

1 **WASHINGTON COUNTY, WISCONSIN**

2  
3 Date of enactment: **3/19/09**  
4 Date of publication: **3/19/09**

5 **VOTE**

6 **2008 ORDINANCE 31**

7  
8 AN ORDINANCE to amend Sections 23.02, 23.04, 23.05, 23.06, 23.07, 23.08, 23.09, 23.13,  
9 23.14, 23.15 and 23.18 relating to: General Provisions; Floodway District; Floodfringe  
10 District; General Floodplain District; Land Division Review and Sanitary Regulations;  
11 Lot Dimensions; Setbacks from the Water; Legal Nonconforming Uses and Structures;  
12 Mitigation; Administrative Provisions; and Definitions.

13  
14 *The people of the County of Washington, represented in the Board of Supervisors, do*  
15 *ordain as follows:*

16  
17 **SECTION 1.** Section 23.02 of the code is amended to read:

18 **23.02 GENERAL PROVISIONS.** (1)(AM 08-31) **Areas to be Regulated - Shoreland**  
19 **District.** Areas regulated by this chapter shall include all the lands (referred to herein as shore-  
20 lands) in the unincorporated areas of Washington County which are:

21  
22 \* \* \*

23  
24 (d) Under §281.31, Wis. Stats., and Wisconsin Administrative Code NR 115,  
25 notwithstanding any other provision of law or administrative rule promulgated thereunder, this  
26 chapter does not apply to lands adjacent to farm drainage ditches if:

27  
28 1. Such lands are not adjacent to a natural navigable stream or river-  
29 and

30  
31 2. Those parts of such drainage ditches adjacent to such lands were not  
32 navigable streams before ditching- and

33  
34 \* \* \*

35  
36 (3)(AM 08-31) **Areas to be Regulated - Floodplain District.** Areas regulated by this  
37 chapter shall include all lands in the unincorporated limits of Washington County, Wisconsin, that  
38 would be covered by the "regional flood" as defined in sub. 23.18(84) and "floodplain islands" as  
39 defined in sub. 23.18(37 ~~40~~).

40  
41 (4)(AM 08-31) **Floodplain District Boundaries.** The boundary of the floodplain districts  
42 and where shown, the floodway and floodfringe districts, shall be those areas designated as 100  
43 year floodplains, floodway or floodfringe on the "Flood Insurance Study, County of Washington,  
44 Wisconsin, Unincorporated Areas: September 1, 1983", Revision December 25, 1989, and the  
45 Washington County Zoning District Maps, September 14, 1993. The Flood Insurance Rate Map  
46 (FIRM), panel number 550471 0001-0090 dated September 1, ~~2~~ 1983; with corresponding profiles  
47 that are based on the Flood Insurance Study (FIS) dated March 1, 1983; The Flood Boundary and  
48 Floodway Map (FBFW), panel number 550471 0001-0090 dated September 1, 1983. These maps,  
49 dated September 1, 1983, Revision December 25, 1989, and the Washington County Zoning Dis-

1 trict Maps, October 27, 1993 are the official floodplain zoning maps for the community and have  
2 been approved by the Department and the Federal Emergency Management Agency, and are on file  
3 in the Planning and Parks Department. If more than 1 map is referenced, the most restrictive shall  
4 apply. If any of these maps are amended and officially adopted, the amended map shall govern.  
5 Any changes to the base flood elevations (BFE) in the Flood Insurance Study (FIS) or on the Flood  
6 Insurance Rate Map (FIRM) must be reviewed and approved by the DNR and FEMA before it is  
7 effective. No changes to the regional flood elevations (RFE's) on non-FEMA maps shall be effec-  
8 tive until approved by the DNR.

