unless denied pursuant to section 22-1287, the county shall approve in writing a request that satisfies the requirements of section 22-1278 to issue a nonmetallic mining reclamation permit for the proposed nonmetallic mine.
- (2) The county may not issue an approval without prior or concurrent approval of the reclamation plan that meets the requirements of subdivision II of this division. The regulatory authority may issue a reclamation permit subject to conditions in section 22-1286, if appropriate. The permit decision shall be made no sooner than 30 days nor later than 90 days following receipt of the complete reclamation permit application that meets the requirements in section 22-1278 and reclamation plan that meets the requirements in subdivision II of this division, unless a public hearing is held pursuant to section 22-1281. If a public hearing is held, the regulatory authority shall issue the reclamation permit, subject to conditions pursuant to section 22-1286, if appropriate, or shall deny the permit as provided in section 22-1287, no later than 60 days after completing the public hearing.
- (3) Permits issued pursuant to this subsection shall require compliance with a reclamation plan that has been approved and satisfies the requirements of subdivision II of this division and provision by the applicant of financial assurance required under subdivision III of this division and payable to the county prior to beginning mining.

(Compiled Ords. of 2009, §§ 17.34.340, 17.34.370)

Sec. 22-1284. - Automatic permit for local transportation-related mines.

- (a) The county shall automatically issue an expedited permit under this subsection to any borrow site that:

Chapter 22 – Land Use

- (1) Will be opened and reclaimed under contract with a municipality within a period not exceeding 36 months;
 - (2) Is a nonmetallic mine which is intended to provide stone, soil, sand or gravel for the construction, reconstruction, maintenance or repair of a highway, railroad, airport facility or other transportation facility under contract with the municipality;
 - (3) Is regulated and will be reclaimed under contract with the municipality in accordance with the requirements of the state department of transportation concerning the restoration of nonmetallic mining sites;
 - (4) Is not a commercial source;
 - (5) Will be constructed, operated and reclaimed in accordance with applicable zoning requirements, if any; and
 - (6) Is not otherwise exempt from the requirements of this article under section 22-1218(10).
- (b) In this subsection, the term "municipality" has the meaning defined in Wis. Stats. § 299.01(8).
- (c) Automatic permits shall be issued under this subsection in accordance with the following provisions:
- (1) The applicant shall notify the county of the terms and conditions of the contract with respect to reclamation of the proposed borrow site.
 - (2) The applicant shall provide evidence to the county to show that the borrow site and its reclamation will comply with applicable zoning requirements, if any.
 - (3) The county shall accept the contractual provisions incorporating requirements of the Wisconsin Department of Transportation in lieu of a reclamation plan under subdivision II of this division.
 - (4) The county shall accept the contractual provisions in lieu of the financial assurance requirements in subdivision III of this division.
 - (5) The public notice and hearing provisions of section 22-1281 do not apply to nonmetallic mining sites that are issued automatic permits under this subsection.

Note— Local public notice and hearing requirements, if any, regarding zoning decisions still apply.

- (6) Mines permitted under this subsection shall pay an annual fee to the county as provided in section 22-1370, but shall not be subject to the plan review fee provided in section 22-1369. The total annual fee, including the share of the department of natural resources, shall not exceed the amount in Table 2 of Wis. Admin. Code § NR 135.39.
- (7) The county shall issue the automatic permit within seven days of the receipt of a complete application.
- (8) If the borrow site is used to concurrently supply materials for other than the local transportation project, the automatic permitting in this subsection still applies provided

Chapter 22 – Land Use

the site will be reclaimed under a contractual obligation with the municipality in accordance with the state department of transportation requirements.

- (9) Notwithstanding section 22-1368, the operator of a borrow site under this subsection is required to submit only the information in an annual report necessary to identify the borrow site and to determine the applicable annual fee.

Note— A reclamation permit is not required under this article for nonmetallic mining sites that are operated to provide materials for construction, maintenance and repair of transportation facilities that are subject to the Wisconsin Department of Transportation concerning restoration of the nonmetallic mining site, as provided by Wis. Stats. § 295.16(1)(c).

(Compiled Ords. of 2009, § 17.34.380)

Sec. 22-1285. - Expedited review.

Any operator of a nonmetallic mining site may request an expedited review of a reclamation permit application as follows:

- (1) The operator may submit a request for expedited permit review that shall state the need for such expedited review and the date by which such expedited review is requested.
- (2) The operator may submit a request for expedited review under this subsection if the applicant requires a reclamation permit to perform services under contract with a municipality. This request for expedited review shall state the need for expedited review and shall include a copy of the applicable sections of the contract and the date by which the expedited review is requested.
- (3) Following receipt of a request under this subsection, the county shall inform the applicant of the estimated date for decision on issuance of the permit. If the applicant then elects not to proceed with the expedited review, the fee paid under subsection (1) of this section shall be returned.
- (4) Expedited review under this subsection shall not waive, shorten or otherwise affect the public notice and right of hearing pursuant to section 22-1281. This subsection does not impose an obligation upon the regulatory authority to act upon a permit application under this subsection by a specific date.

(Compiled Ords. of 2009, § 17.34.390)

Sec. 22-1286. - Permit conditions.

Any decision under this section may include conditions as provided below:

- (1) The county may issue a reclamation permit or approve a reclamation plan subject to general or site-specific conditions if needed to ensure compliance with the nonmetallic mining reclamation requirements of this article. The approvals may not include conditions that are not related to reclamation.

Chapter 22 – Land Use

Note— It is not appropriate for the regulatory authority to impose conditions on a reclamation permit, or the approval of a reclamation plan that address matters not directly related to nonmetallic mining reclamation. These matters may include but are not limited to: traffic, setbacks, blasting, dewatering, hours of operation, noise or dust control or the question of whether to use the land for mining.

- (2) One required condition of the issued permit shall be that the new mine obtain financial assurance pursuant to subdivision III of this division prior to beginning mining.

(Compiled Ords. of 2009, § 17.34.400)

Sec. 22-1287. - Permit denial.

