

**WASHINGTON COUNTY CODE**

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## CHAPTER 23

### SHORELAND, WETLAND AND FLOODPLAIN ZONING

#### SUBCHAPTER I GENERAL PROVISIONS AND DEFINITIONS

**23.01(AM 16-4) STATUTORY AUTHORIZATION, FINDING OF FACT, STATEMENT OF PURPOSE GENERAL PROVISIONS AND TITLE.** (1) (AM 16-4) **Statutory Authorization.** This zoning ordinance is adopted pursuant to the authorization in §§59.69, 59.692, 59.694, 87.30 and 281.31, Wis. Stats.

(2) (AM 16-4) **Finding of Fact.** Uncontrolled use of the shorelands, damage to wetlands, and uncontrolled development and use of the floodplains, lakes, ponds, flowages, rivers or streams of Washington County and pollution of the navigable waters and all land within the shorelands, wetlands, and floodplains of Washington County would adversely affect the public health, safety, convenience, and general welfare and impair its tax base. The Legislature of Wisconsin has delegated responsibility to the Counties to further the maintenance of safe and healthful conditions; prevent and control water pollution; protect spawning grounds, fish and aquatic life; control placement of structures and land uses; to preserve shore cover and natural beauty; and to provide sound floodplain management and regulations for all floodplains within unincorporated areas of the County. This responsibility is hereby acknowledged by Washington County, Wisconsin.

(3) (AM 16-4) **Statement of Purpose.** For the purpose of promoting the public health, safety, convenience, welfare and to provide a uniform basis for the preparation, implementation and administration of sound shoreland, wetland, and floodplain regulations for all unincorporated areas of the County, this chapter has been established to:

(a) Further the maintenance of safe and healthful conditions and prevent and control water pollution by:

1. Limiting structures to those areas where soil and geological conditions will provide a safe foundation.
2. Establishing minimum lot sizes to provide adequate area for private on-site wastewater treatment systems.
3. Controlling filling, grading and excavating to prevent serious soil erosion problems.
4. Maintaining the storm and floodwater storage capacity of wetlands and floodplains.
5. Preventing and controlling water pollution by preserving wetlands which filter or store sediments and human influenced pollutants that would otherwise drain into waters of the State.
6. Preserving and enhancing water quality.
7. Limiting impervious surfaces to control runoff which carries pollutants.

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- (b) Protect spawning grounds, fish, aquatic life and wildlife habitat by:
  - 1. Preserving wetlands and other fish and aquatic habitat.
  - 2. Regulating pollution sources.
  - 3. Controlling shoreline alterations, dredging and lagooning.
- (c) Control structure sites, placement of structures and land uses by:
  - 1. Separating conflicting land uses.
  - 2. Prohibiting certain uses detrimental to the shoreland, wetland, and floodplain areas.
  - 3. Protecting natural resource-based recreational opportunities.
  - 4. Setting minimum lot sizes and widths.
  - 5. Regulating side yards and structure setbacks from waterways.
  - 6. Using mitigation techniques to limit impacts of structure placement.
  - 7. Establishing maximum height of near shore structures.
- (d) Preserve shore cover, aesthetics, and natural beauty by:
  - 1. Restricting the removal of natural shoreland cover.
  - 2. Preventing shoreline encroachment by structures.
  - 3. Controlling shoreland excavation and other earth moving activities.
  - 4. Regulating the use and placement of boathouses and other structures.
- (e) Protect life, health and property.
- (f) Minimize expenditures of public monies for costly flood control projects.
- (g) Minimize rescue and relief efforts, generally undertaken at the expense of the tax-paying public.
- (h) Minimize business interruptions which usually result in the loss of local incomes.

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- (i) Minimize damage to public facilities in the floodplains such as water mains, sewer lines, streets and bridges.
- (j) Minimize the occurrence of future flood blight areas in floodplains.
- (k) Discourage the victimization of unwary land and homebuyers.
- (l) Prevent increases in regional flood heights which could increase damage during floods and which may result in conflicts or litigation between property owners.
- (m) Discourage development in a floodplain if there is any practicable alternative to locate the activity, use or structure outside of the floodplain.

(4) (AM 16-4) **Compliance.** The use or development of any land or water, the size, shape and placement of lots, the use, size, type and location of structures on lots, the installation and maintenance of water supply, private on-site wastewater treatment systems and waste disposal facilities, the filling, grading, lagooning, dredging of any lands, the cutting of shoreland vegetation, the subdivision of lots, a change in the use of any land or water, and the use, change of use, construction, reconstruction, remodeling or expansion of any structure within the areas to be regulated by this chapter shall be in full compliance with the terms of this chapter and other applicable local, State or Federal regulations. Signs, structures, and other development shall require a County permit unless otherwise expressly excluded by a provision of this chapter. The property owner, builders and contractors are responsible for compliance with this chapter.

(5) (AM 16-4) **Municipalities and State Agencies Regulated.** Unless specifically exempted by law, all cities, villages and towns, are required to comply with this chapter and obtain all necessary County permits. State agencies are required to comply when §13.48(13), Wis. Stats., applies. The construction, reconstruction, maintenance and repair of State highways and bridges by the Wisconsin Department of Transportation are exempt when §30.2022, Wis. Stats., applies.

(6) (AM 16-4) **Abrogation and Greater Restrictions.** The provisions of this chapter supersede all the provisions of any County general zoning ordinance adopted under §59.69, Wis. Stats., which relate to shorelands, wetlands, and floodplains. However, where an ordinance adopted under a statute other than §§59.69, 59.692, 59.694 and 87.30, Wis. Stats., is more restrictive than this chapter, that ordinance shall continue in full force and effect to the extent of the greater restrictions, but not otherwise.

(a) This chapter shall not require approval or be subject to disapproval by any town, city, village, council or board.

(b) Where a city, town, village or County zoning ordinance is more restrictive than the provisions contained in this chapter, or any amendments thereto, and pre-dates the effective date of this chapter, that ordinance shall continue in full force and effect to the extent of the greater restrictions to the extent allowed by law, but not otherwise. City, town or village ordinances of greater restriction predating this chapter shall be enforced or defended by the respective governing authority.

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(c) This chapter is not intended to repeal, abrogate or impair any existing deed restrictions, covenants or easements. However, where this chapter imposes greater restrictions, the provisions of this chapter shall prevail.

(d) The provisions of this chapter may establish standards to regulate matters that are not regulated by Chapter NR 115 of the Wisconsin Administrative Code, but that further the purposes of shoreland zoning as described in Sec. 23.01(3).

(7) (AM 16-4)(AM 16-38) **Interpretation.** In the interpretation and application of the provisions of this chapter, the provisions shall be held to be minimum requirements and shall be liberally construed in favor of the County and shall not be deemed a limitation or repeal of any other powers granted by Wisconsin Statutes. Where a provision of this chapter is required by Wisconsin Statutes or a standard in ch. NR 116, Wisconsin Administrative Code and where the chapter provision is unclear, the provision shall be interpreted in light of the Wisconsin Statutes or Wisconsin Administrative Code standards in effect on the date of the adoption of this chapter or in effect on the date of the most recent text amendment to this chapter.

(8) (AM 16-4) **Severability.** If any portion of this chapter is adjudged unconstitutional or invalid by a court of competent jurisdiction, the remainder of this chapter shall not be affected thereby.

(9) (AM 16-4) **Warning and Disclaimer of Liability.** The degree of flood protection by this chapter is considered reasonable for regulatory purposes and is based on engineering experience and scientific methods of study. Larger floods may occur or the flood height may be increased by man-made or natural causes such as ice jams or bridge openings restricted by debris. Therefore, this chapter does not imply that areas outside of the delineated floodplain or permitted land uses within the floodplain will be totally free from flooding and associated flood damages. Nor does this chapter create liability on the part of, or a cause of action against, Washington County or any officer or employee thereof for any flood damage that may result from reliance on this chapter.

(10) (AM 16-4) **Uses Not Specified in this Chapter.** These uses may be permitted by a conditional use permit issued by the Land Use and Planning Committee provided such uses are similar in character to the permitted uses in the district. Appeals to such Committee decisions can be made to the County Board of Adjustment.

(11) (AM 16-4) **Title.** The name of this chapter shall be known and cited as the "Shoreland, Wetland and Floodplain Zoning Ordinance for Washington County".

**23.02**(AM 16-4) **Definitions.** Unless specifically defined below, words and phrases used in this chapter shall be interpreted so as to give them the same meaning as they have at common law and to give this chapter its most reasonable application. Words used in the present tense include the future. Words used in the singular number include the plural and words in the plural number include the singular. The word "may" is permissive. The word "shall" is mandatory and not discretionary. All distances, unless otherwise specified, shall be measured horizontally.

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(1) (AM 16-4) "**A Zones.**" Those areas shown on a municipality's "Official Floodplain Zoning Map" [see sub. 23.02(91)] which would be inundated by the "base flood" or "regional flood" as defined herein. These areas may be numbered as A0, A1 to A30, A99 or be unnumbered A Zones. The A Zones may or may not be reflective of flood profiles, depending on the availability of data for a given area.

(2) (AM 16-4) "**AH Zone.**" High flood risk. Base flood elevations have been determined. Flood insurance is mandatory and local floodplain development codes apply. These properties have a one (1) percent annual chance of shallow flooding, usually in the form of a pond, with an average depth of one to three feet. See also "Area of Shallow Flooding."

(3) (AM 16-4) "**AO Zone.**" High flood risk. Flood insurance is mandatory and local floodplain development codes apply. River or stream flood hazard areas, and areas with a one (1) percent or greater chance of shallow flooding each year, usually in the form of sheet flow, with an average depth of one to three feet. These areas have a 26 percent chance of flooding over the life of a 20-year mortgage. See also "Area of Shallow Flooding."

(4) (AM 16-4) "**Access and Viewing Corridor.**" A strip of vegetated land that allows safe pedestrian access to the shore through the vegetative buffer zone.

(5) (AM 16-4) "**Accessory Structure or Use.**" A detached 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 may be located on the same lot as the principal structure or use. (Also see "Structure").

(6) (AM 16-4) "**Administrative Permit.**" A County permit issued by the Washington County Planning and Parks Department staff that contain specific conditions of approval.

(7) (AM 16-4) "**Administrator.**" There shall be an administrative officer, who shall be the primary enforcement officer under this chapter. The County Planning and Parks Department Administrator established under sec. 21.06 of the County code shall be the Administrative Officer under this chapter. The additional staff enumerated under sec. 21.06 shall be assigned responsibilities to administer the provisions of this chapter.

(8) (AM 16-4) "**Alteration.**" An enhancement, upgrading or substantial change or modification other than an addition or repair to a dwelling or to electrical, plumbing, heating, ventilation, air conditioning and other systems within a structure.

(9) (AM 16-4) "**Area of Shallow Flooding.**" A designated AO, AH, AR/AH, or VO zone on a community's Flood Insurance Rate Map (FIRM) with a one (1) percent or greater annual chance of flooding to an average depth of 1 to 3 feet where a clearly defined channel does not exist, where the path of flooding is unpredictable, and where flood velocity may be evident. Such flooding is characterized by ponding or sheet flow.

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(10)(AM 16-4) **"Backlot Development."** Backlot development is a real estate development that often incorporates narrow portions of riparian frontage shared by all "backlot" (subdivision or condominium lots that do not abut the water) owners. This type of development, also called "keyhole" or "pyramid" development, results in offshore lots accessing a waterbody via a narrow tract of land. Developers can deed an undivided interest in lots abutting the water. All lot owners within the backlot development become "riparian owners."

(11) (AM 16-4) **"Base Flood."** A Federal Emergency Management Agency term used to describe flood having a 1 percent chance of being equaled or exceeded in any given year (Also see: "Regional Flood"), as published by FEMA as a part of a FIS and depicted on a Flood Insurance Rate Map (FIRM).

(12) (AM 16-4) **"Basement."** Any enclosed area of a building, having its floor sub-grade, i.e., below ground level, on all sides.

(13) (AM 16-4) **"Boathouse."** Any permanent structure designed and used solely for the purpose of protecting or storing boats, watercraft and related equipment for noncommercial purposes.

(14) (AM 16-4) **"Building."** (See Structure.)

(15) (AM 16-4) **"Building Envelope."** A three dimensional space within which a structure is built.

(16) (AM 16-4) **"Building (Structure) Setback Line."** The distance from the OHWM as determined by the required setback or setback averaging allowed. For the purpose of determining if an existing lot meets the minimum lot width requirements this will be the area of the lot occupied by the existing principal structure.

(17) (AM 16-4) **"Bulkhead Line."** A geographic line along a reach of navigable water that has been adopted by a municipal ordinance and approved by the Department pursuant to §30.11, Wis. Stats., and which allows complete filling to the landward side of the line, except where such filling is prohibited by the floodway provisions of this chapter.

(18)(AM 16-4) **"Campground."** Any parcel of land which is designed, maintained, intended or used for the purpose of providing sites for nonpermanent overnight use by 4 or more camping units, or which is advertised or represented as a camping area.

(19) (AM 16-4) **"Camping Unit."** Any portable device, including a tent, no more than 400 square feet in area, used as a temporary shelter, including, but not limited to, a camping trailer, motor home, bus, van, pickup truck, or tent that is fully licensed, if required, and ready for highway use.

(20) (AM 16-4) **"Canopy."** Trees whose crowns form the topmost layer of a woodland.

(21) (AM 16-4) **"Certificate of Compliance."** A certification issued by the administrator stating that the use of land or a structure, the elevation of fill or the first floor of a structure is in compliance with all of the provisions of this chapter.

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(22) (AM 16-4)        **"Channel."** A natural or artificial watercourse with definite bed and banks to confine and conduct normal flow of water.

(23) (AM 16-4)        **"Conditional Use."** A use which is permitted by this chapter provided that certain conditions specified in the chapter are met and that a County permit is granted by the Land Use and Planning Committee .

(24) (AM 16-4)        **"Contiguous Dryland Access."** A vehicular access route which is above the regional flood elevation and which connects land located in the floodplain to land which is outside the floodplain, such as a road with its surface above regional flood elevation and wide enough for wheeled rescue and relief vehicles.

(25) (AM 16-4)        **"County Zoning Agency."** The Washington County Planning and Parks Department designated by the County Board to act in all matters pertaining to County planning and zoning.

(26) (AM 16-4)        **"Crawlway or Crawl Space."** A shallow, unfinished enclosed area below the first floor or under the roof of a building, generally less than five feet in height for access to plumbing and electrical utilities.

(27) (AM 16-4)        **"Deck."** An unenclosed exterior structure that has no roof or sides, but has a permanent floor which allows the infiltration of precipitation.

(28) (AM 16-4)        **"Department."** The Wisconsin Department of Natural Resources.

(29) (AM 16-4)        **"Development."** Any man-made change to improved or unimproved real estate, including, but not limited to the construction of structures or accessory structures; the construction of additions or substantial alterations to structures or accessory structures; the placement of mobile homes; mining, ditching, lagooning, dredging, filling, grading, paving, excavation or drilling operations and the deposition or extraction of earthen materials or equipment; and the installation, repair or removal of private or public sewerage disposal systems or water supply facilities.

(30) (AM 16-4)        **"Drainage System."** One or more artificial ditches, tile drains or similar devices which collect surface runoff or groundwater and convey it to a point of discharge.

(31) (AM 16-4)        **"Dryland Access."** A vehicular access route which is above the regional flood elevation and which connects land located in the floodplain to land outside the floodplain, such as a road with its surface above regional flood elevation and wide enough for wheeled rescue and relief vehicles.

(32) (AM 16-4)        **"Encroachment."** Any fill, structure, use or development in the floodway.

(33) (AM 16-4)        **"Existing Pattern of Development."** The presence of a principal structure within 250 feet of a proposed principal structure in both directions along the shoreline.



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(34) (AM 16-4) **"Federal Emergency Management Agency (FEMA)."** The Federal agency that administers the National Flood Insurance Program.

(35) (AM 16-4) **"Flood or Flooding."** A general and temporary condition of partial or complete inundation of normally dry land areas caused by the overflow of inland waters, or the unusual and rapid accumulation or runoff of surface waters from any source. A flood could also be a sudden increase caused by an unusually high water level in a natural body of water, accompanied by a severe storm, or by an unanticipated force of nature, such as a seiche, or by some unusual event.

(36) (AM 16-4) **"Flood Frequency."** The probability of a flood occurrence which is determined from statistical analyses. The frequency of a particular flood event is usually expressed as occurring, on the average, once in a specified number of years or as a percent (%) chance of occurring in any given year.

(37) (AM 16-4) **"Flood Hazard Boundary Map."** A map prepared for the County by the Federal Emergency Management Agency designating approximate flood hazard areas. Flood hazard areas are designated as unnumbered A Zones and do not contain floodway lines or regional flood elevations. Said map forms the basis for both the regulatory and insurance aspects of the National Flood Insurance Program until superseded by a Flood Insurance Study and a Flood Insurance Rate Map.

(38) (AM 16-4) **"Flood Insurance Rate Map (FIRM)."** A map of a community on which the Federal Insurance Administration has delineated both the 100 year floodplain and the risk premium zones applicable to the community. This map can only be amended by the Federal Emergency Management Agency.

(39) (AM 16-4) **"Flood Insurance Study."** A technical engineering examination, evaluation and determination of the County flood hazard areas. It provides maps designating those areas affected by the regional flood and provides both flood insurance rate zones and regional flood elevations as well as floodway lines. The flood hazard areas are designated as numbered A Zones. Flood insurance study maps form the basis for both the regulatory and the insurance aspects of the National Flood Insurance Program.

(40) (AM 16-4) **"Flood Profile."** A graph or a longitudinal profile line showing the relationship of the water surface elevation of a flood event to locations of land surface elevations along a stream or river.

(41) (AM 16-4) **"Flood Protection Elevation."** An elevation that corresponds to a point 2.0 feet above the regional flood. (Also see: "Freeboard").

(42) (AM 16-4) **"Flood Storage."** Those floodplain areas where storage of floodwaters has been taken into account during analysis in reducing the regional flood discharge.

(43) (AM 16-4) **"Floodfringe."** That portion of the floodplain outside of the floodway which is covered by flood waters during the regional flood, it is generally associated with standing water rather than rapidly flowing water.

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(44) (AM 16-4) **"Floodplain."** The land which has been or may be hereafter covered by floodwater during the regional flood. The floodplain includes the floodway and the floodfringe as those terms are defined in Wisconsin Administrative Code Ch. NR 116.

(45) (AM 16-4) **"Floodplain Islands."** A natural geologic land formation within the floodplain that is surrounded, but not covered, by floodwater during the regional flood.

(46) (AM 16-4) **"Floodplain Management."** Policy and procedures to insure wise use of floodplains, including mapping and engineering, mitigation, education, and administration and enforcement of floodplain regulations.

(47) (AM 16-4) **"Floodproofing."** Any combination of structural and nonstructural additions, changes or adjustments which reduce or eliminate flood damage to unimproved or improved real estate, water and sanitary facilities, structures and their contents in compliance with the standards listed in the Wisconsin Administrative Code for the purpose of reducing or eliminating flood damage.

(48) (AM 16-4) **"Floodway."** The channel of a river or stream and those portions of the floodplain adjoining the channel required to carry and discharge the flood water or flood flows associated with the regional flood.

(49) (AM 16-4) **"Floodway Encroachment Lines."** Represent the limits of obstruction to flood flows. These lines are designated on both sides of, and generally parallel to, the channel of a river or stream. They are established by assuming that the area landward (outside of the encroachment lines) will ultimately be developed in such a way that it will not convey flood flows, but the development will not cause an increase to regional flood elevations upstream. It is assumed that any development riverward of these lines will cause an obstruction and will require a detailed analysis (single degree of hydraulic encroachment) to determine its effect on the regional flood elevations upstream.

(50) (AM 16-4) **"Footprint – Structures."** The land area covered by a structure at ground level measured on a horizontal plane. The footprint of a residence or building includes the horizontal plane bounded by the furthest exterior wall and eave if present, projected to natural grade for structures without walls (decks, stairways, patios, carports) – a single horizontal plane bounded by the furthest portion of the structure projected to natural grade. For the purposes of replacing or reconstructing a nonconforming building with walls, the footprint shall not be expanded by enclosing the area that is located within the horizontal plane from the exterior wall to the eaves projected to natural grade. This constitutes a lateral expansion under NR 115 and would need to follow NR 115.05(1)(g)5.

(51) (AM 16-4) **"Freeboard."** Represents a factor of safety usually expressed in terms of a certain amount of feet above a calculated flood level. Freeboard compensates for the many unknown factors that contribute to flood heights greater than the height calculated. These unknown factors include, but are not limited to, ice jams, debris accumulation, wave action, obstruction of bridge openings and floodways, the effects of urbanization on the hydrology of the watershed, loss of flood storage areas due to development and the sedimentation of a river or stream bed.

(52) (AM 16-4) **"Ground Cover."** Plants that grow from a few inches to two to three feet tall and cover a significant area of soil in order to help prevent soil loss and provide a ground layer of habitat for wildlife.

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(53) (AM 16-4) **"Habitable Structure."** Any structure of portion thereof used or designed for human habitation.

(54) (AM 16-4) **"Hearing Notice."** Publication or posting meeting the requirements of Chapter 985 of the Wisconsin Statutes. A Class 2 notice is required at a minimum for all zoning ordinance and map amendments; published twice, once each week consecutively, the last publication at least a week (7 days) before the hearing.

(55) (AM 16-4) **"High Flood Damage Potential."** Damage that could result from flooding, including any danger to human life or public health or the potential for any significant economic loss to a structure or its contents.

(56) (AM 16-4) **"Highest Adjacent Grade."** The highest natural elevation of the ground surface prior to construction next to the proposed walls of a structure.