9  
10 \* \* \*

11  
12 (12)(AM 08-31) **General Standards Applicable to all Floodplain Districts.** (a) Except  
13 as provided ~~in sub. 1. herein~~, no development shall be allowed in the floodplain which, acting in  
14 combination with existing or future similar works, will cause an increase equal to or greater than  
15 0.01 foot in the height of the regional flood or will adversely affect existing drainage courses of  
16 facilities. Increases equal to or greater than 0.01 foot may be permitted, but only if amendments are  
17 made to this chapter in accordance with sec. 23.16 of this chapter, and only if the total cumulative  
18 affect of the proposed development will not increase the height of the regional flood more than 1  
19 foot for the affected hydraulic reach of the stream.

20  
21 \* \* \*

22  
23 (g) **Public or Private Campgrounds.** Public or private campgrounds shall have a  
24 low flood damage potential and shall meet the following provisions:

25  
26 4. There is an adequate flood warning procedure for the campground  
27 that offers the minimum notice required under this section to all persons in the campground.  
28 This procedure shall include a written agreement between the campground owner, the County  
29 Emergency Management Coordinator and the Sheriff which specifies the flood elevation at  
30 which evacuation shall occur, personnel responsible for monitoring flood elevations, types of  
31 warning systems to be used and the procedures for notifying at-risk parties, and the methods and  
32 personnel responsible for conducting the evacuation. Written agreements referred to herein shall  
33 be for a term of not more than one year and shall be reviewed and updated at least annually in  
34 order to remain in compliance with all applicable regulations, including those of the ~~State~~  
35 Wisconsin Department of Health and Family Services and all other federal, state and local  
36 applicable regulations.

37  
38 **SECTION 2.** Section 23.04 of the code is amended to read:

39 **23.04 FLOODWAY DISTRICT.** (5)(AM 08-31) Public utilities, streets and bridges  
40 may be allowed by County permit, provided that:

41  
42 (a) Adequate floodproofing measures as described in 23.06(13) are provided to  
43 the flood protection elevation as defined in 23.18(36).

44  
45 \* \* \*

46  
47 (c) Mining, dredging, filling, grading, paving, excavation, drilling operations,  
48 deposition of material or structures in an area greater than 450 square feet or on slopes in excess of  
49 20 percent ~~may be allowed by County permit~~, provided that:

1  
2       **SECTION 3.** Section 23.05 of the code is amended to read:

3       **23.05 FLOODFRINGE DISTRICT.** (1)(AM 08-31) **Applicability.** The provisions of  
4 this section apply to all areas within the floodfringe district as defined in sub. 23.18(~~33~~ 38) and  
5 shown on the official floodplain zoning maps.

6  
7       **SECTION 4.** Section 23.06 of the code is amended to read:

8       **23.06 GENERAL FLOODPLAIN DISTRICT.** (13)(AM 08-31) **Floodproofing.** No  
9 permit or variance shall be issued until the applicant submits a plan certified by a registered profes-  
10 sional engineer or architect that the floodproofing measures will protect the structure or develop-  
11 ment to the flood protection elevation. Where floodproofing measures, as defined in sub. 23.18(~~40~~  
12 ~~42~~) are required by conditional use permit, they shall be designed to withstand the flood pressures,  
13 depths, velocities, uplift and impact forces, and other factors associated with the regional flood, to  
14 assure protection to the flood protection elevation. In addition, all floodproofing measures shall  
15 provide anchorage of structures to foundations to resist flotation and lateral movement, and shall  
16 insure that the structural walls and floors are watertight (i.e., completely dry without human inter-  
17 vention during flooding) to the flood protection elevation, as defined in sub. 23.18(~~41~~ 36). The ap-  
18 plicant shall submit a plan or document certified by a registered Wisconsin professional engineer or  
19 architect that the floodproofing measures are adequately designed to protect the structure or devel-  
20 opment to the flood protection elevation for the particular area. Floodproofing measures could in-  
21 clude:

22  
23       **SECTION 5.** Section 23.07 of the code is amended to read:

24       **23.07 LAND DIVISION REVIEW AND SANITARY REGULATIONS.** (2)(AM 08-  
25 31) **Conditional Use Permit to Achieve Reduced Lot Sizes and Setbacks.**

26  
27       (a)     Purpose. In some instances where an individual lot or small tract of land has  
28 unique characteristics, such as unique terrain, which would result in unnecessary hardship as  
29 defined in sub. 23.18(~~40~~ 102), if the owner were required to comply with 1 or more of the  
30 requirements for minimum lot sizes, width and setback, the County Board of Adjustment may grant  
31 a variance that will not be contrary to the public interest. In other instances where larger areas are  
32 involved, the appropriate method for seeking a relaxation of the same minimum standards is by a  
33 planned unit development or condominium conditional use permit. The conditional use permit is  
34 intended to permit smaller lots and setbacks where the physical layout of the lots is so arranged  
35 (often by setting them back farther from navigable water) as to better assure the control of pollution  
36 and preservation of ground cover than would be expected if the lots were developed with the  
37 normal lot sizes and setbacks and without special conditions placed upon the planned unit  
38 development or condominium at the time of its approval. A condition of all planned unit  
39 development or condominium conditional use permits is the preservation of certain open space,  
40 preferably on the shoreland, permanently.

41  
42       **SECTION 6.** Section 23.08 of the code is amended to read:

43       **23.08 LOT DIMENSIONS.** (2)(AM 08-31) **Lots to be Created Served by Public**  
44 **Sanitary Sewer.**

45  
46       (a)     Minimum Area and Width for all 1<sup>st</sup> tier lots as defined in sub. 23.18(~~99~~  
47 ~~100~~) to be created in the unincorporated or incorporated areas of the County that have approved  
48 stormwater plans.

1 (b) Minimum area and width for all 2<sup>nd</sup> tier lots as defined in sub. 23.18(99 100)  
2 in the unincorporated or incorporated areas of the County that have approved stormwater plans.

3  
4 (c) Minimum area and width for all 3<sup>rd</sup> tier lots as defined in sub. 23.18(99 100)  
5 and beyond in the shoreland district in the unincorporated or incorporated areas of the County that  
6 have approved stormwater plans.

7  
8 (d) Minimum area and width for all 1<sup>st</sup> tier lots as defined in sub. 23.18(99 100)  
9 in areas of the County that have been annexed within joint boundary or intergovernmental  
10 agreement areas and that also have approved stormwater plans.

11  
12 (e) Minimum area and width for all 2<sup>nd</sup> tier lots as defined in sub. 23.18(99 100)  
13 in areas of the County that have been annexed within joint boundary or intergovernmental  
14 agreement areas and that also have approved stormwater plans.

15  
16 (f) Minimum area and width for all 3<sup>rd</sup> tier lots as defined in sub. 23.18(99 100)  
17 in areas of the County that have been annexed within joint boundary or intergovernmental  
18 agreement areas and that also have approved stormwater plans.

19  
20 (3)(AM 08-31) **Minimum Lot Size for Existing Lots.**

21  
22 (a) Minimum Lot Size for Existing Lots Served by a Public Sanitary Sewer  
23 Sewered or Unsewered. An existing lot served by a public sanitary sewer which is a minimum  
24 7,500 square feet in area and is at least 50 feet in width at the building setback line and at least 50  
25 feet in width at the OHWM (for approved platted subdivisions, the 50' width shall be verified by the  
26 approved plat dimension) may be used as a building site upon issuance of a zoning permit by the  
27 administrator if it meets all of the following requirements:

28  
29 \* \* \*

30  
31 3. The lot was in separate ownership from abutting lands prior to  
32 September 14, 1970. If abutting lands and the existing lot were owned by the same owner in the  
33 same ownership as of the ~~effective date of this chapter~~ September 14, 1970 or any time thereafter,  
34 the existing lot shall not be sold or used without full compliance with the terms of this chapter,  
35 ~~including minimum area and width requirements found in sub. 23.08(1) and (2) of this chapter.~~