An application for a nonmetallic mining reclamation permit shall be denied as set forth below:

- (1) An application to issue a nonmetallic mining reclamation permit shall be denied, within the time frame for permit issuance specified in section 22-1283, if the county finds any of the following:
 - a. The applicant has, after being given an opportunity to make corrections, failed to provide to the county an adequate permit application, reclamation plan, financial assurance or any other submittal required by Wis. Admin. Code ch. NR 135 or this article.
 - b. The proposed nonmetallic mining site cannot be reclaimed in compliance with the reclamation standards contained in this article, Wis. Admin. Code ch. NR 135 or Wis. Stats. ch. 295, subch. I (Wis. Stats. § 295.11 et seq.).
 - c. The applicant, or its agent, principal or predecessor has, during the course of nonmetallic mining in Wisconsin within ten years of the permit application or modification request being considered shown a pattern of serious violations of this article or of federal, state or local environmental laws related to nonmetallic mining reclamation. The following may be considered in making this determination of a pattern of serious violations:
 1. Results of judicial or administrative proceedings involving the operator or its agent, principal or predecessor.
 2. Suspensions or revocations of nonmetallic mining reclamation permits pursuant to this article, other reclamation ordinances or Wis. Admin. Code ch. NR 135.
 3. Forfeitures of financial assurance.
 4. A denial under this subsection shall be in writing and shall contain documentation of reasons for denial.
- (2) A decision to deny an application to issue a reclamation permit may be reviewed under section 22-1292.

(Compiled Ords. of 2009, § 17.34.410)

Sec. 22-1288. - Alternative requirements.

- (a) Scope of approval. An operator of a nonmetallic mining site may request an alternative requirement to the reclamation standard established in division 2 of this article. The county may approve an alternative requirement to the reclamation standards established in this article if the operator demonstrates and the county finds that all of the following criteria are met:
- (1) The nonmetallic mining site, the surrounding property or the mining plan or reclamation plan has a unique characteristic which requires an alternative requirement.
 - (2) Unnecessary hardship which is peculiar to the nonmetallic mining site or plan will result unless the alternative requirement is approved.
 - (3) Reclamation in accordance with the proposed alternative requirement will achieve the planned post-mining land use and long term site stability in a manner that will not cause environmental pollution or threaten public health, safety or welfare.
- (b) Procedures. The operator of a nonmetallic mining site requesting an alternate requirement in subsection (a) of this section shall demonstrate all the criteria in Wis. Admin. Code § NR 135.26(1). This request shall be submitted in writing to the Clark County Department of Planning and Zoning, 517 Court Street, Neillsville, Wisconsin 54456. The request shall be reviewed under the following guidelines:
- (1) The alternative requirement review and approval or denial will be performed by the the county planning and zoning department zoning administrator.
 - (2) The decision of the county planning and zoning department administrator can be appealed to the county board of adjustment.
 - (3) A request for an alternative requirement may be incorporated as part of an application to issue or modify a nonmetallic mining reclamation permit.
- (c) Transmittal of decision on request for alternate requirements. The decision on a request for alternative reclamation requirements shall be in writing to the applicant and shall include documentation of why the alternative requirement was or was not approved.

(Compiled Ords. of 2009, §§ 17.34.430—17.34.450)

Sec. 22-1289. - Permit duration.

- (a) A nonmetallic mining reclamation permit issued under this article shall last through operation and reclamation of the nonmetallic mining site, unless suspended or revoked pursuant to section 22-1399(a).
- (b) If the mine operator is not the landowner, the reclamation permit duration shall not exceed the duration of the mine lease unless the lease is renewed or the permit is transferred to a subsequent lessee pursuant to 22-1290.

(Compiled Ords. of 2009, § 17.34.470)

Sec. 22-1290. - Permit transfer.

A nonmetallic mining reclamation permit issued under this article shall be transferred to a new owner or operator upon satisfaction of the following conditions:

- (1) A nonmetallic mining reclamation permit may be transferred to a new operator upon submittal to the county of proof of financial assurance and a certification in writing by the new permit holder that all conditions of the permit will be complied with.
- (2) The transfer is not valid until financial assurance has been submitted by the new operator and accepted by the county and the county makes a written finding that all conditions of the permit will be complied with. The previous operator shall maintain financial assurance until the new operator has received approval and provided the financial assurance under this section.

(Compiled Ords. of 2009, § 17.34.480)

Sec. 22-1291. - Previously permitted sites.

For any nonmetallic mining site which had a reclamation permit previously issued pursuant to Wis. Admin. Code ch. NR 135 that becomes subject to reclamation permitting authority of the county, the terms and conditions of the previously issued municipal reclamation permit shall remain in force until the county can modify them pursuant to section 22-1366(a).

(Compiled Ords. of 2009, § 17.34.490)

Sec. 22-1292. - Review.

Any permitting decision or action made by the county under this article may be reviewed as set forth in Wis. Admin. Code § NR 135.30. Notwithstanding Wis. Stats. §§ 68.001, 68.03(8) and (9), 68.06 and 68.10(1)(b), any person who meets the requirements of Wis. Stats. § 227.42(1), may obtain a contested case hearing under Wis. Stats. § 68.11 on the county's decision to issue, deny or modify a nonmetallic mining reclamation permit.

(Compiled Ords. of 2009, § 17.34.500)

Secs. 22-1293—22-1312. - Reserved.

Subdivision II. - Reclamation Plan

Sec. 22-1313. - Required; specifications; contents.

All operators who conduct or plan to conduct nonmetallic mining shall submit a reclamation plan to the county that meets all of the following requirements and complies with the reclamation standards of applicable reclamation standards under this Code and state law.

(Compiled Ords. of 2009, § 17.34.190)

Sec. 22-1314. - Required site information.

The reclamation plan shall include information sufficient to describe the existing natural and physical conditions of the site, including, but not limited to:

- (1) Maps of the nonmetallic mining site including the general location, property boundaries, the areal extent, geologic composition and depth of the nonmetallic mineral deposit, the distribution, thickness and type of topsoil, the approximate elevation of ground water, as determined by existing hydrogeologic information. In specific instances where the existing hydrogeologic information is insufficient for purposes of the reclamation plan, the applicant may supplement the information with the opinion of a licensed professional geologist or hydrologist.
- (2) Topsoil or topsoil substitute material, if required to support revegetation needed for reclaiming the site to approved post-mining land use, can be identified using soil surveys or other available information, including that obtained from a soil scientist or the University of Wisconsin soil science extension agent or other available information resources.
- (3) Information available to the mine operator on biological resources, plant communities, and wildlife use at and adjacent to the proposed or operating mine site.
- (4) Existing topography as shown on contour maps of the site at ten-foot contour intervals.
- (5) Location of manmade features on or near the site.
- (6) For proposed nonmetallic mining sites that include previously mined areas, a plan view drawing showing the location and extent of land previously affected by nonmetallic mining, including the location of stockpiles, wash ponds and sediment basins.