(57) (AM 16-4) **"Historic Structure."** (Federal Rule October, 1990) any structure that is:

(a) Listed individually in the National Register of Historic Places or preliminarily determined by the Secretary of the Interior as meeting the requirements for individual listing on the National Register;

(b) Certified or preliminarily determined by the Secretary of the Interior as contributing to the historical significance of a registered historic district or a district preliminarily determined by the Secretary to qualify as a registered historic district;

(c) Individually listed on a State inventory of historic places in states with historic preservation programs which have been approved by the Secretary of the Interior; or

(d) Individually listed on a local inventory of historic places in communities with historic preservation programs that have been certified either by an approved State program, as determined by the Secretary of the Interior; or directly by the Secretary of the Interior in states without approved programs.

(58) (AM 16-4) **"Hydraulic Reach."** That portion of the river or stream extending from 1 significant change in the hydraulic character of the river or stream to the next significant change. These changes are usually associated with breaks in the slope of the water surface profile, and may be caused by bridges, dams, expansion and contraction of the water flow, and changes in stream bed slope or vegetation.

(59) (AM 16-4) **"Hydrologic Reach."** A designated length of river, stream or lake where the storage of flood waters therein has been taken into account to reduce the regulatory flood discharge. Major man made or natural changes in the river character, limits of political jurisdiction, or a change in the flood routing technique used to determine the storage and translation of a flood wave through the area of interest may be used to define the end of a hydrologic reach (e.g., a dam may be considered a major man made change in the river character or a change from channel routing to reservoir routing may be considered a major change in the floodrouting technique).

(60) (AM 16-4) **"Ice Fishing Shanty."** Any structure used for the purpose of ice fishing. Temporary structure that must comply with required setback distances when not on the ice.

(61) (AM 16-4) **"Impervious Surface."** Any artificial or natural area which does not allow the entrance or passage of water or sediment into the ground surface. Impervious surface excludes frozen soil but includes: buildings, structures, concrete or asphalt surfaces, gravel or traffic bond surfaces, decks with no space in between the decking, bricks or pavers with no spacing between, which are placed on traffic bond, sidewalks, driveways, parking lots and streets, unless specifically designed, constructed and maintained to be pervious.

(62) (AM 16-4) **"Increase in Regional Flood Height."** A calculated upward rise in the regional flood elevation, greater than 0 foot, resulting from a comparison of existing conditions and proposed conditions which is directly attributable to development in the floodplain, but not attributable to manipulation of mathematical variables such as roughness factors, expansion and contraction coefficients and discharge.

(63) (AM 16-4) **"Joint Boundary or Intergovernmental Agreement Area."** An agreement created and approved pursuant to provisions outlined in Chapter 66 of the Wisconsin Statutes or any intergovernmental agreement approved by the governing boards of the respective municipalities where such agreement contains provisions on the subject of land use and contains significant environmental protections for any waterbody within the scope of the land subject to the agreement.

(64) (AM 16-4) **"Land Use."** Any nonstructural use made of unimproved or improved real estate. (Also see: "Development").

(65) (AM 16-4) **"Lowest Adjacent Grade."** Elevation of the lowest ground surface that touches any of the exterior walls of a building.

(66) (AM 16-4) **"Lowest Floor."** The lowest floor of the lowest enclosed area (including basement). An unfinished or flood resistant enclosure, usable solely for parking of vehicles, building access or storage in an area other than a basement area is not considered a building's lowest floor; provided that such enclosure is not built so as to render the structure in violation of the applicable non-elevation design requirements of 44 Code of Federal Regulations Section 60.3.

(67) (AM 16-4) **"Maintenance."** The act or process of restoring to original soundness, including redecorating, refinishing, non-structural repairs, or the replacement of existing fixtures, systems or equipment with equivalent fixtures, systems or structures.

(68) (AM 16-4) **"Manufactured Home."** A structure transportable in one or more sections, which is built on a permanent chassis and is designed to be used with or without a permanent foundation when connected to required utilities. For the purpose of this chapter, it does not include mobile recreational vehicles or travel trailers.

(69) (AM 16-4) **"Minor Structures."** One or more structures totaling 200 square feet or less that are allowed within 35 feet to 74.99 feet from the OHWM. The structures must have no sides, open sides or screened sides and may include a roof.

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(70) (AM 16-4)       **"Mitigation."** The balancing of measures that are designed, implemented and function to restore natural functions and values that are otherwise lost through development and human activities. Mitigation includes, but is not limited to, the installation of vegetative buffers or removal of non-conforming structures and selected stormwater measures to preserve and enhance water quality and aesthetics.

(71) (AM 16-4)       **"Mobile/Manufactured Home Park or Subdivision."** A parcel (or contiguous parcels) of land, divided into two or more manufactured home lots for rent or sale.

(72) (AM 16-4)       **"Mobile/Manufactured Home Park or Subdivision, Existing."** A parcel of land, divided into two or more manufactured home lots for rent or sale, on which the construction of facilities for servicing the lots is completed before the effective date of this ordinance. At a minimum, this would include the installation of utilities, the construction of streets and either final site grading or the pouring of concrete pads.

(73) (AM 16-4)       **"Mobile/Manufactured Home Park, Expansion to Existing."** The preparation of additional sites by the construction of facilities for servicing the lots on which the manufactured homes are to be affixed. This includes installation of utilities, construction of streets and either final site grading, or the pouring of concrete pads.

(74) (AM 16-4)       **"Mobile Recreational Vehicle."** A vehicle which is built on a single chassis, 400 square feet or less when measured at the largest horizontal projection, designed to be self-propelled, carried or permanently towable by a licensed, light duty vehicle, is licensed for highway use if registration is required and is designed primarily not for use as a permanent dwelling, but as a temporary living quarters for recreational, camping, travel or seasonal use. Manufactured homes that are towed or carried onto a parcel of land, but do not remain capable of being towed or carried, including park model homes, do not fall within the definition of "mobile recreational vehicle".

(75) (AM 16-4)       **"Model, Corrected Effective."** A hydraulic engineering model that corrects any errors that occur in the Duplicative Effective Model, adds any additional cross sections to the Duplicative Effective Model, or incorporates more detailed topographic information than that used in the current effective model.

(76) (AM 16-4)       **"Model, Duplicative Effective."** A copy of the hydraulic analysis used in the effective FIS and referred to as the effective model.

(77) (AM 16-4)       **"Model, Effective."** The hydraulic engineering model that was used to produce the current effective Flood Insurance Study.

(78) (AM 16-4)       **"Model, Existing (Pre-Project)."** A modification of the Duplicative Effective Model or Corrected Effective Model to reflect any man made modifications that have occurred within the floodplain since the date of the Effective Model but prior to the construction of the project for which the revision is being requested. If no modification has occurred since the date of the Effective Model, then this model would be identical to the Corrected Effective Model or Duplicative Effective Model.

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(79) (AM 16-4) **“Model, Revised (Post-Project).”** A modification of the Existing or Pre-Project Conditions Model, Duplicative Effective Model or Corrected Effective Model to reflect revised or post-project conditions.

(80) (AM 16-4) **"Municipality" or "Municipal."** The county, city or village governmental units enacting, administering and enforcing this zoning ordinance.

(81) (AM 16-4) **"NAVD" or "North American Vertical Datum."** Elevations referenced to mean sea level datum, 1988 adjustment.

(82) (AM 16-4) **"NGVG" or National Geodetic Vertical Datum."** Elevations referenced to mean sea level datum, 1929 adjustment.

(83) (AM 16-4) **"Navigable Waters."** Lake Superior, Lake Michigan, all natural inland lakes within Wisconsin and all streams, ponds, sloughs, flowages and other waters within the territorial limits of this State, including the Wisconsin portion of boundary waters, which are navigable under the laws of this State. The Wisconsin Supreme Court has declared navigable bodies of water those that have a bed differentiated from adjacent uplands and levels or flow sufficient to support navigation by a recreational craft of the shallowest draft on an annually recurring basis [Muench v. Public Service Committee, 261 Wis. 492 (1952) and DeGayner Co., Inc. v. Dept. of Natural Resources, 70 Wis. 2d 936 (1975)]. For example, a stream which is navigable by a skiff or canoe during normal spring high water is navigable in fact under the laws of this state though it may be dry during other seasons. For lands adjacent to farm draining ditches, see §23.03(1)(d) of this Chapter.

(84) (AM 16-4) **"New Construction."** For floodplain management purposes, "new construction" means structures for which the start of construction commenced on or after the effective date of floodplain zoning regulations adopted by the County and includes any subsequent improvements to such structures. For the purpose of determining flood insurance rates, it includes any structures for which the "start of construction" commenced on or after the effective date of an initial FIRM or after December 31, 1974, whichever is later, and includes any subsequent improvements to such structures.

(85) (AM 16-4) **"Nonconforming Building."** (See: "Nonconforming Structure").

(86) (AM 16-4) **"Nonconforming Structure."** An existing lawful structure which is not in conformity with the dimensional or structural requirements of this chapter for the area of the district which it occupies. (e.g., an existing residential structure in the floodfringe district is a conforming use. However, if the 1st floor is lower than the flood protection elevation, the structure is nonconforming).

(87) (AM 16-4) **"Nonconforming Use."** An existing lawful use or accessory use of a structure which is not in conformity with the provisions of this chapter for the area of the district which it occupies.

(88) (AM 16-4) **"Nonflood Disaster."** A fire or an ice storm, tornado, windstorm, mudslide or other destructive act of nature, but excludes a flood.

(89) (AM 16-4) **"Nuisance."** Any use or structure causing significant harm, injury or impairment to the general health, safety or welfare of the public.

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(90) (AM 16-4)       **"Obstruction to Flow."** Any development which blocks the conveyance of floodwaters such that the development by itself or in conjunction with any future similar development will cause an increase in regional flood height.

(91) (AM 16-4)       **"Official Floodplain Zoning Map."** That map, adopted and made part of this chapter, as described in sub. 23.15(3), which has been approved by the Department and Federal Emergency Management Agency.

(92) (AM 16-4)       **"Open Fences."** A fence that has more than 50 percent open space.

(93) (AM 16-4)       **"Open Space Use."** Those uses having a relatively low flood damage potential and not involving structures.

(94) (AM 16-4)       **"Ordinary Highwater Mark (OHWM)."** The point on the bank or shore up to which the presence and action of surface water is so continuous as to leave a distinctive mark such as by erosion, destruction or prevention of terrestrial vegetation, predominance of aquatic vegetation or other easily recognized characteristics.

(95) (AM 16-4)       **"Person."** An individual, or group of individuals, corporations, partnership, association, municipality or State agency.

(96) (AM 16-4)       **"Previously Developed Land."** Any land, parcel or lot that meets the definition of "development" [§23.02(28)] as of the date of enactment of this chapter.

(97) (AM 16-4)       **"Principal Structure."** The main or primary building on a lot that is used for a residence, place of business, or other recreational purposes.

(98) (AM 16-4)       **"Private Onsite Water Treatment System."** A sewage treatment and disposal system serving one structure with a septic tank and soil absorption field located on the same parcel as the structure. It also means an alternative sewage system approved by the Department of Safety and Professional Services, including a substitute for the septic tank or soil absorption field, a holding tank, a system serving more than one structure or a system located on a different parcel than the structure.

(99) (AM 16-4)       **"Public Purpose Facility."** Any structure or improvement required by a governmental unit or agency in the interest of the health, safety, or welfare of the public, as a condition to granting a permit or approval to the petitioner. Public purpose facilities may include, but are not limited to; roads, sidewalks, utilities, pollution control facilities and railroads.

(100) (AM 16-4)      **"Public Utilities."** Those utilities installed for the benefit of the general public using underground or overhead transmission lines such as electric, telephone and telegraph, and distribution and collection systems such as water, sanitary sewer and storm sewer.

(101) (AM 16-4)      **"Reasonably Safe from Flooding."** Means base flood waters will not inundate the land or damage structures to be removed from the floodplain and that any subsurface waters related to the base flood will not damage existing or proposed buildings.

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(102) (AM 16-4)       **"Reconstruction."** To construct again or to establish or assemble again involving structural components.

(103) (AM 16-4)       **"Regional Flood."** A flood determined to be representative of large floods known to have generally occurred in Wisconsin and which may be expected to occur on a particular stream because of like physical characteristics. The flood frequency of the regional flood is once in every 100 years. This means that in any given year, there is a 1 percent chance that the regional flood may occur or be exceeded. During a typical 30 year mortgage period, the regional flood has a 26 percent chance of occurrence (the regional flood is based upon a statistical analysis of stream flow records available for the watershed or an analysis of rainfall and runoff characteristics in the general watershed region).

(104) (AM 16-4)       **"Riprap."** The placement of various size rocks or natural materials, along the shoreline to prevent erosion. Riprap requires the installation of erosion control fabric placed on the exposed soil below the rocks. Concrete seawalls are not permitted without a conditional use permit.

(105) (AM 16-4)       **"Routine Maintenance of Vegetation."** Normally accepted horticultural practices that do not result in the loss of any layer of existing vegetation and do not require earth disturbance.

(106) (AM 16-4)       **"Sand Blanket/Pea Gravel."** A layer of sand or pea gravel placed on the bed of a lake or stream.

(107) (AM 16-4)       **"Shoreland Setback Area."** The area in a shoreland that is within a certain distance of the ordinary high water mark in which the construction or placement of buildings or structures has been limited or prohibited by this Chapter. Except as more specifically defined in this Chapter, the area is described as 75 feet from the ordinary high water mark.

(108) (AM 16-4)       **"Shorelands."** Lands within the following distances from the ordinary highwater 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.

(109) (AM 16-4)       **"Shoreland-Wetland District."** The zoning district, created as a part of this Shoreland Zoning Ordinance, comprised of shorelands that are designated as wetlands on the Wisconsin DNR Wetland Inventory maps which have been adopted and made a part of this chapter.

(110) (AM 16-4)       **"Shoreline Recreational Area."** The area 35 feet to 75 feet landward of the ordinary highwater mark (OHWM) and any 30 feet in 100 foot area along the shoreline.

(111) (AM 16-4)       **"Shrub Layer."** Woody bushes and tree saplings that are 3 to 12 feet tall.

(112) (AM 16-4)       **"Silviculture."** The science and art of cultivating (i.e., growing and tending) forest crops, based on a knowledge of silvics.



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(113) (AM 16-4) **"Start of Construction."** The date the building permit was issued, provided the actual construction, repair, reconstruction, rehabilitation, addition, placement, or other improvement was within 180 days of the permit date.

(114) (AM 16-4) **"Storage Capacity of a Floodplain."** The volume of space above an area of floodplain land that can be occupied by flood water of a given stage at a given time, regardless of whether the water is moving.

(115) (AM 16-4) **"Stormwater Management."** Any measures taken to permanently reduce or minimize the negative impacts of stormwater runoff quantity and quality from land development activities. An approved stormwater management plan means approved by the Washington County Land Conservation Department, town or other government agency having such authority to grant approval.

(116) (AM 16-4) **"Structural Components."** Any supporting member of a building or structure including but not limited to the foundation, walls, floor systems, ceilings, roofs, decks and appendages.

(117) (AM 16-4) **"Structure."** A principal structure or any accessory structure which is a man-made object with form, shape and utility, either permanently or temporarily attached to, placed upon or set into the ground, stream bed or lake bed, which includes, but is not limited to, such objects as roofed and walled structures, garage, shed, boathouse, sidewalk, walkway, patio, decks, ice fishing shanties, gas or liquid storage tanks, bridges, dams, culverts, retaining wall, porch or fire pit.

(118) (AM 16-4) **"Subdivision."** Has the meaning given in §236.02(12), Wis. Stats.

(119) (AM 16-4) **"Substantial Damage."** Damage of any origin sustained by a structure, whereby the cost of restoring the structure to its pre-damaged condition would equal or exceed 50 percent of the equalized assessed value of the structure before the damage occurred.

(120) (AM 16-4) **"Substantial Improvement."** Any repair, reconstruction, rehabilitation, addition or improvement of a building or structure, the cost of which equals or exceeds 50 percent of the equalized assessed value of the structure before the improvement or repair is started. If the structure has sustained substantial damage, any repairs are considered substantial improvement regardless of the work performed. The term does not, however, include either any project for the improvement of a building required to correct existing health, sanitary or safety code violations identified by the building official and that are the minimum necessary to assure safe living conditions; or any alteration of a historic structure provided that the alteration will not preclude the structure's continued designation as a historic structure.

(121) (AM 16-4) **"Tram/Lift."** A motorized box-like container or carrier that travels on a rail.

(122) (AM 16-4) **"Unnecessary Hardship."** The inability to conform to the provisions of this chapter due to special conditions, which were not self-created affecting a particular property that would unreasonably prevent the owner from using the property for a permitted purpose or would render conformity with such restrictions unnecessarily burdensome.

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(123) (AM 16-4) **"Utilities."** Any public or private water supply, waste collection or disposal system, including, but not limited to, private and public wells and their attendant facilities, private onsite wastewater treatment systems and public sewage collection systems.

(124) (AM 16-4) **"Variance."** An authorization granted by the County Board of Adjustment to construct, alter or use a structure in a manner that deviates from the dimensional standards of this chapter. A variance may not permit the use of a property that would otherwise be prohibited by this chapter or allow construction not protected to the flood protection elevation.

(125) (AM 16-4) **"Violation."** The failure of a structure or other development or land activity to be fully compliant with this chapter. A structure or other development without required permits, lowest floor elevation documentation, floodproofing certificates or required floodway encroachment calculations is presumed to be in violation until such time as that documentation is provided.

(126) (AM 16-4) **"Water Surface Profile."** A graphic representation showing the elevation of the water surface of a watercourse for each position along a reach of river, stream or lake at a certain flood flow. A water surface profile of the regional flood is used in regulating floodplain areas.

(127) (AM 16-4) **"Watershed."** The entire region or area contributing runoff or surface water to a particular watercourse or body of water.

(128) (AM 16-4) **"Well."** Means an excavation opening in the ground made by digging, boring, drilling, driving or other methods, to obtain groundwater regardless of its intended use.

(129) (AM 16-4) **"Wetland Alteration."** Any construction, filling, flooding, draining, dredging, ditching, tiling, excavating, temporary water level stabilization measures or dike and dam construction in a wetland area.

(130) (AM 16-4) **"Wetlands."** Those areas where water is at, near or above the land surface long enough to be capable of supporting aquatic or hydrophytic vegetation and which have soils indicative of wet conditions.

(131) (AM 16-4) **"Zoning Permit."** Shoreland, wetland, or floodplain zoning permits issued by the Washington County Planning and Parks Department.

### SUBCHAPTER II SHORELAND ZONING

#### **23.03(AM 16-4) GENERAL PROVISIONS – SHORELAND ZONING DISTRICT.**

(1) (AM 16-4) **Areas to be Regulated - Shoreland District.** Areas regulated by this chapter shall include all the lands (referred to herein as shorelands) in the unincorporated areas of Washington County which are:

(a) Within 1,000 feet of the Ordinary Highwater Mark (OHWM) of navigable lakes, ponds or flowages or to the landward side of the floodplain, whichever distance is greater. Lakes, ponds or flowages in Washington County shall be presumed to be navigable if they are shown on the approved shoreland zoning maps.

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(b) Within 300 feet of the OHWM of navigable rivers or streams, or to the landward side of the floodplain, whichever distance is greater. Rivers and streams in Washington County shall be presumed to be navigable if they are shown on the approved shoreland zoning maps. When a project is proposed in the shoreland of a river or stream, the administrator shall inspect the project site to determine whether the stream is navigable as defined in sub. 23.02(83) of this chapter or shall contact the regional office of the Department for a determination of navigability. Flood hazard boundary maps, flood insurance rate maps, flood boundary-floodway maps, County soil survey maps or other existing County shoreland, wetland and floodplain zoning maps may be used to assist with the delineation of floodplain areas.

(c) Determinations of navigability and OHWM location shall initially be made by the administrator. When questions arise, the administrator shall contact the appropriate regional office of the Department for a final determination of navigability or OHWM.

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

1. Such lands are not adjacent to a natural navigable stream or river and
2. Those parts of such drainage ditches adjacent to such lands were not navigable streams before ditching; or,
3. Lands adjacent to artificially constructed drainage ditches, ponds or stormwater retention ponds or basins that are not hydrologically connected to a navigable waterbody.

(2) (AM 16-4)(AM 16-38) **Areas to be Regulated - Shoreland Zoning Maps.** Areas regulated by this chapter shall include all the lands in the unincorporated limits of Washington County, Wisconsin that are designated as shorelands as defined in sub. 23.02(108). The maps designated below are hereby adopted and made part of this chapter and are on file in the office of the Planning and Parks Department.

(a) Southeastern Wisconsin Regional Planning Commission (SEWRPC) – Department of Natural Resources (DNR) 2010 Regional Wetland Inventory, Publication Date 2011-2012, and as subsequently amended by field determinations.

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

(3) (AM 16-4) **General Height Regulation.** To protect and preserve wildlife habitat and natural scenic beauty, on or after February 1, 2010, construction of a structure taller than 35 feet placed within 75 feet of the OHWM is prohibited.

**23.04(AM 16-4) LOT DIMENSIONS.** (1) (AM 16-4) **Purpose.** Minimum lot sizes in the shoreland area shall be established to afford protection against dangers to health, safety and welfare, and to protect against pollution of adjacent waterbodies. Lands located under public waters cannot be included when calculating minimum lot dimensions and square footage requirements for compliance with this chapter.

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(2) (AM 16-4) **Minimum Size for Lots to be Created Served by Public Sanitary Sewer.** The minimum lot area shall be 10,000 square feet and the minimum average lot width shall be 65 feet. The width shall be calculated by averaging measurements at the following locations:

- (a) the OHWM
- (b) the building setback line
- (c) the rear lot line

(3) (AM 16-4) **Minimum Size for Lots to be Created not Served by Public Sanitary Sewer.** The minimum lot area shall be 20,000 square feet and the minimum lot width shall be 100 feet with at least 100 feet of frontage at the ordinary high water mark. The width shall be calculated by averaging measurements at the following locations:

- (a) the OHWM
- (b) the building setback line
- (c) the rear lot line

(4) (AM 16-4) **Substandard Lots.** An existing lot or parcel that met minimum area and minimum average width requirements when created, but does not meet the lot size requirements, may be used as a building site upon issuance of a zoning permit by the administrator if it meets all of the following requirements:

- (a) Such use is permitted in the zoning district.
- (b) The lot or parcel has never been reconfigured, combined, or merged with another lot or parcel by plat, survey, or consolidation into one property tax parcel.
- (c) The lot or parcel has never been developed with one or more of its structures placed partly or wholly on the adjacent lot or parcel.
- (d) The lot or parcel complies with all other dimensional requirements of this chapter (including side yard and shoreline setback).