36  
37 4. The lot complies with A all other dimensional requirements of this  
38 chapter (including side yard and shoreline setback) ~~shall be complied with.~~

39  
40 (b) ~~Minimum Lot Size for Existing Lots not Served by Public Sanitary Sewer.~~  
41 ~~An existing lot not served by public sanitary sewer which is at least 7,500 square feet in area and at~~  
42 ~~least 50 feet in width at the structure setback line to the OHWM and a minimum 50 feet in width at~~  
43 ~~the OHWM (for approved platted subdivisions, the 50' width shall be verified by the approved plat~~  
44 ~~dimension) may be used as a structure site upon issuance of a zoning permit by the administrator if~~  
45 ~~it meets all of the requirements of sub. 23.08(3)(a)1. through 4. of this chapter.~~

1 (e b) Other Existing Lots. Except for lots which ~~meet the requirements of sub.~~  
2 ~~23.08(3)(a) or 23.08(3)(b) of this chapter~~ are at least 7,500 square feet in area and 50 feet in width  
3 at OHWM and at least 50 feet in width at the building setback line, a permit for a structure for the  
4 improvement of a lot having lesser dimensions than those stated in sub. 23.08(1) and 23.08(2) of  
5 this chapter shall be issued only after the granting of a variance by the County Board of Adjustment.  
6 If after combining abutting existing lots, a new lot is created which does not meet the minimum  
7 area and width requirements in sub 23.08(1) and (2) of this chapter, but the lot created is at least  
8 7,500 square feet in area and 50 feet in width at the OHWM and at least 50 feet in width at the  
9 building setback line, a variance by the County Board of Adjustment will not be required.

10  
11 **SECTION 7.** Section 23.09 of the code is amended to read:

12 **23.09 SETBACKS FROM THE WATER.** (7)(AM 08-31) Setbacks from the Water -  
13 Retaining Walls.

14  
15 (a) Retaining walls within the setback to OHWM.

16  
17 1. New retaining walls are permitted allowed within the corresponding  
18 setback from the OHWM with a conditional use permit provided that ~~the walls are permitted~~  
19 necessary if they are necessary to stabilize slopes if there is and no other non-structural method to  
20 stabilize the slope is available. Landscape plantings for screening will be required to comply with  
21 sec. 23.14 of this Chapter. The height of the new walls is limited to 2 to 3 foot increments until the  
22 natural slope can be utilized.

23  
24 2. Replacement of existing retaining walls within the corresponding  
25 setback from the OHWM are permitted allowed with an Administrative Permit. A conditional use  
26 permit for a replacement retaining wall is required if the replacement wall is outside the existing  
27 footprint or the height of the replacement wall exceeds 2 to 3 foot increments until the natural slope  
28 can be utilized. The construction of new retaining walls located beyond the corresponding setback  
29 from the OHWM are permitted with a zoning permit provided the requirements of this subsection  
30 are complied with. If the scope of the projects exceed these guidelines, the applicant must apply for  
31 a conditional use permit.

32  
33 (b) Retaining walls beyond the setback from the OHWM. New or replace-  
34 ment retaining walls located beyond the corresponding setback from the OHWM are allowed  
35 with a zoning permit provided. A conditional use permit for a retaining wall beyond the setback  
36 from the OHWM is required if the replacement wall is outside the existing footprint or the height  
37 of the replacement wall exceeds 2 to 3 foot increments until the natural slope can be utilized.  
38 Any retaining wall not visible from a waterbody or 300' beyond the OHWM is exempt from  
39 height and screening requirements.