(Compiled Ords. of 2009, § 17.34.195)

Note— Some of or all of the information required above may be shown on the same submittal, i.e., the site map required by section 22-1314(1) may also show topography required by section 22-1314(4).

Sec. 22-1315. - Post-mining land use.

- (a) The reclamation plan shall specify a proposed post-mining land use for the nonmetallic mine site. The proposed post-mining land use shall be consistent with local land use plans and local zoning at the time the plan is submitted, unless a change to the land use plan or zoning is proposed. The proposed post-mining land use shall also be consistent with all applicable local, state, or federal laws in effect at the time the plan is submitted.

Note— A proposed post-mining land use is necessary to determine the type and degree of reclamation needed to correspond with that land use. The post mining land use shall be key in determining the reclamation plan. Final slopes, drainage patterns, site hydrology, seed mixes and

Chapter 22 – Land Use

the degree of removal of mining-related structures, drainage structures and sediment control structures will be dictated by the approved post-mining land use.

- (b) Land used for nonmetallic mineral extraction in areas zoned under an exclusive agricultural use ordinance pursuant to Wis. Stats. § 91.30 shall be restored to agricultural use.

(Compiled Ords. of 2009, § 17.34.200)

Sec. 22-1316. - Reclamation measures.

The reclamation plan shall include a description of the proposed reclamation, including methods and procedures to be used and a proposed schedule and sequence for the completion of reclamation activities for various stages of reclamation of the nonmetallic mining site. The following shall be included:

- (1) A description of the proposed earthwork and reclamation, including final slope angles, high wall reduction, benching, terracing and other structural slope stabilization measures and if necessary a site-constructed engineering analysis performed by a registered professional engineer as provided by section 22-1247(a) and (b).
- (2) The methods of topsoil or topsoil substitute material removal, storage, stabilization and conservation that will be used during reclamation.
- (3) A plan or map which shows anticipated topography of the reclaimed site and any water impoundments or artificial lakes needed to support the anticipated future land use of the site.

Note— The topography should be represented by contours at an interval that accurately depict the physical characteristics of the reclaimed site.

- (4) A plan or map which shows surface structures, roads and related facilities after the cessation of mining.
- (5) The estimated cost of reclamation for each stage of the project or the entire site if reclamation staging is not planned.
- (6) A revegetation plan that shall include timing and methods of seedbed preparation, rates and kinds of soil amendments, seed application timing, methods and rates, mulching, netting and any other techniques needed to accomplish soil and slope stabilization.
- (7) Quantifiable standards for revegetation adequate to show that a sustainable stand of vegetation has been established which will support the approved post-mining land use. Standards for revegetation may be based on the percent vegetative cover, productivity, plant density, diversity or other applicable measures.
- (8) A plan and, if necessary, a narrative showing erosion control measures to be employed during reclamation activities. These shall address how reclamation activities will be conducted to minimize erosion and pollution of surface water and groundwater.

Chapter 22 – Land Use

- (9) A description of any areas which will be reclaimed on an interim basis sufficient to qualify for the waiver of fees pursuant to section 22-1372(b) and (d) and release of financial assurance pursuant to section 22-1372(d)(3) and which will be subsequently disturbed prior to final reclamation. Descriptions shall include an identification of the proposed areas involved, methods of reclamation to comply with the standards in division 2 of this article and timing of interim and final reclamation.

Note— Some of the information required by this subsection may be combined to avoid duplication, e.g., a single map may show anticipated post-mining topography required by subsection (3) of this section as well as structures and roads as required by subsection (4) of this section.

- (10) A description of how the reclamation plan addresses the long-term safety of the reclaimed mining site. The description shall include a discussion of site-specific safety measures to be implemented at the site and include measures that address public safety with regard to adjacent land uses.

(Compiled Ords. of 2009, § 17.34.205)

Sec. 22-1317. - Criteria for successful reclamation.

The reclamation plan shall contain criteria for assuring successful reclamation in accordance section 22-1250.

(Compiled Ords. of 2009, § 17.34.210)

Sec. 22-1318. - Certification of plan.

The operator shall provide a signed certification that reclamation will be carried out in accordance with the reclamation plan. If the operator does not own the land, the landowner or lessor, if different from the operator, shall also provide signed certification that they concur with the reclamation plan and will allow its implementation.

(Compiled Ords. of 2009, § 17.34.215)

Sec. 22-1319. - Existing plans and approvals.

To avoid duplication of effort, the reclamation plan required by this section may, by reference, incorporate existing plans or materials that meet the requirements of this article.

(Compiled Ords. of 2009, § 17.34.220)

Sec. 22-1320. - Approval.

The county shall approve, conditionally approve, or deny the reclamation plan submitted under this section in writing in accordance with section 22-1283 for mines that apply for a

Chapter 22 – Land Use

reclamation permit in conformance with this article. Conditional approvals of reclamation plans shall be made according to section 22-1286 and denials of reclamation plans made according to section 22-1287. The operator shall keep a copy of the reclamation plan approved under this subsection, at the mine site or, if not practicable, at the operator's nearest place of business.

(Compiled Ords. of 2009, § 17.34.230)

Secs. 22-1321—22-1338. - Reserved.

Subdivision III. - Financial Assurance

Sec. 22-1339. - Requirements.