(5) (AM 16-4) **Lots in Cluster Subdivisions.** Lots in cluster subdivisions not served by public sanitary sewers may be reduced to the minimum allowed by the County Sanitary Code pursuant to the procedures set forth in sec. 23.09(2) of this chapter.

(6) **Other Substandard Lots.** Except for lots which meet the requirements of sec. 23.04(4), a lot or parcel with dimensions lesser than those required in sec. 23.04(2) or (3) may be allowed only if a variance is granted by the County Board of Adjustment.

**23.05(AM 16-4) SETBACKS FROM THE WATER.** (1) (AM 16-4) **Lots That Abut on Navigable Waters.** Except as reduced under this section, all temporary and permanent structures shall be set back 75 feet from the OHWM of navigable waters.

(2) (AM 16-4) **Reduced Principal Structure Setbacks (setback averaging).** Where an existing pattern of development in the area of the proposed construction is at a setback less than required, a setback less than the 75' required setback from the OHWM shall be permitted for a proposed principal structure and shall be determined as follows:

(a) 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:

1. Both of the existing principal structures are located on adjacent lot to the proposed principal structure.
2. Both of the existing principal structures are located within 250' of the proposed principal structure and are the closest structure.
3. Both of the existing principal structures are located less than 75' from the OHWM.
4. The average setback shall not be reduced to less than 35' from the OHWM of any navigable water.

(b) Where this is an existing principal structure in only one direction, the setback shall equal the distance the existing principal structure is set back from the OHWM and the required setback of 75' from the OHWM provided all of the following are met:

1. The existing principal structure is located on adjacent lot to the proposed principal structure.
2. The existing principal structure is located within 250' of the proposed principal structure and is the closest structure.
3. The existing principal structure is located less than 75' from the OHWM.
4. The average setback shall not be reduced to less than 35' from the OHWM of any navigable water.

(3) (AM 16-4) **Boathouses.** Boathouses are exempt from the shoreland setback standards in sec. 23.05(1) if all of the following apply:

(a) Boathouses shall contain no plumbing, be used solely for the storage of boats and related equipment, and shall not be designed, constructed or used for human habitation.

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- (b) One boathouse is permitted on a lot as an accessory structure.
- (c) Boathouses shall be entirely above the OHWM.
- (d) Boathouses shall not exceed one story in height above the final grade as measured on the waterbody side as required for floodplain zoning and 450 square feet in floor area. The boathouse must have an appropriate door or doublewide doors facing the waterbody for the purpose of entry and exit for watercraft. French patio or glass doors, fireplaces, plumbing or other features inconsistent with the purpose of the structure are prohibited.
- (e) Boathouses shall be constructed in conformity with this floodplain zoning ordinance.
- (f) No decks are allowed on the roofs of a boathouse, including but not limited to wood decking placed on top of the boathouse roof. Railings on the roof are allowed for safety purposes only if the boathouse roof is situated on a steeply sloping site.
- (g) Boathouses shall be located in the Access and Viewing Corridor.

### (4) (AM 16-4) **Fences.**

- (a) Fences of any type or design shall not be placed waterward of the described lot corners.
- (b) Open fences (fences less than 50 percent solid and less than 4 feet high as measured from final grade) can be located within the setback area.
- (c) Fences greater than 50 percent solid and/or greater than 4 feet high must meet the required setback for the waterbody.

(5) (AM 16-4) **Water Access Structures.** Water access structures are exempt from the shoreland setback standard set forth at sec. 23.05(1). Stairs, ramps, motorized lifts and walkways landward of the OHWM are allowed when necessary to access the shoreline. The following conditions shall apply as conditions of the permit:

- (a) A maximum of 1 set of stairs per property with a maximum width of 60 inches (outside dimensions including railings) is allowed.
- (b) Attached benches, seats, tables, canopies and/or roofs are prohibited for all water access structures.
- (c) Stairways can be elevated or excavated and may include safety railings.
- (d) Landings are allowed but shall not exceed 25 square feet in area and only 1 landing is permitted per each 12 feet of vertical separation.

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(e) Sidewalks and other walkways may be allowed within the corresponding setback for access to structures, but shall not exceed 60 inches (outside dimension) in width.

(f) In addition, to the 1 set of stairs, 1 motorized tram/lift and the associated landings for each property for access purposes may be permitted but each landing shall not exceed 25 square feet. The motorized tram/lift shall not exceed 25 square feet. No canopies are allowed on the tram/lift.

(g) All water access structures must be located within the Access and Viewing Corridor.

### (6) (AM 16-4) **Retaining Walls.**

(a) Retaining walls within the setback to OHWM.

1. New retaining walls are allowed within the corresponding setback from the OHWM with a conditional use permit provided that the walls are necessary to stabilize slopes and no other non-structural method to stabilize the slope is available. Landscape plantings for screening will be required to comply with sec. 23.08 of this chapter. The height of the new wall is limited to 2 to 3 foot increments until the natural slope can be utilized.

2. Replacement of existing retaining walls within the corresponding setback from the OHWM are allowed with an Administrative Permit. A conditional use permit for a replacement retaining wall is required if the replacement is outside the existing footprint or the height of the replacement wall exceeds 3 foot increments until the natural slope can be utilized.

(b) Retaining walls beyond the setback from the OHWM. New or replacement retaining walls located beyond the corresponding setback from the OHWM are allowed with a zoning permit. A conditional use permit for a retaining wall beyond the setback from the OHWM is required if the height of the replacement wall exceeds 3 foot increments until the natural slope can be utilized. Any retaining wall not visible from a waterbody or 300' beyond the OHWM is exempt from height and screening requirements.

(7) (AM 16-4) **Architectural Projections.** Projections including awnings, sills, eaves, gutters, belt courses, and uncovered stairs without foundations may project into the 3 foot side yard setback as long as drainage concerns are addressed to the satisfaction of the Department. Under no circumstances shall any projection be more than 4 feet into the shoreland setback.

(8) (AM 16-4) **Utility Structures.** Utility Structures are permitted within the corresponding setback from the OHWM as a replacement of an existing structure or if determined to be necessary within the setback area by local municipality, County or State after an alternative site analysis has been conducted.

(9) (AM 16-4) **Sideyard Setbacks.** All structures shall be a minimum of 3 feet from a sideyard lot line. Retaining walls and architectural projections may be allowed in the sideyard setback upon approval of plans submitted to the Planning and Parks department illustrating satisfactory drainage patterns.

(10) (AM 16-4)(AM 16-38) **Minor Structures.**

(a) An administrative permit shall be granted for the construction or placement of a minor structure on property in a shoreland setback area if all the following apply:

1. The part of a structure that is nearest to the water is located at least 35 feet landward from the OHWM.

2. The total floor area of all structures, except boathouses and walkways, in the shoreland setback area of the property will not exceed 200 square feet. This includes all existing structures and any portion of the principal structure that is within the shoreland setback area.

3. The structure that is the subject of the request for an administrative permit may have a roof but has no sides or has open or screened sides.

4. Structures shall be constructed using materials that blend with the natural shoreline vegetation in the vicinity of the construction during the peak growing season.

5. The property owner must gain approval from the Planning and Parks Department of a plan as outlined in sub. 23.05(10)(b), that preserves or establishes a vegetative buffer zone that covers at least 70 percent of the half of the shoreland setback area that is nearest to the OHWM.

(b) Vegetative Buffer Plan. Before an administrative permit may be granted to the property owner for a minor structure as provided in sub. 23.05(10)(a), the property owner shall:

1. Submit a plot plan detailing the vegetative buffer to the Planning and Parks Department for approval showing all the following:

a. Current photographs of status of property including all structures within the corresponding setback of the OHWM.

b. Documentation by photograph or list, of existing vegetation inhabiting the shoreland setback area.

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

d. Installation schedule and completion date within 1 year of approval of permit.

e. Erosion control methods/plan for period of installation and stabilization of site.

f. Maintenance plan for the vegetative buffer.



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g. These provisions shall be in addition to the removal of shore cover provisions in sub. 23.06 and vegetative screening provisions in sub. 23.11(8) of this chapter.

2. Post bond, escrow or letter of credit with Planning and Parks Department in accordance with the following terms:

a. The amount of the bond, escrow or letter of credit shall be determined by the Planning and Parks Department and shall be based on the estimated cost of developing and installing an adequate vegetative buffer plus any cost required to maintain the buffer during the installation phase or immediately thereafter to ensure its viability.

b. Every bond, escrow or letter of credit shall be accompanied by a written agreement describing the purpose, amounts, and conditions for release.

c. The Planning and Parks Department shall release the bond, escrow, or letter of credit only after full compliance has been achieved with the following:

1) Inspection and approval of the installation upon completion of the buffer by the Planning and Parks Department to ensure consistency with proposed plans.

2) Submittal of a copy of the recorded affidavit required in sub. 23.05(10)(b)3.

d. The Planning and Parks Department may withhold releasing the bond, escrow or letter of credit until the vegetative buffer is fully established as determined by the Planning and Parks Department.

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

f. The Planning and Parks Department shall withhold from the bond, escrow or letter of credit any costs incurred by the County to complete installation or maintenance of the vegetative buffer through enforcement action described within this chapter.

3. Provide evidence that an affidavit has been recorded at the Washington County Register of Deeds office describing:

a. The property's legal description.

b. The minor structure's size, appearance and location.

c. The vegetative buffer.

d. The requirement that the vegetative buffer must be preserved permanently in order to maintain the minor structure in the corresponding setback area.

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4. Submit Administrative Permit Fee to Planning and Parks Department at the time of the application as authorized by Ch. 21 County Code.

(11) (AM 16-4) In addition to 23.05(3) and (10), all of the following structures are exempt from the shoreland setback standard in sec. 23.05(1):

(a) 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.

(b) Utility transmissions and distribution lines, poles, towers, water towers, pumping stations, well pumphouse covers, private on-site wastewater systems that comply with Ch. SPS Comm 83, and other utility structures that have no feasible alternative location outside of the minimum setback and that employ best management practices to infiltrate or otherwise control stormwater runoff from the structure.

(c) Consistent with §59.692(1k)(a)2m., Wis. Stats., existing exempt structures may be maintained, repaired, replaced, restored, rebuilt or remodeled provided that the activity does not go beyond the three-dimensional building envelope of the existing structure.

(12) (AM 16-4)(AM 16-38) **Structure Setbacks to Wetlands.** All structures shall have a minimum setback of 25 feet from a wetland. This applies to all wetlands shown on the official Washington County Shoreland, Wetland, and Floodplain zoning maps. These setbacks shall not apply to the maintenance of existing private driveways that are within a wetland or within 25 feet of a wetland. See §23.12(3)(c)6. of this chapter.

(13) (AM 16-4) **Floodplain Structures.** Buildings and structures to be constructed or placed in a floodplain shall comply with applicable floodplain zoning ordinances.

**23.06(AM 16-4) REMOVAL OF SHORE COVER.** (1) (AM 16-4)(AM 16-38) **Purpose.** The purpose of tree, shrubbery and ground cover cutting regulations applicable to the shoreland area is to protect scenic beauty, control erosion and reduce effluent and nutrient flow from the shoreland and protect aquatic and shoreline wildlife habitat. The provisions shall not apply to the removal of dead, diseased or dying trees or shrubbery. These provisions shall be in addition to the vegetative buffer provisions required in sub. 23.05(10)(b) and the vegetative screening provisions in sub. 23.11(8) of this chapter.

(2) (AM 16-4)(AM 16-38) **Shoreland Cover Cutting.** (a) Tree, shrubbery and ground cover cutting in an area parallel to the OHWM, extending inland from all points along the OHWM shall be limited to no more than 35% of any 100 feet, as measured along the OHWM may be clear cut to a depth of 35 feet landward of the OHWM. From the inland edge of the 35 foot area to the outer limits of the shoreland, the cutting of trees, shrubbery, and ground cover shall be allowed when accomplished using accepted forest management and soil conservation practices which protect water quality.

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(b) The ground cover must be preserved. The area used for a boathouse is to be included as clear cutting area in applying the limits specified in sub. 23.06(2)(a) and (b). Natural shrubbery and ground cover shall be preserved as far as practicable and where removed, it shall be replaced with other shrubbery or ground cover that is equally or more effective in retarding runoff, preventing erosion and preserving natural beauty.

(3) (AM 16-4) **Paths.** Any path, road or passage within the clear cut area shall be constructed and planned in accordance with the current version of Wisconsin's Forestry Best Management Practices for Water Quality. Paths shall be included in the clear cut area as stated in sub. 23.06(2).

(4) (AM 16-4) **Cutting Plan.** As an alternative to sub. 23.06(2) of this chapter, a special cutting plan allowing greater cutting may be permitted by the Land Use and Planning Committee by issuance of a conditional use permit, pursuant to sub. 23.22(5) of this chapter. An application for such a conditional use permit shall include a plan of the lot and such information as may be required on the application form supplied by the administrator. The plan shall include a complete list of all canopy, shrub layer, and ground cover and show the location of each proposed planting on the site. The Committee may grant such a conditional use permit only if it finds that such special cutting plans:

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

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

### **23.07(AM 16-4) NONCONFORMING USES AND STRUCTURES - SHORELAND.**

(1) (AM 16-4) **General Provisions.** The lawful use of a structure or property which existed at the time this chapter was adopted, or an applicable amendment to this chapter, took effect and which is not in conformity with the provisions of this chapter, including the routine maintenance of such a structure, may be continued, subject to the following conditions:

(a) If a nonconforming use or structure, permanent or temporary, is discontinued for 12 consecutive months, it is no longer allowed and any future use of the property, and any structure thereon, shall be made to conform to the applicable requirements of this chapter. Conformance may include moving the structure.

(b) The maintenance and repair of boathouses that extend waterward beyond the OHWM of any navigable waters shall comply with the requirements of §30.121, Wis. Stats.

(c) Uses or structures which have been deemed nuisances shall not be allowed to continue as nonconforming and shall be removed or discontinued.

(d) Minor structures constructed in compliance with sub. 23.05.(10) of this chapter are deemed legal, conforming structures.

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(e) Design review and impervious areas standards of sec. 23.11 apply to all structures and/or development addressed in this section.

(f) The reconstruction of a legal nonconforming structure, in a Shoreland or Shoreland/Wetland Zoning District only, damaged or destroyed by wind, vandalism, fire, flood, ice, snow, mold or infestation may be allowed by permit as specified in §59.692(1s)(a), Wis. Stats.

(g) Maintenance, repair, replacement, restoration, rebuilding or remodeling may be allowed if the activity does not expand the footprint of the nonconforming structure. An existing structure that was lawfully placed when constructed, but does not comply with the required setback may be vertically expanded unless the vertical expansion would extend more than 35 feet above grade level. Expansion beyond the footprint may be allowed to comply with applicable state or federal requirements.

(h) No modification or addition to any nonconforming structure or any structure with a nonconforming use, which would exceed the impervious area limits and square footage limits for principal structures as listed in sub. 23.11 shall be allowed unless the entire structure is permanently changed to a conforming structure with a conforming use in compliance with the applicable requirements of this chapter and contiguous dry land access is provided in compliance with sub. 23.18(4)(c) or (d).

(2) (AM 16-4) **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 under sections 23.05(1) and 23.05(2) may be expanded horizontally, landward or vertically provided that the expanded area meets the building setback requirements per section 23.05(1) and 23.05(2) and that all other provisions of the shoreland ordinance are met. A mitigation plan is not required solely for expansion under this paragraph, but may be required per section 23.11.

(3) (AM 16-4) **Relocation of Nonconforming Principal Structure.** An existing principal structure that was lawfully placed when constructed but that does not comply with the required building setback per sections 23.05(1) and 23.05(2) may be relocated on the property provided all of the following requirements are met:

(a) The use of the structure has not been discontinued for a period of 12 months or more if a nonconforming use.

(b) The existing principal structure is at least 35 feet from the ordinary high water mark.

(c) No portion of the relocated structure is located any closer to the ordinary high water mark than the closest point of the existing principal structure.

(d) The County determines that no other location is available on the property to build a principal structure of a comparable size to the structure proposed for relocation that will result in compliance with the shoreland setback requirement per section 23.05(1)

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(e) 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 section 23.08 include enforceable obligations of the property owner to establish or maintain measures that the County determines are adequate to offset the impacts of the permitted expansion on water quality, near-shore aquatic habitat, upland wildlife habitat and natural scenic beauty. The obligations of the property owner under the mitigation plan shall be evidenced by an instrument recorded in the office of the County Register of Deeds.

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

(4) (AM 16-4) **Lateral Expansion of Nonconforming Principal Structure within the Setback.** An existing principal structure that was lawfully placed when constructed but that does not comply with the required building setback under sections 23.05(1) and 23.05(2) may be expanded horizontally, landward or vertically provided that the expanded area meets the building setback requirements per section 23.05(1) and 23.05(2), all other provisions of the shoreland ordinance, and the following requirements are met:

(a) The use of the structure has not been discontinued for a period of 12 months or more.

(b) The existing principal structure is at least 35 feet from the OHWM.

(c) The lateral expansion is limited to a maximum of 200 square feet over the life of the structure and no portion is closer to the OHWM than the closest point of the existing principal structure.

**23.08(AM 16-4) VEGETATION AND MITIGATION.** (1) (AM 16-4) **Purpose.** To protect natural scenic beauty, fish and wildlife habitat, and water quality, the planting of vegetation and other natural buffers are encouraged and the removal of shore cover is regulated under Section 23.06.

(2) (AM 16-4) The creation of buffer zones, removal of structures that do not meet setbacks and other measures may be used as negotiated options that are detailed in this section. Whenever mitigation is required by this ordinance, a minimum of three mitigation points must be achieved.

(3) (AM 16-4)(AM 16-38) The following mitigation practices may be used to obtain the necessary mitigation points. Existing buffer zones may be used to meet the mitigation point totals.

(a) Buffer Zone Options.

1. Primary Active Buffer Zone – Shore buffer zone within 35 feet of the OHWM, including trees, shrubbery, ground cover and other natural vegetation, and subject to the conditions in sub. 23.08(3)(b). A shoreline recreational area as defined in sub. 23.02(110) is allowed. Three points.

2. Secondary Active Buffer Zone – An additional 15 feet of buffer zone depth inland from the OHWM beyond the 35 feet of buffer zone already established, providing a total of 50 feet of buffer zone depth, subject to the conditions in sub. 23.08(3)(b). Two points.

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3. **Recreational Area Buffer Zone** – Shore buffer zone within 15 feet of the OHWM, including within the space that may otherwise have been occupied by the recreational area, except that a foot path of no more than 5 feet in width may be maintained, subject to the conditions in sub. 23.08(3)(b). Two points.

4. **Passive Buffer Zone** – Shoreland vegetation buffer area within 35 feet of the OHWM, including unmowed grass or other ground cover vegetation, but without the tree and shrub layers required to meet the 3 point mitigation standard. A shoreline recreational area as defined in sub. 23.02(110) is allowed. Two points.

5. **Sidelot Buffer Zone** – A 10 foot wide side lot buffer zone including trees, shrubbery, ground cover and other natural vegetation extending along a side lot line for a depth of at least 75 feet from the OHWM. One point. The side lot buffer area is subject to the conditions in sub. 23.08(3)(b). Points for side lot line buffers may be additive, for a maximum of 2 points, if buffer areas exist and are maintained along both side lot lines.

### (b) Conditions.

1. No mowing is permitted in the undisturbed buffer zone.

2. The establishment of buffer zones except under sub. 23.08(3)(a)4. are subject to a density of at least one tree per 200 square feet and 2 shrubs per 100 square feet of buffer zone area. Ground cover shall be established to provide an adequate number of ground cover plants to establish complete coverage of exposed soil in one growing season. This density must be maintained through the maturity of the species.

(4) (AM 16-4) **Removal of Structures.** Points may be obtained for the removal of structures as set forth below:

(a) Removal of an existing principal structure or parts of a principal structure located within the required setback from the OHWM to a site that meets the OHWM setback requirements for new development on that waterbody. Three points.

(b) Removal of all existing accessory structures located within 35 feet of the OHWM, with the result that all such structures, including boathouses meet the setback required for the class waterbody. Two points.

(c) Removal of any existing accessory structures located between 35 feet and the required setback from the OHWM, with the result that all such structures, including boathouses, are located to the required setback from the OHWM. One point.

(d) No non-principal, accessory structures are located less than the required setback from the OHWM. This point is not additive to points awarded for removal of structures from sub. 23.08(4)(a) and (b). One point.

(5) (AM 16-4) **Other Practices.**

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(a) At the discretion of the administrator, up to 3 additional mitigation points may be approved for restoration or protection activities that are likely to provide significant benefits to meet the objectives of this ordinance. Examples may include but are not limited to construction of a storm water detention basin or implementation of other storm water management plan activities, replacement of seawalls with bio-engineered structures, or removal of artificial sand beaches in compliance with all applicable statutes and provisions set forth in Wisconsin Administrative Code.

(b) Factors to be considered in making the determination of number of points and approval of alternative mitigation practices include, but are not limited to:

1. Runoff diversion and/or retention.
2. Lot configuration.
3. Parcel size.
4. Location of impervious areas.
5. Sensitivity and level of development of the waterbody.
6. Significance toward meeting ordinance objectives.
7. Type, density and filtering capacity of vegetation/ground cover.
8. Replacement of a private on-site wastewater treatment system with a code compliant system.
9. Removal of existing impervious areas.