40  
41 (8)(AM 08-31) **Architectural Projections.** Projections including awnings, sills, eaves,  
42 gutters, belt courses, and uncovered stairs without foundations may project ~~for one foot~~ into the 3  
43 foot side yard setback as long as drainage concerns are addressed to the satisfaction of the  
44 Department. In any case, it cannot project into the required shoreline setback Under no  
45 circumstances shall any projection be more than 4 feet into the shoreland setback.

46  
47 \* \* \*

48  
49 (12)(AM 08-31) **Sideyard Setbacks.** All structures shall be a minimum of 3 feet from a

1 sideyard lot line. ~~Architectural projections may project for one foot into the 3-foot sideyard setback.~~  
2 ~~Retaining walls and architectural projections may be allowed in the 3-foot sideyard setback as long~~  
3 ~~as drainage concerns are addressed, upon approval of plans submitted to the Planning and Parks~~  
4 ~~Department illustrating satisfactory drainage patterns. The retaining wall shall not obstruct drainage~~  
5 ~~along the side lot line.~~

6  
7 **SECTION 8.** Section 23.13 of the code is amended to read:

8 **23.13 LEGAL NONCONFORMING USES AND STRUCTURES.** (1)(AM 08-31)

9 **General Provisions.** The lawful use of a structure or property which existed at the time this  
10 chapter was adopted, or an applicable amendment to this chapter, took effect and which is not in  
11 conformity with the provisions of this Chapter, including the routine maintenance of such a  
12 structure, may be continued, subject to the following conditions:

13 \* \* \*

14  
15  
16 (h) The reconstruction of a legal nonconforming structure damaged or destroyed  
17 by wind, vandalism, fire, flood, ice, snow, mold or infestation may be allowed by permit as  
18 specified in §59.692(1s)(a), Wis. Stats.

19  
20 ~~(2) — Shoreland — Wetland Areas.~~

21  
22 ~~(a) — No structural alteration, addition or repair to any structure with a legal~~  
23 ~~nonconforming use or any legal nonconforming structure, over the life of the structure, shall exceed~~  
24 ~~the square footage limits as listed in sec. 23.12. The property owner may still make the proposed~~  
25 ~~alteration, addition or repair if:~~

26  
27 1. ~~A legal nonconforming use is permanently changed to a conforming~~  
28 ~~use.~~

29  
30 2. ~~The property owner appeals the determination of the administrator~~  
31 ~~and either the County Board of Adjustment or the Circuit Court find in the property owner's favor~~  
32 ~~under §59.694(4) or 59.694(10), Wis. Stats.~~

33  
34 3. ~~The property owner successfully petitions to have the property~~  
35 ~~rezoned by amendment to this chapter in accordance with sec. 23.16 of this chapter and~~  
36 ~~§59.69(5)(e), Wis. Stats.~~

37  
38 (b) ~~The reconstruction of a legal nonconforming structure damaged or destroyed~~  
39 ~~by violent wind, vandalism, fire, or flood may be allowed by permit as specified in §59.692(1s)(a),~~  
40 ~~Wis. Stats.~~

41  
42 (3 2)(AM 08-31) **Shoreland, Wetland or Floodplain Areas.** Insofar as the standards in  
43 this section are not inconsistent with the provisions of §59.69, Wis. Stats., they shall apply to all  
44 legal nonconforming uses and legal nonconforming structures. These regulations apply to the  
45 modification of, or addition to, any structure and to the use of any structure or premises which was  
46 lawful before the passage of this chapter or any amendment thereto. The existing lawful use of a  
47 structure or its accessory use which is not in conformity with the provisions of this chapter may be  
48 continued subject to the following conditions:

49 (a) No modifications or additions to a legal nonconforming use or a legal

1 nonconforming structure shall be ~~permitted~~ allowed unless ~~they are~~ the modification or addition is  
2 made in conformity with the provisions of this ~~section~~ Chapter. For the purpose of this section, the  
3 words "modification" and "addition" shall include, but not be limited to, any alteration, addition,  
4 modification, structural repair, rebuilding or replacement of any such existing use, structure or  
5 accessory structure or use. Ordinary maintenance repairs are not considered modifications or  
6 additions, such ordinary maintenance and repairs include internal and external painting, decorating,  
7 paneling and the replacement of doors, windows and other nonstructural components.