All operators of nonmetallic mining sites in the county shall prepare and submit a proof of financial assurance of successful reclamation that meets the following requirements:

- (1) Notification. The regulatory authority shall provide written notification to the operator of the amount of financial assurance required under subsection (3) of this section.
- (2) Filing. Following approval of the nonmetallic mining reclamation permit, and as a condition of the permit, the operator shall file a financial assurance with the county. The financial assurance shall provide that the operator shall faithfully perform all requirements in this article, an applicable reclamation ordinance and the reclamation plan. Financial assurance shall be payable exclusively to the county. In cases where one or more other regulatory authorities regulate a nonmetallic mining site, all financial assurance shall be made payable to the county only if it currently has primary regulatory responsibility.
- (3) Amount and duration. The amount of financial assurance shall equal as closely as possible the cost to the county of hiring a contractor to complete either final reclamation or progressive reclamation according to the approved reclamation plan. The amount of financial assurance shall be reviewed periodically by the county to assure it equals outstanding reclamation costs. Any financial assurance filed with the county shall be in an amount equal to the estimated cost for reclaiming all sites the operator has under project permits. The county may accept a lesser initial amount of financial assurance provided that the permittee initiates a process to continuously increase the amount of financial assurance until it is adequate to affect reclamation. An escrow account may be established that is based on production gross sales and serves to provide regular payments to an account that is designed to grow to the amount necessary to guarantee performance of reclamation by the expected time of final reclamation. The period of the financial assurance is dictated by the period of time required to establish the post mining land use declared and approved of in the reclamation plan. This may extend beyond the permit if required to accomplish successful and complete implementation of the reclamation plan.
- (4) Form and management. Financial assurance shall be provided by the operator and shall be by a bond or an alternate financial assurance. Financial assurance shall be payable to the county and released upon successful completion of the reclamation measures

Chapter 22 – Land Use

specified in the reclamation plan. Alternate financial assurances may include, but are not limited to cash, certificates of deposits, irrevocable letters of credit, irrevocable trusts, established escrow accounts, demonstration of financial responsibility by meeting net worth requirements, or government securities. Any interest from the financial assurance shall be paid to the operator. Certificates of deposit shall be automatically renewable or other assurances shall be provided before the maturity date. Financial assurance arrangements may include, at the discretion of the county, a blend of different options for financial assurance including a lien on the property on which the nonmetallic mining site occurs or a combination of financial assurance methods.

- (5) Multiple projects. Any operator who obtains a permit from the county for two or more nonmetallic mining sites may elect, at the time the second or subsequent site is approved, to post a single financial assurance in lieu of separate financial assurance instruments for each nonmetallic mining site. When an operator elects to post a single financial assurance in lieu of separate financial assurances for each mining site, no financial assurances previously posted on individual mining sites shall be released until the new financial assurance has been accepted by the county.
- (6) Multiple jurisdictions. In cases where more than one regulatory authority has jurisdiction, a cooperative financial security arrangement may be developed and implemented by the regulatory authorities to avoid requiring the permittee to prove financial assurance with more than one regulatory authority for the same nonmetallic mining site. Financial assurance is required for each site and two or more sites of less than one acre by the same operator, except that governmental units are not required to obtain financial assurance.
- (7) Certification of completion and release.
 - a. The operator shall notify the regulatory authority, by filing a notice of completion, at the time that he determines that reclamation of any portion of the mining site or the entire site is complete. The county shall inspect the mine site or portion thereof that was the subject of the notice of completion to determine if reclamation has been carried out in accordance with the approved reclamation plan. The county may partially release the financial assurance if it determines that compliance with a portion of the reclamation plan has been achieved and requires no waiting period. After determining that reclamation is complete, the county shall issue a certificate of completion and shall release the financial assurance or appropriately reduce the financial assurance in the case of reclamation of a portion of the mining site.
 - b. The county shall make a determination of whether or not the certification in subsection (7)a of this section can be made within 60 days that the request is received.
 - c. The county may make a determination under this subsection that:
 1. Reclamation is not yet complete;
 2. It is not possible to assess whether reclamation is complete due to weather conditions, snow cover or other relevant factors;
 3. Reclamation is complete in a part of the mine; or

Chapter 22 – Land Use

4. Reclamation is fully complete.
- (8) Forfeiture. Financial assurance shall be forfeited if any of the following occur:
 - a. A permit is revoked under section 22-1367 and the appeals process has been completed.
 - b. An operator ceases mining operations and fails to reclaim the site in accordance with the reclamation plan.
 - (9) Cancellation. Financial assurance shall provide that it may not be canceled by the surety or other holder or issuer except after not less than a 90-day notice to the county in writing by registered or certified mail. Not less than 30 days prior to the expiration of the 90-day notice of cancellation, the operator shall deliver to the regulatory authority a replacement proof of financial assurance. In the absence of this replacement financial assurance, all mining shall cease until the time it is delivered and in effect.
 - (10) Changing methods of financial assurance. The operator of a nonmetallic mining site may change from one method of financial assurance to another. This may not be done more than once a year unless required by an adjustment imposed pursuant to this article. The operator shall give the county at least 60 days notice prior to changing methods of financial assurance and may not actually change methods without the written approval of the county.
 - (11) Bankruptcy notification. The operator of a nonmetallic mining site shall notify the regulatory authority by certified mail of the commencement of voluntary or involuntary proceeding under the federal bankruptcy code, naming the operator as debtor, within ten days of commencement of the proceeding.
 - (12) Adjustment of financial assurance. Financial assurance may be adjusted when required by the county. The county may notify the operator in writing that adjustment is necessary and the reasons for it. The county may adjust financial assurance based upon prevailing or projected interest or inflation rates, or the latest cost estimates for reclamation.
 - (13) Net worth test.
 - a. Only an operator that meets the definition of "company" in Wis. Stats. § 289.41(1)(b) may use the net worth method of providing financial assurance.
 - b. The operator shall submit information to the regulatory authority in satisfaction of the net worth test requirements of Wis. Stats. § 289.41(4). The criteria in Wis. Stats. § 289.41(6)(b), (d), (e), (f), (g), (h) and (i) shall apply.
 - c. An operator using the net worth test to provide financial assurance for more than one mine shall use the total cost of compliance for all mines in determining the net worth to reclamation cost ratio in accordance with Wis. Stats. § 289.41(6).
 - d. Determinations under the net worth test shall be done in accordance with Wis. Stats. § 289.41(5).

Chapter 22 – Land Use

- e. In addition, the operator shall submit a legally binding commitment to faithfully perform all compliance and reclamation work at the mine site that is required under this article.