### (6) (AM 16-4) **Mitigation Plan.**

(a) A mitigation plan shall be submitted to the administrator for review and approval. The plan shall indicate the selected mitigation strategies and shall be signed and dated by the property owner and filed with the Planning and Parks Department prior to the issuance of the zoning permit.

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

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

(d) Recording. The mitigation plan shall be recorded in the Register of Deeds Office.

(7) (AM 16-4) **Certification of Completion.** Within eighteen (18) months of issuance of the zoning permit, the property owner shall complete the mitigation practices and shall certify in writing to the administrator that the required mitigation has been completed. As part of the certification, the property owner shall submit photos documenting the mitigation measures and the Planning and Parks Department staff may conduct an on-site compliance inspection.

(8) (AM 16-4) **Subsequent Development.** Subsequent zoning permit applications shall require additional mitigation and will be dependent on the scope of the project and proportionate to the proposed activity. These will be minimal, provided the original mitigation measures are maintained.

**23.09(AM 16-4) LAND DIVISION REVIEW AND SANITARY REGULATIONS.** (1) (AM 16-4) **Land Division Review.** County review, pursuant to §236.45, Wis. Stats., of 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 shall include the following factors:

- (a) Hazards to the health, safety or welfare of future residents.
- (b) Proper relationship to adjoining areas.
- (c) Public access to navigable waters as required by law.
- (d) Adequate storm drainage facilities.
- (e) Conformity to State Law and Administrative Code provisions.

(2) (AM 16-4)(AM 16-38) **Conditional Use Permit to Achieve Reduced Lot Sizes and Setbacks.**

(a) Purpose. In some instances where an individual lot or small tract of land has unique characteristics, such as unique terrain, which would result in unnecessary hardship as defined in sub. 23.02(122), if the owner were required to comply with 1 or more of the requirements for minimum lot sizes, width and setback, the County Board of Adjustment may grant a variance that will not be contrary to the public interest. In other instances where larger areas are involved, the appropriate method for seeking a relaxation of the same minimum standards is by a planned unit development or condominium conditional use permit. The conditional use permit is intended to permit smaller lots and setbacks where the physical layout of the lots is so arranged (often by setting them back farther from navigable water) as to better assure the control of pollution and preservation of ground cover than would be expected if the lots were developed with the normal lot sizes and setbacks and without special conditions placed upon the planned unit development or condominium at the time of its approval. A condition of all planned unit development or condominium conditional use permits is the preservation of certain open space, preferably on the shoreland, permanently.

(b) Requirements for Planned Unit Development or Condominium. The Land Use and Planning Committee may at its discretion, upon its own motion or upon petition, approve a planned unit development or condominium either by approving first a conditional use permit and then a plat or by approving only a plat for the specific planned residential project upon finding, after a public hearing, that all of the following facts exist:



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1. Area. The area for the proposed planned unit development or condominium shall comply with the minimum acreage required by the municipality's controlling ordinance, but in no case shall the acreage involved be less than 5 acres.

2. Pollution Control. The location and nature of the private on-site wastewater treatment systems which will serve the homesites individually or collectively will assure that effluent from the private on-site wastewater treatment systems will not reach the ground or surface waters in a condition which would adversely contribute to health hazards, taste, odor, turbidity, fertility or impair the aesthetic character of navigable waters.

3. Preservation of Ground Cover. The location of building sites and the dedication of part of the land for use by the public or residents of the planned unit development or condominium will preserve the ground cover of the shoreland and scenic beauty of the navigable water, prevent erosion and other pertinent factors. Land not used for lots and streets shall be dedicated permanently to remain in open space. This may be accomplished by conveyance in common to each of the owners of lots in the development, a homeowner's association or similar legally constituted body shall be created to maintain the open space land. Any restriction placed on platted land by covenant, grant of easement or any other manner which was required by a public body or which names a public body as grantee, promisee or beneficiary, shall vest in the public body the right to enforce the restriction at law or in equity against anyone who has or acquires an interest in the land subject to the restriction.

4. Density. The number of platted building sites shall not exceed those which would have been possible if the same land were platted in accordance with the minimum lot sizes, setbacks and widths provided by the applicable provisions in this ordinance. This figure shall be determined by dividing the total area of the subdivision, excluding streets, by the minimum lot sizes required by sec. 23.04 of this chapter.

5. Lot Sizes, Widths, Setbacks and Tree-cutting. The lot sizes, widths and setbacks shall not be less than those provided for in sec. 23.04 and 23.05 of this chapter and shall not be so small as to cause pollution or erosion along streets or other public highways and waterways or so small as to substantially depreciate the property values in the immediate neighborhood. Shore cover provisions in sec. 23.06 of this chapter shall apply.

(c) Procedure for Establishing a Planned Unit Development or Condominium Conditional Use Permit. The procedure for obtaining a County conditional use permit for a planned unit development or condominium shall be as follows:

1. Petition. An application setting forth all of the facts required in sub. 23.09(2)(b) of this chapter shall be submitted to the administrator with sufficient copies to provide for distribution as required by sub. 23.09(2)(c)2. of this chapter.

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2. **Review and Hearing.** The application shall be submitted to the Land Use and Planning Committee which shall hold a public hearing. Copies of the notice of the hearing shall also be sent to the appropriate regional office of the Department as described in sub. 23.22(5)(d) of this chapter. The Committee's deliberations shall include the recommendations of any Federal, State or local agency with which the Land Use and Planning Committee consults. If a petition seeks approval of a planned unit development or condominium plat without first seeking the granting of a conditional use permit, a hearing shall be held on such plat. If, however, a hearing is first held on the conditional use permit for a planned unit development or a condominium, a second public hearing need not be held in connection with the approval of a subsequent plat or plats which comply with the conditional use permit as approved.

3. **Findings and Conditions of Approval.** The Committee shall make written findings as to the compliance or noncompliance of the proposed County permit with each of the applicable requirements set forth in sub. 23.09(2)(b) of this chapter. If the petition is granted in whole or part, the Committee shall attach such written conditions to the approval as are required by and consistent with sub. 23.09(2)(b) of this chapter. The conditions of approval shall in all cases establish the specific restrictions applicable with regard to minimum lot sizes, width, setbacks and the location of private on-site wastewater treatment systems and the preservation of ground cover and open space.

4. **Planning Studies.** A landowner or petitioner may at his or her own expense develop the facts required to establish compliance with the provisions of sub. 23.09(2)(b) or may be required to contribute funds to the County to defray all or part of the cost of such studies being undertaken by the County or any agency or person with whom the County contracts for such work.

(3) (AM 16-4) **Sanitary Regulations.** All County sanitary regulations for the protection of health and the preservation and enhancement of water quality shall apply to this chapter.

(a) Where public water supply systems are not available, private well construction shall conform to the Wisconsin Administrative Code.

(b) Where a public sewage collection and treatment system is not available, design and construction of private on-site wastewater treatment systems shall be governed by the County sanitary code.

(4) (AM 16-4)(AM 16-38) **Backlot Development.** No backlot development as defined in sub. 23.02(10) shall be permitted on any lands fronting on a waterbody, except as may be specifically allowed under the terms of a conditional use permit for a planned unit development or condominium.

**23.10(AM 16-4) FILLING, GRADING, LAGOONING, DREDGING, DITCHING, EXCAVATING AND PAVING.** (1) (AM 16-4) **Zoning Permits.** Filling, grading, lagooning, dredging, ditching, excavating or paving in excess of 450 square feet may be authorized by a zoning permit in the shoreland area provided that:

(a) The activity is done in a manner designed to minimize erosion, sedimentation and impairment of fish and wildlife habitat.

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(b) Filling, grading, lagooning, dredging, ditching, excavating and paving in a shoreland-wetland district meets the requirements of sub. 23.12(3)(b) of this chapter.

(c) All applicable Federal, State and local permits are obtained in addition to a County permit under this chapter.

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

### (2) (AM 16-4) **Administrative Permit.**

(a) General. An administrative permit is required for filling, grading, lagooning, dredging, ditching, excavating and paving which is within 300' landward of the OHWM of navigable water and which has surface drainage toward the water on which there is either:

1. Any filling or grading on slopes of more than 20 percent.
2. Filling or grading of more than 1,000 square feet on slopes of 12 percent to 20 percent.
3. Filling or grading of more than 2,000 square feet on slopes less than 12 percent.

(b) County permit conditions as listed in sec. 23.08 and sub. 23.22(5)(b) and (c) shall be attached to Administrative permits where appropriate.

(c) An appeal of an administrative permit decision can be made to the Land Use and Planning Committee. The Land Use and Planning Committee decision can be appealed to the County Board of Adjustment.

(3) (AM 16-4)(AM 16-38) **Conditional Use Permits.** Except as provided in sub. 23.10(1) and (2) of this chapter, a conditional use permit is required for all filling, grading, lagooning, dredging, ditching, excavating and paving of more than 15,000 square feet within 300 feet of the OHWM of a navigable waterbody. A conditional use permit will also be required for all filling, grading, lagooning, dredging, ditching, excavating and paving of more than 10,000 sq. ft. but less than 15,000 square feet within 300' of the OHWM if the slope is greater than 12%. See section 23.22 for other conditional use permit requirements.

### (4) (AM 16-4) **Exemptions from Permits.**

(a) Soil Conservation Practices and Agricultural Drainage Maintenance.

1. Conservation practices used for erosion control or water quality improvement shall not require a County permit under sub. 23.10(1), (2), or (3) of this chapter when designed and constructed to Natural Resource Conservation Service technical standards.

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2. The maintenance of existing agricultural drainage systems shall be permitted in conformity with the following construction standards:

a. The maintenance dredging of farm drainage ditches is limited to reestablishing the original cross section unless a conditional use permit, administrative permit or zoning permit under sub. 23.10(1), (2), or (3) of this chapter is obtained.

b. Ditch banks shall be constructed at a slope of 3 horizontal to 1 vertical or flatter.

c. Ditch banks shall be maintained in a vegetative cover.

(b) A County permit will not be required for filling, grading, lagooning, dredging, ditching, excavating or paving for areas of less than 450 square feet with a depth of filling less than 6 inches and on less than a 12 percent slope in a shoreland or floodfringe district. This does not apply to projects that change or increase the drainage in the project area or adjacent properties.

(c) A County permit will not be required for placing gravel, pavers, bricks, asphalt or concrete over existing gravel roads or driveways if it does not cause a change in grade of more than 6 inches or affect drainage on adjacent properties and does not require a County permit under sub. 23.10(1), (2) and (3) and sec. 23.12.

(d) After receipt of a Department permit or exemption, no County permit is required for the reconstruction or maintenance of existing riprap, provided similar materials are used and no expansion or addition is done to the riprap.

(e) After receipt of a Department permit or exemption, County permits will not be required for dredging, pea gravel, sand blankets, stand pipes and fish cribs below the OHWM.

(f) The replacement or reconstruction of existing Town and County highways and bridges is allowed without a permit provided the Planning and Parks Department is given a complete set of construction/erosion control plans for replacement or reconstruction and approves the plans prior to the start of construction. For maintenance of roads and road ditches, the Wisconsin Best Management Practices shall be followed.

(g) The repair and maintenance of stormwater management facilities is allowed without a permit if completed under the direction of the Washington County Land and Water Conservation Division of the Planning and Parks Department or other government agency. A complete set of plans shall be submitted to the Planning and Parks Department and approved prior to the start of construction.

(5) (AM 16-4) **Permit Conditions.** In granting a conditional use permit under sub. 23.10(3) of this chapter, the Land Use and Planning Committee or staff shall attach the following conditions, where appropriate, in addition to those provisions specified in sub. 23.22(1) and (5). In granting an administrative permit under sub. 23.10(2) of this chapter, the Planning and Parks Department shall attach the following conditions where appropriate in addition to those provisions specified in sub. 23.22(1) and (5):

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

(6) (AM 16-4) **Dams.** All work on existing or proposed dams must be authorized by a Department permit. All work related to the project landward of the OHWM will require County permits as enumerated in this chapter.

**23.11(AM 16-4) DESIGN REVIEW AND IMPERVIOUS SURFACES.** (1) (AM 16-4) **Purpose.** Establish impervious surface standards to protect water quality and fish and wildlife habitat and to protect against pollution of navigable waters. County impervious surface standards shall apply to the construction, reconstruction, expansion, replacement or relocation of any impervious surface on a riparian lot or parcel and any nonriparian lot or parcel that is located entirely within 300 feet of the ordinary high-water mark of any navigable waterway.

(2) (AM 16-4) **Calculation of Percentage of Impervious Surface.** (a) Percentage of impervious surface shall be calculated by dividing the surface area of the existing and proposed impervious surfaces on the portion of a lot or parcel that is within 300 feet of the ordinary high-water mark by the total surface area of that lot or parcel, and multiplied by 100. Impervious surfaces described in 23.11(5) shall be excluded from the calculation of impervious surface on the lot or parcel. If an outlot lies between the ordinary high water mark and the developable lot or parcel and both are in common ownership, the lot or parcel and the outlot shall be considered one lot or parcel for the purposes of calculating the percentage of impervious surface.

(b) For properties that have been “condominiumized” the impervious surface calculations apply to the entire property. The property is still under one legal description and the proposed expansion to a unit is not the only impervious surface calculated since the regulation states lot or parcel and not a unit. It will be important to remember also that mitigation applies to the property as whole and not just to the portion of the frontage that might be in front of the unit impacted.

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(3) (AM 16-4) **General Impervious Surface Standard.** Except as allowed in Sections 23.11(3), (4) and (5), allow up to 15% impervious surface on the portion of a lot or parcel that is within 300 feet of the ordinary high-water mark.

(4) (AM 16-4) **Impervious Surface Standard for Highly Developed Shorelines.** Up to 30% impervious surface area for residential land use and up to 40% impervious surface area for commercial, industrial or business land uses for lands that meets one of the following standards:

(a) The highly developed shoreline is identified as an Urbanized Area or Urban Cluster in the 2010 US Census or has a commercial, industrial, or business land use as of January 31, 2013.

(b) After conducting a hearing and receiving approval by the Department of Natural Resources, the County has mapped additional areas of highly developed shorelines that are at least 500 feet in length and meet the one of the following criteria:

1. The majority of the lots are developed with more than 30% of impervious surface area.

2. Located on a lake served by a sewerage system as defined in NR 110.03(30), Wisconsin Administrative Code.

(5) (AM 16-4) **Maximum Impervious Surface.** A property may exceed the impervious surface standard under 23.11(2) or (3) provided the following standards are met:

(a) For properties where the general impervious surface standard applies under sec. 23.11(3), a property owner may have more than 15% impervious surface but not more than 30% impervious surface on the portion of a lot or parcel that is within 300 feet of the ordinary high-water mark.

(b) For properties on shorelands where the impervious surface standard for highly developed shorelines applies under 23.11(3), a property owner may have more than 30% impervious surface but not more than 40% impervious surface for residential land uses. For commercial, industrial or business land uses a property owner may have more than 40% impervious surface but not more than 60% impervious surface.

(c) For properties that exceed the standard under 23.11(2), (3), (4) or (5), but do not exceed the maximum impervious standard herein, a permit can be issued for development with a mitigation plan that meets the standards found in this chapter.

(6) (AM 16-4) **Treated Impervious Surfaces.** (a) Impervious surfaces that can be documented to show they meet either of the following standards shall be excluded from the impervious surface calculations under section 23.11(2).

1. The impervious surface is treated by devices such as stormwater ponds, constructed wetlands, infiltration basins, rain gardens, bio-swales or other engineered systems; or,

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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.

(b) In order to qualify for exclusion from the calculation, an application demonstrating the following must be submitted, reviewed and approved by the county:

1. Calculations showing the amount of runoff from the impervious surface area; and

2. Documentation demonstrating the impervious surface runoff is being treated by a proposed treatment system, treatment device or internally drained area; and

3. An implementation schedule and an enforceable obligation of the property owner that the treatment method established for the runoff will be maintained as evidenced by an instrument recorded in the Office of the Register of Deeds to permit issuance.

(7) (AM 16-4) **Existing Impervious Surfaces.** For existing impervious surfaces that were lawfully placed when constructed but that do not comply with the impervious surface standard in section 23.11(3) or the maximum impervious surface standard in section 23.11(4), the property owner may do any of the following:

(a) maintain and repair the existing impervious surfaces;

(b) replace existing impervious surfaces with similar surfaces within the existing building envelope;

(c) 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 s. Wis. Admin. Code NR 115.05 (1) (b).

(8) (AM 16-4) When an applicant proposes to construct a new structure or construct an addition to an existing structure and the overall height of the new structure or addition will exceed 20 feet as measured from the lowest portion of the final grade adjacent to the building up to the roof peak as viewed from the waterbody shoreline, the applicant must apply for an administrative permit. The applicant must provide detailed planting plans that will negate on a foot-for-foot basis, any portion of the structure that exceeds 20 feet in overall height. These plantings must meet the standards enumerated in sec. 23.08 and must be the minimum height necessary to provide the desired visual buffer when planted. Any request that does not meet this standard will require a conditional use permit. These provisions shall be in addition to the removal of shore cover provisions in sub 23.06 and the vegetative buffer plan requirements in sub 23.05(10)(b) of this chapter.

**SUBCHAPTER III SHORELAND – WETLAND ZONING**

**23.12(AM 16-4) SHORELAND – WETLAND DISTRICT. (1) (AM 16-4)**

**Designation.** (a) This district shall include all shorelands within the jurisdiction of this chapter which are wetlands as shown on the Wisconsin Department of Natural Resources Wetland Inventory Maps that are adopted and made a part of this chapter.

(b) Locating Shoreland-Wetland Boundaries. Where an apparent discrepancy exists between the shoreland-wetland district boundary shown on the Wisconsin Department of Natural Resources Wetland Inventory Maps and actual field conditions at the time the maps were adopted, the administrator shall contact the appropriate regional office of the Department to determine if the shoreland-wetland district boundary as mapped is in error. If Department staff concur with the administrator that a particular area was incorrectly mapped as a wetland, the administrator shall have the authority to immediately grant or deny a zoning permit in accordance with the regulations applicable to the correct zoning district. The administrator shall initiate a map amendment to correct the discrepancy.

(2) (AM 16-4) **Purpose.** This district is created to maintain safe and healthful conditions, to prevent water pollution, to protect fish spawning grounds and wildlife habitat, to preserve shore cover and natural beauty and to control building and development in wetlands whenever possible. When development is permitted in a wetland, the development should occur in a manner that minimizes adverse impacts upon the wetland.

(3) (AM 16-4)(AM 16-38) **Permitted Uses.** The following uses shall be allowed, subject to general shoreland zoning regulations contained in this chapter, the provisions of Chs. 30 and 31, Wis. Stats., and the provisions of other applicable local, State and Federal laws:

(a) Activities and uses which do not require the issuance of a zoning permit, but which must be carried out without any filling, flooding, draining, dredging, ditching, tiling or excavating except allowed as follows:

1. Hiking, fishing, trapping, hunting, swimming and boating.
2. 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.
3. The pasturing of livestock.
4. The cultivation of agricultural crops.
5. The practice of silviculture, including the planting, thinning and harvesting of timber.
6. The construction or maintenance of duck blinds.
7. The maintenance of fences for the pasturing of livestock.



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8. The maintenance of piers, docks, or walkways built on pilings.

9. The repair and maintenance of stormwater management facilities under the direction of the Land and Water Conservation Division of the Planning and Parks Department or other government agency. A complete set of plans shall be submitted to the Planning and Parks Department and approved prior to the start of construction.

10. The maintenance and repair of existing agricultural drainage systems including ditching, tiling, dredging, excavating and filling necessary to maintain the level of drainage required to continue the existing agricultural use. This includes the minimum filling necessary for disposal of dredged spoils adjacent to the drainage system provided that the dredged spoils are placed on existing spoil banks where possible, provided that the depth of ditch is not increased and 3 to 1 side slopes are maintained and the dredged spoil is stabilized.

(b) Activities and uses which do not require a County permit or County-imposed mitigation, but may require compliance with state or federal wetland regulations.

1. The replacement or reconstruction of existing town and County highways, bridges and culverts, including limited excavating and filling necessary for such maintenance, repair, replacement or reconstruction provided that Land Use and Planning Committee is given a complete set of the construction and/or erosion control plans for new construction or reconstruction and approves the plans prior to the start of construction.

2. For maintenance of roads and road ditches, the Wisconsin Best Management Practices shall be followed.

(c) Activities and uses which require the issuance of a zoning permit under sub. 23.10(1) of this chapter and which may include limited filling, flooding, draining, dredging, ditching, tiling or excavating but only to the extent specifically provided below:

1. Temporary water level stabilization measures necessary to alleviate abnormally wet or dry conditions that would have an adverse impact on silvicultural activities if not corrected.

2. The cultivation of crops as authorized in the Wisconsin Administrative Code, including flooding, dike and dam construction or ditching necessary for the growing and harvesting of cranberries, wild rice or other similar agricultural products.

3. The construction of fences for the pasturing of livestock, including limited excavating and filling necessary for such construction.

4. The construction of piers, docks or walkways built on pilings, including limited excavating and filling necessary for such construction.

5. The construction of electric, gas, telephone, water and sewer transmission and distribution facilities, by public utilities and cooperative associations organized for the purpose of producing or furnishing heat, light, power or water. Construction may be permitted provided that:

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a. The transmission and distribution facilities cannot, as a practical matter, be located outside the wetland.

b. Such construction or maintenance is done in a manner designed to minimize adverse impact upon the natural functions of the wetland enumerated in sub. 23.12(5)(b).

6. The construction and maintenance of private driveways which are necessary to conduct silvicultural activities or agricultural cultivation, and the maintenance only of other existing private driveways, provided that:

a. The private driveway cannot, as a practical matter, be located outside the wetland.

b. The private driveway is designed, constructed and maintained to minimize adverse impact upon the natural functions of the wetland enumerated in sub. 23.12(5)(b) of this chapter.