8  
9 (b) No modification or addition to any legal nonconforming structure or any  
10 structure with a legal nonconforming use, which would exceed the ~~square footage limits~~ impervious  
11 area limits and square footage limits for principal structures as listed in sub. 23.12(2) shall be  
12 allowed unless the entire structure is permanently changed to a conforming structure with a  
13 conforming use in compliance with the applicable requirements of this chapter and contiguous dry  
14 land access is provided in compliance with sub. 23.05(4)(c) or (d).

15  
16 (c) No existing structure shall be allowed to further encroach or be expanded in  
17 any manner and in any direction in the shoreland setback area as defined in sub. 23.18(87).

18  
19 ~~(d) — No expansion of any kind is allowed for that portion of an existing structure~~  
20 ~~within 50 feet of the OHWM. Remodeling of the existing structure within 50 feet of the OHWM is~~  
21 ~~allowed, provided the structural components are not replaced. Structure expansion means any~~  
22 ~~increase in the shape, volume or dimensions of the structure. See sec. 23.12 for specific limitations.~~

23  
24 (d) Ordinary Maintenance and Repairs of an existing structure within the  
25 shoreland setback area is allowed, provided that there are no structural components being replaced  
26 as defined in sub. 23.18(96). Structural expansion means any increase in the shape, volume or  
27 dimensions of the structure. Ordinary maintenance or repair is not considered modifications or  
28 additions. Ordinary maintenance or repairs include internal and external painting, decorating,  
29 paneling and the replacement of doors, windows and other nonstructural components.

30  
31 **(4 3)(AM 08-31) Floodway Areas.**

32  
33 \* \* \*

34  
35 (d) Nonflood Disaster. The owner of a legal nonconforming structure that is  
36 damaged or destroyed by a nonflood disaster and that is authorized to be restored to its pre-disaster  
37 condition under §87.30(1d), Wis. Stats, shall meet the following standards:

38  
39 1. For legal nonconforming structures that are damaged or destroyed by  
40 a nonflood disaster, a floodplain zoning ordinance shall permit the repair, reconstruction or  
41 improvement of any such legal nonconforming structure in order to restore it after the nonflood  
42 disaster except as provided in sub. 23.13(4 3)(d)2.

43  
44 **(5 4)(AM 08-31) Floodfringe Areas.**

45  
46 **(6 5)(AM 08-31) General Floodplain Areas.**

47  
48 **SECTION 9.** Section 23.14 of the code is amended to read:

49 **23.14 MITIGATION.** (3)(AM 08-31) The following mitigation practices may be used

1 to obtain the necessary mitigation points. Existing buffer zones may be used to meet the mitiga-  
2 tion point totals.

3  
4 (a) Buffer Zone Options.

5  
6 1. Primary Active Buffer Zone – Shore buffer zone within 35 feet of  
7 the OHWM, including trees, shrubbery, ground cover and other natural vegetation, and subject to  
8 the conditions in sub. 23.14(3)(b). A shoreline recreational area as defined in sub. 23.18(~~89~~ 90) is  
9 allowed. Three points.

10  
11 \* \* \*

12  
13 4. Passive Buffer Zone – Shoreland vegetation buffer area within 35  
14 feet of the OHWM, including unmowed grass or other ground cover vegetation, but without the tree  
15 and shrub layers required to meet the 3 point mitigation standard. A shoreline recreational area as  
16 defined in sub. 23.18(~~89~~ 90) is allowed. Two points.