(Compiled Ords. of 2009, § 17.34.250)

Sec. 22-1340. - Private nonmetallic mines.

The operator of any nonmetallic mining site that applies for a reclamation permit in conformance with section 22-1278 shall submit the proof of financial assurance required by section 22-1339 as specified in the reclamation permit issued to it under this article.

(Compiled Ords. of 2009, § 17.34.260)

Sec. 22-1341. - Public nonmetallic mining.

The financial assurance requirements of this section do not apply to nonmetallic mining conducted by the state, a state agency, board, commission or department, or a municipality.

(Compiled Ords. of 2009, § 17.34.270)

Secs. 22-1342—22-1365. - Reserved.

DIVISION 4. - ADMINISTRATION

Sec. 22-1366. - Permit modification.

- (a) By the county. A nonmetallic mining reclamation permit issued under this article may be modified by the county if it finds that, due to changing conditions, the nonmetallic mining site is no longer in compliance with Wis. Admin. Code ch. NR 135 or this article. Such modification shall be by an order modifying the permit in accordance with section 22-1366. This modifying order may require the operator to amend or submit new application information, reclamation plan, proof of financial assurance or other information needed to ensure compliance with Wis. Admin. Code ch. NR 135 or this article.
- (b) At the operator's option. If operator of any nonmetallic mine that holds a reclamation permit issued under this article desires to modify such permit or reclamation plan approved under this article, it may request such modification by submitting a written application for such modification to Clark County Department of Planning and Zoning, 517 Court Street, Neillsville, Wisconsin 54456. The application for permit or plan modification shall be acted on using the standards and procedures of this article.
- (c) Required by the operator. The operator of any nonmetallic mine that holds a reclamation permit issued under this article shall request a modification of such permit if changes occur to the area to be mined, the nature of the planned reclamation, or other aspects of mining required by the reclamation plan approved pursuant to this article. Such application for permit modification shall be acted on using the standards and procedures of this article.

Chapter 22 – Land Use

- (d) Review. All actions by the county on permit modifications requested or initiated under this section are subject to review under section 22-1292.

(Compiled Ords. of 2009, §§ 17.34.520—17.34.550)

Sec. 22-1367. - Permit suspension or revocation.

- (a) Grounds. The county may suspend or revoke a nonmetallic mining reclamation permit issued pursuant to this article if it finds the operator has done any of the following:
 - (1) Failed to submit a satisfactory reclamation plan within the time frames specified in this article.
 - (2) Failed to submit or maintain financial assurance as required by this article.
 - (3) Failed on a repetitive and significant basis to follow the approved reclamation plan.
- (b) Procedures. If the county finds grounds for suspending or revoking a nonmetallic mining reclamation permit set forth in subsection (a) of this section, it may issue a special order suspending or revoking such permit as set forth in section 22-1399(b).
- (c) Consequences.
 - (1) If the county makes any of the findings in subsection (a) of this section, it may suspend a nonmetallic mining reclamation permit for up to 30 days. During the time of suspension, the operator may not conduct nonmetallic mining at the site, except for reclamation or measures to protect human health and the environment as ordered by the regulatory authority pursuant to section 22-1399.
 - (2) If the county makes any of the findings in subsection (a) of this section it may revoke a nonmetallic mining reclamation permit. Upon permit revocation, the operator shall forfeit the financial assurance it has provided pursuant to this article to the county. The county may use forfeited financial assurance to reclaim the site to the extent needed to comply with this article and the applicable reclamation ordinance.

(Compiled Ords. of 2009, §§ 17.34.570—17.34.590)

Sec. 22-1368. - Annual operator reporting.

- (a) Contents and deadline. Annual reports that satisfy the requirements of this section shall be submitted by the operators of nonmetallic mining sites.
 - (1) Contents. The annual report required by this section shall include all of the following:
 - a. The name and mailing address of the operator.
 - b. The location of the nonmetallic mining site, including legal description, tax key number or parcel identification number if available.
 - c. The identification number of the applicable nonmetallic mining permit, if assigned by the county.

Chapter 22 – Land Use

- d. The acreage currently affected by nonmetallic mining extraction and not yet reclaimed.
 - e. The amount of acreage that has been reclaimed to date, on a permanent basis and the amount reclaimed on an interim basis.
 - f. A plan, map or diagram accurately showing the acreage described in subsections (1)d and e of this section.
 - g. The following certification, signed by the operator:

"I certify that this information is true and accurate, and that the nonmetallic mining site described herein complies with all conditions of the applicable nonmetallic mining reclamation permit and Wis. Admin. Code ch. NR 135.
- (2) **Deadline.** The annual report shall cover activities on unreclaimed acreage for the previous calendar year and be submitted by January 31.
- (3) **When reporting may end.** Annual reports shall be submitted by an operator for all active and intermittent mining sites to the county for each calendar year until nonmetallic mining reclamation at the site is certified as complete pursuant to section 22-1372(c) or at the time of release of financial assurance pursuant to section 22-1339(7).
- (b) **Inspection in lieu of report.** The county may, at its discretion, obtain the information required in this section for a calendar year by written documentation of an inspection it completes during a calendar year, as set forth in this subsection. If the county obtains and documents the required information, the annual report need not be submitted by the operator. If the county determines that the operator need not submit an annual report pursuant to this subsection, it shall advise the operator in writing at least 30 days before the end of the applicable calendar year. In that case, the county shall require the operator to submit the certification required in subsection (1)g of this section.
- (c) **Retention of annual reports.** Annual reports submitted under this section or inspection records that replace them shall be retained by the county for at least ten years after the calendar year to which they apply. These records, or accurate copies of them, shall be made available to the state department of natural resources upon written request or during its inspection or audit activities carried out pursuant to Wis. Admin. Code ch. NR 135.

(Compiled Ords. of 2009, §§ 17.34.610—17.34.630)

Sec. 22-1369. - Plan review fees.

- (a) **Amount and applicability.** A person who intends to operate a nonmetallic mining site for which a permit application has been submitted under section 22-1279 shall submit a non-refundable plan review fee established by the county planning and zoning committee and published in a fee schedule. No plan review fee may be assessed under this section for any local transportation-related mine issued an automatic permit under section 22-1284. A separate plan review fee established by the county planning and zoning committee and published in a fee schedule shall be paid under this section for any modification to an existing reclamation plan submitted pursuant to section 22-1366.