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

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

7. The construction or maintenance of nonresidential structures, provided that:

a. The structure is essential for and used solely in conjunction with the raising of waterfowl, minnows or other wetland or aquatic animals; or some other use permitted in the shoreland-wetland district.

b. The structure cannot, as a practical matter, be located outside the wetland.

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

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

8. The establishment of public and private parks and recreation areas, natural and outdoor education areas, historic and scientific areas, wildlife refuges, game bird and animal farms, fur animal farms, fish hatcheries, and public boat launching ramps and attendant access roads, provided that:

a. Any private development is used exclusively for the permitted use and the applicant has received a County permit or license under Ch. 29, Wis. Stats., where applicable.

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b. Filling or excavating necessary for the construction or maintenance of public boat launching ramps or attendant access roads is allowed only where such construction or maintenance meets the criteria in sub. 23.12(3)(c)7.a. through d. of this chapter.

c. Ditching, excavating, dredging or dike and dam construction in public and private parks and recreation areas, natural and outdoor education areas, historic and scientific areas, wildlife refuges, game 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.

9. A sand beach with a 100 square foot maximum area.

(4) (AM 16-4) **Prohibited Uses.** Any use not listed in sub. 23.12(3)(a) or (b) of this chapter is prohibited, unless the wetland or portion of the wetland has been rezoned by amendment of this chapter in accordance with sub. 23.12(5) and sec. 23.23 of this chapter and §59.69(5)(e), Wis. Stats.

### (5) (AM 16-4) **Rezoning of Lands in the Shoreland-Wetland District.**

(a) For all proposed text and map amendments to the shoreland-wetland provisions of this chapter, the appropriate regional office of the Department shall be provided with the following:

1. A copy of every petition for a text or map amendment to the shoreland-wetland provisions of this chapter, within 5 days of the filing of such petition with the administrator, which shall include a copy of the Wisconsin Wetland Inventory Map adopted as a part of this ordinance describing the proposed rezoning.

2. Written notice of the public hearing to be held on a proposed amendment at least 10 days prior to such hearing.

3. A copy of the Land Use and Planning Committee findings and recommendations on each proposed amendment within 10 days after the submission of those findings and recommendations to the County Board.

4. Written notice of the County Board's decision on the proposed amendment within 10 days after it is issued.

(b) A wetland, or a portion thereof, in the shoreland-wetland district shall not be rezoned if the proposed rezoning may result in a significant adverse impact upon any of the following:

1. Storm and flood water storage capacity.

2. 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.

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3. Filtering or storage of sediments or other human-influenced pollutants that would otherwise drain into navigable waters.
4. Shoreline protection against soil erosion.
5. Fish spawning, breeding, nursery or feeding grounds.
6. Wildlife habitat.
7. Areas of special recreational, scenic or scientific interest, including scarce wetland types.

(c) If the Department notifies the County zoning agency that a proposed text or map amendment to the shoreland-wetland provisions of this chapter may have a significant adverse impact upon any of the criteria listed in sub. 23.03(5)(b) of this chapter, the amendment shall contain the following provision:

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

(d) A wetland, or a portion thereof, in the shoreland-wetland district shall be eligible for a rezoning and conditional use permit if the proposed project complies with sub. 23.12(3)(c), 23.12(5) (a) – (c) and 23.23.

**23.13(AM 16-4) MITIGATION.** (1) (AM 16-4) This section has been created to offer alternatives if a property owner desires a lesser setback to the OHWM. The creation of buffer zones, removal of structures that do not meet setbacks and other measures may be used as negotiated options that are detailed in this section. Whenever mitigation is required by this ordinance, a minimum of three (3) mitigation points must be achieved.

(2) (AM 16-4) The following mitigation practices may be used to obtain the necessary mitigation points. Existing buffer zones may be used to meet the mitigation point totals.

(a) Buffer Zone Options.

1. Primary Active Buffer Zone – Shore buffer zone within 35 feet of the OHWM, including trees, shrubbery, ground cover and other natural vegetation, and subject to the conditions in sub. 23.08(3)(b). A shoreline recreational area as defined in sub. 23.02(110) is allowed. Three points.

2. Secondary Active Buffer Zone – An additional 15 feet of buffer zone depth inland from the OHWM beyond the 35 feet of buffer zone already established, providing a total of 50 feet of buffer zone depth, subject to the conditions in sub. 23.08(3)(b). Two points.

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3. **Recreational Area Buffer Zone** – Shore buffer zone within 15 feet of the OHWM, including within the space that may otherwise have been occupied by the recreational area, except that a foot path of no more than 5 feet in width may be maintained, subject to the conditions in sub. 23.08(3)(b). Two points.

4. **Passive Buffer Zone** – Shoreland vegetation buffer area within 35 feet of the OHWM, including unmowed grass or other ground cover vegetation, but without the tree and shrub layers required to meet the 3 point mitigation standard. A shoreline recreational area as defined in sub. 23.02(110) is allowed. Two points.

5. **Sidelot Buffer Zone** – A 10 foot wide side lot buffer zone including trees, shrubbery, ground cover and other natural vegetation extending along a side lot line for a depth of at least 75 feet from the OHWM. One point. The side lot buffer area is subject to the conditions in sub. 23.08(3)(b). Points for side lot line buffers may be additive, for a maximum of 2 points, if buffer areas exist and are maintained along both side lot lines.

(b) Conditions.

1. No mowing is permitted in the undisturbed buffer zone.

2. The establishment of buffer zones except under sub. 23.08(3)(a)4. are subject to a density of at least one tree per 200 square feet and 2 shrubs per 100 square feet of buffer zone area. Ground cover shall be established to provide an adequate number of ground cover plants to establish complete coverage of exposed soil in one growing season. This density must be maintained through the maturity of the species.

(3) (AM 16-4) **Removal of Structures.** Points may be obtained for the removal of structures as set forth below:

(a) Removal of an existing principal structure or parts of a principal structure located within the required setback from the OHWM to a site that meets the OHWM setback requirements for new development on that waterbody. Three points.

(b) Removal of all existing accessory structures located within 35 feet of the OHWM, with the result that all such structures, including boathouses meet the setback required for the class waterbody. Two points.

(c) Removal of any existing accessory structures located between 35 feet and the required setback from the OHWM, with the result that all such structures, including boathouses, are located to the required setback from the OHWM. One point.

(d) No non-principal, accessory structures are located less than the required setback from the OHWM. This point is not additive to points awarded for removal of structures from sub. 23.08(4)(a) and (b). One point.

(4) (AM 16-4) **Other Practices.**

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(a) At the discretion of the administrator, up to 3 additional mitigation points may be approved for restoration or protection activities that are likely to provide significant benefits to meet the objectives of this ordinance. Examples may include but are not limited to construction of a storm water detention basin or implementation of other storm water management plan activities, replacement of seawalls with bio-engineered structures, or removal of artificial sand beaches in compliance with all applicable statutes and provisions set forth in Wisconsin Administrative Code.

(b) Factors to be considered in making the determination of number of points and approval of alternative mitigation practices include, but are not limited to:

1. Runoff diversion and/or retention.
2. Lot configuration.
3. Parcel size.
4. Location of impervious areas.
5. Sensitivity and level of development of the waterbody.
6. Significance toward meeting ordinance objectives.
7. Type, density and filtering capacity of vegetation/ground cover.
8. Replacement of a private on-site wastewater treatment system with a code compliant system.
9. Removal of existing impervious areas.

### (5) (AM 16-4) **Mitigation Plan.**

(a) A mitigation plan shall be submitted to the administrator for review and approval. The plan shall indicate the selected mitigation strategies and shall be signed and dated by the property owner and filed with the Planning and Parks Department prior to the issuance of the zoning permit.

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

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

(d) Recording. The mitigation plan shall be recorded in the Register of Deeds Office.

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(6) (AM 16-4) **Certification of Completion.** Within 1 year of issuance of the zoning permit, the property owner shall complete the mitigation practices and shall certify in writing to the administrator that the required mitigation has been completed. As part of the certification, the property owner shall submit photos documenting the mitigation measures and the Planning and Parks Department staff may conduct an on-site compliance inspection.

(7) (AM 16-4) **Subsequent Development.** Subsequent zoning permit applications shall require additional mitigation and will be dependent on the scope of the project. These may be minimal, provided the original mitigation measures are maintained.

**23.14(AM 16-4) NONCONFORMING USES AND STRUCTURES – WETLAND WITHIN A SHORELAND.** The Nonconforming uses and structures regulations set forth in Section 23.07 of Subchapter II apply to development and activities in the Shoreland-Wetland District.

### SUBCHAPTER IV FLOODPLAIN ZONING

**23.15(AM 16-4)(AM 16-38) GENERAL PROVISIONS – FLOODPLAIN ZONING DISTRICT.** (1) (AM 16-4) **Areas to be Regulated - Floodplain District.** Areas regulated by this chapter shall include all lands in the unincorporated limits of Washington County, Wisconsin, that would be covered by the "regional flood" as defined in sub. 23.02(103) and "floodplain islands" as defined in sub. 23.02(45) as shown on the Flood Insurance Rate Map (FIRM) or other maps approved by the Department. Base flood elevations are derived from the flood profiles in the Flood Insurance Study (FIS) and are shown as AE, A1-30, and AH Zones on the FIRM. Other regulatory zones are displayed as A and AO zones. Regional Flood Elevations (RFE) may be derived from other studies. If more than one map or revision is referenced, the most restrictive information shall apply.

(2) (AM 16-4)(AM 16-38) **Floodplain District Boundaries.** The boundary of the floodplain districts are designated as AE, AH, AO or A1-30 and where shown, the floodway and floodfringe districts, shall be those areas designated as 100 year floodplains, floodway or floodfringe.

(3) (AM 16-4)(AM 16-38)(AM 17-42) **Official Floodplain Maps.**

(a) Based on the FIS.

1. Flood Insurance Rate Map (FIRM), panel numbers:

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55131C0042D, 55131C0044D, 55131C0045D, 55131C0061D, 55131C0062D, 55131C0063D, 55131C0064D, 55131C0070D, 55131C0086D, 55131C0087D, 55131C0088D, 55131C0089D, 55131C0091D, 55131C0093D, 55131C0132D, 55131C0135D, 55131C0142D, 55131C0144D, 55131C0145D, 55131C0151D, 55131C0152D, 55131C0153D, 55131C0154D, 55131C0156D, 55131C0157D, 55131C0158D, 55131C0159D, 55131C0161D, 55131C0162D, 55131C0163D, 55131C0164D, 55131C0166D, 55131C0167D, 55131C0168D, 55131C0169D, 55131C0176D, 55131C0177D, 55131C0178D, 55131C0179D, 55131C0181D, 55131C0183D, 55131C0186D, 55131C0187D, 55131C0188D, 55131C0189D, 55131C0191D, 55131C0193D, 55131C0232D, 55131C0245D, 55131C0251D, 55131C0252D, 55131C0253D, 55131C0254D, 55131C0256D, 55131C0257D, 55131C0258D, 55131C0259D, 55131C0264D, 55131C0266D, 55131C0267D, 55131C0268D, 55131C0269D, 55131C0276D, 55131C0277D, 55131C0278D, 55131C0279D, 55131C0281D, 55131C0288D, 55131C0290D, 55131C0357D, 55131C0359D, 55131C0376D, 55131C0377D, 55131C0378D, 55131C0379D

If more than one (1) map is referenced, the most restrictive shall apply. If any of these maps are amended and officially adopted, the amended map shall govern. Any changes to the base flood elevations (BFE) or any changes to boundaries of the floodplain or floodway in the Flood Insurance Study (FIS) or on the Flood Insurance Rate Map (FIRM) must be reviewed and approved by the Department and the Federal Emergency Management Agency (FEMA) through the Letter of Map Change process before it is effective. No changes to the RFE's on non-FEMA maps shall be effective until approved by the Department.

### 2. Flood Insurance Rate Map (FIRM) panel numbers:

55131C0020E, 55131C0040E, 55131C0110E, 55131C0119E, 55131C0120E, 55131C0127E, 55131C0130E, 55131C0136E, 55131C0137E, 55131C0138E, 55131C0139E, 55131C0206E, 55131C0207E, 55131C0208E, 55131C0209E, 55131C0216E, 55131C0217E, 55131C0218E, 55131C0219E, 55131C0226E, 55131C0227E, 55131C0228E, 55131C0229E, 55131C0231E, 55131C0233E, 55131C0234E, 55131C0236E, 55131C0237E, 55131C0238E, 55131C0239E, 55131C0241E, 55131C0242E, 55131C0243E, 55131C0244E, 55131C0261E, 55131C0263E, 55131C0306E, 55131C0307E, 55131C0308E, 55131C0309E, 55131C0326E, 55131C0327E, 55131C0328E, 55131C0329E, 55131C0331E, 55131C0332E, 55131C0333E, 55131C0334E, 55131C0351E, 55131C0352E, 55131C0353E, 55131C0354E, 55131C0356E, 55131C0358E, dated October 16, 2015.

With corresponding profiles that are based on the Flood Insurance Study (FIS) dated October 16, 2015, Volume Numbers 55131CV001B, 55131CV002B and 55131CV003B.

### 3. Flood Storage District Maps Panels 1 – 8 dated April 16, 2015.

4. Hydraulic Analysis of the Ashippun River for Druid Lake Floodway Determination, Town of Erin, Washington County, Wisconsin, dated April 2015, prepared by R.A. Smith National and approved by the Wisconsin Department of Natural Resources on April 17, 2015.



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5. Hydraulic Analysis of Rubicon River for Pike Lake Floodway Determination, Town of Hartford, Washington County, Wisconsin, dated February 2017 prepared by R.A. Smith National and approved by the Wisconsin Department of Natural Resources on March 10, 2017. The Federal Emergency Management Agency approved the Letter of Map Revision dated September 21, 2017.

(b) Based on other studies and map revisions.

1. 100 Year Dam Failure Floodplain Map dated December 15, 2001 for the Ehne Dam in the Town of Farmington, prepared by Stormwater Solutions Engineering and approved by the Department on August 31, 2012.

2. 15-05-0254P dated July 2, 2015

3. 16-05-1498P dated June 2, 2016

(c) Establishment of Floodplain Zoning Districts. The regional floodplain areas within the jurisdiction of this chapter are hereby divided into 4 districts defined as follows:

1. The Floodway District consists of the channel of a river or stream and those portions of the floodplain adjoining the channel that are required to carry and discharge the regional flood waters and are contained within AE Zones as shown on the FIRM.

2. The Floodfringe District consists of that portion of the floodplain between the regional flood limits and the floodway.

3. The General Floodplain District consists of all areas which have been or may be hereafter covered by flood water during the regional flood. It includes both the floodway and floodfringe districts. This district is shown on the map described in sub. 23.15(3) above, as that area contained by the 100 year flood boundary or approximate 100 year flood boundary. This district does not delineate a floodway. Some projects may need a floodway study conducted.

4. The Flood Storage District is that area of the floodplain where storage of floodwaters is calculated to reduce the regional flood discharge.

(d) Locating Floodplain Boundaries. Discrepancies between boundaries on the official floodplain zoning map and actual field conditions shall be resolved using the criteria in sub. 1. or 2. below. If a significant difference exists, the map shall be amended according to sec. 23.23. The administrator can rely on a boundary derived from a profile elevation to grant or deny a land use permit, whether or not a map amendment is required. The administrator shall be responsible for documenting actual pre-development field conditions and the basis upon which the district boundary was determined and for initiating any map amendments required under this section. Disputes between the administrator and an applicant over the district boundary line shall be settled according to sec. 23.22(6)(d) and the criteria in sub. 1. and 2. below. Where the flood profiles are based on established base flood elevations from a FIRM, FEMA must approve any map amendment or revision pursuant to sec. 23.23.

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1. If flood profiles exist, the map scale and the profile elevations shall determine the district boundary. The regional or base flood elevations shall govern if there are any discrepancies.

2. Where flood profiles do not exist for projects, the location of the boundary shall be determined by the map scale.

(e) Removal of Lands from Floodplain. Compliance with the provisions of this chapter shall not be grounds for removing lands from the floodplain district, unless they are removed by filling to a height of at least 2 feet above the regional flood elevation, the fill is contiguous to land lying outside the floodplain district, and the map is amended pursuant to sec. 23.23 of this chapter. To remove the land from flood insurance requirements, the Federal Emergency Management Agency must first revise the flood insurance rate map and any removal from the floodplain requires a Letter of Map Revision-Final (LOMR-F) approved by FEMA.

(4) (AM 16-4) **General Standards Applicable to all Floodplain Districts.** (a) Except as provided herein, no development shall be allowed in the floodplain which, acting in combination with existing or future similar works, will cause any increase in the height of the regional flood or will adversely affect existing drainage courses of facilities. Any increase in the regional flood height may be permitted, but only if amendments are made to this chapter in accordance with sec. 23.23 of this chapter, and only if the total cumulative effect of the proposed development will not increase the height of the regional flood more than one (1) foot for the affected hydraulic reach of the stream, and any increases are only allowed if a Letter of Map Change (LOMC) is approved by FEMA.

(b) The County shall review all permit applications to determine whether proposed building sites will be reasonably safe from flooding. If a proposed building site is in a flood-prone area, all new construction and substantial improvements shall be designed and anchored to prevent flotation, collapse, or lateral movement of the structure resulting from hydrodynamic and hydrostatic loads; be constructed with flood-resistant materials; be constructed to minimize flood damages; and, to ensure that utility and mechanical equipment is designed and/or located so as to prevent water from entering or accumulating within the equipment during conditions of flooding. All subdivision proposals, including manufactured home parks, shall include regional flood elevation and floodway data for any development that meets the subdivision definition of this ordinance and shall satisfy all other requirements in sub. 23.22(3). Adequate drainage shall be provided to reduce exposure to flood hazards and all public utilities and public purpose facilities, such as sewer, gas, electrical, and water systems are located and constructed to minimize or eliminate flood damages.

(c) All existing manufactured homes to be placed on a site located in the regional floodplain (in A zones on flood hazard boundary maps or flood insurance study maps) shall be anchored so they do not float, collapse or move laterally during a flood. Such according to the following specifications:

1. Over-the-top ties shall be provided at each of the 4 corners of the manufactured home, with 2 additional ties per side at intermediate locations and manufactured homes less than 50 feet long shall require 1 additional tie per side.

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2. Frame ties shall be provided at each corner of the manufactured home with 5 additional ties per side at intermediate points and mobile homes less than 50 feet long requiring 4 additional ties per side.
3. All components of the anchoring system shall be capable of carrying a force of 4,800 pounds.
4. Any additions to the manufactured home shall be similarly anchored.
5. The placement of all manufactured homes in addition to the standards listed above, must also meet the residential development standards in the floodfringe as found in sub. 23.18(3).

(d) All hydraulic and hydrologic studies shall be completed under the direct supervision of a professional engineer registered in the State of Wisconsin who shall be responsible for the technical adequacy of the study. All studies shall be reviewed and approved by the Department. Further, the applicant shall provide within such proposals regional flood elevation data, and the means to provide adequate surface drainage and to minimize flood damage. Additional information, such as valley cross-sections or survey data may be required by the Department to determine the effects of the proposal. This information shall be obtained from the applicant or the applicant's agent by the County. The provisions of sub. 23.16(2) shall apply hereto. The applicant shall provide all data and calculations for any development which would require an amendment to the district boundaries or regional flood profiles.

1. Zone A floodplains:
  - a. Hydrology – Appropriate methods shall be based on the standards in Ch. NR 116.07 (3), Wisconsin Administrative Code, Hydrologic Analysis: Determination of Regional Flood Discharge.
  - b. Hydraulic modeling – The regional flood elevation shall be based on the standards in Ch. NR 116.07 (4), Wis. Admin. Code, Hydraulic Analysis: Determination of Regional Flood Elevation and the following:
    - 1) determination of the required limits of the hydraulic model shall be based on detailed study information for downstream structures (dam, bridge, culvert) to determine adequate starting Water Surface Elevation (WSEL) for the study; and,
    - 2) channel sections must be surveyed; and,
    - 3) minimum four foot contour data in the overbanks shall be used for the development of cross section overbank and floodplain mapping; and,
    - 4) a maximum distance of 500 feet between cross sections is allowed in developed areas with additional intermediate cross sections required at transitions in channel bottom slope including a survey of the channel at each location; and,

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5) the most current version of Hydrologic Engineering Center's River Analysis System (HEC-RAS) shall be used; and,

6) a survey of bridge and culvert openings and the top of road is required at each structure; and,

7) additional cross sections are required at the downstream and upstream limits of the proposed development and any necessary intermediate locations based on the length of the reach if greater than 500 feet; and,

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

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

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

1) If the proposed development is located outside of the floodway, then it is determined to have no impact on the regional flood elevation; and,

2) If any part of the proposed development is in the floodway, it must be added to the base model to show the difference between existing and proposed conditions. The study must ensure that all coefficients remain the same as in the existing model, unless adequate justification based on standard accepted engineering practices is provided.