17  
18 **SECTION 10.** Section 23.15 of the code is amended to read:

19 **23.15 ADMINISTRATIVE PROVISIONS.** (6)(AM 08-31) **County Board of**  
20 **Adjustment.** The County Board Chairperson shall appoint a County Board of Adjustment  
21 consisting of 5 members under §59.694, Wis. Stats. The County Board of Adjustment shall elect  
22 its own Chairperson, Vice Chairperson and Secretary. The County Board of Adjustment  
23 Chairperson shall designate a minimum of 3 members of the County Board of Adjustment to attend  
24 scheduled meetings and hearings. Two members shall represent a simple majority or quorum for  
25 business before the Board. The County Board shall adopt such rules for the conduct of the business  
26 of the County Board of Adjustment as required by §59.694(3), Wis. Stats.

27  
28 \* \* \*

29  
30 (e) Variance. Any deviation from the standards of this chapter, for which a  
31 County permit has been denied by the administrator, may be allowed only upon written request for  
32 a variance submitted to the administrator, after a public hearing and the issuance of a variance by  
33 the County Board of Adjustment. The Board may authorize in specific cases such variance from the  
34 terms of the chapter as will not be contrary to the public interest where, owing to special conditions  
35 affecting a particular property, a literal enforcement of the provisions of this chapter would result in  
36 unnecessary hardship as defined in sub. 23.18(~~101~~ 102). A variance shall:

37  
38 \* \* \*

39  
40 2. Not permit a lower degree of flood protection in the floodway area  
41 than the flood protection elevation, as defined in sub. 23.18(32). In the floodfringe area, a lower  
42 degree of flood protection than the flood protection elevation may only be allowed pursuant to sub.  
43 23.13(~~5~~ 4)(b).



1           **SECTION 11.** Section 23.18 of the code is amended to read:

2           **23.18 DEFINITIONS.** Unless specifically defined below, words and phrases used in this  
3 chapter shall be interpreted so as to give them the same meaning as they have at common law and  
4 to give this chapter its most reasonable application. Words used in the present tense include the fu-  
5 ture. Words used in the singular number include the plural and words in the plural number include  
6 the singular. The word "may" is permissive. The word "shall" is mandatory and not discretionary.  
7 All distances, unless otherwise specified, shall be measured horizontally.

8  
9           \* \* \*

10  
11           (68)(AM 08-31) "**Navigable Waters.**" Lake Superior, Lake Michigan, all natural inland  
12 lakes within Wisconsin and all streams, ponds, sloughs, flowages and other waters within the  
13 territorial limits of this State, including the Wisconsin portion of boundary waters, which are  
14 navigable under the laws of this State. The Wisconsin Supreme Court has declared navigable  
15 bodies of water those that have a bed differentiated from adjacent uplands and levels or flow  
16 sufficient to support navigation by a recreational craft of the shallowest draft on an annually  
17 recurring basis [Muench v. Public Service Committee, 261 Wis. 492 (1952) and DeGayer Co., Inc.  
18 v. Dept. of Natural Resources, 70 Wis. 2d 936 (1975)]. For example, a stream which is navigable  
19 by a skiff or canoe during normal spring high water is navigable in fact under the laws of this state  
20 though it may be dry during other seasons. ~~Under §144.26(2)(d), Wis. Stats. and Wisconsin~~  
21 ~~Administrative Code Ch. NR 115, do not apply to lands adjacent to farm drainage ditches if: For~~  
22 lands adjacent to farm draining ditches, see §23.02(1)(d) of this Chapter.

23  
24           \* \* \*

25  
26           (87)(AM 08-31) "**Shoreland Setback Area.**" The area in a shoreland that is within a  
27 certain distance of the ordinary high water mark in which the construction or placement of  
28 buildings or structures has been limited or prohibited by this Chapter. Except as more specifically  
29 defined in this Chapter, the area is described as 75 feet from the ordinary high water mark.

30  
31           (87 88)(AM 08-31) "**Shorelands.**" . . .