Chapter 22 – Land Use

Note— The prohibition on plan review fees for existing and local transportation-related mines is required under Wis. Admin. Code § NR 135.23(1)(g).

- (b) Expedited plan review fee. The fee is to be established by the county planning and zoning committee and published in a fee schedule.
- (c) Relation to annual fee. Any reclamation plan review fee or expedited reclamation plan review fee collected under this section shall be added to and collected as part of the first annual fee collected under section 22-1370.

(Compiled Ords. of 2009, §§ 17.34.650—17.34.670)

Sec. 22-1370. - Annual fees.

- (a) Areas subject to fees, procedures and deadline.
 - (1) Operators of all nonmetallic mining sites subject to reclamation permits issued under this article shall pay fees to the Clark County Planning and Zoning Department, Room 204, 517 Court Street, Neillsville, Wisconsin 54456.
 - (2) Fees paid under this section shall be calculated based on the unreclaimed acres of a nonmetallic mine site, as defined below:
 - a. "Unreclaimed acre" or "unreclaimed acres" means those unreclaimed areas in which nonmetallic mining has occurred after August 1, 2001 and areas where nonmetallic mining reclamation has been completed but is not yet certified as reclaimed under section 22-1339(7). However the term does not include any areas described in subsection (a)(2)b of this section.
 - b. "Unreclaimed acre" or "unreclaimed acres" does not include:
 - 1. Those areas where reclamation has been completed and certified as reclaimed under section 22-1339(7).
 - 2. Those areas previously affected by nonmetallic mining but which are not used for nonmetallic mining after August 1, 2001.
 - 3. Those portions of nonmetallic mining sites which are included in an approved nonmetallic mining reclamation plan but are not yet affected by nonmetallic mining.
 - 4. Areas previously mined but used after August 1, 2001, for a non-mining activity, including stockpiling of materials, provided the stockpiles are associated with on-site industrial processes, used for an industrial activity unrelated to nonmetallic mining such as an asphalt plant, concrete batch plant, block and tile operation or other industry that uses products produced from nonmetallic mining.
 - 5. Those areas within a nonmetallic mining site which the county has determined to have been successfully reclaimed on an interim basis in accordance with section 22-1372(b) and (c).

Chapter 22 – Land Use

- c. Fees shall be assessed on active acres only and shall not be assessed on acreage where nonmetallic mining is proposed and approved but where no nonmetallic mining has yet taken place.
 - (3) Fees assessed pursuant to this section shall be based on unreclaimed acres at the end of the year. Such fees apply to a calendar year or any part of a year in which nonmetallic mining takes place, until final reclamation is certified as complete under section 22-1372. Fees shall be paid no later than January 31 for the previous year.
 - (4) If reclamation has already occurred on portions of a nonmetallic mining site, the fees for such portions may be submitted with a request that they be held by the county pending certification of completed reclamation pursuant to section 22-1339(7) and section 22-1372(c). Upon such, the county shall refund that portion of the annual fee that applies to the reclaimed areas. If the county fails to make a determination under section 22-1339(7) and section 22-1372(c) within 60 days of the request, it shall refund that portion of the annual fee that applies to the reclaimed areas.
 - (5) The amount collected shall equal the Wisconsin Department of Natural Resource's share as described in subsection (b) of this section, the share the county described in subsection (c) of this section, and, if applicable, the reclamation plan review fee described in section 22-1369.
- (b) State department of natural resources share of fee.
- (1) Fees paid under this section shall, except where provided in subsection (b)(2) of this section include a share for the state department of natural resources equal to the amount specified in Wis. Admin. Code § NR 135.39(3), Table 1.
 - (2) For nonmetallic mining sites at which no nonmetallic mining has taken place during a calendar year, the share for the state department of natural resources shall be \$15.00.
 - (3) The county shall forward fees collected under this subsection to the state department of natural resources by March 31.
- (c) County's share of fee.
- (1) Fees paid under this section shall also include an annual fee due to the county which shall be established by the county planning and zoning committee and published in a fee schedule. A submittal form provided by the county must accompany payment.
 - (2) The annual fee collected by the county under this subsection for local transportation-related mines issued permits under section 22-1284 may not exceed the amounts set forth in Wis. Admin. Code § NR 135.39, Table 2. The amount listed shall be the total fee assessed on such nonmetallic mines, and shall include both a share for the state department of natural resources and the county.
- (d) Reduced fee for inactive mines. Any site on which no nonmetallic mining activity has taken place in a calendar year shall be assessed a fee established by the county planning and zoning committee and published in a fee schedule.
- (e) Documentation of county's share of fee. The county shall document in writing its estimated program costs and the need for fees established in subsection (c) of this section if the

Chapter 22 – Land Use

county's fees exceed those listed in Wis. Admin. Code § NR 135.39, Table 2. This documentation shall be available for public inspection at the county planning and zoning department.

(Compiled Ords. of 2009, §§ 17.34.690—17.34.730)

Sec. 22-1371. - Regulatory reporting and documentation.

- (a) Reporting. The county shall send an annual report to the state department of natural resources by March 31 for the previous calendar year. The reports shall include the following information for the previous year's nonmetallic mining reclamation program:
- (1) The total number of nonmetallic mining reclamation permits in effect.
 - (2) The number of new permits issued within the jurisdiction of the county.
 - (3) The number of acres approved for nonmetallic mining and the number of acres newly approved in the previous year.
 - (4) The number of acres being mined or unreclaimed acres.
 - (5) The number of acres that have been reclaimed and have had financial assurance released pursuant section 22-1339(7).
 - (6) The number of acres that are reclaimed and awaiting release from the financial assurance requirements of this section pursuant to section 22-1372(a) and (b).
 - (7) The number and nature of alternative requirements granted, permit modifications, violations, public hearings, enforcement actions, penalties that have been assessed and bond or financial assurance forfeitures.
- (b) Documentation. The county shall, to the best of its ability, maintain the information set forth below, and make it available to the state department of natural resources for that agency's audit of the reclamation program pursuant to Wis. Admin. Code ch. NR 135:
- (1) Documentation of compliance with Wis. Admin. Code ch. NR 135 and this article.
 - (2) The procedures employed by the county regarding reclamation plan review, and the issuance and modification of permits.
 - (3) The methods for review of annual reports received from operators.
 - (4) The method and effectiveness of fee collection.
 - (5) Procedures to accurately forward the state department of natural resources' portion of collected fees in a timely fashion.
 - (6) Methods for conducting on-site compliance inspections and attendant reports, records and enforcement actions.
 - (7) Responses to citizen complaints.
 - (8) The method of and accuracy in determining the amount of the financial assurance obtained from the operator to guarantee reclamation performance.