### 2. Zone AE Floodplains

a. Hydrology – If the proposed hydrology will change the existing study, the appropriate method to be used shall be based on ch. NR 116.07 (3), Wis. Admin. Code, Hydrologic Analysis: Determination of Regional Flood Discharge.

b. Hydraulic model – The regional flood elevation shall be based on the standards in ch. NR 116.07(4), Wis. Admin. Code, Hydraulic Analysis: Determination of Regional Flood Elevation and the following:

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1) Duplicate Effective Model – The effective model shall be reproduced to ensure correct transference of the model data and to allow integration of the revised data to provide a continuous FIS model upstream and downstream of the revised reach. If data from the effective model is available, models shall be generated that duplicate the FIS profiles and the elevations shown in the Floodway Data Table in the FIS report to within 0.1 foot; and,

2) Corrected Effective Model – The corrected effective model shall not include any man-made physical changes since the effective model date, but shall import the model into the most current version of HEC-RAS for Department review; and,

3) Existing (Pre-Project Conditions) Model – The existing model shall be required to support conclusions about the actual impacts of the project associated with the Revised (Post-Project) Model or to establish more up-to-date models on which to base the Revised (Post-Project) Model; and,

4) Revised (Post-Project Conditions) Model – The revised (Post-Project Conditions) Model shall incorporate the Existing Model and any proposed changes to the topography caused by the proposed development. This model shall reflect proposed conditions; and,

5) All changes to the Duplicate Effective Model and subsequent models must be supported by certified topographic information, bridge plans, construction plans and survey notes; and,

6) Changes to the hydraulic models shall be limited to the stream reach for which the revision is being requested. Cross sections upstream and downstream of the revised reach shall be identical to those in the effective model and result in water surface elevations and topwidths computed by the revised models matching those in the effective models upstream and downstream of the revised reach as required. The Effective Model shall not be truncated.

c. Mapping – Maps and associated engineering data shall be submitted to the Department for review which meet the following conditions:

1) Consistency between the revised hydraulic models, the revised floodplain and floodway delineations, the revised flood profiles, topographic work map, annotated FIRMs and/or Flood Boundary Floodway Maps (FBFMs), construction plans, bridge plans; and,

2) Certified topographic map of suitable scale, contour interval, and a planimetric map showing the applicable items. If a digital version of the map is available, it may be submitted in order that the FIRM may be more easily revised; and,

3) Annotated FIRM panel showing the revised 1% and 0.2% annual chance floodplains and floodway boundaries; and,

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4) If an annotated FIRM and/or FBFM and digital mapping data Geographic Information Systems (GIS) or Computer Aided Design & Drafting (CADD) are used then all supporting documentation or metadata must be included with the data submission along with the Universal Transverse Mercator (UTM) projection and State Plane Coordinate System in accordance with FEMA mapping specifications; and,

5) The revised floodplain boundaries shall tie into the effective floodplain boundaries; and,

6) All cross sections from the effective model shall be labeled in accordance with the effective map and a cross section lookup table shall be included to relate to the model input numbering scheme; and,

7) Both the current and proposed floodways shall be shown on the map; and,

8) The steam centerline, or profile baseline used to measure stream distances in the model shall be visible on the map.

(e) Prior to any alteration or relocation of a watercourse, and prior to the issuance of any County permit which may be required for the alteration or relocation of a watercourse, the Planning and Parks Department shall notify adjacent municipalities, the appropriate regional office of the Department and the appropriate office of the Federal Emergency Management Agency, and shall require the applicant to secure all necessary State and Federal permits. The standards of sub. 23.15(4) must be met and the flood carrying capacity within the altered or relocated portion of any watercourse shall be maintained. As soon as is practical, but no later than six months after the date of the water course alteration or relocation, and pursuant to sub. 23.23, the community shall apply for a Letter of Map Revision (LOMR) from FEMA. Any such alterations must be reviewed and approved by FEMA and the Department through the Letter of Map Change (LOMC) process.

(f) Development which requires a permit from the Department, pursuant to Wisconsin Statutes, such as docks, piers, wharves, bridges, culverts, dams, fences and navigational aids may be allowed provided the necessary County permits are obtained and necessary amendments to the floodplain zoning ordinance, are made according to sec. 23.23 of this chapter.

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

1. The campground obtains the necessary approvals from the Department of Health and Family Services.

2. The campground obtains a county land use permit.

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3. The character of the river system and the campground elevation are such that a 72-hour warning of an impending flood can be given to all campground occupants.

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

5. Only camping units or mobile recreational vehicles as defined in sec. 23.02(74), that are fully licensed, if required, and ready for highway use as defined in this chapter are allowed.

6. Camping units shall not occupy any site in the campground for more than 180 consecutive days, at which time the camping unit must be removed from the floodplain for a minimum of 24 hours.

7. All camping units remaining on site for more than 30 days shall be issued a limited authorization by the campground operator, a written copy of which is kept on file at the campground. Such authorization shall allow placement of a camping unit shall be for a period not to exceed 180 days and shall ensure compliance with all the provisions of this section.

8. The County shall monitor the limited authorizations issued by the campground operator to assure compliance with the terms of this section.

9. All camping units that remain in place for more than 180 consecutive days must meet the applicable requirements in either sec. 23.16, or sec. 23.17, or sec. 23.18, or sec. 23.19 for the floodplain district in which the structure is located.

10. The campground shall have signs clearly posted at all entrances warning of the flood hazard and the procedures for evacuation when a flood warning is issued.

11. All service facilities, including but not limited to refuse collection, electrical service, natural gas lines, propane tanks, sewage systems and wells shall be properly anchored and placed at or floodproofed to the flood protection elevation.

**23.16(AM 16-4) GENERAL FLOODPLAIN DISTRICT.** (1) (AM 16-4)(AM 16-38) **Applicability.** The provisions of this district shall apply to all floodplains in the County mapped as A, AO or AH zones. Subsection 23.16(2) of this chapter outlines the procedures to determine floodway and floodfringe limits.

(2) (AM 16-4) **Procedures for Determining Floodway and Floodfringe Limits.**

(a) **Applicability.** When any development is proposed within the general floodplain district, a determination may be made by conditional use permit to establish the boundaries of the floodway, to allow the administrator to determine whether floodway or floodfringe uses apply, and, where required, to determine the regional flood elevation.

(b) Upon receiving an application for development within the general floodplain district, the administrator shall:

1. Require the applicant to submit, at the time of application for the conditional use permit, 2 copies of an aerial photograph, or a plan which accurately locates the proposed development with respect to the general floodplain district limits, channel of stream, existing floodplain developments, together with all pertinent information such as the nature of the proposal, legal description of the property, fill limits and elevations, structure floor elevations, floodproofing and the flood zone as shown on the FIRM.

2. Require the applicant to furnish any of the following additional information as is deemed necessary by the department for evaluation of the effects of the proposal upon flood flows, to determine the boundaries of the floodway and, where applicable, the regional flood elevation:

a. A Hydrologic and Hydraulic Study as specified in sub. 23.22(3)(b)7.

b. Plan (surface view) showing elevations or contours of the ground, pertinent structure, fill or storage elevations, size, location and spatial arrangement of all proposed and existing structures on the site, location and elevations of streets, water supply, and sanitary facilities, soil types and other pertinent information.

c. Specifications for structure construction and materials, floodproofing, filling, dredging, channel improvement, storage of materials, water supply and sanitary facilities.

(3) (AM 16-4) **Permitted Uses.** The following open space uses are allowed within the general floodplain district provided that they are not prohibited by any other ordinance, that the standards contained in sub. 23.17(3) are met and that all County permits or certificates required under sub. 23.22(3), (4) and (5) have been issued.

(a) Agricultural uses, such as general farming, pasturing, outdoor plant nurseries, horticulture, viticulture, truck farming, forestry, sod farming and wild crop harvesting.

(b) Nonstructural industrial and commercial uses, such as loading areas, parking areas and airport landing strips.



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(c) Private and public recreational uses, such as golf courses, tennis courts, driving ranges, archery ranges, picnic grounds, boat launching ramps, swimming areas, parks, wildlife and nature preserves, game farms, fish hatcheries, shooting preserves, target ranges, trap and skeet ranges, hunting and fishing areas, and hiking and horseback riding trails.

(d) Uses or structures accessory to open space uses or essential for historical areas, providing they are not in conflict with the provisions in sub. 23.17(3).

(e) Extraction of sand, gravel or other materials.

(f) Docks, piers or wharves, including docks, piers or wharves used as part of a marina and other water related uses, such as dams, flowage areas, culverts and river crossings of transmission lines and pipelines.

(g) Public utilities, streets and bridges.

(h) All uses not listed as permitted uses in sub. 23.17(2) are prohibited within the general floodplain district.

(4) (AM 16-4) **Standards for Developments in General Floodplain Areas.** Any development in general floodplain areas shall:

(a) Meet all of the provisions of sub. 23.15(4); and

(b) Not obstruct flood flows; and

(c) Have a low flood damage potential; and

(d) In AO/AH Zones, the applicant must provide plans showing adequate drainage paths to guide floodwaters around structures and the structure's lowest floor must meet one of the conditions listed below, whichever is higher:

1. At or above the flood protection elevation; or

2. Two (2) feet above the highest adjacent grade around the structure; or

3. The depth as shown on the FIRM.

(e) In AO/AH zones, provide plans showing adequate drainage paths to guide floodwaters around structures.

(5) (AM 16-4) **Structures.** Only structures which are accessory to permitted open space uses, or are essential for historical areas, may be allowed by County permit, providing the structures meet all of the following criteria:

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(a) The structures are not designed or used for human habitation.

(b) The structures are constructed and placed on the structure site so as to offer minimum obstruction to the flow of flood waters. Whenever possible structures shall be constructed with the longitudinal axis parallel to the direction of flow of flood waters and shall be placed with their longitudinal axis approximately on the same line as those adjoining structures.

(c) The structures are firmly anchored to prevent them from floating away and restricting bridge openings or other restricted sections of the stream or river.

(d) The structures have all service facilities, such as electrical and heating equipment, at or above the flood protection elevation for the particular area.

(6) (AM 16-4) Public utilities, streets and bridges may be allowed by County permit, provided that:

(a) Adequate floodproofing measures are provided as described in sub. 23.16(13) to the flood protection elevation.

(b) Construction does not cause any increase in the height of the regional flood, except that reasonable increases up to 1 foot may be approved if the amendment procedures and all conditions of sub. 23.16(5) are met and meet LOMC requirements.

(7) (AM 16-4) The storage of any materials that are buoyant, flammable, explosive or injurious to human, animal, plant, fish or other aquatic life is prohibited.

(8) (AM 16-4) Any uses which are not in harmony with, or which may be detrimental to, the uses permitted in the adjoining districts are prohibited.

(9) (AM 16-4) All private or public on-site wastewater treatment systems are allowed if the applicable requirements of Wisconsin Administrative Code are met, with the exception of portable latrines that are removed during flooding, and systems associated with public recreational areas and Department approved campgrounds, that meet the applicable provisions of Wisconsin Administrative Code, which may be permitted in general floodplain areas.

(10) (AM 16-4) All wells for new construction, whether public or private, which are used to obtain water for ultimate human consumption are prohibited. If the area is floodfringe, then the floodfringe standards apply.

(11) (AM 16-4) All solid waste disposal sites, whether public or private, are prohibited.

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(12) (AM 16-4) **Compensating Capacity.** Applicant may remove land from the general floodplain by conditional use permit where applicant agrees to compensate the general floodplain removal on a volume for volume basis by creating new general floodplain on applicant's property or an adjacent property. Calculations for this compensation must be prepared by a Wisconsin licensed professional engineer and must be checked and reported on by a field licensed professional engineer or land surveyor before the required certificate of compliance will be issued. The applicant must also apply for a floodplain map amendment as per sec. 23.23 of this chapter.

(13) (AM 16-4) **Floodproofing.** (a) No permit or variance shall be issued for a structure designed to be watertight below the regional flood elevation until the applicant submits a plan certified by a registered professional engineer or architect that the floodproofing measures will protect the structure or development to the flood protection elevation and submits a FEMA Floodproofing Certificate. Where floodproofing, as defined in sub. 23.02(47) are required by conditional use permit, the floodproofing shall be designed to withstand the flood pressures, depths, velocities, uplift and impact forces, and other factors associated with the regional flood, to assure protection to the flood protection elevation. In addition, all floodproofing measures shall provide anchorage of structures to foundations to resist flotation and lateral movement, and minimize or eliminate discharges into flood waters.

(b) For a structure designed to allow the entry of floodwaters, no permit or variance shall be issued until the applicant submits a plan;

1. Certified by a registered professional engineer or architect; or
2. Meets or exceeds the following standards;
  - a. A minimum of two openings having a total net area of not less than one square inch for every square foot of enclosed area subject to flooding; and
  - b. The bottom of all openings shall be no higher than one foot above grade; and
  - c. Openings may be equipped with screens, louvers, valves, or other coverings or devices provided that the openings permit the automatic entry and exit of floodwaters.

**23.17(AM 16-4) FLOODWAY DISTRICT.** (1) (AM 16-4) **Applicability.** The provisions of this section apply to all areas mapped as floodway district as defined in sub. 23.02(44) and shown on the official floodplain zoning maps, and to those portions of the general floodplain district determined to be floodway pursuant to the procedures contained in sub. 23.16(2).

(2) (AM 16-4)(AM 16-38) **Permitted Uses.** The following open space uses are allowed within the Floodway District, and in the floodway portion of the General Floodplain District, provided that they are not prohibited by any other chapter, that the standards contained in sub. (3) are met, and that all County permits or certificates required under sub. 23.22(3), (4) and (5) have been issued:

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- (a) Agricultural uses, such as general farming, pasturing, outdoor plant nurseries, horticulture, viticulture, truck farming, forestry, sod farming and wild crop harvesting.
- (b) Nonstructural industrial and commercial uses, such as loading areas, parking areas and airport landing strips.
- (c) Private and public non-structural recreational uses, such as golf courses, tennis courts, driving ranges, archery ranges, picnic grounds, boat launching ramps, swimming areas, parks, wildlife and nature preserves, game farms, fish hatcheries, shooting preserves, target ranges, trap and skeet ranges, hunting and fishing areas and hiking and horseback riding trails.
- (d) Uses or structures accessory to open space uses, or essential for historical areas, providing they are not in conflict with the provisions in sub. (3).
- (e) Extraction of sand, gravel or other materials that comply with sub. 23.17(5)(c).
- (f) Functionally water-dependent uses, such as docks, piers or wharves, including docks, piers or wharves used as part of a marina, and other water related uses, such as dams, flowage areas, culverts and river crossings of transmission lines, pipelines and navigational aids that comply with chs. 30, 31, Stats.
- (g) Public utilities, streets and bridges.
- (h) All uses not listed as permitted uses in sub. (2) are prohibited within the floodway district.

(3) (AM 16-4) **Standards for Developments in the Floodway.** Any development in the floodway shall:

- (a) Meet all of the provisions of sub. 23.15(4).
- (b) Not obstruct flood flows.
- (c) Have a low flood damage potential.
- (d) Applicants shall provide the following data to determine the effects of the proposal according to sub. 23.15(4)(a).
  1. A cross-section elevation view of the proposal, perpendicular to the watercourse, showing any obstruction of flow related to the proposed development; or
  2. An analysis calculating the effects of this proposal on regional flood elevation.
- (e) Permit shall be denied if project causes an increase in flood elevations upstream or downstream, based on the data submitted for (d) above.

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(4) (AM 16-4) **Structures.** Only structures which are accessory to permitted open space uses, or are essential for historical areas, may be allowed by County permit, providing the structures meet all of the following criteria:

(a) The structures are not designed or used for human habitation and are not associated with high flood damage potential and are constructed to minimize flood damage.

(b) The structures are constructed and placed on the site so as to offer minimum obstruction to the flow of floodwaters. Whenever possible, structures shall be constructed with the longitudinal axis parallel to the direction of flow of flood waters, and shall be placed with their longitudinal axis approximately on the same line as those adjoining structures. Structures shall have a minimum of two openings on different walls having a total net area not less than one square inch for every square foot of enclosed area, and the bottom of all such openings being no higher than one foot above grade. The openings shall be equipped with screens, louvers, or other coverings or devices provided that they permit the automatic entry and exit of floodwaters. The parts of the foundation located below the flood protection elevation must be constructed of flood-resistant materials.

(c) The structures must be firmly anchored to prevent them from floating away and restricting bridge openings or other restricted sections of the stream or river.

(d) The structures shall have all service facilities such as electrical and heating equipment at or above the flood protection elevation for the particular area.

(e) The structure must not obstruct flow or flood waters or cause any increase in flood levels during the occurrence of the regional flood.

(f) Boathouses may be reconstructed if the footprint is not increased. The boathouse shall be located to the outer boundary of the floodway as far as possible. No storage of hazardous materials are allowed even if placed above the regional flood elevation. Boathouses shall comply with all other conditions of sub. (3)(a) – (e).

(5) (AM 16-4) Public utilities, streets and bridges may be allowed by County permit, provided that:

(a) Adequate floodproofing measures as described in sub. 23.16(13) are provided to the flood protection elevation as defined in 23.02(41).

(b) Construction does not cause an increase in the height of the regional flood, except that reasonable increases up to 1 foot may be approved if the amendment procedures and all conditions of sub. 23.16(5) are met, and meet LOMC requirements.

(c) Mining, dredging, filling, grading, paving, excavation, drilling operations, provided that:

1. The requirements of sub. 23.15(4) are met.

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2. The fill or deposition of materials is not deposited in navigable waters unless a permit has been granted by the Department pursuant to Wisconsin Statutes and the U.S. Army Corps of Engineers has been notified of the project application pursuant to Federal Water Pollution Control Act Section 404, as amended, and the other requirements of this section have been met.

3. The fill or other materials will be protected against erosion by riprap, vegetative cover, sheet piling or bulkheading sufficient to prevent erosion. Erosion control measures must be in place prior to the commencement of construction and shall remain in place for the duration of the project and until sufficient vegetation is established as determined by the County.

4. And such fills are not associated with private or public solid waste disposal.

(6) (AM 16-4) The storage of any materials that are buoyant, flammable, explosive or injurious to human, animal, plant, fish or other aquatic life are prohibited.

(7) (AM 16-4) Any uses which are not in harmony with, or which may be detrimental to, the uses permitted in the adjoining districts are prohibited.

(8) (AM 16-4)(AM 16-38) All new private or public on-site wastewater treatment systems are prohibited, with the exception of portable latrines that are removed during flooding, and systems associated with public recreational areas and Department approved campgrounds, that meet the applicable provisions of Chapter SPS 383 Wisconsin Administrative Code, which may be permitted in floodway areas.

(9) (AM 16-4) All wells for new construction, whether public or private, which are used to obtain water for ultimate human consumption are prohibited, except those for recreational areas that meet the requirements of local ordinances and Chapters NR 811 and NR 812, Wisconsin Administrative Code.

(10) (AM 16-4) All solid waste disposal sites, whether public or private are prohibited.

(11) (AM 16-4) Any wastewater treatment ponds or facilities, except those permitted under S.NR110.15(3)(b). Wisconsin Administrative Code are prohibited.

(12) (AM 16-4) Habitable structures, structures with high flood damage potential, or not associated with permanent open-space uses are prohibited.

(13) (AM 16-4) Any sanitary sewer or water supply lines, except those to service existing or proposed development located outside the floodway are prohibited.

**23.18(AM 16-4) FLOODFRINGE DISTRICT.** (1) (AM 16-4) **Applicability.** The provisions of this section apply to all areas within the floodfringe as defined in sub. 23.02(43) and shown on the official floodplain zoning maps.

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(2) (AM 16-4) **Permitted Uses.** Any structures, land use or development, including accessory structures and uses, are allowed within the Floodfringe District and floodfringe portions of the general floodplain district, provided that the standards contained in sub. (3) are met, that the use is not prohibited by this or any other chapter or any other local, State or Federal regulation and that all County permits or certificates required under sub. 23.22(3), (4) and (5) have been issued by the administrator.

(3) (AM 16-4) **Standards for Development in Floodfringe Areas.** Mobile Homes and Manufactured Homes.

(a) Owners or operators of all mobile/manufactured home parks and subdivisions shall provide adequate surface drainage to minimize flood damage and prepare and file an evacuation plan, indicating vehicular access and escape routes with local emergency management authorities and secure approval of said plan.

(b) In existing mobile home parks, all new homes, replacement homes on existing pads, and substantially improved homes and recreational vehicles that remain on-site more than 180 days, or are unlicensed or not ready for highway use and which are placed or improved on a site located in the floodplain shall:

1. Have the lowest floor elevated to the flood protection elevation; and
2. Be anchored so they do not float, collapse or move laterally during a flood.

(c) Outside of existing manufactured home parks, including new manufactured home parks and all single units outside of existing parks, all new, replacement and substantially improved manufactured homes and mobile recreational vehicles that remain on-site more than 180 consecutive days or more, which are unlicensed or are not ready for highway use shall meet the residential development standards for the floodfringe in sub. 23.18(4) and sub. 23.18(5). A mobile recreational vehicle is ready for highway use if it is on its wheels or jacking system, is attached to the site only by quick-disconnect utilities and security devices and has no permanently attached additions.

(d) Any existing structure in the floodfringe must meet the requirements of sub. 23.20 for nonconforming uses.

(4) (AM 16-4) **Residential Uses.** Any newly constructed structure or a structure moved into the floodfringe shall meet or exceed the following standards:

(a) The lowest floor including the basement, except where sub. (b) is applicable, shall be placed on fill at or above the flood protection elevation (which is a point 2.0 feet above the regional flood elevation) unless requirements of sub. 23.18(4)(b) can be met. The fill elevation shall be 1 foot or more above the regional flood elevation and shall extend at such elevation at least 15 feet beyond the limits of any such structure erected thereon.

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(b) The basement or crawlway floor may be placed at the regional flood elevation providing it is dry floodproofed as described in sub. 23.16(13) to the flood protection elevation. No County permit or variance shall allow any basement or crawlway below the regional flood elevation.

(c) Except as provided in sub. (d), contiguous dry-land access shall be provided from a habitable structure to land which is outside of the floodplain, so that any such structure shall be accessible by rescue and relief vehicles, (police, fire and emergency services) during periods of regional flooding.

(d) In developments where existing street or sewer line elevations make compliance with par. (c) impractical, the municipality may permit new structure and substantial improvements where roads are below the regional flood elevation, if:

1. The municipality and the County have written assurance from police, fire and emergency services that rescue and relief will be provided to the structure(s) by wheeled vehicles, considering the anticipated depth, duration and velocity of the regional flood event, or:

2. The municipality has a Department approved emergency evacuation plan.

(e) Any existing structure in the floodfringe must meet the requirements of sub. 23.13.