32           (88 89)(AM 08-31) "**Shoreland-Wetland District.**" . . .

33           (89 90)(AM 08-31) "**Shoreline Recreational Area.**" . . .

34           (90 91)(AM 08-31) "**Shrub Layer.**" . . .

35           (91 92)(AM 08-31) "**Silviculture.**" . . .

36  
37           (92 93)(AM 08-31) "**Start of Construction.**" The date the building permit was issued,  
38 provided the actual start of construction, repair, reconstruction, rehabilitation, addition, placement,  
39 or other improvement was within 180 days of the permit date. ~~The actual start means either the first~~  
40 ~~placement of permanent construction on a site, such as the pouring of slab or footings, the~~  
41 ~~installation of piles, the construction of columns, or any work beyond initial excavation, or the~~  
42 ~~placement of a manufactured home on a foundation. Permanent construction does not include land~~  
43 ~~preparation, such as clearing, grading and filling, nor does it include the installation of streets~~  
44 ~~and/or walkways, nor does it include excavation for a basement, footings, piers or foundations or~~  
45 ~~the erection of temporary forms, nor does it include the installation on the property of accessory~~

1 buildings, such as garages or sheds not occupied as dwelling units or not part of the main structure.  
2 For an alteration, the actual start of construction means the first alteration of any wall, ceiling, floor  
3 or other structural part of a building, whether or not that alteration affects the external dimensions  
4 of the building.

5  
6 (93 94)(AM 08-31) "**Storage Capacity of a Floodplain.**" ...

7  
8 (94 95)(AM 08-31) "**Stormwater Management.**" ...

9  
10 (95 96)(AM 08-31) "**Structural Components.**" ...

11  
12 (96 97)(AM 08-31) "**Structure.**" ...

13  
14 (97 98)(AM 08-31) "**Subdivision.**" ...

15  
16 (98 99)(AM 08-31) "**Substantial Damage.**" ...

17  
18 (99 100)(AM 08-31) "**Tier Lots.**" ...

19  
20 (100 101)(AM 08-31) "**Tram/Lift.**" ...

21  
22 (101 102)(AM 08-31) "**Unnecessary Hardship.**" ...

23  
24 (102 103)(AM 08-31) "**Utilities.**" ...

25  
26 (103 104)(AM 08-31) "**Variance.**" ...

27  
28 (104 105)(AM 08-31) "**Violation.**" ...

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30 (105 106)(AM 08-31) "**Water Surface Profile.**" ...

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32 (106 107)(AM 08-31) "**Watershed.**" ...

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34 (107 108)(AM 08-31) "**Well.**" ...

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36 (108 109)(AM 08-31) "**Wetland Alteration.**" ...

37  
38 (109 110)(AM 08-31) "**Wetlands.**" ...

39  
40 (110 111)(AM 08-31) "**Zoning Permit.**" ...

41  
42 **SECTION 12. EFFECTIVE DATE.** This ordinance shall become effective upon pas-  
43 sage by the Board of Supervisors and publication as provided by law.

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45 **SECTION 13. SUMMARY.** An ordinance amendment modifying certain sections of  
46 Chapter 23 (Shoreland, Wetland and Floodplain Zoning) of the Washington County Code.

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49 VOTE REQUIREMENT FOR PASSAGE: Majority

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APPROVED:  
**(signed by Kimberly A. Nass)**  
Kimberly A. Nass, County Attorney  
Dated **3/11/09**

Introduced by members of the PLANNING,  
CONSERVATION AND PARKS COMMITTEE  
as filed with the County Clerk.  
**(signed by John W. Stern)**  
John W. Stern, Chairperson

Considered **3/10/09**  
Adopted **3/10/09**  
Ayes **29** Noes **1** Absent **0**  
Voice Vote \_\_\_\_\_

Countersigned:  
\_\_\_\_\_  
Herbert J. Tennies  
County Board Chairperson

(No fiscal effect.)