Chapter 22 – Land Use

- (9) The maintenance and availability of records.
- (10) The number and type of approvals for alternative requirements issued pursuant to section 22-1288.
- (11) The method of determining the success of reclamation in meeting the criteria contained in the reclamation plan and subsequently releasing the financial assurance pursuant to section 22-1339(7).
- (12) Any changes in local regulations, ordinances, funding and staffing mechanisms or any other factor which might affect the ability of the county to implement its nonmetallic mining reclamation program under this article.
- (13) The amount of fees collected in comparison to the amount of money actually expended for nonmetallic mining reclamation program administration.
- (14) Any other performance criterion necessary to ascertain compliance with Wis. Admin. Code ch. NR 135.

(Compiled Ords. of 2009, §§ 17.34.750, 17.34.760)

Sec. 22-1372. - Completed reclamation; reporting, certification and effect.

- (a) Certification of completion. The operator of a nonmetallic mining site may certify completion of reclamation for a portion or the entire nonmetallic mining site pursuant to a reclamation plan prepared and approved pursuant to this article and Wis. Admin. Code ch. NR 135. The certification shall be provided to the county department of planning and zoning on forms provided by that department.
- (b) Reporting of interim reclamation. The operator of a nonmetallic mining site may report completion of interim reclamation as specified in the reclamation plan for the site prepared and approved pursuant to this article and Wis. Admin. Code ch. NR 135. Reporting of interim reclamation shall be done according to the procedures in subsection (a) of this section.
- (c) Inspection of completed reclamation certification. The county shall inspect a nonmetallic mining site for which reporting of reclamation or interim reclamation has been submitted pursuant to this subsection within 60 days of receipt, and make a determination in writing in accordance with Wis. Admin. Code § NR 135.40(7)(c). If it is determined that interim or final reclamation is complete, including revegetation as specified in a plan that conforms with subdivision II of division 3 of this article, the county shall issue the mine operator a written certificate of completion.
- (d) Effect of completed reclamation. If reclamation is certified by the county as complete under subsection (c) of this section for part or all of a nonmetallic mining site, then:
 - (1) No fee shall be assessed under section 22-1370 for the area so certified.
 - (2) The financial assurance required by subdivision III of division 3 of this article shall be released.

Chapter 22 – Land Use

- (3) For sites that are reported as interim reclaimed under subsection (b) of this section and so certified under subsection (c) of this section, financial assurance for reclaiming the certified area shall be reduced or waived.
- (e) Effect of inaction following report of completed reclamation. If no written response as required by subsection (c) of this section for an area of the mine site reported as reclaimed or interim reclaimed is given within 60 days of receiving such request, any annual fee paid to the county for the reported area under section 22-1370 shall be refunded.
- (f) Permit termination. When all final reclamation required by a reclamation plan conforming to subdivision II of division 3 of this article and required by this article is certified as complete pursuant to section 22-1371, the county shall issue a written statement to the operator of the nonmetallic mining site, thereby terminating the reclamation permit.

(Compiled Ords. of 2009, §§ 17.34.780—17.34.830)

Secs. 22-1373—22-1397. - Reserved.

DIVISION 5. - ENFORCEMENT

Sec. 22-1398. - Right of entry and inspection.

For the purpose of ascertaining compliance with the provisions of Wis. Stats. ch. 295, subch. I (Wis. Stats. § 295.11 et seq.), Wis. Admin. Code ch. NR 135, or this article, any authorized officer, agent, employee or representative of the county may inspect any nonmetallic mining site subject to this article as provided below.

- (1) No person may refuse entry or access onto a nonmetallic mining site of a duly authorized officer, employee or agent of the county or the state department of natural resources who presents appropriate credentials to inspect the site for compliance with the nonmetallic mining reclamation permit, Wis. Stats. ch. 295, subch. I (Wis. Stats. § 295.11 et seq.), Wis. Admin. Code ch. NR 135, or this article.
- (2) Any person who enters the site under this right of inspection shall obtain training and provide their own safety equipment needed to comply with any federal, state or local laws or regulations controlling persons on the nonmetallic mining site.

(Compiled Ords. of 2009, § 17.34.840)

Sec. 22-1399. - Orders and citations.

- (a) Enforcement orders. The county may issue orders as set forth in Wis. Stats. § 295.19(1)(a) to enforce Wis. Stats. ch. 295, subch. I (Wis. Stats. § 295.11 et seq.), Wis. Admin. Code ch. NR 135, or this article, a permit issued pursuant to this article or of a reclamation plan required by subdivision II of division 3 of this article and a permit issued under this article. A violation of this article, of an order or permit issued pursuant to this article or of a reclamation plan required by subdivision II, division 3 of this article and a permit issued

Chapter 22 – Land Use

under this article shall be considered a violation of Wis. Stats. ch. 295, subch. I (Wis. Stats. § 295.11 et seq.), Wis. Admin. Code ch. NR 135, or this article.

- (b) Special orders. The county may issue a special order as set forth in Wis. Stats. § 295.19(1)(b) and (c) suspending or revoking a nonmetallic mining reclamation permit pursuant to section 22-1367, or directing an operator to immediately cease an activity regulated under Wis. Stats. ch. 295, subch. I (Wis. Stats. § 295.11 et seq.), Wis. Admin. Code ch. NR 135, or this article until the necessary plan approval is obtained.
- (c) Review of orders. A person holding a reclamation permit who is subject to an order pursuant to this section shall have the right to review the order in a contested case hearing under Wis. Stats. § 68.11 notwithstanding the provisions of Wis. Stats. §§ 68.001, 68.03(8) and (9), 68.06 and 68.10(1)(b).
- (d) Enforcement. The county may submit any order issued under this section to the district attorney, the corporation counsel, the municipal attorney or the attorney general for enforcement. The district attorney, corporation counsel, municipal attorney or the attorney general may enforce those orders.