(5) (AM 16-4) **Accessory Structures or Uses.** An accessory structure must be constructed on fill with the lowest floor at or above required flood elevation. An accessory structure or use shall meet all the applicable provisions of sub. 23.17(3) and (4). A lesser degree of protection, compatible with these criteria and the criteria in sub. (6) may be permissible for an accessory structure or use providing that the site on which the structure is placed shall not be:

(a) subjected to flooding at a level below the regional flood elevation upon the occurrence of the regional flood, or

(b) subjected to velocities greater than 2 feet per second upon the occurrence of the regional flood.

(c) It shall be the responsibility of the applicant to have calculations prepared by a Wisconsin licensed engineer or surveyor to show that compliance with the aforementioned standard will be met.

(6) (AM 16-4)(AM 16-38) **Commercial Uses.** In commercial areas, any structure which is to be erected, constructed, reconstructed, altered or moved into the floodfringe shall meet the requirements of sub. 23.18(4). Storage yards, parking lots and other accessory land uses may be at lower elevations, subject to the requirements of sub. (8) and if an adequate warning system exists to protect life and property. However, no such area in general use by the public shall be inundated to a depth greater than 2 feet upon the occurrence of the regional flood.



(7) (AM 16-4) **Manufacturing, Agricultural and Industrial Structures or Uses.** Any manufacturing, agricultural or industrial structure which is to be erected, constructed, reconstructed, altered or moved into the floodfringe shall have the lowest floor elevated to or above the flood protection elevation or have adequate floodproofing measures in accordance with sub. 23.16(13). On streams or rivers having prolonged flood durations, greater protection may be required to minimize interference with normal plant operations. A lesser degree of protection, compatible with the criteria in sub. (6) and (8) may be permissible for storage yards, parking lots and other similar uses if an adequate warning system exists to protect life and property. Agricultural animal waste control practices built according to the technical standards adopted by the Washington County Land Conservation Committee which include operation and management practices shall be allowed.

(8) (AM 16-4) **Storage or Processing of Materials.** The storage or processing of materials that are buoyant, flammable, explosive or which in times of flooding, could be injurious to human, animal or plant life, shall be at or above the flood protection elevation for the particular area or flood proofed in compliance with sub. 23.16(13). Adequate measures shall be taken to assure that said materials will not enter the river or stream during flooding.

(9) (AM 16-4) **Public Utilities, Streets and Bridges.**

(a) When failure or interruption of public utilities, streets and bridges would result in danger to the public health or safety or where such facilities are essential to the orderly functioning of the area, construction of and substantial improvements to such facilities may only be permitted if they are designed to comply with sub. 23.16(13). Minor or auxiliary roads or nonessential utilities may be constructed at lower elevations providing they withstand flood forces to the regional flood elevation.

(b) Public utilities, streets and bridges in floodfringe areas should be designed to be compatible with the local comprehensive floodplain development plans.

(10) (AM 16-4)(AM 16-38) **Sewage Systems.** All private on-site wastewater treatment systems shall be designed to minimize or eliminate infiltration of flood waters into the system pursuant to sub. 23.16(13) to the flood protection elevation and shall meet the applicable provisions of all local ordinances and Chapter SPS 383 Wisconsin Administrative Code.

(11) (AM 16-4)(AM 16-38) **Wells.** All wells, whether public or private, shall be designed to minimize or eliminate infiltration of flood waters into the system to the flood protection elevation, pursuant to sub. 23.16(13) and shall meet the applicable provisions of Chapters Nr 811 and NR 812 Wisconsin Administrative Code as administered by the Department or other authorized agency.

(12) (AM 16-4) **Solid Waste Disposal Sites.** All solid waste disposal sites, whether public or private, are prohibited in floodfringe areas.

(13) (AM 16-4) **Compensating Capacity.** Applicant may remove land from floodfringe by conditional use permit where applicant agrees to compensate the floodfringe removal on a volume for volume basis by creating new floodfringe on applicant's property or on an adjacent property. Calculations for this compensation must be prepared by a Wisconsin licensed professional engineer and must be field checked and reported on by a licensed professional engineer or land surveyor before the required certificate of compliance will be issued. The floodplain maps must be amended as per sec. 23.23.

**23.19(AM 16-4) FLOOD STORAGE DISTRICT.** (1) (AM 16-4) **Applicability.** The provisions of this section apply to all areas within the Flood Storage District as defined in sub. 23.02(42) and shown on the official floodplain zoning maps.

(2) (AM 16-4) **Purpose.** The Flood Storage District protects flood storage areas and requires that any development in the storage area will not decrease the effective flood storage capacity which would cause higher flood elevation.

(3) (AM 16-4) **Permitted Uses.** Permitted uses or developments in the Floodfringe District are permitted in the Flood Storage District provided, however, that the standards of sub. 23.19(4) are also met.

(4) (AM 16-4) **Standards for Development in Flood Storage Districts.**

(a) Development in a Flood Storage District shall not cause an increase equal or greater than 0.00 of a foot in the height of the regional flood.

(b) No use or development shall be allowed which decreases or eliminates flood storage volume unless an equal volume of storage is provided in the immediate area of the proposed use or development to compensate for the volume lost. Excavation below the groundwater table shall not be allowed to provide replacement storage required herein.

(c) If compensatory storage cannot be provided, the area may not be used or developed unless the entire area is rezoned to a floodfringe district, including revisions to the floodplain study and a map amendment.

(d) No use or development shall occur in the Flood Storage District unless the area has been filled to the flood protection elevation and is contiguous to lands lying outside of the floodplain.

**23.20(AM 16-4) NONCONFORMING USES AND STRUCTURES – FLOODPLAIN.** (1) (AM 16-4)(AM 16-38) **General Provisions.** The lawful use of a structure or property which existed at the time this chapter was adopted, or an applicable amendment to this chapter, took effect and which is not in conformity with the provisions of this chapter, including the routine maintenance of such a structure, may be continued, subject to the following conditions:

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(a) No modifications or additions to a nonconforming use or structure shall be permitted unless it is brought into compliance with this ordinance. "Modifications" or "additions" include but are not limited to any alteration, addition, modification, structural repair, rebuilding or replacement of any such existing use, structure or ancillary structure or use. Maintenance is not considered a modification; this includes painting, decorating, paneling and other nonstructural components and the maintenance, repair or replacement of existing private sewage or water supply systems or connections to public utilities. Any costs associated with the repair of damaged structures are not considered maintenance.

(b) If a nonconforming use or structure, permanent or temporary, is discontinued for 12 consecutive months, it is no longer permitted and any future use of the property, and any structure thereon, shall be made to conform to the applicable requirements of this chapter. Conformance may include moving the structure.

(c) The maintenance and repair of boathouses that extend waterward beyond the OHWM of any navigable waters shall comply with the requirements of §30.121, Wis. Stats., and the provisions of this chapter.

(d) The construction of a deck that does not exceed 200 square feet and that is adjacent to the exterior wall of a principal structure is not an extension, modification or addition. The roof of a structure may extend over a portion of the deck in order to provide safe ingress or egress to the principal structure.

(e) As requests are received for modifications or additions to nonconforming uses or nonconforming structures, a record shall be kept which lists the nonconforming uses and nonconforming structures, the present equalized assessed value, the cost of those additions or modifications which have been permitted and the percentage of the structure's total current value represented by modifications.

(f) Design review and impervious areas standards of sec. 23.11 apply to all structures and/or development addressed in this section.

(g) No modification or addition to any nonconforming structure or any structure with a nonconforming use, which over the life of the structure would equal or exceed 50% of its present equalized assessed value, shall be allowed unless the entire structure is permanently changed to a conforming structure with a conforming use in compliance with the applicable requirements of this ordinance. Contiguous dry land access must be provided for residential and commercial uses in compliance with sec. 23.18(4). The costs of elevating the lowest floor of a nonconforming building or a building with a nonconforming use to the flood protection elevation are excluded from the 50% provisions of this paragraph.

(h) No maintenance to any nonconforming structure or any structure with a nonconforming use, the cost of which would equal or exceed 50% of its present equalized assessed value, shall be allowed unless the entire structure is permanently changed to a conforming structure with a conforming use in compliance with the applicable requirements of this ordinance. Contiguous dry land access must be provided for residential and commercial uses in compliance with sec. 23.18(4).

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(i) If on a per event basis the total value of the work being done under (f) and (g) equals or exceeds 50% of the present equalized assessed value the work shall not be permitted unless the entire structure is permanently changed to a conforming structure with a conforming use in compliance with the applicable requirements of this ordinance. Contiguous dry land access must be provided for residential and commercial uses in compliance with sec. 23.18(4).

(j) Except as provided in sub. (j), if any nonconforming structure or any structure with a nonconforming use is destroyed or is substantially damaged, it cannot be replaced, reconstructed or rebuilt unless the use and the structure meet the current ordinance requirements. A structure is considered substantially damaged if the total cost to restore the structure to its pre-damaged condition equals or exceeds 50% of the structure's present equalized assessed value.

(k) For nonconforming building that are substantially damaged or destroyed by a nonflood disaster, the repair or reconstruction of any such nonconforming building shall be permitted in order to restore it to the size and use in effect prior to the damage event, provided that the minimum federal code requirements below are met and all required permits have been granted prior to the start of construction.

### 1. Residential Structures.

a. Shall have the lowest floor, including basement, elevated to or above the base flood elevation using fill, pilings, columns, posts or perimeter walls. Perimeter walls must meet the requirements of sec. 23.16(3) and 23.21(2).

b. Shall be anchored to prevent flotation, collapse, or lateral movement of the structure resulting from hydrodynamic and hydrostatic loads, including the effects of buoyancy and shall be constructed with methods and materials resistant to flood damage.

c. Shall be constructed with electrical, heating, ventilation, plumbing and air condition equipment and other service facilities that are designed and/or elevated so as to prevent water from entering or accumulating within the components during conditions of flooding.

d. In A Zones, obtain, review and utilize any flood data available from a federal, state or other source.

e. In AO Zones with no elevations specified, shall have the lowest floor, including basement, meet the standards in sec. 23.18(4).

f. In AO Zones, shall have adequate drainage paths around structures on slopes to guide floodwaters around and away from the structure.

### 2. Nonresidential Structures.

a. Shall meet the requirements of sec. 23.20(1)(k)1.a.b.e. and f.

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b. Shall either have the lowest floor, including basement, elevated to or above the regional flood elevation; or together with attendant utility and sanitary facilities, shall meet the standards in sec. 23.21(1) and (2).

c. In AO Zones with no elevations specified, shall have the lowest floor, including basement, meet the standards in sec. 23.18(4)

3. Historic Structures. A nonconforming historic structure may be altered if the alteration will not preclude the structure's continued designation as a historic structure, the alteration will comply with sec. 23.17(3) flood resistant materials are used, and construction practices and floodproofing methods that comply with sec. 23.21 are used. Repair or rehabilitation of historic structures shall be exempt from the development standards of sec. 23.20(1)(k)1. if it is determined that the proposed repair or rehabilitation will not preclude the structure's continued designation as a historic structure and is the minimum necessary to preserve the historic character and design of the structure.

(1) Uses or structures which are deemed nuisances by a court of competent jurisdiction shall not be allowed to continue as nonconforming uses.

(2) (AM 16-4) **Floodway District.** (a) No modification or addition shall be allowed to any nonconforming structure or any structure with a nonconforming use in the Floodway District, unless such modification or addition:

(b) Has been granted to permit or variance which meets all ordinance requirements;

(c) Meets the requirements of sec. 23.20(1);

(d) Shall not increase the obstruction to flood flows or regional flood height;

(e) Any addition to the existing structure shall be floodproofed, pursuant to sec. 23.21, by means other than the use of fill, to the flood protection elevation; and

(f) If any part of the foundation below the flood protection elevation is enclosed, the following standards shall apply:

1. The enclosed area shall be designed by a registered architect or engineer to allow for the efficient entry and exit of flood waters without human intervention. A minimum of two openings must be provided with a minimum net area of at least one square inch for every one square foot of the enclosed area. The lowest part of the opening can be no more than 12 inches above the adjacent grade;

2. The parts of the foundation located below the flood protection elevation must be constructed of flood resistant materials;

3. Mechanical and utility equipment must be elevated or floodproofed to or above the flood protection elevation; and

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

(g) No new on-site sewage disposal system, or addition to an existing on-site sewage disposal system, except where an addition has been ordered by a government agency to correct a hazard to public health, shall be allowed in the Floodway District. Any replacement, repair or maintenance of an existing on-site sewage disposal system in a floodway area shall meet the applicable requirements of Chapter 25 of the Washington County Code and Chapter SPS 383, Wisconsin Administrative Code.

(h) No new well or modification to an existing well used to obtain potable water shall be allowed in the Floodway District. Any replacement, repair or maintenance of an existing well in the Floodway District shall meet the applicable requirements of Chapters NR 811 and NR 812, Wisconsin Administrative Code.

(3) (AM 16-4)(AM 16-38) **Floodfringe District.** (a) No modification or addition shall be allowed to any nonconforming structure or any structure with a nonconforming use unless such modification or addition has been granted a permit or variance by the municipality, and meets the requirements of sec. 23.18, except where sec. 23.20(3)(b) is applicable.

(b) Where compliance with the provisions of sub. (3)(a) would result in unnecessary hardship and only where the structure will not be used for human habitation or be associated with a high flood damage potential, the Board of Adjustment, using the procedures established in sec. 23.22(6) may grant a variance from those provisions of sub. (3)(a) for modifications or additions using criteria listed below. Modifications or additions which are protected to elevations lower than the flood protection elevation may be permitted if:

1. No floor is allowed below the regional flood elevation for residential or commercial structures;
2. Human lives are not endangered;
3. Public facilities, such as water or sewer, shall not be installed;
4. Flood depths shall not exceed two feet;
5. Flood velocities shall not exceed two feet per second; and
6. The structure shall not be used for storage of materials as described in sec. 23.18(8).

(c) All new private sewage disposal systems, or addition to, replacement, repair or maintenance of a private sewage disposal system shall meet all the applicable provisions of all local ordinances, 23.21(3) and Chapter SPS 383, Wisconsin Administrative Code.

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(d) All new wells, or addition to replacement, repair or maintenance of a well shall meet the applicable provisions of this ordinance, sec. 23.21(3) and Chapters NR 811 and NR 812, Wisconsin Administrative Code.

### (4) (AM 16-4) **General Floodplain Areas.**

(a) No modification or addition shall be allowed to any nonconforming structure or any structure with a nonconforming use in a general floodplain area, unless such modification or addition has been granted a County permit or variance and meet all of the following criteria:

1. The modification or addition to the existing structure will not increase the amount of obstruction to flood flows as provided in sub. 23.15(12)(a).

2. Any addition to an existing structure shall be floodproofed, pursuant to sub. 23.16(13), by means other than the use of fill, to the flood protection elevation.

3. If any nonconforming structure or any structure with a nonconforming use is destroyed or is substantially damaged that it cannot be practically restored, it cannot be replaced, reconstructed or rebuilt unless the provisions of sec. 23.17 of this chapter are met. For the purpose of this subsection, substantially damaged is where the total cost to restore the structure to its predamaged condition equals or exceeds 50% of present equalized assessed value as determined by the local assessor. No structural alteration, addition or repair to any structure with a legal nonconforming use or any legal nonconforming structure, over the life of the structure, shall equal or exceed 50% of the present equalized assessed value as determined by the local assessor. The costs of elevating the lowest floor of a nonconforming building or a building with a nonconforming use to the flood protection elevation are excluded from the provisions of this paragraph.

4. Contiguous dryland access must be provided for residential and commercial uses in compliance with 23.18(4).

(b) The construction of a deck that does not exceed 200 square feet and that is adjacent to the exterior wall of a principal structure is not an extension, modification or addition. The roof of the structure may extend over a portion of the deck in order to provide safe ingress and egress to the principal structure.

(c) No new private on-site wastewater treatment system, or addition to an existing private on-site wastewater treatment system, except where an addition has been ordered by a government agency to correct a hazard to public health, shall be allowed in a general floodplain area. Any replacement, repair or maintenance of an existing well in a general floodplain area shall meet the applicable requirements of this chapter and the Wisconsin Administrative Code.

(5) (AM 16-4) **Flood Storage District.** No modifications or additions shall be allowed to any nonconforming structures or use in a Flood Storage District unless the standards set forth in sec. 23.16 are met.

**23.21(AM 16-4) FLOODPROOFING STANDARDS FOR NONCONFORMING STRUCTURES OR USES.** (1) (AM 16-4) No permit or variance shall be issued for a non-residential structure designed to be watertight below the regional flood elevation until the applicant submits a plan certified by a registered professional engineer or architect that the floodproofing measures will protect the structure or development to the flood protection elevation and submits a FEMA Floodproofing Certificate.

(2) (AM 16-4) For a structure designed to allow the entry of floodwaters, no permit or variance shall be issued until the applicant submits a plan either:

(a) certified by a registered professional engineer or architect; or

(b) meets or exceeds the following standards:

1. a minimum of two openings having a total net area of not less than one square inch for every square foot of enclosed area subject to flooding;

2. the bottom of all openings shall be no higher than one foot above grade;  
and

3. openings may be equipped with screens, louvers, valves, or other coverings or devices provided that they permit the automatic entry and exit of floodwaters.

(3) (AM 16-4) Floodproofing measures shall be designed, as appropriate, to:

(a) Withstand flood pressures, depths, velocities, uplift and impact forces and other regional flood factors;

(b) Protect structures to the flood protection elevation;

(c) Anchor structures to foundations to resist flotation and lateral movement;

(d) Minimize or eliminate infiltration of flood waters; and

(e) Minimize or eliminate discharges into flood waters.

## **SUBCHAPTER V GENERAL ADMINISTRATIVE PROVISIONS**

**23.22(AM 16-4) ADMINISTRATIVE PROVISIONS.** This section provides for the appointment of appropriate boards and staff and the development of necessary policies and procedures to administer this chapter, in accordance with this section.



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(l) (AM 16-4) **County Land Use and Planning Committee.** The County Land Use and Planning Committee, created pursuant to Ch. 21 of the Washington County Code, is hereby declared to be the agent of the County Board for all matters pertaining to zoning under Ch. 23, except for such powers as are specifically reserved to the County Board, the County Board of Adjustment or the administrative officer.

(a) In addition to those powers and duties conferred in Ch. 21, the County Land Use and Planning Committee shall hear and decide applications for conditional use permits pursuant to this chapter.

(b) In granting a conditional use permit, the Committee may not impose conditions which are more restrictive than any of the specific standards in the chapter. Where the chapter is silent as to the extent of restriction, the Committee may impose any reasonable County permit conditions to effect the purpose of this chapter.

(c) The Committee may recommend any changes or amendments to the County Board that they may deem necessary or desirable concerning the chapter, after the public hearing.

(d) The Committee oversees the functions of the office of the administrator.

(e) The Committee reviews and acts upon all proposed amendments to the shoreland, wetland and floodplain zoning ordinance map and/or text and recommends action to the County Board.

(f) Maintain a complete public record of all its proceedings.

(g) Request for conditional use permit, receive applications for, hold public hearings for and act upon conditional use permits.

1. **Conditional Use Permit Grant Procedures.** The Land Use and Planning Committee, after notifying adjacent property owners, the town involved and publication of a Class 2 legal notice, may grant a conditional use permit for the conditional uses enumerated in this chapter. In considering any application for conditional uses, the Land Use and Planning Committee shall consider the purpose and intended use for the district, the potential conflicts and compatibility of the proposed use with the existing land involved, the need for proposed use to be located in the area and availability of alternate, feasible locations, the effect of the proposed use on water, air, soil and other irreplaceable natural resources, and such other related considerations as the Committee deems relevant to judging a request for a specific type of conditional use permit.

2. The Land Use and Planning Committee may attach conditions to any such conditional use permit which the Committee deems necessary to fulfill the purpose and intent of this chapter. Violation of these conditions shall constitute a violation of this chapter and shall constitute sufficient grounds for the Committee, after public hearing, to revoke the County permit.

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(2) (AM 16-4) **Administrator.** The administrator, or designees with the Planning and Parks Department staff, is hereby authorized to administer the provisions of this chapter. The administrator shall have the following duties and powers:

(a) Advise applicants as to the provisions of this chapter, assist them in preparing permit applications and appeal forms, and insure that the regional flood elevation for the proposed development is shown on all permit applications if applicable.

(b) Issue permits and inspect properties for compliance with the provisions of this chapter and issues certificates of compliance, where appropriate.

(c) Keep the official records of all water surface profiles, shoreland, wetland and floodplain zoning maps, shoreland, wetland and floodplain ordinances, legal nonconforming uses and legal nonconforming structures and changes thereto, records of all permit applications, permits issued, inspections made, appeals, variances and ordinance amendments related to this chapter, work approved, Floodproofing Certificates (Certificate of Compliance) and other official actions.

(d) Submit copies of variances, conditional uses and decisions, map or text interpretations and map or text amendments, case-by-case analysis, and any other required information within 10 days after issuance to the appropriate regional office of the Department.

(e) Investigate and report violations of this chapter to the Land Use and Planning Committee or County Attorney.

(f) Submit copies of amendments and annual reports to Federal Emergency Management Agency, on request. Submit an annual summary of the number and types of floodplain zoning actions taken to the DNR.

(g) Maintain on file a list of all documentation of certified elevations and substantial damage assessment reports for floodplain structures.

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

### (3) (AM 16-4)(AM 16-38) **Zoning Permits.**

(a) 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 administrator before any new development, as defined in sub. 23.02(29) of this chapter, or any change in the use of an existing structure, is initiated. Applications for administrative permits or conditional use permits shall be made to the administrator.