(Compiled Ords. of 2009, §§ 17.34.860—17.34.890)

Sec. 22-1400. - Penalties.

Any violation of Wis. Stats. ch. 295, subch. I (Wis. Stats. § 295.11 et seq.), Wis. Admin. Code ch. NR 135, or this article, a permit issued pursuant to this article or a reclamation plan required by subdivision II of division 3 of this article and a permit issued under this article may result in forfeitures as provided in Wis. Stats. § 295.19(3), as follows:

- (1) Any person who violates Wis. Admin. Code ch. NR 135 or an order issued under section 22-1399 may be required to forfeit not less than \$25.00 nor more than \$1,000.00 for each violation. Each day of continued violation is a separate offense. While an order issued under section 22-1399 is suspended, stayed or enjoined, this penalty does not accrue.
- (2) Except for the violations referred to in subsection (1) of this section, any person who violates Wis. Stats. ch. 295, subch. I (Wis. Stats. § 295.11 et seq.), Wis. Admin. Code ch. NR 135, any reclamation plan approved pursuant to this article or an order issued pursuant to section 22-1399 shall forfeit not less than \$10.00 nor more than \$5,000.00 for each violation. Each day of violation is a separate offense. While an order issued under section 22-1399 is suspended, stayed or enjoined, this penalty does not accrue.

(Compiled Ords. of 2009, § 17.34.900)

Secs. 22-1401—22-1425. - Reserved.

ARTICLE X. - ZONING OF COUNTY-OWNED LAND

Sec. 22-1426. - 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:

Boat liveries means establishments offering the rental of boats and fishing equipment.

Building means a structure having a roof supported by columns or walls, for shelter, support or enclosure of persons, animals or chattels.

Family dwelling means any building designed for and occupied by any person or family establishing or tending to establish a legal residence or acquiring a legal settlement, for any purpose, upon the premises so occupied.

Flowage areas means areas of land maintained for or covered by impounded water held for agricultural, industrial or recreational purposes.

Forest industries means the cutting and storing of forest products, the operation of portable sawmills and planers, and the production of maple syrup and sugar.

Forest products means products obtained from stands of forest trees which have been either naturally or artificially established.

Hunting and fishing cabins means buildings used at special seasons of the year as a base for hunting, fishing and outdoor recreation.

Nonconforming use means a building or premises occupied by a use that does not conform to the regulations of the use district in which it is situated.

Private cottages and service buildings means buildings designed for seasonal occupancy only and normally used by the owner, together with additional structures to house materials and services.

Public parks and private parks, playgrounds, campgrounds and golf grounds means areas of land, with or without buildings, designed for recreational uses.

Trappers' cabins means buildings used as a base for operation of one or more trap lines.

(Compiled Ords. of 2009, § 17.20.010)

Sec. 22-1427. - Jurisdiction of forest and zoning committee.

The forest and zoning committee shall have jurisdiction over all county owned lands in zones 1, 2 and 3, shall have jurisdiction over the sale of all forest products in zones 1, 2 and 3, and shall let all leases in the recreational district.

(Compiled Ords. of 2009, § 17.20.020)

Sec. 22-1428. - Forestry district; zone 1; permitted uses.

In the forestry district (zone 1), no building, land or premises will be used except for one or more of the following specified uses:

- (1) Production of forest products;
- (2) Forestry industries;
- (3) Campgrounds, limited to temporary structures; no permanent buildings are to be allowed;
- (4) Hunting and fishing camps;
- (5) Trappers' camps;
- (6) Mines, quarries and gravel pits;
- (7) Hydroelectric dams, power plants, flowage areas, transmission lines and substations;
- (8) Telephone and telegraph lines' right-of-way;
- (9) Harvesting of any wild crops such as marsh hay, ferns, moss, berries, or tree fruits or seeds.

(Compiled Ords. of 2009, § 17.20.030)

Sec. 22-1429. - Recreation district; zone 2; permitted uses.

In the recreation district (zone 2), no buildings, land or premises will be used except for one or more of the following specified uses:

- (1) Public and private parks, playgrounds, campgrounds and golf grounds;
- (2) Recreational camps and resorts;
- (3) Private summer cottages and service buildings;
- (4) Hunting and fishing cabins;
- (5) Trappers' cabins;
- (6) Boat liveries;
- (7) Telephone and telegraph line rights-of-way;
- (8) Commercial leases for soft drinks and lunch stands.

(Compiled Ords. of 2009, § 17.20.040)

Sec. 22-1430. - Unrestricted district; zone 3; uses not restricted.

In the unrestricted district (zone 3), any land may be used for any purpose whatsoever, not in conflict with law and county ordinances.

(Compiled Ords. of 2009, § 17.20.050)

Sec. 22-1431. - Fermented malt beverage and intoxicating liquor sales.

There shall be no taverns or places for sale of fermented malt beverages or intoxicating liquors, nor shall the sale of the same be allowed, in zones 1, 2 and 3 except:

- (1) The lawful use of a building or premises for the sale of fermented malt beverages or intoxicating liquors existing at the time of the adoption of the ordinance codified in this division, April 21, 1948, may be continued, and such use may be extended after the adoption of the ordinance codified in this division, but in the event that such tavern ceases to do business or a license is not granted or the provisions of the lease which it holds are violated, then in that case the leases for such lands shall be cancelled and the premises shall not again be leased for tavern purposes.
- (2) One license only for the off-premises sale of packaged fermented malt beverages on county-owned lands at the Mead Dam Resort is authorized and permitted.

(Compiled Ords. of 2009, § 17.20.060)

Sec. 22-1432. - Advertising signs; direction signs.

Advertising signs shall not be allowed in zones 1 and 3, but direction signs may be erected, but only under the direction and approval of the forest and zoning committee.

(Compiled Ords. of 2009, § 17.20.070)

Sec. 22-1433. - Rental fee determination.

The rental fee in zones 1, 2 and 3 shall be set by resolution of the county board.

(Compiled Ords. of 2009, § 17.20.80)