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(b) Application. An application for a zoning permit shall be made to the administrator upon forms furnished by the County and shall include for the purpose of proper enforcement of these regulations, the following data:

1. Name and address of applicant, property owner, contractor or builder and phone numbers.
2. Legal description of the property, type of proposed use, description of project and an indication as to whether new construction or a modification to an existing structure is involved.
3. A scaled drawing of the dimensions of the lot and location of structures relative to the lot lines, center line of abutting roads and the OHWM of any abutting watercourses and water level on a date specified. If the drawing is not scaled, the dimensions of all buildings, impervious areas and lot shall be shown.
4. If the application involves property adjacent to or within the floodplain, the elevation of the lowest floor using National Geodetic and Vertical Datum.
5. A site development plan drawn to scale or with dimensions which accurately delineates the proposal with respect to the zoning district boundary showing the dimensions of the lot and locations of all existing and proposed structures from lot lines, center lines of all abutting roads and the OHWM of any abutting or nearby watercourses. In addition, all existing and proposed impervious areas must be shown.
6. Information concerning all private water supply systems and private on-site wastewater systems to be installed, the location of all existing wells, structures and private on-site wastewater treatment systems, and the OHWM of all streams and lakes within 100 feet of a proposed sewage disposal site.
7. If the application involves property adjacent to or within the floodplain, data provided from a hydraulic and hydrologic study shall be submitted that is sufficient to determine the regional flood elevation at the location of the development and to determine whether or not the requirements of sub. 23.15(4) are met. This may include any of the information noted in sub. 23.16(2)(b).
8. Any other data required on the forms supplied by the Planning and Parks Department or requested by the Department necessary to issue the County permit or review the appeal.

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

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(d) Other Permits. It is the responsibility of the applicant to secure all other necessary permits from all appropriate Federal, State and local agencies and notify the U.S. Army Corps of Engineers of the project application pursuant to Federal Water Pollution Control Act Section 404 as amended.

(e) Floodplain Letter. The Planning and Parks Department will provide, on a prescribed form, floodplain zoning information to lending institutions necessary for completion of federally insured loan application packages.

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

### (4) (AM 16-4) **Certificates of Compliance.**

(a) Shoreland District. A certificate of compliance will be issued by the administrator upon written request of the property owner.

1. The certificate of compliance shall certify that the structure or premises or part thereof, and the proposed use thereof, conform to the provisions of this chapter.

2. Application for such certificate shall be concurrent with the application for a zoning permit.

3. The certificate of compliance shall be issued within 10 days after notification of the completion of the work specified in the zoning permit, if the structure or premises or proposed use thereof conforms with all the provisions of this chapter.

(b) The administrator may issue a temporary certificate of compliance for part of a structure, pursuant to rules and regulations established by the County Board.

(c) Upon written request from the owner, the administrator shall issue a certificate of compliance for any structure or premises existing at the time of the adoption of this chapter, certifying after inspection the extent and type of use made of the structure or premises and whether or not such use conforms to the provisions of this chapter.

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(d) Certificate of Compliance-Floodplain District. No vacant or developed land shall be occupied in the floodplain, and no structure hereafter erected, altered or moved into the floodplain shall be occupied or used, until the applicant obtains a certificate of compliance from the administrator. The administrator shall issue a certificate only after the applicant has submitted a certification signed by a registered professional engineer or registered land surveyor that the fill and lowest basement floor elevations were placed in compliance with the development standards contained in this chapter. If floodproofing is required pursuant to sub. 23.16(13), the administrator shall issue a certificate only after the applicant has submitted a certification signed by a registered professional engineer or architect that the structure is adequately constructed to comply with the provisions of sub. 23.16(13). If all ordinance provisions are met, the certificate of compliance shall be issued within 10 days after written notification that the permitted work is completed.

### (5) (AM 16-4) **Conditional Use Permits.**

(a) Application for a Conditional Use Permit. Any use listed as a conditional use in this chapter shall be permitted only after an application has been submitted to the administrator and a conditional use permit has been granted by the Land Use and Planning Committee.

(b) Standards Applicable to all Conditional Uses. In passing upon a conditional use permit, the Land Use and Planning Committee shall evaluate the effect of the proposed use upon:

1. The maintenance of safe and healthful conditions.
2. The prevention and control of water pollution including sedimentation.
3. Compliance with County Shoreland, Wetland and Floodplain Zoning Ordinance and opportunity for damage to adjacent properties due to altered surface water drainage.
4. The erosion potential of the site based upon degree and direction of slope, soil type and vegetative cover.
5. The location of the site with respect to existing or future access roads.
6. The need of the proposed use for a shoreland location.
7. Its compatibility with uses on adjacent land.
8. The amount of liquid and solid wastes to be generated and the adequacy of the proposed disposal systems.
9. Location factors under which:

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- 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.

(c) Conditions Attached to Conditional Uses. Upon consideration of the factors listed above, the Land Use and Planning Committee shall attach such conditions, in addition to those required elsewhere in this chapter, as are necessary to further the purposes of this chapter. Violations of any of these conditions shall be deemed a violation of this chapter. Such conditions may include specifications for, without limitation because of specific enumeration: type of shore cover; specific sewage disposal and water supply facilities; landscaping and planting screens; period of operation; operational control; sureties; deed restrictions; location of piers, docks, parking and signs; and type of construction. To secure information upon which to base its determination, the Land Use and Planning Committee may require the applicant to furnish, in addition to the information required for a zoning permit, the following information:

1. A plan of the area showing surface contours, soil types, OHWM, ground water conditions, subsurface geology and vegetative cover.
2. Location of structures, parking areas, traffic access, driveways, walkways, piers, open space and landscaping and other impervious areas.
3. Plans of structures, sewage disposal facilities, water supply systems and arrangement of operations.
4. Specifications for areas of proposed excavating, filling, grading, lagooning or dredging.
5. Other pertinent information necessary to determine if the proposed use meets the requirements of this chapter.
6. Rare or unique resources in the area.

(d) Notice, Public Hearing and Decision. Before passing upon an application for a conditional use permit, the Land Use and Planning Committee shall hold a public hearing. Notice of such public hearing, specifying the time, place and matters to come before the Committee, shall be given as a Class 2 notice under Ch. 985, Wis. Stats. Such notice shall be provided to the appropriate regional office of the Department at least 10 days prior to the hearing. The Committee shall state in writing the grounds for granting or denying a conditional use permit.

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(e) Recording. When a conditional use permit is approved, an appropriate record shall be made of the land use and structures permitted and such permit shall be applicable solely to the structures, use and property so described. A copy of any decision on a conditional use permit shall be provided to the appropriate regional office of the Department within 10 days after it is granted or denied.

(f) Revocation. Where the conditions of a conditional use permit are violated, the conditional use permit shall be revoked.

(6) (AM 16-4)(AM 16-38) **County Board of Adjustment.** The County Board Chairperson shall appoint a County Board of Adjustment consisting of 5 members under §59.694, Wis. Stats. The County Board of Adjustment shall elect its own Chairperson, Vice Chairperson and Secretary. The County Board of Adjustment Chairperson shall designate a minimum of 3 members of the County Board of Adjustment to attend scheduled meetings and hearings. Two members shall represent a simple majority or quorum for business before the Board. The Zoning Administrator shall not be the Secretary of the Board. The County Board shall adopt such rules for the conduct of the business of the County Board of Adjustment as required by §59.694(3), Wis. Stats.

(a) Powers and Duties.

1. The County Board of Adjustment shall adopt such additional rules as it deems necessary and may exercise all of the powers conferred on such Boards by §59.694, Wis. Stats.

2. It shall hear and decide appeals where it is alleged there is error in any order, requirements, decision or determination made by an administrative official in the enforcement or administration of this chapter.

3. It may grant a variance from the dimensional standards of this chapter pursuant to sub. 23.22(6) of this chapter.

4. In granting a variance, the Board may not impose conditions which are more restrictive than any of the specific standards in the chapter. Where the chapter is silent as to the extent of restriction, the Board may impose any reasonable permit conditions to effect the purpose of this chapter.

(b) Appeals to the Board. Appeals to the County Board of Adjustment may be made by any person aggrieved or by an officer, department, board or bureau of the County affected by any decision of the administrator or other administrative officer. Such appeal shall be made within 30 days, as provided by the rules of the Board, by filing with the officer whose decision is in question, and with the County Board of Adjustment, a notice of appeal specifying whether an interpretation of the chapter text or map or a variance is sought and the grounds thereof including any other reasons for the appeal. The administrator or other officer whose decision is in question shall promptly transmit to the Board all the papers constituting the record concerning the matter appealed.

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### (c) Hearing Appeals and Applications for Variances.

1. The County Board of Adjustment shall fix a reasonable time for a hearing on the appeal or application. The Board shall give public notice thereof by publishing a Class 2 notice under Ch. 985, Wis. Stats., specifying the date, time and place of the hearing and the matters to come before the Board. Notice shall be mailed to the adjacent land owners and the Town Board. Written notice shall be given to the appropriate regional office of the Department at least 10 days prior to hearings on proposed shoreland, wetland or floodplain variances and appeals for map or text interpretations.

2. The County Board of Adjustment shall review all data submitted in the application, including the floodway/floodfringe determination data, in the case of a floodplain appeal.

3. A decision regarding the appeal or application shall be made as soon as practical and within a reasonable time. Copies of all decisions on shoreland, wetland or floodplain variances and appeals for map or text interpretations shall be submitted to the appropriate regional office of the Department within 10 days after they are granted or denied.

4. The final disposition of an appeal or application to the County Board of Adjustment shall be in the form of a written decision and order signed by the chairperson and secretary of the Board. Such resolution shall state the specific facts which are the basis of the Board's determination and shall either affirm, reverse, vary or modify the order, requirement, decision or determination appealed, in whole or in part, dismiss the appeal for lack of jurisdiction or grant or deny the application. The reasons or justifications for granting an appeal, including a description of the hardship or practical difficulty which was demonstrated by the applicant in the case of a variance, shall be clearly stated in the recorded minutes of the County Board of Adjustment proceedings.

5. At the public hearing, any interested party may appear in person or by agent or by attorney.

(d) Boundary Disputes. The following procedure shall be used by the County Board of Adjustment in hearing disputes concerning the district boundaries shown on the official floodplain zoning map:

1. Where a floodplain district boundary is established by approximate or detailed floodplain studies, pursuant to sub. 23.15(4) the regional flood elevations or profiles for the point in question shall be the governing factor in locating the district boundary. If no regional flood elevations or profiles are available to the Board, other available evidence may be examined.

2. The person contesting the location of the district boundary shall be given a reasonable opportunity to present arguments and technical evidence to the County Board of Adjustment. Where it is determined that the district boundary is incorrectly mapped, the Board should either inform the Land Use and Planning Committee to proceed to petition the County Board of Supervisors or inform the person contesting the location of the boundary to petition the County Board for a map amendment pursuant to sub. 23.23(4).



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(e) Variance. Any deviation from the standards of this chapter, for which a County permit has been denied by the administrator, may be allowed only upon written request for a variance submitted to the administrator, after a public hearing and the issuance of a variance by the County Board of Adjustment. The Board may authorize in specific cases such variance from the terms of the chapter as will not be contrary to the public interest where, owing to special conditions affecting a particular property, a literal enforcement of the provisions of this chapter would result in unnecessary hardship as defined in sub. 23.02(122). A variance shall:

1. Be consistent with the spirit and purpose of this chapter as stated in sub. 23.01(3).
2. Not permit a lower degree of flood protection in the floodway area than the flood protection elevation, as defined in sub. 23.02(41). In the floodfringe area, a lower degree of flood protection than the flood protection elevation may only be allowed pursuant to sub. 23.20(3)(b).
3. Not be granted because of conditions that are common to a group of adjacent lots or premises. (In such a case, the zoning ordinance would have to be amended following proper procedures.)
4. Not be granted unless it is shown that the variance will not be contrary to the public interest and will not be damaging to the right of other persons or property values in the area.
5. Not be granted for actions which require an amendment to this chapter or the map(s) described in sub. 23.15(4).
6. Not have the effect of granting or increasing a use of property which is prohibited in a particular zoning district.
7. Not be granted solely on the basis of economic gain or loss.
8. Not be granted for a self-created hardship.
9. Be consistent with soil and water conservation practices when no reasonable alternative exists. An example would be an animal waste control project where existing structures are already nonconforming.
10. Not allow any alteration of an historic structure, including its use, which would preclude its continued designation as an historic structure.
11. The variance shall not cause any increase in the regional flood elevation.
12. Variances shall only be granted for lots that are less than one-half acre and are contiguous to existing structures constructed below the Regional Flood Elevation.

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13. Variances shall only be granted upon a showing of good and sufficient cause, shall be the minimum relief necessary, shall not cause increased risks to public safety, create a public nuisance, shall not increase costs for rescue and relief efforts and shall not be contrary to the purpose of the ordinance.

14. When a floodplain variance is granted, the Board shall notify the applicant in writing that it may increase risks to life and property and flood insurance premiums could be impacted. A copy shall be maintained with the variance record.

(f) Reapplication. If a variance request is denied, no reapplication can be made until the later of the following occurrence:

1. a substantial change in circumstances relating to the property occurs or
2. twelve (12) months has elapsed since the date of the decision denying the variance and all appeals, administrative and judicial, have been exhausted.

(7) (AM 16-4) **Fees.** As authorized by Ch. 21 of County Code, the Land Use and Planning Committee may adopt fees for the following:

(a) Shoreland, Wetland and Floodplain.

1. Zoning permits.
2. Certificates of compliance.
3. Planned unit development and condominium reviews.
4. Public hearings.
5. Legal notice publications.
6. Conditional use permits.
7. Land division reviews.
8. Failure to obtain a County permit.
9. Appeals.
10. Administrative permits.
11. Accessory, sign, agricultural.
12. Commercial, industrial.

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13. Residential, other.
14. County Board of Adjustment.
15. Zoning amendment.
16. Floodplain letter.
17. Field determination.
18. Other related permits or services.

(8) (AM 16-4) **Public Information.**

- (a) Place marks on structures to show the depth of inundation during the regional flood.
- (b) All maps, engineering data and regulations shall be available and widely distributed.
- (c) Real estate transfers should show what Floodplain District any real property is in.

**23.23**(AM 16-4) **CHANGES AND AMENDMENTS.** The County Board may from time to time alter, supplement or change the boundaries of use districts and the regulations contained in the shoreland, wetland or floodplain section of this chapter in accordance with the requirements of §59.69, Wis. Stats., Wisconsin Administrative Code Ch. NR 115, 116 and sub. 23.12(5) of this chapter where applicable.

(1) (AM 16-4) Amendments to this chapter may be made on petition of any interested party as provided in §59.69, Wis. Stats.

(2) (AM 16-4) Every petition for a text or map amendment filed with the administrator shall be referred to the Land Use and Planning Committee. A copy of each petition shall be mailed to the appropriate regional office of the Department within 5 days of the filing of the petition with the administrator. Written notice of the public hearing to be held on a proposed amendment shall be provided to the appropriate regional office of the Department at least 10 days prior to the hearing.

(3) (AM 16-4) A copy of the County Board's decision on each proposed amendment shall be forwarded to the appropriate regional office of the Department within 10 days after the decision is issued.

(a) No amendment to the maps or text of this chapter shall become effective until reviewed and approved by the Department.

(b) No permit shall be issued until the map or text amendment is approved by the department and FEMA, if applicable.

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(c) All persons petitioning for a map amendment that obstructs flow causing any increase in the height of the regional flood shall obtain flooding easements, or other appropriate legal arrangements, from all affected local units of government and property owners prior to the County's approval of an amendment which would result in such an increase to the regional flood elevation.

(4) (AM 16-4) **Floodplain Amendments.** Amendments to this chapter shall be made as provided by law. Obstructions to the floodplain or increases to the regional flood elevation may only be permitted if amendments to the official floodway lines, water surface profiles, floodplain zoning maps or text are made in accordance with sub. 23.23(4)(a)-(g). In AE Zones with a mapped floodway, no obstructions to the floodplain or increases to the regional flood elevation shall be permitted unless the applicant receives a Conditional Letter of Map Revision from FEMA and amendments are made to this ordinance, the official floodplain zoning maps, floodway lines and water surface profiles, in accordance with sub. 23.23(4)(a)-(g). Any such alterations must be reviewed and approved by FEMA and the Department. In A Zones increases equal to or greater than 1.0 foot may only be permitted if the applicant receives a Conditional Letter of Map Revision from FEMA and amendments are made to this ordinance, the official floodplain maps, floodway lines, and water surface profiles, in accordance with sub. 23.23(4)(a)-(g). Actions which require an amendment to the ordinance and/or submittal of a Letter of Map Change (LOMC) include, but are not limited to the following:

- (a) Any fill or floodway encroachment that obstructs flow causing any increase in the regional flood height.
- (b) Any change to the floodplain boundaries and/or watercourse alterations on the FIRM.
- (c) Fill which raises the elevation of the filled area to a height at or above the flood protection elevation and is contiguous to land lying outside the floodplain.
- (d) Correction of discrepancies between the water surface profiles and floodplain maps.
- (e) Any upgrading of floodplain zoning ordinances required by the Wisconsin Administrative Code, or otherwise required by law.
- (f) All channel relocations and changes to the maps to alter floodway lines or to remove an area from the floodway or the floodfringe that is based on a base flood elevation from a FIRM requires prior approval by FEMA.
- (g) Any changes to any other officially adopted floodplain maps listed in sub. 23.15(2).

**23.24(AM 16-4) ENFORCEMENT AND PENALTIES.** (1) (AM 16-4) The Washington County Planning and Parks Department shall enforce the provisions of this chapter and all other laws and ordinances relating to any development by means of the withholding or revoking of County permits, collection of forfeitures pursuant to Sec. 1.07 of the Washington County Code and injunctive action, all in accordance with §§59.07, 59.69 and 87.30, Wis. Stats.

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(2) (AM 16-4) Any development, any building or structure constructed, moved or structurally altered, or any use established after the effective date of 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. The zoning administrator or the County zoning agency shall refer violations to the corporation counsel who shall expeditiously prosecute violations. Any person, firm association or corporation who violates or refuses to comply with any of the provisions of this ordinance shall be subject to a forfeiture of not less than ten dollars (\$10.00) nor more than two hundred dollars (\$200.00) per offense, together with the taxable costs of action. Each day which the violation exists shall constitute a separate offense. Every violation of this ordinance is a public nuisance and the creation thereof may be enjoined and the maintenance thereof may be abated pursuant to §59.69(11), Wis. Stats.

(a) Penalty. Any person, firm or corporation, including those doing work for others, who violates any of the provisions of this ordinance shall be subject to a forfeiture of not less than \$50.00 nor more than \$500.00 for each violation plus the cost of prosecution. Each day a violation exists shall constitute a distinct and separate violation of this ordinance and as such, forfeitures shall apply accordingly. The Administrator shall refer violations to the Corporation Counsel who shall prosecute violations.

(b) Injunction. Any use or action which violates the provisions of this ordinance shall be subject to a court injunction prohibiting such violation.

(c) Responsibility for Compliance: It shall be the responsibility of the applicants as well as their agent or other persons acting on their behalf to comply with the provisions of this ordinance. Any person, firm or corporation, causing a violation or refusing to comply with any provision of this ordinance will be notified in writing of such violation by the Administrator or his designated Deputy. Each day a violation exists shall constitute a distinct and separate violation of this ordinance and, as such, forfeitures shall apply accordingly. Every violation of this ordinance is a public nuisance and the creation thereof may be enjoined and the maintenance thereof may be abated pursuant to §59.69(11), Wis. Stats.

(d) Failure to Obtain a County Permit. It shall be unlawful to commence development prior to obtaining a County permit. A double fee shall be assessed in addition to any penalties assessed.

(e) Suspension of Permit. Whenever the Administrator, or designee, determines there are reasonable grounds for believing there is a violation of any provision of this ordinance, the Administrator, or designee, shall give notice to the owner of record as hereinafter provided. Such notice shall be in writing and shall include a statement of the reason for the suspension of the permit. It shall allow 30 days for the performance of any act it requires. If work cannot be completed in the 30 day period, an extension may be granted if reason of hardship prevail and can be verified. Such notice or copy thereof has been sent by registered mail to owner's last known address or when the owner has been served by such notice by any method authorized by the laws of Wisconsin. The owner of record has the right to appeal any decision by the Administrator, or designee, or apply to the County Board of Adjustment for a Variance from the strict rule of the ordinance within 30 days of receipt of notice or order.

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(f) **Emergency Conditions.** Whenever the Administrator finds that an emergency exists such as sudden, unexpected occurrences or combinations thereof, unforeseen conditions or circumstances at the time beyond one's control, adverse weather conditions, meeting a timetable which requires immediate action to protect the public health, safety and welfare, the Administrator may, without notice or hearing, issue an order citing the existence of such emergency and may require that such action be taken as may be deemed necessary to meet the emergency. The Administrator shall notify the Chairperson of the Land Use and Planning Committee within 24 hours of such situations. Notwithstanding any other provisions of this ordinance, such order shall become effective immediately. Any person to whom such order is directed shall comply therewith immediately. Appeals or challenges to emergency orders may be brought after emergency conditions have ceased, to the Board of Adjustment.

(3) (AM 16-4) The Planning and Parks Department may revoke any County permit, certificate of compliance or approval issued under the regulations of this chapter and may stop development for any of the following reasons:

(a) Whenever there is a violation of any regulation of this chapter or lawful orders or Wisconsin Statutes relating to the same subject matter.

(b) Whenever the continuance of any development or use becomes dangerous to life or property.

(c) Whenever there is any violation of any condition or provision of the application for County permit, or of the County permit.

(d) Whenever any false statement or misrepresentation has been made in the application for County permit, plans, drawings, data specifications, or certified lot or plot plan on which the issuance of the County permit or approval was based.

(4) (AM 16-4) A stop work placard shall be posted upon the premises in question by the Planning and Parks Department, and the owner of the premises or agent shall be notified in writing within 10 days.

(5) (AM 16-4) After notice is served upon the persons and posted, it shall be unlawful for any person to proceed thereafter with any development or use whatsoever on the premises. Work may again proceed only after obtaining written permission from the Planning and Parks Department.

(6) (AM 16-4) **Uniform Citation Method Adopted.** Violations of this chapter may be enforced by the issuance of a citation pursuant to Section 14.47 of the Washington County Code and the imposition of forfeitures pursuant to Sec. 1.07 of the Washington County Code.